

#201

(A)

O-2007-29

VERSION B-REVISED COPY.1

ORDINANCE NUMBER O- 19624 (NEW SERIES)

DATE OF FINAL PASSAGE JUN 15 2007

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1, BY AMENDING SECTION 113.0103; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4 BY ADDING SECTION 126.0402(l); AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 BY ADDING SECTION 126.0502(d)(8); AMENDING CHAPTER 12, ARTICLE 7, DIVISION 1 BY AMENDING SECTION 127.0103(a), TABLE 127-01A; AMENDING CHAPTER 12, ARTICLE 7, DIVISION 1 BY ADDING SECTION 127.0106(e); AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5, BY AMENDING SECTION 131.0522, TABLE 131-05B; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6, BY AMENDING SECTION 131.0622, TABLE 131-06B; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTION 142.0404; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY ADDING SECTION 142.0405(c)(4); AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTION 142.0405(d); AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTION 142.0406(c)(3); AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTION 142.0412; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3, BY AMENDING SECTION 143.0302, TABLE 143-03A; AND AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3, BY ADDING SECTION 143.0355; ALL PERTAINING TO LARGE RETAIL ESTABLISHMENTS.

WHEREAS, on July 23, 2003, the Land Use and Housing Committee of the City Council directed the Planning Department staff to develop an ordinance regulating large retail establishments;

WHEREAS, the purpose of these regulations is to provide standards for evaluation of large retail establishments relating to design, bulk, and scale;

WHEREAS, the intent of these regulations is to minimize development footprint, preserve community character, create a pedestrian scale environment, and promote a diversity of uses in accordance with the General Plan Strategic Framework Element and City of Villages strategy;

WHEREAS, the preparation of the proposed ordinance was as open to comprehensive public participation as possible;

WHEREAS, many of the provisions of the proposed ordinance have been reviewed and recommendations have been made by various interest groups and organizations as well as by the Planning Commission and the Land Use and Housing Committee of the City Council; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 11, Article 3, Division 1 of the San Diego Municipal Code is amended by amending section 113.0103 to read as follows:

§113.0103 Definitions

Abutting property through Land use plans [No change.]

Large retail establishment means one single-tenant retail establishment 50,000 square feet or greater *gross floor area* or one multiple tenant retail establishment 50,000 square feet or greater *gross floor area* where the multiple tenants share common check stands, a controlling interest, storage areas, warehouses, or distribution facilities.

Lateral access through Yard [No change.]

Section 2. That Chapter 12, Article 6, Division 4 of the San Diego Municipal Code is amended by adding section 126.0402(l), to read as follows:

§126.0402 When a Neighborhood Development Permit Is Required

(a) through (k) [No change.]

(1) A Neighborhood Development Permit is required for *development* of a *large retail establishment* of 50,000 or more square feet *gross floor area* in all commercial and industrial zones, and in all planned districts, except the Centre City Planned District.

Section 3. That Chapter 12, Article 6, Division 5 of the San Diego Municipal Code is amended by adding section 126.0502(d)(8), to read as follows:

§126.0502 When a Site Development Permit Is Required

(a) through (c) [No change.]

(d) A Site Development Permit decided in accordance with Process Four is required for the following types of development.

(1) through (7) [No change.]

(8) *Development of a large retail establishment of 100,000 or more square feet gross floor area in all commercial and industrial zones, and in all planned districts.*

(e) [No change.]

Section 4. That Chapter 12, Article 7, Division 1 of the San Diego Municipal Code is amended by amending section 127.0103(a), Table 127-01A; and by adding section 127.0106(e) to read as follows:

§127.0103 Review Process for Previously Conforming Premises and Uses

[No change in first paragraph.]

