

ORDINANCE NUMBER O- 19051

ADOPTED ON APR 22 2002

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 2, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTION 62.0423; AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1, BY AMENDING SECTION 113.0103; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4, BY AMENDING SECTION 126.0402; DIVISION 5, BY AMENDING SECTIONS 126.0502 AND 126.0504; AND ARTICLE 9, DIVISION 6, BY AMENDING SECTION 129.0602; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2, BY AMENDING SECTION 131.0205; DIVISION 3, BY AMENDING SECTION 131.0322; AMENDING CHAPTER 14, ARTICLE 2, DIVISION 1, BY AMENDING SECTION 142.0135; AND DIVISION 2, BY AMENDING SECTION 142.0230; AMENDING ARTICLE 3, DIVISION 1, BY AMENDING SECTIONS 143.0110, 143.0111, 143.0130, 143.0145, BY ADDING SECTION 143.0146, AND BY AMENDING SECTION 143.0150, ALL RELATING TO THE LAND DEVELOPMENT CODE. FLOODPLAIN REGULATIONS.

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

Section 1. That Chapter 6, Article 2, Division 4, of the San Diego Municipal Code is amended by repealing Section 62.0423.

Section 2. That Chapter 11, Article 3, Division 1, of the San Diego Municipal Code is amended by amending Section 113.0103, to read as follows:

§ 113.0103 Definitions

Abutting property through Awning [No change.]

Base Flood means a *flood* having a one percent chance of being equaled or exceeded in any given year (also called “100-year flood”.)

Base flood elevation means the water surface elevation of a *base flood*.

Basement through Encroachment [No change.]

Environmentally sensitive lands means land containing *steep hillsides, sensitive biological resources, coastal beaches, sensitive coastal bluffs, or Special Flood Hazard Areas.*

Excavation through Findings [No change.]

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of *flood* waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash *flood* or an abnormal tidal surge; or (4) by some similarly unusual and unforeseeable event which results in *flooding* as defined in this definition.

Flood fringe means all that land in a *Special Flood Hazard Area* not lying within a *floodway*, as shown on the *Flood Insurance Rate Maps*.

Flood Insurance Rate Map (FIRM) means the most current effective maps as published by the Federal Emergency Management Agency that delineates the *Special Flood Hazard Areas* and the risk premium zones applicable to the community.

Flood Insurance Study means the most current report published by the Federal Emergency Management Agency in conjunction with the *Flood Insurance Rate Maps (FIRM)*. The study includes such background data as the *base flood* discharges and water surface elevations that were used to prepare the *FIRMs*.

Floodproofing [No change.]

Floodplain (See *Special Flood Hazard Area*)

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the *base flood* without cumulatively increasing the water surface elevation more than one foot. *Floodway* also means the area within a *Special Flood Hazard Area*, as shown on the *Flood Insurance Rate Maps*.

Floor through Off-street parking space [No change.]

Open fence through Solid fence [No change.]

Special Flood Hazard Area means any area inundated during a *base flood* as shown on the Federal Insurance Rate Map as Zone A, AO, A1-30, AE, A99, AH, VO, VI-30, VE, V, M, or E (also referred to as the 100-year *floodplain*).

Specified anatomical areas through Substantial conformance [No change.]

Substantial improvement, for the purposes of Section 143.0146 means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which, equals or exceeds 50 percent of the *market value* of the structure before the start of construction of the improvement.

Surface mining through Yard [No change.]

Section 3. That Chapter 12, Article 6, of the San Diego Municipal Code is amended by amending Division 4, Section 126.0402 and Division 5, Sections 126.0502 and 126.0504, to read as follows:

§126.0402 When a Neighborhood Development Permit Is Required

- (a) [No change.]
- (b) A Neighborhood Development Permit is required for *single dwelling unit development* on an individual *lot* that is less than or equal to 15,000 square feet and contains *steep hillsides, Special Flood Hazard Areas, or sensitive biological resources* as described in Section 143.0110.
- (c) through (i) [No change.]

§126.0502 When a Site Development Permit Is Required

- (a) [No change in first sentence.]
 - (1) [No change.]

(2) *Single dwelling unit development* that involves any of the following:

(A) [No change.]

(B) *Development on lots greater than 15,000 square feet containing sensitive biological resources, steep hillsides, or Special Flood Hazard Areas as described in Section 143.0110;*

(C) [No change.]

[No change to remainder of section.]

§126.0504 Findings for Site Development Permit Approval

[No change in first sentence.]

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

(d) Supplemental Findings--Environmentally Sensitive Lands Deviation from Federal Emergency Management Agency Regulations

A Site Development Permit required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested from the *Special Flood Hazard Area* regulations as specified in Section 143.0150(b) 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) and the supplemental *findings* in Sections 126.0504(b) and 126.0504(c).

- (1) The City Engineer has determined that the proposed *development* within any designated *floodway* will not result in an increase in *flood* levels during the *base flood* discharge;
 - (2) The City Engineer has determined that the deviation would not result in additional threats to public safety, extraordinary public expense, or create a *public nuisance*.
- (e) through (m) [No change.]

Section 4. That Chapter 12, Article 9, Division 6, of the San Diego Municipal Code is amended by amending Section 129.0602, to read as follows:

§129.0602 When a Grading Permit Is Required

A Grading Permit is required for the following work:

- (a) and (b) [No change.]
- (c) any grading within the *Special Flood Hazard Area*.
- (d) through (f) [No change.]

