

Article 3: Supplemental Development Regulations

Division 2: Historical Resources Regulations

(Added 12-9-1997 by O-18451 N.S.)

(Amended 4-8-2008 by O-19734 N.S.)

§143.0201 Purpose of Historical Resources Regulations

The purpose of these regulations is to protect, preserve and, where damaged, restore the *historical resources* of San Diego, which include *historical buildings, historical structures or historical objects, important archaeological sites, historical districts, historical landscapes, and traditional cultural properties*. These regulations are intended to assure that *development* occurs in a manner that protects the overall quality of *historical resources*. It is further the intent of these regulations to protect the educational, cultural, economic, and general welfare of the public, while employing regulations that are consistent with sound historical preservation principles and the rights of private property owners.

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

§143.0210 When Historical Resources Regulations Apply

- (a) This division applies to proposed *development* when the following *historical resources* are present on the site, whether or not a Neighborhood Development Permit or Site Development Permit is required;
- (1) *designated historical resources*;
 - (2) *historical buildings*;
 - (3) *historical districts*;
 - (4) *historical landscapes*;
 - (5) *historical objects*;
 - (6) *historical structures*;
 - (7) *important archaeological sites*; and
 - (8) *traditional cultural properties*.

- (b) Where any portion of a *premises* contains *historical resources*, this division shall apply to the entire *premises*.
- (c) Table 143-02A shall be used to determine the appropriate regulations and the required decision for various types of *development* proposals when *historical resources* are located on the *premises*.
- (d) A Construction Permit is required for any *development* on a *premises* that has *historical resources* on the site that will not adversely affect the *historical resources* and is consistent with one or more of the exemption criteria in accordance with Section 143.0220.
- (e) A Neighborhood Development Permit or Site Development Permit is required for the following types of *development* proposals that do not qualify for an exemption in accordance with Section 143.0220:
 - (1) Neighborhood Development Permit. *Single dwelling unit* residential *development* on a *single dwelling unit lot* of any size when a *traditional cultural property* or *important archaeological site* is present .
 - (2) Site Development Permit in Accordance With Process Four.
 - (A) *Single dwelling unit* residential *development* on a *single dwelling unit lot* of any size when a *designated historical resource* or *historical district* is present.
 - (B) *Multiple dwelling unit* residential, commercial, or industrial *development* on any size *lot*, or any *subdivision* on any size *lot*, or any City public works construction project, or any project-specific *land use plan* when a *historical resource* is present.
 - (C) *Development* that proposes to deviate from the development regulations for *historical resources* as described in this division.

Table 143-02A
Applicability of Historical Resources Regulations

Type of Development Proposal		Historical Resources Potentially Impacted by Project		
		<i>Designated Historical Resources or Historical Districts</i>	<i>Traditional Cultural Properties</i>	<i>Important Archaeological Sites</i>
1. Projects exempt from obtaining a <i>development permit</i> in accordance with Section 143.0220	R	143.0251	143.0251	143.0252
	P	Construction Permit/Process One	Construction Permit/Process One	Construction Permit/Process One
2. <i>Single dwelling units</i> on any size <i>lot</i>	R	143.0251	143.0252	143.0253
	P	SDP/Process Four	NDP/Process Two	NDP/Process Two
3. <i>Multiple dwelling unit, non-residential development, subdivisions</i> and public works construction projects on any size <i>Lot</i>	R	143.0251	143.0252	143.0253
	P	SDP/Process Four	SDP/Process Four	NDP/Process Four
4. Project-Specific <i>Land Use Plans</i>	R	143.0251	143.0252	143.0253
	P	SDP/Process Four	SDP/Process Four	NDP/Process Four
5. <i>Development</i> that deviates from any of the regulations in this division	R	143.0251	143.0252	143.0253
	P	SDP/Process Four	SDP/Process Four	SDP/Process Four

Legend to Table 143-02A	
R	Development regulation sections (in addition to Section 143.0250) applicable to the <i>historical resources</i> present.
P	Type of Permit/Decision process required. Neighborhood Development Permit (NDP) Site Development Permit (SDP)

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

§143.0211 Duty to Submit Required Documentation and to Obtain Permit

The property owner or *applicant* shall submit required documentation and obtain a *construction permit*, a Neighborhood Development Permit, a Site Development Permit as required pursuant to this division before any *development* activity occurs on a *premises* that contains *historical resources*.