(a) *Previously Conforming Structural Envelope*

Table 127-01A
Review Process for Previously Conforming Structural Envelope

Type of <i>Development</i> Proposal	Applicable Sections	Required Development Permit/Decision Process
Maintenance, repair or alteration (less than or equal to 50% of <i>market value</i> of entire <i>structure</i> or improvement) through Reconstruction (following fire, natural disaster, act of the public enemy) for nonresidential <i>structures</i> .	[No change.]	[No change.]
Expansion/enlargement, where new construction conforms with all current development regulations.	127.0106(a), (b) and (e)	CP/Process 1
Expansion/enlargement where new construction requests a reduction of up to 20% from required <i>setbacks</i> .	[No change.]	[No change.]

(b) [No change.]

(c) [No change.]

§127.0106 Expansion or Enlargement of Previously Conforming Structures

(a) through (d) [No change.]

(e) Proposed expansion or enlargement or a change in use of a *previously conforming large retail establishment* is subject to a Process One Construction Permit and the applicable supplemental regulations in Section 143.0355(e) except as described below. Proposed expansion or enlargement or a change in use of a *large retail establishment* that would result in a *structure* 100,000 square feet or greater *gross floor area* and an increase in average daily trips is subject to a Site Development Permit in accordance with Section 126.0502.

Section 5. That Chapter 13, Article 1, Division 5 of the San Diego Municipal Code is amended by amending section 131.0522, Table 131-05B to read as follows:

§131.0522 Use Regulations Table of Commercial Zones

Table 131-05B
Use Regulations Table for Commercial Zones

Use Categories/Subcategories [See section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones									
	1st & 2nd >>		CN ⁽¹⁾ -			CR-		CO-		CV-		CP-
	3rd >>		1-	1-	2-	1-	1-	1-	2	1	1-	
	4th >>		1	2	3	1	1	1	2	1	2	1
Open Space through Institutional	[No change.]											
Retail Sales												
Building Supplies & Equipment			P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	-	-	-	-	-	-	
Food, Beverages and Groceries			P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	-	-	-	
Consumer Goods, Furniture, Appliances, Equipment			P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ^(3,11)	-	-	-	-	-	
Pets & Pet Supplies			P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	-	-	-	-	-	-	
Sundries, Pharmaceutical, & Convenience Sales			P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	-	-	-	
Wearing Apparel & Accessories			P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	-	-	-	P ⁽¹¹⁾	-	-	
Separately Regulated Retail Sales Uses												
Agriculture Related Supplies & Equipment			-	P	P	-	-	-	-	-	-	
Alcoholic Beverage Outlets			L	L	L	L	L	L	L	-	-	
Plant Nurseries			P	P	P	-	-	-	-	-	-	
Swap Meets & Other Large Outdoor Retail Facilities			-	C	C	-	-	-	C ⁽¹⁰⁾	-	-	
Commercial Services through Signs	[No change.]											

Use Categories/Subcategories [See section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																
	1st & 2nd >>		CC-																
	3rd >>		1-			2-			3-			4-			5-				
	4th >>		1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4
Open Space through Institutional	[No change.]																		
Retail Sales																			
Building Supplies & Equipment			P ⁽¹¹⁾			P ⁽¹¹⁾			-			P ⁽¹¹⁾			P ⁽¹¹⁾				
Food, Beverages and Groceries			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Consumer Goods, Furniture, Appliances, Equipment			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Pets & Pet Supplies			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Sundries, Pharmaceutical, & Convenience Sales			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Wearing Apparel & Accessories			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Separately Regulated Retail Sales Uses																			
Agriculture Related Supplies & Equipment			-			-			-			P			P				
Alcoholic Beverage Outlets			L			L			L			L			L				
Plant Nurseries			P			P			P			P			P				

Use Categories/Subcategories [See section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																		
	1st & 2nd >>	CC-																		
	3rd >>	1-			2-			3-			4-			5-						
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	
Swap Meets & Other Large Outdoor Retail Facilities		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C
Commercial Services through Signs	[No change.]																			

Footnotes to Table 131-05B

¹ through ¹⁰ [No change.]

