

(j) Supplemental Findings--Clairemont Mesa Height Limit

A Site Development Permit required in accordance with Section 132.1306 because an exception from the Clairemont Mesa height limit is requested may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

- (1) The granting of an exception will not significantly interfere with public views from western Clairemont Mesa to Mission Bay and the Pacific Ocean within the surrounding area; and
- (2) The granting of an exception is appropriate because there are existing *structures* over 30 feet in height and the proposed *development* will be compatible with surrounding one, two, or three-story *structures*; or the granting of an exception is appropriate because there are topographic constraints peculiar to the land; or the granting of the exception is needed to permit roofline and facade variations, accents, tower elements, and other similar elements and the elements will not increase the *floor* area of the *structure*.

(k) Supplemental Findings--Mobilehome Park Discontinuance

A Site Development Permit required in accordance with Section 132.0702 because a discontinuance of a *mobilehome park* is proposed may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

- (1) The discontinuance of use of the land for a *mobilehome park* or *mobilehome* spaces will not deprive the community of a needed facility;
- (2) The discontinuance of use of the land for a *mobilehome park* or *mobilehome* spaces, because of the associated relocation plan and conditions that have been applied to the discontinuance, will not be detrimental to the public health, safety, and welfare of persons living in the *mobilehome park*; and
- (3) The use to which the *applicant* proposes to put the property will provide a greater public benefit than continued use of the property as a *mobilehome park* or *mobilehome* spaces.

(l) Supplemental Findings--Deviation for Affordable Housing

A *development* that requires a Site Development Permit in accordance with Section 143.0750 because the *applicant* has requested a deviation from the applicable development regulations as an additional incentive to a *density* bonus for providing affordable housing may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):

- (1) The proposed *development* will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City;
 - (2) The *development* will not be inconsistent with the purpose of the underlying zone.
 - (3) The deviation is necessary to make it economically feasible for the *applicant* to utilize an *density* bonus authorized for the *development* pursuant to Section 143.0730.
- (m) Supplemental Findings - Deviations for Affordable/In-Fill Housing Projects and Sustainable Buildings

A development that requires a Site Development Permit in accordance with Section 143.0920 because the applicant has requested a deviation from the applicable development regulations for affordable/in-fill housing and Sustainable Building projects may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0504(a):

- (1) The proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the City, and/or the proposed development will materially assist in reducing impacts associated with fossil fuel energy use by utilizing alternative energy resources, self-generation and other renewable technologies (e.g. photovoltaic, wind, and/or fuel cells) to generate electricity needed by the building and its occupants;
 - (2) The development will not be inconsistent with the purpose of the underlying zone;
 - (3) Any proposed deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.
- (n) Supplemental Findings - *Condominium Conversions*

A Site Development Permit required in accordance with Section 144.0509, because of potential impacts to the surrounding neighborhood, may be approved or conditionally approved only if the decision maker makes either of the following supplemental *findings* in addition to the *findings* in Section 126.0404 (a):

- (1) The decision maker has considered the project-specific constraints and has determined that the *condominium conversion* as proposed would, to the maximum extent feasible, address the requirements of Section 144.0507, and has been developed to provide specific community benefits; or

- (2) Strict adherence to the requirements of Section 144.0507 would result in the demolition of *structures* or loss of the architectural character of *structures* that contribute to the community character.
- (o) Supplemental Findings- *Public Right-of-Way Encroachments*.
- A Site Development Permit in accordance with Section 126.0502(d)(6) for any *encroachment* or object which is erected, placed, constructed, established or maintained in the *public right-of-way* when the *applicant* is not the *record owner* of the property on which the proposed *encroachment* will be located may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0504(a):
- (1) The proposed *encroachment* is reasonably related to public travel, or benefits a public purpose, or all *record owners* have given the applicant written permission to maintain the *encroachment* on their property;
 - (2) The proposed *encroachment* does not interfere with the free and unobstructed use of the *public right-of-way* for public travel;
 - (3) The proposed *encroachment* will not adversely affect the aesthetic character of the community; and
 - (4) The proposed *encroachment* does not violate any other Municipal Code provisions or other local, state, or federal law; and
 - (5) For *coastal development* in the *coastal overlay zone*, the *encroachment* is consistent with Section 132.0403 (Supplemental Use Regulations of the Coastal Overlay Zone).

(Amended 6-3-2003 by O-19188 N.S.)

(Amended 11-28-2005 by O-19444 N.S.; effective 2-09-2006)

(Amended 2-9-2006 by O-19461 N.S.; effective 3-9-2006.)

(Amended 3-1-2006 by O-19466 N.S.; effective 4-1-2006)

(Amended 7-5-2006 by O-19505 N.S.; effective 8-5-2006.)

[Editors Note: This section only applies outside of the Coastal Overlay Zone. Ordinance No. O-19188 will not apply within the Coastal Zone until the thirtieth day following the date the Coastal Commission unconditionally certifies this ordinance as a local coastal program amendment. If Ordinance No. O-19188 is certified with suggested modifications, Ordinance No. O-19188 shall be void within the Coastal Zone. For the corresponding regulation (Findings for Site Development Permit Approval) within the Coastal Overlay Zone, refer to Land Development Code Section 126.0504, added by City Council on December 9, 1997 by O-18451.]

§126.0505 Violations of a Site Development Permit

It is unlawful for any person to maintain, use, or develop any *premises* without a Site Development Permit if such a permit is required for the use or *development*, or to maintain, use, or develop any *premises* contrary to the requirements or conditions of an existing Site Development Permit. Violation of any provision of this division shall be subject to the enforcement provisions contained in Chapter 12, Article 1.

Violations of this division shall be treated as strict liability offenses regardless of intent.

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