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

§143.0212 Need for Site-Specific Survey and Determination of Location of Historical Resources

- (a) The City Manager shall determine the need for a site-specific survey for the purposes of obtaining a *construction permit* or *development permit* for *development* proposed for any parcel containing a *structure* that is 45 or more years old and not located within any area identified as exempt in the Historical Resources Guidelines of the Land Development Manual or for any parcel identified as sensitive on the Historical Resource Sensitivity Maps.
- (b) The Historical Resource Sensitivity Maps shall be maintained by City Manager and shall be used to identify properties that have a likelihood of containing archaeological sites based on records from the South Coastal Information Center at San Diego State University and the San Diego Museum of Man, and based on site-specific information on file with the City. If it is demonstrated that archaeological sites exist on or immediately adjacent to any property, whether identified for review or not, the City Manager shall require a survey. If it is demonstrated that archaeological sites do not exist on any property identified for review, the Historical Resource Sensitivity Maps shall be updated to remove that property from the review requirements.
- (c) The City Manager shall determine the need for a site-specific survey within 10 *business days* of application for a *construction permit* or within 30 calendar days of application for a *development permit* . A site-specific survey shall be required when the City Manager determines that a *historical resource* may exist on the parcel. If the City Manager determines that a site-specific survey is not required within the specified time period, a permit in accordance with Section 143.0210 shall not be required.
- (d) If a site-specific survey is required, it shall be conducted consistent with the Historical Resources Guidelines of the Land Development Manual. Based on the site-specific survey and the best information available, the City Manager shall determine whether a *historical resource* exists, whether a potential *historical resource* is eligible for designation as a *designated historical resource* by the Historical Resources Board in accordance with Chapter 12, Article 3, Division 2 of the Land Development Code, and the precise location of the resource.

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

§143.0213 Procedures and Regulations for Project-Specific Land Use Plans

- (a) The regulations in this division shall apply to project-specific *land use plans*, including specific plans, precise plans, privately initiated *land use plan* amendments, and *Proposition A Land* subarea plans, when *historical resources* are present. These regulations are applied in order to ensure an adequate analysis of the constraints and opportunities of the planning area relative to *historical resources*.
- (b) This section provides two options for processing project-specific *land use plans* which depend on the level of detail available pertaining to the proposed *development*. Compliance with either Section 143.0213(b)(1) or Section 143.0213(b)(2) will be required based on whether or not a Site Development Permit is processed concurrently with the project-specific *land use plan*.
 - (1) Where a Site Development Permit for *historical resources* is requested concurrently with the processing of a project-specific *land use plan*, the proposed *development* shall be subject to the following:
 - (A) The boundaries of the Site Development Permit shall be the boundaries of the project-specific *land use plan*, including all individual interior *lots* within the plan area;
 - (B) The development regulations applicable shall be determined in accordance with Table 143-02A. Sufficient information must be submitted for the entire plan area in order to evaluate potential impacts to *historical resources*; and
 - (C) Subsequent individual *development* proposals within the plan area will be reviewed in accordance with the *substantial conformance* procedures. If the *development* is determined to be in conformance with the approved project-specific *land use plan* and any required mitigation is provided, no Site Development Permit will be required for the individual *development*. If the proposed *development* is not in conformance with the approved project-specific *land use plan*, an individual Site Development Permit will be required for the *development* in addition to an amendment to the approved project-specific *land use plan*; or

- (2) Where a Site Development Permit for *historical resources* is not requested concurrently with the processing of a project-specific *land use plan*, an analysis shall be provided in the project-specific *land use plan* that indicates how the subsequent *development* of the plan area will be consistent with the *historical resources* regulations. Project-specific *land use plans* and subsequent *development permits* reviewed in accordance with this option shall be subject to the following:
 - (A) The project-specific *land use plan* shall indicate how individual subsequent *developments* within the plan area will conform to the *historical resources* regulations and the associated guidelines in the Land Development Manual;
 - (B) Subsequent to the approval of the project-specific *land use plan*, a Neighborhood Development Permit or a Site Development Permit shall be required for all proposed individual *developments* within the plan area and shall be reviewed in accordance with Table 143-02A. Additional information pertaining to *historical resources* 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.

