Article 3: Supplemental Development Regulations
(Added 12-9-1997 by O-18451 N.S.)

Division 1: Environmentally Sensitive Lands Regulations
(Added 12-9-1997 by O-18451 N.S.)

§143.0101 Purpose of Environmentally Sensitive Lands Regulations

The purpose of these regulations is to protect, preserve and, where damaged restore, the *environmentally sensitive lands* of San Diego and the viability of the species supported by those lands. These regulations are intended to assure that *development*, including, but not limited to *coastal development* in the Coastal Overlay Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of *development*, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to *flooding* in specific areas while minimizing the need for construction of *flood* control facilities. These regulations are intended to protect the public health, safety, and welfare while employing regulations that are consistent with sound resource conservation principles and the rights of private property owners.

It is further intended for the Development Regulations for Environmentally Sensitive Lands and accompanying Biology, Steep Hillside, and Coastal Bluffs and Beaches Guidelines to serve as standards for the determination of impacts and mitigation under the California Environmental Quality Act and the California Coastal Act. These standards will also serve to implement the Multiple Species Conservation Program by placing priority on the preservation of biological resources within the Multiple Habitat Planning Area, as identified in the City of San Diego Subarea Plan. The habitat based level of protection which will result through implementation of the Multiple Habitat Planning Area is intended to meet the mitigation obligations of the Covered Species addressed. In certain circumstances, this level of protection may satisfy mitigation obligations for other species not covered under the Multiple Species Conservation Program but determined to be sensitive pursuant to the CEQA review process. This determination will be addressed in the environmental documentation.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)
(Amended 3-1-2006 by O-19468 N.S.; effective 4-1-2006.)

§143.0110 When Environmentally Sensitive Lands Regulations Apply

This Division applies to all proposed *development* when *environmentally sensitive lands* are present on the *premises*.

(a) Where any portion of the *premises* contains any of the following *environmentally sensitive lands*, this division shall apply to the entire *premises*, unless otherwise provided in this division:

(1) *Sensitive biological resources*;

(2) *Steep hillsides*;

(3) *Coastal beaches* (including V zones);

(4) *Sensitive coastal bluffs*; and

(5) *Special Flood Hazard Areas* (except V zones).

(b) Table 143-01A identifies the appropriate development regulations, the required decision process, and the permitted uses applicable to various types of *development* proposals that propose to encroach into *environmentally sensitive lands* or that do not qualify for an exemption pursuant to Section 143.0110(c).

(1) A Neighborhood Development Permit or Site Development Permit is required for all types of *development* proposals listed, in accordance with the indicated decision process. If *coastal development* is proposed in the Coastal Overlay Zone, a Coastal Development Permit is required in accordance with Section 126.0702.

(2) All types of *development* proposals are subject to Section 143.0140.

(3) Any *development* proposal that proposes to encroach into more than one type of *environmentally sensitive lands* is subject to all of the development regulations sections for each type of *environmentally sensitive lands* present. The applicable decision process is the higher process number indicated.

(4) Any *development* proposal on a site containing *environmentally sensitive lands* may be exempt from the permit requirements of this division if no *encroachment* into the *environmentally sensitive lands* is proposed and the *development* complies with Section 143.0110(c). Within the Coastal Overlay Zone, a Coastal Development Permit is required for all *coastal development* and the regulations of this division shall apply.

(5) Limited exceptions to the applicable development regulations for specific types of *development* are listed in Section 143.0111.

Table 143-01A

Applicability of Environmentally Sensitive Lands Regulations

***Environmentally Sensitive Lands* Potentially Impacted by Project**						
Type of *Development* Proposal		***Wetlands*, listed species habitat[1]**	**Other *Sensitive Biological Resources* other than *Wetlands* and listed species habitat**	***Steep Hillsides***	***Sensitive Coastal Bluffs* and *Coastal Beaches***	**Floodplains**
1. *Single dwelling units* on individual *lots* equal to or less than 15,000 square feet[2]	R	143.0141(a),(b)	143.0141	143.0142 except (a)[5]	143.0143, 143.0144	143.0145 143.0146
	P	NDP/ Process Two	NDP/ Process Two	NDP/ Process Two	SDP/ Process Three	NDP/ Process Two
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(c)
2. *Single dwelling units* on *lots* or multiple *lots* totaling more than 15,000 square feet	R	143.0141(a),(b)	143.0141	143.0142	143.0143, 143.0144	143.0145
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(c)
3. *Multiple dwelling unit* and non-residential *development* and public works projects	R	143.0141(a),(b)	143.0141	143.0142	143.0143, 143.0144	143.0145 143.0146
	P	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP/ Process Three	SDP Process Three
	U	143.0130(d),(e)		--	143.0130(a), (b)	143.0130(c)
4. Any *subdivision* of a *premises*	R	143.0141(a),(b)	143.0141	143.0142[3]	143.0143, 143.0144	143.0145 143.0146
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	143.0130(d),(e)	--	--	143.0130 (a), (b)	143.0130 (c)
5. Project-specific *land use plans*	R	143.0141(a),(b), 143.0115	143.0141, 143.0115	143.0142, 143.0115	143.0143, 143.0144, 143.0115	143.0115, 143.0145 143.0146
	P	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five	SDP/ Process Four/Five	SDP/Process Four/Five
	U	143.0130(d),(e)	--	--	143.0130(a), (b)	143.0130(c)
6. Any *development* that proposes deviations from any portion of the *Environmentally Sensitive Lands* Regulations	R	143.0141(a),(b), 143.0150	143.0141, 143.0150	143.0142, 143.0150[4]	143.0143, 143.0144, 143.0150	143.0145, 143.0146 143.0150
	P	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four	SDP/ Process Four
	U	143.0130(d),(e)-	--	--	143.0130(a), (b)	143.0130(c)

***Environmentally Sensitive Lands* Potentially Impacted by Project**						
Type of *Development* Proposal		***Wetlands*, listed species habitat[(1)]**	**Other *Sensitive Biological Resources* other than *Wetlands* and listed species habitat**	***Steep Hillsides***	***Sensitive Coastal Bluffs* and *Coastal Beaches***	**Floodplains**
7. *Development* other than *single dwelling units* on individual *lots*, that proposes alternative compliance for *development* area in *steep hillsides*.	R	--	--	143.0142 except (a), 143.0151	--	--
	P	--	--	SDP/ Process Four	--	--
	U	--	--	--	--	--

Legend to Table 143-01A	
R	Development regulation sections (in addition to Section 143.0140) applicable to the *environmentally sensitive lands* present.
P	Type of Permit/Decision process required. Neighborhood Development Permit (NDP) Site Development Permit (SDP)
U	Regulations that identify permitted uses when they are different than the applicable zone due to the *environmentally sensitive lands* present.

Footnotes to Table 143-01A

1 State and federal laws and regulations regulate adverse impacts to *wetlands* and listed species habitat. The City does not have incidental take authorization for listed species within federal jurisdictional waters.

2 This includes the *development* of one or more *lots* as long as the total area of the *lots* does not exceed 15,000 feet and the *lots* were not joined in ownership to any contiguous *lot* or parcel on or before the adoption date of this division so that the total area of contiguous ownership exceeded 15,000 square feet.

3 Outside the Coastal Overlay Zone, *subdivision* of a *premises* less than 15,000 square feet (for *single dwelling unit development*) is not subject to Section 143.0142(a).

4 *Development* other than a *single dwelling unit* on an individual *lot* may use alternative compliance for development area in *steep hillsides* that does not comply with Section 143.0142(a).

5 Within the Coastal Overlay Zone, *single dwelling units* on individual *lots* equal to or less than 15,000 square feet are subject to Section 143.0142(a).

c) A Neighborhood Development Permit or Site Development Permit is not required for the following *development* activity:

(1) *Development* on a *premises* containing *environmentally sensitive lands* that is limited to interior modifications or repairs, or any exterior repairs, alterations or maintenance that does not increase the footprint of an existing building or *accessory structure*, and will not encroach into the *environmentally sensitive lands* during or after construction.

(2) Outside of the Coastal Overlay Zone, *development* on a *premises* containing *environmentally sensitive lands* where the *development*:

(A) Would not encroach into *environmentally sensitive lands* during or after construction;

(B) Would not expand brush management Zone One into *environmentally sensitive lands*;

(C) Would comply with the *MHPA* adjacency guidelines as applicable;

(D) Would maintain a minimum 40 foot *setback* from the *coastal bluff edge* of a *sensitive coastal bluff*; and

(E) Would either:

(i) Maintain at least a 100 feet separation distance from *sensitive biological resources* and at least a 40 feet separation distance from the top of slope of *steep hillsides*; or

(ii) Locate *development* in a legally graded or developed portion of the *premises* separated from *environmentally sensitive lands* by an existing *fence* or other physical barrier.