Section 5. That Chapter 13, Article 1 of the San Diego Municipal Code is amended by amending Division 2, Section 131.0205, and Division 3, Section 131.0322, to read as follows:

§131.0205 Purpose of the OF (Open Space--Floodplain) Zone

The purpose of the OF zone is to control *development* within *floodplains* to protect the public health, safety, and welfare and to minimize hazards due to *flooding* in areas identified by the *FIRM* on file with the City

Engineer. It is the intent of the OF zone to preserve the natural character of *floodplains* while permitting *development* that will not constitute a dangerous condition or an impediment to the flow of *flood* waters. It is also the intent to minimize the expenditure of public money for costly *flood* control projects and to protect the functions and values of the *floodplains* relating to groundwater recharge, water quality, moderation of *flood* flows, wildlife movement, and habitat.

§131.0322 Use Regulations Table for Agricultural Zones

[No change to first sentence and Legend for Table 131-03B]

Use Regulations Table for Agricultural Zones

[Changes to portions of Table 131-03B as shown below. The remainder of Table 131-03B remains the same.]

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd »	AG		AR	
	3rd »	1-		1-	
	4th »	1	2	1	2
Residential					
Residential Care Facilities:					
6 or fewer persons		-		P	
7 or more persons		-		C ⁽¹⁰⁾	
Transitional Housing:					
6 or fewer persons		-		P	
7 or more persons		-		C ⁽¹⁰⁾	
Commercial Services					
Bed & Breakfast Establishments:					

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd »	AG		AR	
	3rd »	1-		1-	
	4th »	1	2	1	2
1-2 Guest Rooms		-		L ⁽¹⁰⁾	
3-5 Guest Rooms		-		N ⁽¹⁰⁾	
6+ Guest Rooms		-		C ⁽¹⁰⁾	

Footnotes for Table 131-03B

¹ through 9 [No change.]

¹⁰ Not permitted within the following *Special Flood Hazard Areas* in the Coastal Overlay Zone: San Dieguito River, Carmel Creek, Los Penasquitos Lagoon, Los Penasquitos Creek, the Otay River and the Tia Juana River.

Section 6. That Chapter 14, Article 2, of the San Diego Municipal Code is amended by amending Division 1, Section 142.0135 and Division 2, Section 142.0230, to read as follows:

§142.0135 Grading Within the *Special Flood Hazard Area*

Grading within the *Special Flood Hazard Area* shall comply with Chapter 14, Article 2, Division 2 (Drainage Regulations) and Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).

§142.0230 Development Within the *Special Flood Hazard Area*

All development within a Special Flood Hazard Area shall comply with Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).

Section 7. That Chapter 14, Article 3, Division 1, of the San Diego Municipal Code is amended by amending Section 143.0110, to read as follows:

§143.0110 When Environmentally Sensitive Lands Apply

[No change in first sentence.]

(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) and (2) [No change.]

(3) Coastal beaches (including V zones);

(4) [No change.]; and

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

(b) [No change in first paragraph]

(1) through (b)(5) [No change.]

**Table 143-01A
Applicability of Environmentally Sensitive Lands Regulations**

Environmentally Sensitive Lands Potentially Impacted by Project						
Type of Development Proposal		Wetlands, listed non-covered species habitat ⁽¹⁾	Other Sensitive Biological Resources other than Wetlands and listed noncovered species habitat	Steep Hillides	Sensitive Coastal Bluffs and Coastal Beaches	Special Flood Hazard Areas
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)

Environmentally Sensitive Lands Potentially Impacted by Project

Type of Development Proposal		Wetlands, listed non-covered species habitat ⁽¹⁾	Other Sensitive Biological Resources other than Wetlands and listed noncovered species habitat	Steep Hillides	Sensitive Coastal Bluffs and Coastal Beaches	Special Flood Hazard Areas
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, 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)
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)
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 Three	--	--
	U	--	--	--	--	--

(c) [No change.]

Section 8. That Chapter 14, Article 3, of the San Diego Municipal Code is amended by amending Division 1, Sections 143.0111, 143.0130 and 143.0145, to read as follows:

§143.0111 Limited Exception from Environmentally Sensitive Lands Regulations

[No change in first sentence.]

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

(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) through (h) [No change.]

§143.0130 Uses Allowed Within Environmentally Sensitive Lands

[No change in first sentence.]

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

(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) and (e) [No change.]

§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. 019051-1 and 019051-2, 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 thereunder.
- (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) and (3) [No change.]

(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) and (B) [No change.]

(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) [No change.]

(7) [No change in first paragraph.]

(A) [No change.]

(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) [No change.]
- (B) The *development* is capable of withstanding periodic *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) through (F) [No change.]

- (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.

Section 9. That Chapter 14, Article 3, of the San Diego Municipal Code is amended by adding Division 1, Section 143.0146, to read as follows:

§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 *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) [No change in text.]

(B) [No change in text.]

(C) [No change in text.]

(4) and (5) [No change in text.]

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

(7) 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.

(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) through (6) [No change in text.]

(c) Standards of Construction

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

(1) through (4) [No change in text.]

(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) and (2) [No change in text.]

(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) and (2) [No change in text.]

(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 *coastal 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.

Section 10. That Chapter 14, Article 3, of the San Diego Municipal Code is amended by amending Division 1, Section 143.0150, to read as follows:

§143.0150 **Deviations from Environmentally Sensitive Lands Regulations**

[No change to first paragraph.]


- (a) [No change.]
- (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) [No change.]

Section 11. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 12. That the Local Coastal Program amendments relating to floodplain regulations shall take force and be in effect on the date effectively certified by the California Coastal Commission as Local Coastal Program Amendments.

Section 13. That Ordinance No. O-18910 is repealed in so far as it is inconsistent with this ordinance, but otherwise shall remain in full force and effect.

APPROVED: CASEY GWINN, City Attorney

By 

Kristin Schenone
Deputy City Attorney

KS:cdk:mm
02/19/02
Or. Dept: Dev.Svcs.
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