¹¹ *Development of a large retail establishment* is subject to Section 143.0302.

Section 6. That Chapter 13, Article 1, Division 6 of the San Diego Municipal Code is amended by amending section 131.0622, Table 131-06B to read as follows:

§131.0622 Use Regulations Table for Industrial Zones

The uses allowed in the industrial zones are shown in Table 131-06B.

**Table 131-06B
Use Regulations Table for Industrial Zones**

Use Categories/ Subcategories [See section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator	Zones								
	1st & 2nd >>	IP-		IL-			IH-		IS-	
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-	
	4th >>	1	1	1	1	1	1	1	1	
Open Space through Institutional	[No change.]									
Retail Sales										
Building Supplies & Equipment		-	-	P ^(6,15)	P ⁽¹⁵⁾	P ⁽¹⁵⁾	-	P ^(6,15)	P ⁽¹⁵⁾	
Food, Beverages and Groceries		-	-	-	-	P ⁽¹⁵⁾	-	-	-	
Consumer Goods, Furniture, Appliances, Equipment		-	-	-	P ^(2,15)	P ⁽¹⁵⁾	-	-	P ^(3,15)	
Pets & Pet Supplies		-	-	-	-	P ⁽¹⁵⁾	-	-	-	
Sundries, Pharmaceuticals, & Convenience Sales		-	P ^(5,15)	P ^(5,15)	P ^(5,15)	P ⁽¹⁵⁾	P ^(5,15)	P ^(5,15)	P ^(4,15)	
Wearing Apparel & Accessories		-	-	-	P ^(3,15)	P ^(3,15)	-	-	P ^(3,15)	
Separately Regulated Retail Sales Uses										
Agriculture Related Supplies & Equipment		-	-	-	P	P	P	P	P	
Alcoholic Beverage Outlets		-	-	-	-	L	-	-	-	
Plant Nurseries		-	-	-	-	P	-	P	R	
Swap Meets & Other Large Outdoor Retail Facilities		-	-	C	C	C	C	C	C	
Commercial Services through Signs	[No change.]									

Footnotes for Table 131-06B

¹ through ¹⁴ [No change.]

¹⁵ *Development of a large retail establishment* is subject to Section 143.0302.

Section 7. That Chapter 14, Article 2, Division 4 of the San Diego Municipal Code is amended by amending section 142.0404; by adding section 142.0405(c)(4); by amending section 142.0405(d); by amending section 142.0406(c)(3); and by amending section 142.0412 to read as follows:

§142.0404 Street Yard and Remaining Yard Planting Area and Point Requirements

[No change in first paragraph.]

Table 142-04C

Street Yard and Remaining Yard Planting Requirements

Type of Development Proposal	Type of Yard	Planting Area Required (Percentage of total <i>yard</i> area unless otherwise noted below) ⁽¹⁾	Plant Points Required (Number of plant points required per square foot of total <i>street yard</i> or <i>remaining yard</i> area) or required trees ⁽¹⁾
Single Dwelling Unit Residential Development in RM zones or Multiple Dwelling Unit Residential Development in any Zone	Street Yard	50% ⁽²⁾	0.05 points
	Remaining Yard	40 Square Feet per Tree	For single <i>structures</i> on a single <i>lot</i> , provide a minimum of 60 points, located in the <i>remaining yard</i> ⁽²⁾ For more than one <i>structure</i> on a single <i>lot</i> , provide one tree on each side and in the rear of each <i>structure</i> ⁽²⁾
Commercial Development in any Zone or Industrial Development in RM Zones or Commercial Zones	Street Yard	25% ⁽³⁾	0.05 points to be achieved with trees only ⁽³⁾
	Remaining Yard	30% ⁽³⁾	0.05 points
Industrial Development in any zone other than RM or Commercial Zones	Street Yard	25% ⁽⁴⁾	0.05 points
	Remaining Yard	See section 142.0405 (d)	0.05 points
Large retail establishments in any Commercial Zone.	Street Yard	100% ⁽³⁾ of minimum building front and street side setbacks (except access points and with encroachments allowed into the landscaped area for building articulation elements as defined in section 143.0355(a)(b)) 25% of the balance of <i>street yard</i>	0.05 points, exclusive of palms
	Remaining Yard	30% ⁽³⁾	0.05 points
Large retail establishments in any Industrial Zone.	Street Yard	25% ⁽⁴⁾	0.05 points, exclusive of palms
	Remaining Yard	30%	0.05 points

Footnotes to Table 142-04C

[No change.]