(3) Outside the Coastal Overlay Zone, minor improvements to existing *structures* on *steep hillsides*, subject to all of the following applicable requirements:

(A) *Clearing* and *grubbing* shall not exceed 100 square feet per acre.

(B) *Excavation* for foundations or pilings shall total less than 10 cubic yards.

(C) The proposed improvements do not *encroach* into *sensitive biological resources*.

(D) One story *structures* supported by pilings or pillars may be located on *steep hillsides* provided that the total of all *encroachments* into the *steep hillsides* area does not exceed 5 percent of the total *floor* area of the building or *structure*.

(E) Residential decks up to 500 square feet may be located on *steep hillsides* provided that the deck is attached to the building or *structure* and does not exceed 12 feet in elevation above the *existing grade* at any point.

(4) *Development* activity that is limited to permissible *grading* for the preparation of a site for cultivation of crops and where *grading* for agriculture purposes has occurred in compliance with all legal requirements within the previous 3 years.

(5) Outside the Coastal Overlay Zone, city public works projects for which plans, specifications, or funding have been approved by the City Council or the City Manager before July 1, 1991.

(6) Outside the Coastal Overlay Zone, restoration projects where the sole purpose is enhancement or restoration of native habitats.

(7) Except for brush management in *wetlands* in accordance with Section 142.0412(a)(3), Zone Two brush management activity if the brush management complies with the landscape regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations) and the Biology Guidelines.

(8) Site reconnaissance and testing for proposed projects, provided that:

(A) Any direct or indirect effects on *sensitive biological resources* are addressed in accordance with the Biology Guidelines of the Land Development Manual.

(B) Any subsurface explorations for *historical resources* are conducted in conformance with the Historical Resources Guidelines of the Land Development Manual.

(C) A bond consistent with Section 129.0119 has been submitted for revegetation of disturbed areas.

(9) *Development* in a *Special Flood Hazard Area* that is permitted in accordance with the underlying base zone and complies with the regulations in Sections 143.0145 and 143.0146.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 11-28-2005 by O-19445 N.S. effective 1-12-06.)
(Amended 9-19-2005 by O-19413 N.S.; effective10-19-2005.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)
(Amended 5-7-2012 by O-20161 N.S.; effective 6-6-2012.)
(Amended 8-30-2013 by O-20293 N.S.; effective 10-10-2013.)

§143.0111 Limited Exceptions from Environmentally Sensitive Lands Regulations

The following *development* activities require a Neighborhood Development Permit or Site Development Permit in accordance with Table 143-01A, but the applicable development regulations are modified as indicated:

(a) Outside the *MHPA* and the Coastal Overlay Zone, mining and extractive industries may exceed the maximum allowable *steep hillside* development area described in Section 143.0142(a). Both inside and outside the *MHPA*, a Conditional Use Permit is required in accordance with Section 141.1001 and restoration of the on-site landform to a natural-appearing condition is required.

(b) Brush management activity is exempt from all *steep hillside* development regulations in Section 143.0142 if the brush management is the minimum necessary to comply with City fire codes and no *grading* occurs in the brush management area. Within the Coastal Overlay Zone, all brush management within 30 feet of a primary *structure* shall be subject to the Steep Hillside Regulations for development within the Coastal Overlay Zone pursuant to Section 143.0142(a)(4).

(c) Erosion control measures are exempt from the *steep hillside* development area regulations in Section 143.0142(a) if they are determined to be the only feasible means of erosion control necessary to protect the existing primary *structures* or *public improvements*.

(d) Outside the Coastal Overlay Zone, City linear utility projects are exempt from the development area regulations of the OR-1-2 zone in Section 131.0250(b) and the development area regulations for *steep hillsides* in Section 143.0142(a) and for *sensitive biological resources* in Section 143.0141(d).

(e) *Development* in the OF zone or within any *Special Flood Hazard Area* (formerly the FW, FC, and FPF zones) in the Mission Valley Community Plan area, is subject only to the Federal Emergency Management Agency Special Regulations in Section 143.0146.

(f) *Development* in the Calle Cristobal Assessment District area and outside the Coastal Overlay Zone is subject only to the *steep hillside* development regulations in Section 143.0142(b) through (h).

(g) *Development* in the Miramar Ranch North Community Plan area and the 70 acre high *school* project in Scripps Ranch is subject only to the *steep hillside* development regulations in Section 143.0142(b) through (h).

(h) *Development* of the 178 acres of land known as Sorrento Hills that was the subject of the land exchange approved by the voters as Proposition D on November 4, 1986, is subject only to the *steep hillside* development regulations in Section 143.0142(b) through (g).

(i) Public linear trail and public maintenance access projects are exempt from the development area regulations of the OR-1-2 zone in Section 131.0250(b) and the development area regulations for *steep hillsides* in Section 143.0142(a) and for *sensitive biological resources* in Section 143.0141(d).

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

§143.0112 Requirement to Submit Required Documentation and Obtain Permit Prior to Development on Environmentally Sensitive Lands

It is unlawful to begin *development* on a *premises* that contains *environmentally sensitive lands* without submitting required documentation and obtaining the applicable *development permit*, or an exemption as required pursuant to this division. If unlawful *development* occurs on property containing *environmentally sensitive lands* and an enforcement action has been commenced by the City pursuant to Section 143.0160, no *development permit* application may be processed until the enforcement action has been concluded.
(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§143.0113 Determination of Location of Environmentally Sensitive Lands, Applicability of Division and Decision Process

(a) In connection with any permit application for *development* on a parcel, the *applicant* shall provide the information used to determine the existence and location of *environmentally sensitive lands* in accordance with Section 112.0102(b).

(b) Based on a project-specific analysis and the best scientific information available, the City Manager shall determine the existence and precise location of *environmentally sensitive lands* on the *premises*.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)

§143.0115 Procedures and Regulations for Project-Specific Land Use Plans

(a) Project-specific *land use plans*, including specific plans, precise plans, privately initiated *land use plan* amendments, and *Proposition A Land* subarea plans, proposed for sites where *environmentally sensitive lands* are present, are subject to the regulations in this section to ensure adequate analysis of the constraints and opportunities of the planning area relative to *environmentally sensitive lands*. The analysis of *environmentally sensitive lands* for project-specific *land use plans* will be conducted in accordance with either Section 143.0115(b) or (c) based on whether or not a Site Development Permit is processed concurrently with the project-specific *land use plan*. Within the Coastal Overlay Zone, a project-specific *land use plan* is subject to the *Local Coastal Program* amendment process.

(b) Where a Site Development Permit is requested concurrently with the processing of a project-specific *land use plan*, the proposed *development* is subject to the following regulations. However, where a Coastal Development Permit is required, the project must conform to the *Local Coastal Program*, as certified by the Coastal Commission.

(1) The boundaries of the Site Development Permit will be the boundaries of the project-specific *land use plan*, including all individual interior *lots* within the plan area.

(2) A decision on a Site Development Permit processed concurrently with a project-specific *land use plan* will be made in accordance with Process Five.

(3) The *environmentally sensitive lands* regulations applicable to the Site Development Permit will be determined in accordance with Table 143-01A. Sufficient information must be submitted for the entire plan area in order to evaluate potential impacts to *environmentally sensitive lands*. Any deviations proposed, other than as permitted in Section 143.0115(b)(4), are subject to Section 143.0150.

(4) For individual *lots* outside the *MHPA*, the development area regulations for *steep hillsides* in Section 143.0142(a) may be varied provided the regulations are complied with comprehensively for the entire plan area.

(5) The *applicant* shall prepare a *development* suitability analysis to evaluate the proposed *development* of the entire plan area and its relationship to the *environmentally sensitive lands* regulations as well as other factors such as *historical resources*, visual resources, public facilities needs, public safety issues, and adjacent land uses. The constraints and opportunities identified shall be used to determine the portions of the plan area that are most suitable for *development* and those that should be preserved as open space. Overall *development* within the plan area, including public facilities and circulation elements, shall be located to minimize impacts to *environmentally sensitive lands*, in accordance with this division and the associated guidelines in the Land Development Manual.