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

(Amended 4-8-2008 by O-19734 N.S; effective 5-8-2008.)

[**Editors Note.** Amendments as adopted by O-19734 N. S. will not apply within the Coastal Overlay Zone until the California Coastal Commission unconditionally certifies it as a Local Coastal Program Amendment.]

§143.0214 Emergency Authorization When Historical Resources Are Present

Whenever *development* activity on a *premises* containing *historical resources*, or for any parcel identified as containing a *historical resource* in any community plan or in an historical resource inventory, or for any parcel identified as sensitive on the Historical Resource Sensitivity Maps 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 work necessary to protect the public health or safety, subject to the following:

- (a) If the emergency work does not adversely affect the *historical resources* and is consistent with one or more of the exemption criteria in accordance with Section 143.0220, a subsequent Construction Permit is required in accordance with this division.

- (b) If the emergency work results in impacts to *historical resources*, a subsequent Neighborhood Development Permit or Site Development Permit is required in accordance with this division.
- (c) The application for a Construction or Development Permit shall be submitted within 60 days of completion of the emergency work.
- (d) An emergency Coastal Development Permit may be required. If so, any permanent *coastal development* allowed under the emergency permit must be authorized through a follow-up Coastal Development Permit submitted within 60 days of the date of issuance of the emergency permit.

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

§143.0220 Development Exempted from the Requirement to Obtain a Development Permit for Historical Resources

The following *development* activities are exempt from the requirement to obtain a Neighborhood Development Permit or Site Development Permit. However, in all cases a *construction permit* is required.

- (a) Any *development* that proposes minor alterations or improvements consistent with Section 143.0250(a), to a *designated historical resource*, or any *historical building* or *historical structure* located within a *historical district*, or any new construction within a *historical district* that will enhance, restore, maintain, repair, or allow adaptive reuse of the resource and which will not adversely affect the special character or special historical, architectural, archaeological, or cultural value of the resource when all feasible measures to protect and preserve the *historical resource* are included in the *development* proposal consistent with the Secretary of Interior's Standards and Guidelines.
- (b) Interior modifications or repairs or the ordinary maintenance or repair of any exterior architectural feature in or on any *historical building* or *historical structure* that does not adversely affect the special character or special historical, architectural, or cultural value or designated interior elements of the property consistent with the Secretary of Interior's Standards and Guidelines. Exterior architectural features shall mean the architectural elements embodying style, design, general arrangement and components of all of the outside surfaces of an improvement or *structure*, including the type of building materials and the type and style of all windows, doors, lights, *signs*, and other fixtures appurtenant to the improvement or *structure*.

- (c) Substantial alteration of a non-significant *structure* within a *historic district* consistent with the Secretary of Interior's Standards and Guidelines. However, new construction within a *historic district* is not exempt from the requirement to obtain a Site Development Permit except in accordance with Section 143.0220(a).
- (d) Any *development* on a parcel that has an *important archaeological site* and will not result in substantial alteration, demolition, destruction, removal, relocation, or *encroachment* into such resources during or after construction, subject to the following requirements.
 - (1) All feasible measures to protect and preserve the resource shall be included in the *development*.
 - (2) A 100-foot buffer measured from the edge of the *important archaeological site* shall be provided.
 - (3) All documentation necessary to verify consistency with this subsection shall be provided by the *applicant* consistent with the Historical Resources Guidelines of the Land Development Manual.
 - (4) The property owner shall sign an acknowledgment that no further *development* can occur on the property unless the *development* is reviewed and approved in accordance with this division.
- (e) Except in the case of a *designated historical resource*, the modification of an existing *structure* or the replacement of a *single dwelling unit* with another *single dwelling unit*, including modification or replacement of paved areas, brush management for fire protection purposes, and any other landscaping improvements, or alterations that do not alter the existing *development* area by more than 10 percent.
- (f) *Development* in the OF zone or the floodplain (formerly the FW and FPF zones) of Mission Valley.
- (g) *Development* in the Calle Cristobal Assessment District area that is outside the coastal zone.
- (h) *Development* in the Miramar Ranch North Community Plan area and the 70-acre high *school* project in Scripps Ranch.