§142.0405 Additional Yard Planting Area and Point Requirements

(a) and (b) [No change.]

(c) Additional commercial *yard* and *large retail establishment* requirements:

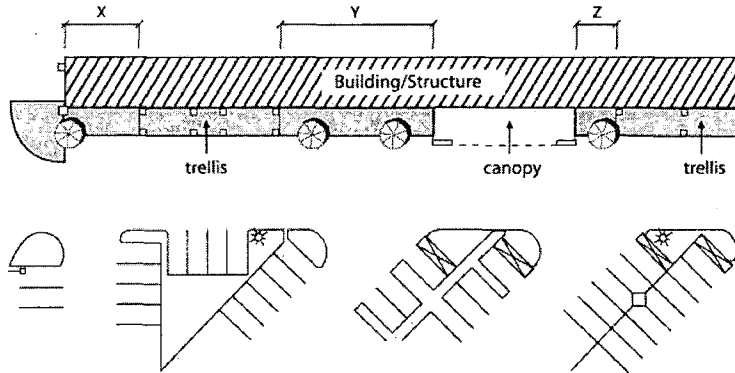
(1) through (3) [No change.]

(4) Façade Planting Area for *large retail establishments*. Within the *street yard*, a façade planting area, as shown in Diagram 142-04A shall be provided between the *vehicular use area* and the *street wall*. This façade planting area shall be planted with a minimum of

20 points (trees only) at a linear rate of 30 feet of building *street wall* wherever trellises, arcades, awnings or extended covered entries do not occur which shall be a minimum of 30 percent of the length of the building *street wall*.

Diagram 142-04A

Façade Planting Area for *Large Retail Establishments*

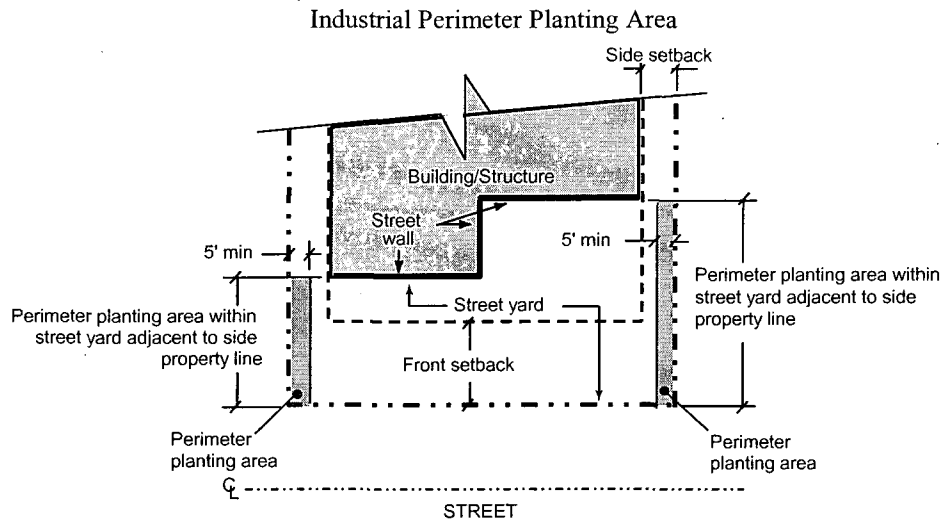


$$\frac{X + Y + Z}{30} \times 20 \text{ points} = \text{Required number of points (trees only)}$$