(6) The project-specific *land use plan* shall include a summary of the allowable development area and any required mitigation for each parcel. If the project-specific *land use plan* contains *MHPA* lands, mitigation for impacts to *sensitive biological resources* should be directed toward acquisition of *MHPA* lands within the city boundaries and preferably within the same plan area.

(7) Subsequent *development* proposals within the Site Development Permit area will be reviewed in accordance with the *substantial conformance* procedures. If the *development* is determined to be in conformance with the Site Development Permit and any required mitigation is provided, an amendment to the Site Development Permit will not be required. If the proposed *development* is not in conformance with the approved project-specific *land use plan*, an amendment to the Site Development Permit will be required for the *development* in addition to an amendment to the approved project-specific *land use plan*.

(8) Any *coastal development* requiring a Coastal Development Permit must conform to the regulations in the certified *Local Coastal Program*. In case of conflict with the provisions of Section 143.0115(b)(1)-(7), the coastal development regulations apply.

(c) Where a Site Development Permit is not requested concurrently with the processing of a project-specific *land use plan*, the proposed plan and subsequent Site Development Permits and/or Coastal Development Permits are subject to the following regulations.

(1) The *applicant* shall prepare a *development* suitability analysis that evaluates the proposed *development* of the entire plan area and its relationship to the *environmentally sensitive lands* regulations as well as other factors such as *historical resources*, visual resources, public facilities needs, public safety issues, and adjacent land uses. The constraints and opportunities identified shall be used to determine the portions of the plan area that are most suitable for *development* and those that should be preserved as open space. Overall *development* within the plan area, including public facilities and circulation elements, shall be located to minimize impacts to *environmentally sensitive lands*, in accordance with this division and the associated guidelines in the Land Development Manual.

(2) The project-specific *land use plan* shall indicate how subsequent *developments* within the plan area will comply with the *environmentally sensitive lands* regulations and the associated guidelines in the Land Development Manual. Where any deviation from this division is proposed for the plan area or on an *premises*, a description of the deviation shall be provided along with a statement of how the deviation benefits the overall design of the entire plan area. Deviations may be approved only under the following conditions:

(A) When there are no feasible measures that can further minimize the potential adverse effects on *environmentally sensitive lands* and when the deviation is the minimum necessary to afford relief and accommodate the *development*; and

(B) When there are special circumstances or conditions applying to the plan area that are peculiar to the land and not of the applicant's making, whereby strict application of the provisions of the *environmentally sensitive lands* regulations would deprive a property owner of reasonable use of his or her land and would result in a less desirable project-specific *land use plan*.

(3) The development area regulations for *steep hillsides* in Section 143.0142(a) may be varied for individual *lots* outside the *MHPA* provided the intent of these regulations is complied with comprehensively for the entire plan area.

(4) The project-specific *land use plan* shall acknowledge that any privately owned property that is designated entirely as open space could be proposed for *development* in accordance with the base zone. This possibility shall be taken into consideration when analyzing the total potential development area within the plan area.

(5) The project-specific *land use plan* shall include an implementation strategy for acquisition of those parcels designated as open space. If the project-specific *land use plan* contains *MHPA* lands, mitigation for impacts to *sensitive biological resources* should be directed toward acquisition of *MHPA* lands within the City boundaries and preferably within the same plan area.

(6) After approval of the project-specific *land use plan*, a Site Development Permit shall be required for all proposed individual *developments* within the plan area and shall be reviewed in accordance with Process Four. Additional information pertaining to *environmentally sensitive lands* may be required in order to conduct a detailed analysis of the specific *development* proposal. Approval of the individual Site Development Permits will require conformance with the approved project-specific *land use plan* and any required mitigation shall be provided. Deviation *findings* will not be required if the proposed *development* is consistent with the approved project-specific *land use plan*. If a proposed *development* is not in conformance with the approved project-specific *land use plan*, approval of a Site Development Permit requires compliance with all of the *environmentally sensitive lands* regulations.

(7) Conformance with the *environmentally sensitive lands* regulations and associated guidelines in the Land Development Manual is required for all *environmentally sensitive lands* impacts not addressed by the approved project-specific *land use plan*.

(8) Any *coastal development* requiring a Coastal Development Permit must conform to the regulations in the certified *Local Coastal Program*. In case of conflict with the provisions of Section 143.0115(c)(1)-(7), the coastal development regulations apply.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)
(Amended 4-8-2008 by O-19734 N.S; effective 5-8-2008.)
(Amended 5-7-2012 by O-20161 N.S.; effective 6-6-2012.)

EDITORS NOTE: **The Land Development Manual includes:**
Coastal Bluffs and Beaches Guidelines
Biology Guidelines
Historical Resources Guidelines
Submittal Requirements for Deviations within the Coastal Overlay Zone

See RR-292248 for the Coastal Bluffs and Beaches Guidelines of the Land Development Code; RR-307377 for the Biology Guidelines of the Land Development Code; RR-292250 for the Historical Resources Guidelines of the Land Development Code; RR-292251 for the Submittal Requirements for Deviations within the Coastal Overlay Zone of the Land Development Code.

§143.0126 Procedures for Emergency Authorization to Impact Environmentally Sensitive Lands

Whenever *development* activity within *environmentally sensitive lands* is deemed necessary by order of the City Manager to protect the public health or safety, the City Manager may authorize, without a public hearing, the minimum amount of impact necessary to protect the public health or safety, subject to the following:

(a) Application. When an emergency exists, an *applicant* may use the procedures of this section instead of the standard application and decision procedures for a Site Development Permit. The *applicant* may apply for an emergency Site Development Permit in person, by letter to the City Manager, or by telephone.

(b) Contents of Application. The application for an emergency Site Development Permit shall include the following information:

(1) The nature of the emergency;

(2) The cause of the emergency;

(3) The location of the emergency;

(4) The remedial, protective, or preventive work required to deal with the emergency;

(5) The circumstances during the emergency that justify the course of action taken or to be taken, including the probable consequences of failing to take emergency action; and

(6) Identification of options for addressing the emergency, including the least environmentally damaging alternative.

(c) Verification. The City Manager shall verify the facts, including the existence and nature of the emergency, to the extent that time allows.

(d) Decision on Permit. A decision to approve, conditionally approve, or deny an emergency Site Development Permit shall be made by the City Manager.

(e) *Findings*. An emergency Site Development Permit may be approved or conditionally approved only if the City Manager makes the following *findings*:

(1) An emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a Site Development Permit and the *development* can and will be completed within 30 days unless otherwise specified in the permit; and

(2) Public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.

(f) Conditions. The City Manager may approve an emergency Site Development Permit with conditions, including an expiration date for any work authorized by the City Manager.

(1) All emergency Site Development Permits shall authorize only the minimum *development* necessary to stabilize the emergency.

(2) If the emergency work involves only temporary impacts to *environmentally sensitive lands*, a subsequent Neighborhood Development Permit or Site Development Permit is not required provided the *environmentally sensitive lands* are restored in a timely manner to their natural state, to the satisfaction of the City Manager. Restoration shall be in accordance with a restoration plan that conforms with the Biology Guidelines and is approved by the City Manager. The restoration plan shall be submitted to the City Manager within 60 days of completion of the emergency work and work on the approved restoration plan shall be initiated within 90 days of project completion or prior to the beginning of the next rainy season, whichever is greater.

(3) If the emergency work results in permanent impacts to *environmentally sensitive lands*, a subsequent Neighborhood Development Permit or Site Development Permit is required through the regular process in accordance with all regulations of this Division. The application for the Neighborhood Development Permit or Site Development Permit shall be submitted within 60 days of completion of the emergency work.

(g) Within the Coastal Overlay Zone, a Coastal Development Permit is required for any emergency *coastal development* in accordance with Section 126.0718.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)
(*Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)*
(Retitled from "Emergency Authorization to Impact Environmentally Sensitive Lands" to "Procedures for Emergency Authorization to Impact Environmentally Sensitive Lands" and amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

§143.0130 Uses Allowed Within Environmentally Sensitive Lands

Allowed uses within *environmentally sensitive lands* are those allowed in the applicable zone, except where limited by this section.