(i) *Development* in 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.

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

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

§143.0225 Limited Exceptions from the Historical Resources Regulations

The decision maker may grant an exception from the 25 percent *encroachment* limitation for *important archaeological sites* according to Section 143.0253 for brush management activities in Zone 2 provided that the following circumstances exist:

(a) The area cleared or thinned for such brush management is the minimum necessary to comply with existing City fire codes;

(b) No *grading* occurs in these brush management areas;

(c) Native root stock is retained;

(d) No permanent irrigation is provided; and

(e) No non-native plants are introduced.

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

§143.0250 General Development Regulations for Historical Resources

Development that does not qualify for an exemption pursuant to Section 143.0220 is subject to the following regulations and the Historical Resources Guidelines of the Land Development Manual.

(a) For purposes of this division, the terms “alteration,” “minor alteration,” and “substantial alteration” shall mean the following:

(1) Alteration means any change or modification, through public or private action, of any *historical resource* or of any property located within a *historical district* including changes to designated interior architectural features; exterior changes to or modification of structural details,

architectural details, or visual characteristics such as doors, windows, surface materials and texture, *grading*, or surface paving; addition of new *structures*; cutting or removal of trees, landscaping, or other historical features; disturbance of *archaeological sites*; and the placement or removal of any exterior objects such as *signs*, plaques, light fixtures, *street* furniture, walls, *fences*, steps, plantings, and landscape accessories affecting the exterior visual qualities of the property.

- (2) Minor alteration means improvements that enhance, restore, maintain, repair, or allow adaptive reuse of a *historical resource* that do not adversely affect the special character or special historical, architectural, archaeological, or cultural value of the resource and will conform to standards embodied in the designation of a *historical district* when applicable.
 - (3) Substantial alteration means demolition, destruction, relocation, new construction or alteration activities that would impair the significance of a *historical resource*.
- (b) All areas with *designated historical resources*, *traditional cultural properties* or *important archaeological sites* that remain undisturbed or are restored or enhanced as a result of a *development* approval shall be preserved as a condition of that approval.
 - (c) Upon notification to a property owner of a pending Historical Resources Board hearing to consider designation of a *historical resource*, the property owner or any authorized agent shall not undertake any alteration, construction, *grading*, demolition, relocation, or removal of the property, and no permit to undertake such work shall be approved by the City Manager, for a time period of at least two scheduled Board meetings, but in no event more than 90 calendar days, unless an extension is requested by the owner. This section shall not apply to the construction, *grading*, alteration, demolition, relocation, or removal of any *structure* or other feature, where a permit for the performance of such work was issued before the date of notice of the public hearing. In addition, this section shall not apply where such permit has not expired or been canceled or revoked, provided that construction is started and diligently pursued to completion in accordance with the Land Development Code.
 - (d) Before the Historical Resources Board's hearing on the designation of a property, and upon application by the property owner, the City Manager may

approve a permit for minor alterations or reconstruction consistent with the ordinary maintenance or repair of the property, to the extent that such work does not adversely affect the special character or special historical, architectural, archaeological, or cultural value of the property.

- (e) *Designated historical resources* that are occupied shall be maintained in the same manner as all other occupied *structures* in accordance with the Uniform Building Code and State Historic Building Code and in a manner that preserves their historical integrity.
- (f) *Designated historical resources* that are unoccupied shall be maintained in a manner that preserves their historical integrity.
- (g) All proposed *subdivisions* that contain *designated historical resources*, *traditional cultural properties* or *important archaeological sites* shall provide a conceptual *grading* plan that indicates future limits of *grading* and future *development* potential of all *lots*. Future *development* of any newly created *lot* shall conform to this *grading* plan. In addition, no building *lot* shall be created that provides such a small *development* area that future reasonable *development* of that *lot* will require *encroachment* into an *important archaeological site* beyond 25 percent.

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

§143.0251 Development Regulations for Designated Historical Resources and Historical Districts

In addition to the general development regulations in Section 143.0250, the following regulations apply to *designated historical resources* and *historical districts*.

- (a) It is unlawful to substantially alter, demolish, destruct, remove, or relocate any *designated historical resource* or any *historical building*, *historical structure*, *historical object* or *historical landscape* located within a *historical district* except as provided in Section 143.0260.
- (b) Minor alteration of any *designated historical resource*, or any *historical building*, *historical structure*, *historical object* or *historical landscape* located within a *historical district*, or any new construction within a *historical district* may be permitted if the minor alteration or new construction would not adversely affect the special character or special historical, architectural, archaeological, or cultural value of the resource consistent with the Secretary of Interior's Standards and Guidelines.

- (c) *Development* affecting *designated historical resources* or *historical districts* shall provide full mitigation for the impact to the resource, in accordance with the Historical Resources Guidelines of the Land Development Manual, as a condition of approval.

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

§143.0252 Development Regulations for Traditional Cultural Properties

In addition to the general development regulations in Section 143.0250, *development* shall not be permitted on any *traditional cultural property* unless all feasible measures to protect and preserve the resource are required as a condition of *development* approval except as provided in Section 143.0260.

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

§143.0253 Development Regulations for Important Archaeological Sites

In addition to the general development regulations in Section 143.0250, the following regulations apply to *important archaeological sites*.

- (a) *Important archaeological sites* shall be preserved in their natural state, except that *development* may be permitted as provided in this section or as provided in Section 143.0260.

- (1) *Development* may be permitted in areas containing *important archaeological sites* if necessary to achieve a reasonable *development* area, with up to 25 percent *encroachment* into any *important archaeological site* allowed. This 25 percent *encroachment* includes all *grading, structures, public and private streets, brush management* except as provided in Section 143.0225, and any project-serving utilities.

- (2) An additional *encroachment* of up to 15 percent, for a total *encroachment* of 40 percent, into *important archaeological sites* may be permitted for essential public service projects that are sited, designed, and constructed to minimize adverse impacts to *important archaeological sites*, where it has been demonstrated that there is no feasible, less environmentally damaging location or alternative. Essential public service projects include 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) Any *encroachment* into *important archaeological sites* shall include measures to mitigate for the partial loss of the resource as a condition of approval. Mitigation shall include the following methods, consistent with the Historical Resources Guidelines of the Land Development Manual:
 - (1) The preservation through avoidance of the remaining portion of the *important archaeological site*; and
 - (2) The implementation of a research design and *excavation* program that recovers the scientific value of the portion of the *important archaeological site* that would be lost due to *encroachment*.

- (c) The following types of *development* shall not be considered *encroachment* provided that no *structures*, other than portable *structures* are erected or maintained on the *premises* and that adequate measures to preserve and protect the *important archaeological site*, consistent with the Historical Resources Guidelines of the Land Development Manual, are included as conditions of approval:
 - (1) Parks and playgrounds;
 - (2) Low-intensity, passive recreational uses such as trails, access paths, and public viewpoints; and
 - (3) Parking lots.

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

§143.0260 Deviations from the Historical Resources Regulations

- (a) If a proposed *development* cannot to the maximum extent feasible comply with this division, a deviation may be considered in accordance with decision Process Four.

- (b) The minimum deviation to afford relief from the regulations of this division and accommodate *development* may be granted only if the decision maker makes the applicable *findings* in Section 126.0504.

- (c) If a deviation for demolition or removal of a *designated historical resource* or a contributing *structure* within a *historical district* is approved, the *applicant* shall obtain approval for new *development* on the same *premises* before issuance of a Demolition/Removal Permit.

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

§143.0270 Administrative Guidelines

The City Manager is authorized to promulgate and publish Historical Resources 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 Construction Permits, Neighborhood Development Permits, and Site Development Permits issued pursuant to this division.

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

§143.0280 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) and the Historical Resources Guidelines of the Land Development Manual.

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