X + Y + Z = minimum of 30% of the length of the building street wall

- (d) Additional industrial *yard* and *large retail establishment* requirements:
- (1) Perimeter Planting Area. Within the *street yard* for industrial zones or industrial *development*, a 5-foot-wide perimeter planting area adjacent to each side *property line*, as shown in Diagram 142-04A, shall be provided for the full depth of the *street yard* except where vehicular access (maximum 25 feet) and pedestrian access (maximum 6 feet) points cross perpendicular to a side *property line*. This planting area shall be planted with a combination of trees and shrubs that achieves 0.2 points per square foot of the required area. Where loading docks are placed along more than 25 percent of the *street wall* length in the IL and IH zones, the perimeter planting area points required shall be increased to 0.5 points per square foot of area.

Diagram 142-04B



- (2) Facade Planting Area. Within the *street yard*, a facade planting area, as shown in Diagram 142-04B, shall be provided that abuts the *street wall* and is at least equal to 50 percent of the length as determined by adding the lines connecting the outermost points of the structure along the street wall as shown in Diagram 142-04C, and that has a width of at least 9 feet measured perpendicularly to the building. This requirement shall not apply to *large retail establishments*.

least 8 feet in width, measured perpendicularly to the *public right-of-way*.

This planting area shall meet the following requirements:

(1) and (2) [No change.]

(3) The width of this planting area may be reduced to 3 feet if a solid wall of at least 3 feet in height is provided for the entire length of the *vehicular use area* for sites under 5 acres. Sites that are between 5 and 10 acres are required to provide the planting area buffer that is 8 feet. For sites over 10 acres, a planting area buffer must be 12 feet in width with a potential reduction to 8 feet with a 3 feet high wall. The remaining planting area shall be located between the wall and curb within the *public right-of-way* and planted with the equivalent of 1 shrub for every 10 feet of wall length. These shrubs shall achieve at least 18 inches in height of maturity.

(4) [No change.]

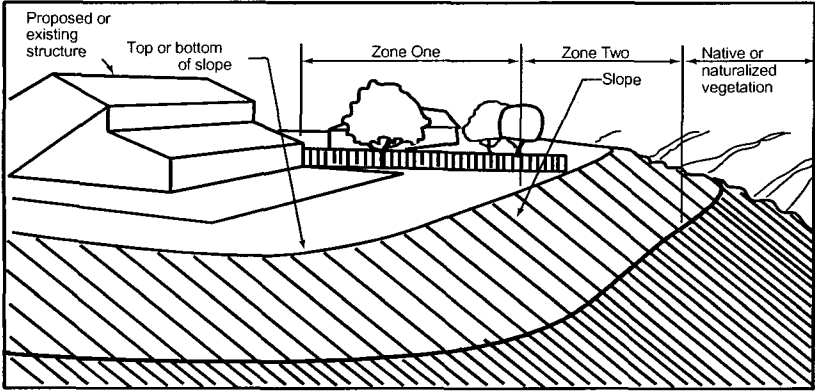
§142.0412 Brush Management

(a) [No Change.]

(b) Brush Management Zones. Where brush management is required, a comprehensive program shall be implemented that reduces fire hazards around by providing an effective fire break between all structures and contiguous areas of native or naturalized vegetation. This fire break shall consist of two distinct brush management areas called “Zone One” and “Zone Two” as shown in Diagram 142-04D.

Diagram 142-04E

Brush Management Zones



[No change (b)(1) through (2) and (c) through (l).]

Section 8. That Chapter 14, Article 3, Division 3 of the San Diego Municipal Code is amended by amending section 143.0302, Table 143-03A; and by adding section 143.0355 to read as follows:

§143.0302 When Supplemental Neighborhood Development Permit and Site Development Permit Regulations Apply

[No change to first paragraph.]