(a) *Sensitive Coastal Bluff* Areas. Permitted uses and activities in *sensitive coastal bluff* areas, as indicated on Map Drawing No. C-713, are limited to the following:

(1) *Single Dwelling Units* together with *accessory structures* and landscape features incidental to residential uses;

(2) Bicycle storage facilities;

(3) Public comfort stations;

(4) Public pergolas and gazebos;

(5) Public parking lots;

(6) Public seating benches;

(7) *Open fences* and walls for public safety, provided they do not interfere with existing or designated public or visual access ways;

(8) Safety and public information *signs*;

(9) Public stairways, ramps, and other physical beach access facilities, as identified within an applicable land use plan;

(10) Essential public walkways leading to permitted beach access facilities;

(11) Essential public drainage facilities; and

(12) Bluff repair and erosion control measures, when necessary to protect existing primary *structures* and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

(b) *Coastal Beach* Areas. Permitted uses and activities in *coastal beach* areas, as identified on Map Drawing No. C-713, are limited to the following:

(1) Lifeguard towers and stations and associated life and security facilities;

(2) Public comfort stations;

(3) Public piers;

(4) Safety and public information *signs*;

(5) Shoreline protective works when necessary to prevent bluff and beach erosion and to protect coastal dependent uses, public beach roadways, or existing primary *structures* in danger from wave action and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply;

(6) Public stairways, ramps, and other physical access *structures*, as proposed within an applicable land use plan; and

(7) Public recreational equipment.

(c) *Floodways*. Uses permitted within the *floodway* portion of a *Special Flood Hazard Area* are those allowed by the OF zone, as indicated in Table 131-02B.

(d) *Wetlands* in the Coastal Overlay Zone. Uses permitted in *wetlands* shall be limited to the following:

(1) Aquaculture, *wetlands*-related scientific research and wetlands-related educational uses;

(2) Wetland restoration projects where the primary purpose is restoration of the habitat;

(3) Incidental public service projects, where it has been demonstrated that there is no feasible less environmentally damaging location or alternative, and where mitigation measures have been provided to minimize adverse environmental effects.

(e) *Wetland Buffer* Areas in the Coastal Overlay Zone. Permitted uses in *wetland buffer* areas shall be limited to the following:

(1) Public Access paths;

(2) Fences;

(3) Restoration and enhancement activities; and

(4) Other improvements necessary to protect *wetlands*.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)

§143.0140 General Development Regulations for all Environmentally Sensitive Lands

Development that proposes *encroachment* into *environmentally sensitive lands* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations.

(a) *Environmentally sensitive lands* that are outside of the allowable development area on a *premises* shall be left in a natural state and used only for those passive activities allowed as a condition of permit approval. The landowner may elect to offer to dedicate in fee the undeveloped remainder portion of the *premises* to the City to relieve the land owner of management and liability obligations associated with that portion of the *premises*. Otherwise, the passive activities allowed on the undeveloped remainder of the *premises* and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.0152.

(b) The allowable development area for all proposed *subdivisions* is based on the existing *lot* or *premises* to be subdivided. If no *development* is proposed on any newly created *lot*, the future development area of the *lot* shall be indicated on the required *grading* plan and included in the maximum allowable development area calculation for the *subdivision*.

(c) No building *lot* shall be created that provides such a small development area that future reasonable *development* of the *lot* will require additional *encroachment* into *environmentally sensitive lands* beyond the maximum allowable development area of the original, unsubdivided *premises*. If additional development area is proposed for a *lot* that would exceed the maximum allowable development area of the original, unsubdivided *premises*, a deviation in accordance with Section 143.0150 is required, regardless of the *lot* size and the existing development area of the individual *lot*.

(d) No temporary disturbance or storage of material or equipment is permitted in *environmentally sensitive lands*, unless the disturbance or storage occurs within an area approved for *development* by a Site Development Permit or unless it can be demonstrated that the disturbance or storage will not alter the landform or cause permanent habitat loss and the land will be revegetated and restored in accordance with the Biology Guidelines in the Land Development Manual.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 5-7-2012 by O-20161 N.S.; effective 6-6-2012.)

EDITORS NOTE: The Land Development Manual includes:
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See RR-292248 for the Coastal Bluffs and Beaches Guidelines of the Land Development Code; RR-307377 for the Biology Guidelines of the Land Development Code; RR-292250 for the Historical Resources Guidelines of the Land Development Code; RR-292251 for the Submittal Requirements for Deviations within the Coastal Overlay Zone of the Land Development Code.

§143.0141 Development Regulations for Sensitive Biological Resources

Development that proposes *encroachment* into *sensitive biological resources* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Biology Guidelines in the Land Development Manual.

(a) General Regulations for *Sensitive Biological Resources*

(1) All *development* occurring in *sensitive biological resources* is subject to a site-specific impact analysis conducted by a qualified Biologist, in accordance with the Biology Guidelines in the Land Development Manual. The impact analysis shall evaluate impacts to *sensitive biological resources* and CEQA sensitive species. The analysis shall determine the corresponding mitigation, where appropriate, and the requirements for protection and management. Mitigation may include any of the following, as appropriate to the nature and extent of the impact:

(A) Dedication in fee title to the City of San Diego; or

(B) Dedication of a covenant of easement in favor of the City of San Diego, the California Department of Fish and Game and the U.S. Fish and Wildlife Service for either:

(i) an off-site location with long-term viability and biological values equal to or greater than the impacted site, and with limited right of entry for habitat management, as necessary; or

(ii) on-site creation of new habitat, or enhancement of existing degraded habitat, with limited right of entry for habitat management, as necessary. The location of the easement must have long-term viability and biological values equal to or greater than the impacted site.

(C) If the area of impact is small, monetary payment of compensation into a fund may be accepted in lieu of other forms of mitigation. The City shall use the fund to acquire, maintain and administer habitat areas pursuant to City Council Resolution No. R-275129, adopted February 12, 1990. Where appropriate, the City Manager is authorized to enter into agreements with public agencies or private non-profit conservancies or foundations to administer the funds and acquire or maintain habitat preservation areas.

(2) *Grading* during wildlife breeding seasons shall be consistent with the requirements of the *MSCP Subarea Plan*.

(3) *Sensitive biological resources* that are outside of the allowable development area on a *premises*, or are acquired as off-site mitigation as a condition of permit issuance, are to be left in a natural state and used only for those passive activities allowed as a condition of permit approval. If the land is not dedicated in fee to the City, identification of permissible passive activities and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in section 143.0152. The U.S. Fish and Wildlife Service and the California Department of Fish and Game are to be named as third party beneficiaries to any covenant of easement recorded pursuant to this section.

(4) Inside and adjacent to the *MHPA*, all *development* proposals shall be consistent with the *MSCP Subarea Plan*.

(5) Projects Located Inside the *MHPA*

(A) *Development* is permitted only in accordance with the regulations set forth in the OR-1-2 zone, pursuant to section 131.0250(b), unless exempted from the development area regulations pursuant to section 143.0111.

(B) Any change of an agricultural use to a non-agricultural use is subject to the development area regulations of section 143.0141(a)(5)(A). Existing agricultural operations that exceed the allowable development area may remain as agricultural use only and do not count as part of the allowable development area.

(6) Projects Located Outside of the *MHPA*

(A) *Development* of lands that are designated as open space in the applicable *land use plan* and zoned OR-1-1 is permitted only if necessary to achieve the allowable development area, in accordance with section 131.0250(a).

(B) *Encroachment* into *sensitive biological resources* is not limited, except as set forth in section 143.0141 (a)(6)(A) and 143.0141(b).

(7) Narrow Endemic Species

Inside the *MHPA*, *development* shall avoid impacts to narrow endemic species. Outside the *MHPA*, measures for protection of narrow endemic species shall be required such as management enhancement, restoration and/or transplantation. A list of narrow endemic species is included in the Biology Guidelines in the Land Development Manual.

(b) Wetland Regulations

(1) State and federal law regulates adverse impacts to *wetlands* and listed species habitat. The *applicant* shall confer, when applicable, with the U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Game before any public hearing for the *development* proposal.

(2) The applicant shall solicit input from U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Game on impact avoidance, minimization, mitigation and buffer requirements, including the need for upland transitional habitat.

(3) The applicant shall, to the maximum extent feasible, incorporate U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Game recommendations into the *development* proposal prior to the first public hearing.

(4) *Construction permits* shall not be issued for any project that impacts *wetlands* or listed species habitat until all necessary federal and state permits have been obtained.

(5) Impacts to *wetlands*, shall be avoided. A *wetland buffer* shall be maintained around all *wetlands* as appropriate to protect the functions and values of the *wetlands*. In the Coastal Overlay Zone the applicant shall provide a minimum 100-foot buffer, unless a lesser or greater buffer is warranted as determined through the process described in this section.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)
(Amended 5-7-2012 by O-20161 N.S.; effective 6-6-2012.)

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§143.0142 Development Regulations for Steep Hillsides

Development that proposes *encroachment* into *steep hillsides* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Steep Hillside Guidelines in the Land Development Manual.

(a) Allowable Development Area

(1) Inside of the *MHPA*, the allowable development area is determined in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b). However, within the Coastal Overlay Zone, *coastal development* is permitted only if in conformance with Section 143.0142(a)(4) and the certified *local coastal program*.

(2) Outside of the *MHPA*, the allowable development area includes all portions of the *premises* without *steep hillsides*. *Steep hillsides* shall be preserved in their natural state, except that *development* is permitted in *steep hillsides* if necessary to achieve a maximum development area of 25 percent of the premises. However, within the Coastal Overlay Zone, *coastal development* on *steep hillsides* shall be minimized to the maximum extent possible and permitted only when in conformance with Section 143.0142(a)(4).

(3) Outside of the *MHPA* and outside the Coastal Overlay Zone, up to an additional 15 percent development area is permitted only as follows and as long as the total development area does not exceed 40 percent of the *premises*, pursuant to the Steep Hillside Guidelines in the Land Development Manual:

(A) For projects where the following major public facilities are required: publicly owned parks and recreation facilities, fire and police stations, publicly owned libraries, public *schools*, major *streets* and primary arterials, and *public utility* systems;

(B) For projects where the existing development area is not contiguous, and access to the entirety of the development area is not otherwise available; and

(C) For projects where the existing development area does not have direct access to a *public right-of-way*.

(4) Within the Coastal Overlay Zone, *steep hillsides* shall be preserved in their natural state and *coastal development* on *steep hillsides* containing *sensitive biological resources* or mapped as Viewshed or Geologic Hazard on Map C-720 shall avoid encroachment into such *steep hillsides* to the maximum extent possible.

(A) When *encroachment* onto such *steep hillsides* is unavoidable, *encroachment* shall be minimized; except that *encroachment* is permitted in such *steep hillsides* to provide for a development area of up to a maximum of 25 percent of the *premises* on *premises* containing less than 91 percent of such *steep hillsides*. On *premises* containing 91 percent or greater of such *steep hillsides*, the maximum allowable development area is 20 percent of the *premises*; however, an additional 5 percent *encroachment* into such *steep hillsides* may be permitted if necessary to allow an economically viable use, pursuant to the Steep Hillside Guidelines.

(B) For the purposes of this Section 143.0142(a)(4), the development area shall include Zone 1 brush management pursuant to the Landscape Regulations in Chapter 14, Article 2, Division 4.

(C) Up to an additional 15 percent of *encroachment* onto such *steep hillsides* is permitted for the following:

(i) Major public roads and collector streets identified in the Circulation Element of an applicable *land use plan*;

(ii) Public utility systems;

(iii) In the North City Local Coastal Program Land Use Plan areas only: Local public streets or private roads and driveways which are necessary for access to the more developable portions of a site containing slopes of less than 25 percent grade, provided no less environmentally damaging alternative exists. The determination of whether or not a proposed road or driveway qualifies for an exemption, in whole or in part, shall be made by the City Manager based upon an analysis of the project site.

(D) For the purposes of Section 143.0142, *encroachment* shall be defined as any area of 25 percent or greater slope in which the natural landform is altered by grading, is rendered incapable of supporting vegetation due to the displacement required for the building, accessory structures, or paving, or is cleared of vegetation (including Zone 1 brush management).

(E) In the approval of any Coastal Development Permit for a *subdivision*, and any other division of land, including *lot* splits, no *encroachment* into *steep hillsides* containing *sensitive biological resources*, or mapped as Viewshed or Geologic Hazard on Map C-720 shall be permitted. The decision maker shall require a *setback* for Zone One brush management consistent with Section 142.0142.

(c) Newly created slopes shall not exceed the slope gradient permitted in Section 142.0133.

(d) Disturbed portions of the site in 25 percent (4 horizontal feet to 1 vertical foot)or greater slopes shall be revegetated or restored in accordance with Chapter 14, Article 2, Division 4 (Landscape Regulations).

(e) Before approval of any Neighborhood Development Permit or Site Development Permit, the *applicant* shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved *development*, as necessary and appropriate.

(f) Any increase in runoff resulting from the *development* of the site shall be directed away from any *steep hillside* areas and either into an existing or newly improved public storm drain system or onto a *street* developed with a gutter system or *public right-of-way* designated to carry surface drainage run-off.

(g) Erosion Control Measures

(1) Outside of the Coastal Overlay Zone, erosion control measures are not subject to the 25 percent development area regulations in Section 143.0142(a), but are subject to the landscape regulations in Chapter 14, Article 2, Division 4 and the Steep Hillside Guidelines in the Land Development Manual. Within the Coastal Overlay Zone, erosion control measures are subject to Section 142.0142(a)(4).

(2) Air-placed concrete, including gunite or shotcrete, *retaining walls*, buttress *fills*, and other similar erosion control measures may be allowed only if determined to be the only feasible means of erosion control to protect the existing primary *structures* or *public improvements*.

(A) These measures shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing adjacent landform characteristics including color coating, texturing, landscape, and topographical features.

(B) Where erosion control measures are proposed to encroach upon or affect any portion of property owned by the City of San Diego, the permittee shall provide written permission from the City Manager before approval of the Site Development Permit. Documentation of this approval shall be recorded with the conditions of permit approval.

(h) All development on *steep hillsides* located in La Jolla or La Jolla Shores Community Plan areas, shall, in addition to meeting all other requirements of this section, be found consistent with the Hillside Development Guidelines set forth in the La Jolla - La Jolla Shores *Local Coastal Program land use plan*.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000; amended 6-19-2000 by O-18814 N.S.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

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§143.0143 Development Regulations for Sensitive Coastal Bluffs

Coastal development on *premises* containing *sensitive coastal bluffs*, as identified on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. 00-17062 or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(a) No *development* is permitted on the face of a *sensitive coastal bluff*, except as permitted in Section 143.0143(g) and (h), and the *coastal bluff face* shall be preserved as a condition of permit approval.

(b) On the portion of a *premises* where *development* is permitted, the proposed *grading* shall minimize the alteration of natural landforms and graded areas shall topographically resemble natural landforms of the surrounding area.

(c) Only native or other drought-tolerant plant species shall be used in landscaped areas in order to minimize irrigation requirements and to reduce potential slide hazards due to overwatering of the *coastal bluffs*.

(d) All drainage from the improvements on the *premises* shall be directed away from any *coastal bluff* and either into an existing or newly improved public storm drain system or onto a *street* developed with a gutter system or *public right-of-way* designated to carry surface drainage run-off. All drainage from any unimproved areas shall be appropriately collected and discharged in order to reduce, control, or mitigate erosion of the *coastal bluff*.

(e) Before approval of any *development permit*, the *applicant* shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved *development*, as necessary and appropriate.

(f) All *development* including buildings, *accessory structures*, and any additions to existing *structures* shall be set back at least 40 feet from the *coastal bluff edge*, except as follows:

(1) The City Manager may permit *structures* to be located between 25 and 40 feet from the bluff edge where the evidence contained in a geology report indicates that the site is stable enough to support the *development* at the proposed distance from the *coastal bluff edge* and the project can be designed so that it will not be subject to or contribute to significant geologic instability throughout the anticipated life span of the primary *structures*, and no shoreline protection is required.

Reductions from the 40-foot setback shall be approved only if the geology report concludes the *structure* will not be subject to significant geologic instability, and not require construction of shoreline protection measures throughout the economic life span of the *structure*. In addition, the applicants shall accept a deed restriction to waive all rights to protective devices associated with the subject property. The geology report shall contain:

(A) An analysis of bluff retreat and coastal stability for the project site, according to accepted professional standards;

(B) An analysis of the potential effects on bluff stability of rising sea levels, using latest scientific information;

(C) An analysis of the potential effects of past and projected El Nino events on bluff stability;

(D) An analysis of whether this section of coastline is under a process of retreat.

(2) *Accessory structures* and landscape features customary and incidental to residential uses shall not be closer than 5 feet to the *coastal bluff edge* provided, however, that these shall be located at *grade*. *Accessory structures* and features may be landscaping, walkways, unenclosed patios, open shade *structures*, decks that are less than 3 feet above grade, lighting standards, *fences* and walls, seating benches, *signs*, or similar *structures* and features, excluding garages, carports, buildings, pools, spas, and upper *floor* decks with load-bearing support *structures*.

(3) O*pen fences* may be permitted closer than 5 feet to the *coastal bluff edge* only if necessary to provide for public safety and to protect resource areas accessible from public right-of-ways or on public parkland.

(4) Essential public drainage facilities and public walkways leading to permitted beach access facilities may be installed within the 5-foot *coastal bluff edge* setback provided they are designed to minimize impacts to the *coastal bluff face* and *coastal beach* areas.

(g) *Coastal bluff* repair and erosion control measures may occur on the bluff face only if they comply with the following:

(1) *Coastal bluff* repair and erosion control measures may be allowed on the *coastal bluff face* only if determined to be the only feasible means of erosion control and when necessary, to protect the existing primary *structures* or to protect *public improvements* that cannot feasibly be relocated.

(2) *Coastal bluff* repair and erosion control measures shall not cause significant alteration of the natural character of the bluff face.

(3) The *applicant* shall submit a *geotechnical report* that documents the need for an erosion control measure to the City Manager. The *geotechnical report* shall identify the type and design of the erosion control measure necessary for protection of the existing primary *structures*, based upon site-specific conditions and analysis of alternatives. The report must be accepted as adequate by the City Manager before any erosion control measures can be approved.

(4) Air-placed concrete, including gunite or shotcrete, *retaining walls*, *fills* or other similar erosion control measures shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing and adjacent landform characteristics including color coating, texturing, landscape, and topographical features.

(5) Where erosion control measure are proposed to encroach upon or affect any portion of property owned by the City of San Diego, the *applicant* shall provide written permission from the City Manager before approval of any permit. Documentation of this approval shall be recorded with the conditions of permit approval.

(h) Essential public facilities including drainage facilities, stairways, ramps, and other physical beach access facilities may be permitted on a coastal bluff face only if identified in an approved *land use plan* or if located in an areas historically used by the public. These facilities shall be designed to minimize impacts to the bluff face and beach area.

(i) All *development* occurring on *sensitive coastal bluffs* shall be in conformance with the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(j) Public views shall be preserved pursuant to Section 132.0403.

(k) A vertical public access easement of not less than 10 feet in width, and running the full depth of the *premises*, shall be offered, as a public easement as a condition of Coastal Development Permit approval, for *dedication* whenever all of the following conditions exist:

(1) The proposed *development* is located on *premises* that lies between the shoreline and the first public roadway paralleling the sea, as defined within the California Coastal Commission Regulations.

(2) The need for the accessway has been identified in the applicable *land use plan* or no other easement exists within a lateral distance of 500 feet of the subject *premises*; and

(3) Impacts caused by the proposed *development*, including, but not limited to, direct encroachment into an accessway identified in the applicable *land use plan*, justify the requirement for a vertical accessway.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

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§143.0144 Development Regulations for Coastal Beaches

The following development regulations apply to *development* proposed on a *premises* containing a *coastal beach*, as identified on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. 00-17062, and *coastal development* is subject to the following regulations and the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(a) No *development* is permitted on the portion of the site containing the *coastal beach*, except as permitted in Section 143.0130(b).

(b) All *development* occurring on a site containing *coastal beaches* must conform with the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(c) Public views shall be preserved pursuant to Section 132.0403.

(d) A vertical public access easement of not less than 10 feet in width, and running the full depth of the *premises*, shall be offered for *dedication* as a public easement as a condition of Coastal Development Permit approval whenever both of the following conditions exist:

(1) The need for the accessway has been identified in the applicable *land use plan*, or no other easement exists within a lateral distance of 500 feet of the subject *premises*; and

(2) Impacts caused by the proposed *development*, including, but not limited to, direct encroachment into an accessway identified in the applicable land use plan, justify the requirement for a vertical accessway.

(e) An easement for public access and passive recreational uses located along the shoreline paralleling the water's edge shall be offered for *dedication* as a public easement as a condition of *development permit* approval. The easement shall have a minimum width of 25 feet measured from the mean high tide line to the toe of an existing *coastal bluff*, the first line of terrestrial vegetation where there is no *coastal bluff*, or an existing or proposed seawall or other protective device seaward to the mean high tide line whenever both of the following conditions exist:

(1) The proposed *development* is located on property that contains a sandy or cobble beach or passable headland; and

(2) The proposed *development* will fix the location of the back of the beach, encroach onto the shoreline or cause other impacts which justify the requirement for the easement.

(f) For applications involving a shoreline protective work, the applicant shall submit a geotechnical report that documents the need for the erosion control measure to the City Manager. If the geotechnical report documents an existing primary *structure* is in danger from erosion, the geotechnical report shall identify the type and design of the protective device necessary to protect the existing primary *structure*, and other feasible alternatives to reduce the risk and address site-specific hazardous conditions. The report must be accepted as adequate by the City Manager before any erosion control measures can be approved.

(g) Air-placed concrete, including gunite or shotecrete, retaining walls, seawalls, fills or other similar erosion control measures shall be permitted only when necessary to protect an existing primary *structure* and when determined to be the least environmentally damaging feasible alternative pursuant to the California Environmental Quality Act. Mitigation for impacts to local shoreline sand supply shall be required.

(h) Any approved shoreline protective device shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing and adjacent landform characteristics including color coating, texturing, landscape, and topographical features.

(i) Where erosion control measures are proposed to encroach upon or affect any portion of property owned by The City of San Diego or other public agency, or on lands subject to the public trust, the *applicant* shall provide written permission from the City Manager or public property owner before approval of any *development permit*. Documentation of this approval shall be recorded with the conditions of *development permit* approval. When an erosion control device encroaches directly on or otherwise affects State tidelands or publicly-owned property, the property owner shall be required to compensate for the use of public property and to mitigate the impacts of the protective device on the public beach.

(j) Mitigation for impacts on State tidelands or public beach may include, but not be limited to, a mitigation fee to be used for beach and sand replenishment within the littoral cell of the project. The fee shall be roughly proportional to the value of the beach area lost as a result of the protective device and shall be deposited in the City of San Diego Beach Sand Mitigation Fund held by the San Diego Association of Governments.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

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§143.0145 Development Regulations for Special Flood Hazard Areas

(a) *Special Flood Hazard Areas* within the City of San Diego are established in accordance with the report entitled "*Flood Insurance Study*, San Diego County, California," dated June 16, 1999 and the accompanying *Flood Insurance Rate Maps (FIRM)*, published by the Federal Emergency Management Agency (FEMA), on file in the office of the City Clerk as Document Nos. 18910-1 and 18910-2, including any supplements, amendments, and revisions which are properly promulgated by FEMA or the Federal Insurance Administrator.

(b) For the purpose of Sections 143.0145 and 143.0146, the City Engineer is the designated Floodplain Administrator and shall administer, implement, and enforce these regulations.

(c) The degree of *flood* protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger *floods* can and will occur on rare occasions. It is possible that increased *flood* heights may result from man-made or natural causes. This section does not imply that land outside a *Special Flood Hazard Area* or uses permitted within such areas will be free from *flooding* or *flood* damages. This section shall not create liability on the part of the City, any officer or employee thereof, or the FEMA, for any *flood* damages that result from reliance on this chapter or any administrative decision lawfully made there under.

(d) The following development regulations and all other applicable requirements and regulations of FEMA apply to all *development* proposing to encroach into a *Special Flood Hazard Area*, including both the *floodway* and *flood fringe* areas or that does not qualify for an exemption pursuant to Section 143.0110(c):

(e) *Floodways*

(1) Within the *floodway* portion of a *premises*, development regulations are as set forth for the OF zone, pursuant to Section 131.0231.

(2) *Structures* associated with any allowed use shall comply with the following requirements:

(A) *Structures* shall not be attached to a foundation, in order to readily move them in case of *flood*; and

(B) *Structures* shall be removed upon imminence of *flooding*, as predicted by the National Weather Service or local public weather broadcast. If a *structure* is not removed and *flooding* occurs, the retrieval or salvage of the *structure* and repair of any damage caused by the *structure* shall be the responsibility of the owner.

(3) *Channelization* or other substantial alteration of rivers or streams shall be limited to that necessary for the following:

(A) Essential public service projects, where no other feasible construction method or alternative project location exists; and

(B) *Flood* control projects, where no other feasible method for protecting existing public or private *development* exists and where such protection is necessary for public safety.

(C) Projects where the primary function is the improvement of fish and wildlife habitat.

(4) *Development* in *floodways* shall be offset by improvements or modifications to enable the passage of a *base flood*, in accordance with the FEMA standards and regulations provided in Section 143.0146.

(5) *Development* that involves *channelization* or other substantial alteration of rivers or streams is subject to the following requirements.

(A) All requirements and relevant recommendations of hydrological studies for the watershed of the affected stream, as approved by the City Engineer, shall be incorporated into the project design and mitigation measures. These requirements include erosional characteristics, flow velocities, volume, sediment transport, and maintenance of hydrology.

(B) The channel shall be designed to ensure that the following occur:

(i) Stream scour is minimized;

(ii) Erosion protection is provided;

(iii) Water flow velocities are maintained as specified by the City Engineer;

(iv) There are neither significant increases nor contributions to downstream bank erosion and sedimentation of *sensitive biological resources*; acceptable techniques to control stream sediment include planting riparian vegetation in and near the stream and detention or retention basins;

(v) Wildlife habitat and corridors are maintained;

(vi) Resource management criteria are implemented consistent with applicable *land use plans*; and

(vii) Groundwater recharge capability is maintained or improved.

(C) Channels that accommodate a *base flood* shall do so without increasing the water surface elevation more than one foot at any point from the level of a nonconfined *base flood* in the natural undeveloped floodplain. Channels may accommodate less than a *base flood* (low-flow channels), but shall be designed and constructed in accordance with FEMA regulations.

(D) All artificial channels shall consist of natural bottoms and sides and shall be designed and sized to accommodate existing and proposed riparian vegetation and other natural or proposed constraints. Where maintenance is proposed or required to keep vegetation at existing levels compatible with the design capacity of the channel, a responsible party shall be identified and a maintenance and monitoring process shall be established to the satisfaction of the City Engineer.

(6) *Development* shall not significantly adversely affect existing *sensitive biological resources* on-site or off-site.

(7) Within the Coastal Overlay Zone, no *structure* or portion thereof shall be erected, constructed, converted, established, altered or enlarged, or no landform alteration *grading*, placement or removal of vegetation, except that related to a historic and ongoing agricultural operation, or land division shall be permitted, provided:

(A) Parking lots, new roadways and roadway expansions shall be allowed only where indicated on an adopted *Local Coastal Program land use plan.*

(B) *Floodway* encroachments for utility and transportation crossings shall be offset by improvements or modifications to enable the passage of the *base flood*, in accordance with the FEMA standards and regulations provided in Section 143.0146.

(f) *Flood Fringe*. The applicable development regulations are those in the underlying zone, subject to the following supplemental regulations:

(1) Within the *flood fringe* of a *Special Flood Hazard Area*, permanent *structures* and *fill* for permanent *structures*, roads, and other *development* are allowed only if the following conditions are met:

(A) The *development* or *fill* will not significantly adversely affect existing *sensitive biological resources* on-site or off-site;

(B) The *development* is capable of withstanding *flooding* and does not require or cause the construction of off-site *flood* protective works including artificial *flood* channels, revetments, and levees nor will it cause adverse impacts related to *flooding* of properties located upstream or downstream, nor will it increase or expand a *(FIRM)* Zone A;

(C) *Grading* and *filling* are limited to the minimum amount necessary to accommodate the proposed *development*, harm to the environmental values of the floodplain is minimized including peak flow storage capacity, and *wetlands* hydrology is maintained;

(D) The *development* neither significantly increases nor contributes to downstream bank erosion and sedimentation nor causes an increase in *flood* flow velocities or volume; and

(E) There will be no significant adverse water quality impacts to downstream wetlands, lagoons or other *sensitive biological resources*, and the *development* is in compliance with the requirements and regulations of the National Pollution Discharge Elimination System, as implemented by the City of San Diego.

(F) The design of the *development* incorporates the findings and recommendations of both a site specific and coastal watershed hydrologic study.

(2) All *development* that involves *fill*, *channelization*, or other alteration of a *Special Flood Hazard Area* is subject to the requirements for *channelization* in Section 143.0145(e)(5) and with FEMA regulations.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 11-13-08 by O-19805 N.S; effective 12-13-2008.)

§143.0146 Supplemental Regulations for Special Flood Hazard Areas

All proposed *development* within a *Special Flood Hazard Area* is subject to the following requirements and all other applicable requirements and regulations of FEMA.

(a) *Development* and Permit Review

(1) Where *base flood elevation* data has not been provided by the *Flood Insurance Study*, the City Engineer shall obtain, review, and utilize *base flood elevation* and *floodway* data available from federal or state sources, or require submittal of such data from the *applicant*. The City Engineer shall make interpretations, where needed, as to the location of the boundaries of the areas of the *Special Flood Hazard Area*, based on the best available engineering or scientific information.

(2) Proposed *development* in a *Special Flood Hazard Area* shall not adversely affect the *flood* carrying capacity of areas where *base flood elevations* have been determined but the *floodway* has not been designated. "Adversely affect" as used in this section means that the cumulative effect of the proposed *development*, when combined with all other existing and anticipated *development*, will not increase the water surface elevation of the *base flood* more than one foot at any point.

(3) In all cases where a watercourse is to be altered the City Engineer shall do the following:

(A) Notify affected, adjacent communities and the California Department of Water Resources of any proposed alteration or relocation of a watercourse and submit evidence of the notice to the Federal Insurance Administration;

(B) Require that the *flood* carrying capacity of the altered or relocated portion of the watercourse is maintained; and

(C) Secure and maintain for public inspection and availability the *certifications*, appeals, and variances required by these regulations.

(4) The *applicant* shall grant a flowage easement to the City for that portion of the property within a *floodway*.

(5) Appropriate agreements shall be secured between the *applicant* and the City to assure participation by the *applicant* or any successor in interest in financing of future *flood* control works.

(6) *Development* in a *Special Flood Hazard Area* shall not increase or expand a *FIRM* Zone A.

(7) In In all *floodways*, any *encroachment*, including *fill*, new construction, significant modifications, and other *development* is prohibited unless *certification* by a registered professional engineer is provided demonstrating that *encroachments* will not result in any increase in *flood* levels during the occurrence of the *base flood* discharge except as allowed under Code of Federal Regulations Title 44, Chapter 1, Part 60.3(c)(13).

(b) Standards for *Subdivisions*

(1) All preliminary *subdivision* proposals shall identify the *Special Flood Hazard Area* and the elevation of the *base flood*.

(2) All final *subdivision maps* shall provide the elevation of proposed *structures* and pads. If the site is *filled* above the *base flood elevation*, the *lowest floor*, including *basement*, shall be certified to be 2 feet above the *base flood elevation* by a registered professional engineer or surveyor, and the *certification* shall be provided to the City Engineer.

(3) All *subdivisions* shall be designed to minimize *flood* damage.

(4) All *subdivisions* shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize *flood* damage.

(5) All *subdivisions* shall provide adequate drainage to reduce exposure to *flood* hazards.

(6) The final map shall bear the notation "Subject to Inundation" for those portions of the property with a *grade* lower than 2 feet above the *base flood elevation*.

(c) Standards of Construction

In all *Special Flood Hazard Areas*, the following standards apply for all *development*.

(1) All permitted, permanent *structures* and other significant improvements shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) All permitted permanent *structures* and other significant improvements shall be constructed with materials and utility equipment resistant to *flood* damage.

(3) Construction methods and practices that minimize *flood* damage shall be used.

(4) All electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and located to prevent water from entering or accumulating within the equipment components during conditions of *flooding*.

(5) *Breakaway walls* shall be certified by a registered engineer or architect to meet all applicable FEMA requirements. The *certification* shall be provided to the City Engineer before final inspection approval.

(6) New construction or *substantial improvement* of any *structure* shall have the *lowest floor*, including *basement*, elevated at least 2 feet above the *base flood elevation*. Upon completion of the *development*, the elevation of the *lowest floor*, including *basement*, shall be certified by a registered professional engineer or surveyor to be properly elevated. The *certification* shall be provided to the City Engineer before final inspection approval. The City Engineer reserves the right to require a preliminary *certification* before foundation inspection approval.

(7) New construction or *substantial improvement* of any *structure* in *FIRM* Zone AH or AO shall have the *lowest floor*, including *basement*, elevated above the highest adjacent *grade* at least 2 feet higher than the depth number specified on the *FIRM*, or at least 4 feet if no depth number is specified. Upon the completion of the *structure* the elevation of the *lowest floor*, including *basement*, shall be certified by a registered professional engineer or surveyor, to be properly elevated. The *certification* shall be provided to the City Engineer before final inspection approval. The City Engineer may require a preliminary *certification* before foundation inspection approval.

(8) Permitted nonresidential construction shall either be elevated as required by Section 143.0146(c)(6) or (7) or, together with attendant utility and sanitary facilities, meet the flood proofing requirements of FEMA. *Certification* by a registered professional engineer or architect that such requirements are met shall be provided to the City Engineer before final inspection approval. The City Engineer may require a preliminary *certification* before foundation inspection approval.

(9) Fully enclosed areas below the *lowest floor* that are subject to *flooding* shall be certified by a registered professional engineer or architect that they comply with the flood proofing requirements of FEMA. The *certification* shall be provided to the City Engineer before final inspection approval.

(d) Standards for *Manufactured Homes*

All new and replacement *manufactured homes* and additions to *manufactured homes* are subject to the following regulations.

(1) The *lowest floor* shall be elevated at least 2 feet above the *base flood elevation*.

(2) *Manufactured homes* shall be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement.

(3) A registered engineer or architect must certify that the conditions of this subsection have been met. The *certification* shall be provided to the City Engineer before final inspection approval.

(e) Standards for Utilities

Certification shall be provided to the City Engineer before final inspection approval that the following requirements have been met.

(1) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of *flood* waters into the system and discharge from systems into *flood* waters.

(2) On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during *flooding*.

(f) The City Engineer shall notify the San Diego District Offices of the Coastal Commission of any pending changes to the adopted Flood Insurance Rate Maps affecting property within the Coastal Overlay Zone when the City Engineer receives notification of such potential changes. The City Engineer shall notify the Commission staff when *costal development* within the City of San Diego's Coastal

Development Permit jurisdiction would require processing a change to the FIRM maps. The City Engineer shall assure the Commission's District Office has the most current effective Flood Insurance Rate Maps approved by FEMA by forwarding any revised maps affecting the Coastal Overlay Zone within thirty working days of City Engineer's receipt.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

§143.0150 Deviations from Environmentally Sensitive Lands Regulations

Plans submitted in accordance with this section shall, to the maximum extent feasible, comply with the regulations of this division. If a proposed *development* does not comply with all applicable development regulations of this division and a deviation is requested as indicated in Table 143-01A, the Planning Commission may approve, conditionally approve, or deny the proposed Site Development Permit in accordance with Process Four, subject to the following:

(a) Deviations from the regulations of this division may be granted only if the decision maker makes the *findings* in Section 126.0504(c).

(b) Deviations from the Supplemental Regulations for Special Flood Hazard Areas in Section 143.0146 may be granted only if the decision maker makes the *findings* in Section 126.0504(d).

(c) Within the Coastal Overlay Zone, deviations from the Environmentally Sensitive Lands Regulations may be granted only if the decision maker makes the *findings* in Section 126.0708.

(d) Deviations to the wetland regulations of this Division for *development* located outside of the Coastal Overlay Zone shall not be granted unless the *development* qualifies to be processed as one of the three options set forth in the following regulations and in accordance with the Biology Guidelines in the Land Development Manual:

(1) Essential Public Projects Option

(A) A deviation may only be requested for an Essential Public Project where no feasible alternative exists that would avoid impacts to wetlands.

(B) For the purpose of this section, Essential Public Projects shall include:

(i) Any public project identified in an adopted *land use plan* or implementing document and identified on the Essential Public Projects List adopted by Resolution No. R-307377 as Appendix III to the Biology Guidelines; or

(ii) Linear infrastructure, including but not limited to major roads and *land use plan* circulation element roads and facilities including bike lanes, water and sewer pipelines including appurtenances, and stormwater conveyance systems including appurtenances; or

(iii) Maintenance of existing public infrastructure; or

(iv) State and federally mandated projects.

(2) Economic Viability Option

A deviation may be requested to preserve economically viable use of a property that would otherwise be deprived by a strict application of the regulations. Such a deviation shall be the minimum necessary to achieve economically viable use of the property and shall avoid wetland resources to the maximum extent practicable.

(3) Biologically Superior Option

(A) A deviation may be requested to achieve a superior biological result which would provide long term biological benefit and a net increase in quality and viability (functions and value), relative to existing conditions or the project originally proposed by the applicant, and long term biological benefit.

(B) Wetland resources that would be impacted by the project shall be demonstrated to be of low biological quality.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 5-7-2012 by O-20161 N.S.; effective 6-6-2012.)

§143.0151 Alternative Compliance for Steep Hillside Development Area Regulations

Proposed *developments* that do not comply with the development area regulations of Section 143.0142(a) and do not result in conflicts with other regulations may be considered as alternative compliance as indicated in Table 143-01A, pursuant to the regulations in this section. The Planning Commission may approve, conditionally approve, or deny the proposed Site Development Permit with alternative compliance in accordance with Process Four, subject to the following:

(a) Alternative compliance shall not be used in conjunction with any development permit for a *single dwelling unit* on an individual *lot*;

(b) Conformance with all other Environmentally Sensitive Lands Regulations is required unless a deviation is approved with the Site Development Permit, in accordance with Section 143.0150;

(c) Alternative compliance may be granted only if the decision maker makes the findings in Section 126.0504(e); and

(d) Alternative compliance shall not be considered for lands that are designated as open space in the applicable *land use plan* or that are zoned OR-1-1 or OR-1-2.

(e) Alternative compliance shall not be considered for lands that are within the Coastal Overlay Zone.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§143.0152 Covenants of Easements Pursuant to Environmentally Sensitive Lands Regulations

As authorized by California Government Code Section 65871, the owner of any *premises* affected by issuance of a permit under this division as described in Section 143.0140(a), shall execute a covenant of easement unless the owner dedicates the remainder portion of the property in fee to the City. The covenant of easement shall be recorded against title to the affected *premises* and executed in favor of the City.

(a) The owner shall draft the covenant of easement as follows:

(1) To contain a legal description of the *premises* affected by the permit with a description of the *development* area and the *environmentally sensitive lands* that will be preserved;

(2) To impart notice to all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting use of the *environmentally sensitive lands* covered by the permit;

(3) To ensure that the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected *premises*; and

(4) To ensure enforceability of the covenant of easement by the City, or jointly and severally by the City, the U.S. Fish and Wildlife Service, and the California Department of Fish and Game in those instances when the covenant of easement affects *premises* containing *sensitive biological resources* or other lands that have been accepted as mitigation.

(b) A Process Four hearing shall be held to consider a formal, written request directed to the City by any person requesting the release of a covenant of easement recorded pursuant to this division. A release of any covenant of easement recorded pursuant to this division shall be recorded by the City only when it is determined by the decision maker that restriction of the property is no longer necessary to achieve the land use goals of the City. In any instance where the covenant of easement concerns *sensitive biological resources*, a determination by the decision maker to release the covenant may be made only with the written concurrence of the U.S. Fish and Wildlife Service and the California Department of Fish and Game .

(c) In the Coastal Overlay Zone, the covenant of easement shall be required as a condition of approval at the *tentative map* stage of *coastal development* rather than at subsequent stages to the extent possible.

(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§143.0155 Administrative Guidelines for Environmentally Sensitive Lands Regulations

The City Manager is authorized to promulgate and publish Steep Hillside Guidelines, Biology Guidelines, Coastal Bluffs and Beaches Guidelines, and other support documents to be located in the Land Development Manual, as necessary to implement this division. These administrative guidelines shall serve as baseline standards for processing Neighborhood Development Permits, Site Development Permits and Coastal Development Permits issued pursuant to this division.
Any revisions to these guidelines will require review and approval of the Coastal Commission as an amendment to the City's certified *Local Coastal Program*.
(Added 12-9-1997 by O-18451 N.S.; amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

EDITORS NOTE: The Land Development Manual includes:
Coastal Bluffs and Beaches Guidelines
Biology Guidelines
Historical Resources Guidelines
Submittal Requirements for Deviations within the Coastal Overlay Zone

See RR-292248 for the Coastal Bluffs and Beaches Guidelines of the Land Development Code; RR-292249 for the Biology Guidelines of the Land Development Code; RR-292250 for the Historical Resources Guidelines of the Land Development Code; RR-292251 for the Submittal Requirements for Deviations within the Coastal Overlay Zone of the Land Development Code.

§143.0160 Violations and Remedies

The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2, Enforcement Authorities for the Land Development Code
(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)