**Table 143-03A
Supplemental Neighborhood Development Permit or Site Development Permit
Regulations Applicability**

Type of Development Proposal	Applicable Sections	Required Development Permit/Decision Process
Affordable/In-Fill Housing Projects with Deviations through Clairemont Mesa Height Limit Overlay Zone [No change.]	[No change.]	[No change.]
<i>Development of a large retail establishment of 50,000 or more square feet gross floor area in all commercial and industrial zones, and in all planned districts, except the Centre City Planned District</i>	143.0303, 143.0305, 143.0355, 143.0375	NDP/Process Two
<i>Development of a large retail establishment of 100,000 or more square feet gross floor area in all commercial and industrial zones, and in all planned districts</i>	143.0303, 143.0305, 143.0355, 143.0375	SDP/Process Four

§143.0355 Supplemental Neighborhood Development Permit and Site Development Permit Regulations for Large Retail Establishments

The following supplemental regulations apply to *development of large retail establishments*. The purpose of these regulations is to provide standards for the evaluation of *large retail establishments*. The intent of these regulations is to minimize *development* footprint, preserve community character, create a pedestrian scale environment, and promote a diversity of uses in accordance with the General Plan.

- (a) Minimum Setbacks

A large retail establishment shall have a minimum front and street side setback of 8 feet. Architectural features as defined in Section 143.0355(b) are permitted to encroach a maximum of 4 feet into the required front and street side yards.
- (b) Building Articulation

A large retail establishment shall incorporate architectural features from at least four of the following eight categories:

- (1) Pilasters
 - (2) Trellises
 - (3) Awnings or extended covered entries
 - (4) Arcades
 - (5) Varied roof lines or roof cornices
 - (6) A minimum of three material changes, such as glazing, tile, stone, or varied pattern/texture shall be provided in street (facing) wall surfaces, where no one material shall cover less than 10 percent of the wall area or more than 60 percent of the wall area.
 - (7) A minimum of 25 percent of street wall area transparent with clear glass visible into a commercial use, or a minimum of 25 percent of street wall area covered with display windows.
 - (8) Clerestory windows
- (c) Pedestrian Paths
- Pedestrian access and pathways shall be designed to provide an interconnected network for pedestrian travel between buildings within the same *development* in accordance with Section 131.0550.
- (d) Landscaping Requirements
- Landscape for *large retail establishments* shall comply with Sections 142.0404, 142.0405 and 142.0406.
- (e) Expansion or Enlargement or Change in Use of Existing Structures

Proposed expansion or enlargement or a change in use of a *previously conforming large retail establishment* is subject to Section 127.0106(e) and the supplemental regulations in Section 143.0355(a) and (c), and Section 142.0410.


Section 9. In the event of a conflict between any provision of this ordinance and any other provision of the San Diego Municipal Code, this ordinance shall be controlling. If a court of competent jurisdiction determines that any provision of this ordinance is invalid or otherwise unenforceable, that provision shall be severed from the remainder of the ordinance in a manner that preserves the remainder to the fullest extent possible. Prior to severing any provision, however, the court shall attempt to interpret and apply the provision in a manner that achieves the ordinance's intent and purpose to the fullest extent possible consistent with the law.

Section 10. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 11. This ordinance shall take effect and be in force on the thirtieth day after its passage. However, this ordinance will not apply within the Coastal Zone until the California Coastal Commission unconditionally certifies this ordinance as a Local Coastal Program Amendment.


Section 12. That City departments are instructed not to issue any permit for development that is inconsistent with this ordinance unless application for such permit was submitted and deemed complete by the City Manager prior to the date this ordinance becomes effective.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Jana L. Garmo
Deputy City Attorney

JLG:als
12/07/06 REV.COPY
12/18/06 REV.COPY.1
Or.Dept: Planning
O-2007-29

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JUN 04 2007

ELIZABETH S. MALAND
City Clerk
By 
Deputy City Clerk

Approved: 6.15.07
(date)


JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor