

ORDINANCE NUMBER O- 1580 (NEW SERIES)

DATE OF FINAL PASSAGE NOV 13 2008

AN ORDINANCE AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 12, ARTICLE 6, BY AMENDING DIVISION 2, BY AMENDING SECTION 126.0203; BY AMENDING DIVISION 3, BY AMENDING SECTION 126.0303; BY AMENDING DIVISION 4, BY AMENDING SECTION 126.0402; AND BY AMENDING DIVISION 5, BY AMENDING SECTION 126.0502; BY AMENDING CHAPTER 12, ARTICLE 9, BY AMENDING DIVISION 7, BY AMENDING SECTION 129.0710; BY AMENDING CHAPTER 13, ARTICLE 1, BY AMENDING DIVISION 2, SECTION 131.0222, BY AMENDING DIVISION 3, BY AMENDING SECTION 131.0322; BY AMENDING DIVISION 4, BY AMENDING SECTIONS 131.0422, AND 131.0466; BY AMENDING DIVISION 5, BY AMENDING SECTION 131.0522; AND AMENDING DIVISION 6, BY AMENDING SECTION 131.0622; AMENDING CHAPTER 14, ARTICLE 1, BY AMENDING DIVISION 3, BY AMENDING SECTIONS 141.0303 AND 141.0306; BY AMENDING DIVISION 6, BY AMENDING SECTION 141.0607; BY AMENDING DIVISION 8, BY AMENDING SECTION 141.0801; AND BY AMENDING ARTICLE 3, DIVISION 3, BY AMENDING SECTION 143.0302, ALL RELATED TO THE LAND DEVELOPMENT CODE.

WHEREAS, the 6th Update to the Land Development Code [LDC] is part of the code monitoring program directed by the Mayor and City Council as part of the adoption of the LDC effective January, 2000; and

WHEREAS, the 6th Update project is divided into seven issue categories including: Measurement, Permit Process, Landscape, Parking, Signs, Compliance with State Law, and minor corrections, a total of fifty-one issues; and

WHEREAS, the fifty-one issues have been identified as amendments necessary to clarify existing regulations or to address inconsistencies, as well as assisting to streamline existing processes and better meet existing policies; and

WHEREAS, the amendments proposed in this ordinance are necessary to modify regulations pertaining to automobile service stations, transitional housing, reasonable accommodations, sustainable building projects, affordable housing, density bonus, employee housing, guest quarters, and eating and drinking establishments; NOW, THEREFORE

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

Section 1. That the San Diego Municipal Code is amended by amending Chapter 12, Article 6, Division 2, Section 126.0203 to read as follows:

**§126.0203 When a Neighborhood Use Permit Is Required**

- (a) An application for the following uses in certain zones may require a Neighborhood Use Permit. To determine whether a Neighborhood Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13.

Automobile service stations

Bed and breakfast establishments through *Wireless communications facilities* [No change.]

Section 2. That the San Diego Municipal Code is amended by amending Chapter 12, Article 6, Division 3, Section 126.0303 to read as follows:

**§126.0303 When a Conditional Use Permit Is Required**

An application for the following types of uses in certain zones may require a Conditional Use Permit. To determine whether a Conditional Use Permit is required in a particular zone, refer to the applicable Use Regulation Table in Chapter 13. The decision process is described in Section 126.0304.

(a) Conditional Use Permits Decided by Process Three

Agricultural equipment repair shops through Swap meets and other large outdoor retail facilities [No change.]

Veterinary clinics and hospitals through *Wireless communication facilities* [No change.]

(b) Conditional Use Permits Decided by Process Four

Botanical gardens and arboretums through Theaters that are outdoor or over 5,000 square feet in size [No change.]

*Wireless communication facilities* through Wrecking and dismantling of motor vehicles [No change.]

(c) Conditional Use Permits Decided by Process Five

Airports through Sports arenas and stadiums [No change.]

Transitional Housing for 7 or more persons

Very heavy industrial uses through Zoological parks [No change.]

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

**§126.0402 When a Neighborhood Development Permit Is Required**

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

(j) A Neighborhood Development Permit is required for construction of a privately owned *structure* proposed in the *public right-of-way* dedicated for a *street* or an *alley*, where the *applicant* is the *record owner* of the underlying fee title as described in Sections 129.0710(a) and 129.0710(b)(2).

(k) [No change.]

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

**§126.0502 When a Site Development Permit is Required**

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

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

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

(5) *Development* for which the *applicant*, using the Affordable Housing Density Bonus Regulations, seeks a deviation from the

applicable development regulations that exceeds the allowable incentives provided for in Section 143.0740.

(6) through (8) [No change.]

(9) A request for a deviation from the applicable development regulations for affordable/in-fill housing and sustainable building projects in accordance with Section 143.0920.

(e) [No change.]

Section 5. That the San Diego Municipal Code is amended by amending Chapter 12, Article 9, Division 7, Section 129.0710 to read as follows:

**§129.0710 How to Apply for a Public Right-of-Way Permit**

[No change.]

(a) If the proposed *encroachment* involves construction of a privately owned *structure* or facility into the *public right-of-way* dedicated for a *street* or an *alley*, and where the *applicant* is the *record owner* of the underlying fee title, a Neighborhood Development Permit is required in accordance with Section 126.0402(j) except for the following:

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

(b) [No change.]

(1) [No change.]

(2) Underground utility connections to a public main shall require a Neighborhood Development Permit in accordance with Section 126.0402(j).

(c) [No change.]

Section 6. That the San Diego Municipal Code is amended by amending Chapter 13, Article 1, Division 2, Section 131.0222 to read as follows:

**§131.0222 Use Regulations Table for Open Space Zones**

[No change.]

**Table 131-02B  
Use Regulations Table of Open Space Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones					
	1st & 2nd >>	OP-		OC-	OR <sup>(1)</sup> -		OF <sup>(11)</sup>
	3rd >>	1-	2-	1-	1-		1-
	4th >>	1	1	1	1	2	1
<b>Open Space through Agriculture [No change.]</b>							
<b>Residential</b>							
<i>Mobilehome Parks through Single Dwelling Units [No change.]</i>							
<b>Separately Regulated Residential Uses:</b>							
<i>Boarder &amp; Lodger Accommodations through Companion Units [No change.]</i>							

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 >>		OP-		OC-	OR <sup>(1)</sup>		OF <sup>(11)</sup>					
	3rd >>		1-	2-	1-	1-		1-					
	4th >>		1	1	1	1	2	1					
Employee Housing:													
6 or Fewer Employees									-	-	-	-	-
12 or Fewer Employees									-	-	-	-	-
Greater than 12 Employees									-	-	-	-	-
Fraternalities, Sororities and Student Dormitories [No Change]													
Garage, Yard, & Estate Sales [No Change]													
Guest Quarters									-	-	-	L	-
Home Occupations through Watchkeeper Quarters [No change.]													
<b>Institutional through Retail Sales [No change.]</b>													
<b>Commercial Services</b>													
Building Services through Visitor Accommodations [No change.]													
Separately Regulated Commercial Services Uses													
Adult Entertainment Establishments through Camping Parks [No change.]													
Child Care Facilities													
Eating and Drinking Establishments Abutting Residentially Zoned Property through Fairgrounds [No change.]													
Golf Courses, Driving Ranges, and Pitch & Putt Courses									C	C	-	C <sup>(9)</sup>	C <sup>(10)</sup>
Helicopter Landing Facilities									-	-	-	-	C <sup>(10)</sup>
Instructional Studios through Zoological Parks [No change.]													
<b>Offices through Signs [No change.]</b>													

Footnotes for Table 131-02B

<sup>1</sup> through <sup>9</sup> [No change]

<sup>10</sup> No fill or permanent structures shall be authorized for such development in the Coastal Overlay Zone.

<sup>11</sup> Within the Coastal Overlay Zone, no structures are permitted within a floodway.

Section 7. That the San Diego Municipal Code is amended by amending Chapter 13,

Article 1, Division 3, Section 131.0322 to read as follows:

**§131.0322 Use Regulations Table for Agricultural Zones**

[No change.]

**Table 131-03B  
Use Regulations Table of Agricultural Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
<b>Open Space through Agriculture [No change.]</b>					
<b>Residential</b>					
<i>Mobilehome Parks through Single Dwelling Units [No change.]</i>					
<b>Separately Regulated Residential Uses</b>					
<i>Boarder &amp; Lodger Accommodations through Fraternities, Sororities and Student Dormitories [No change.]</i>					
Guest Quarters					
Home Occupations through Watchkeeper Quarters [No change.]					
<b>Institutional through Signs [No change.]</b>					

Section 8. That the San Diego Municipal Code is amended by amending Chapter 13, Article 1, Division 4, Sections 131.0422 and 131.0466 to read as follows:

**§131.0422 Use Regulations Table for Residential Zones**

[No change.]



**Table 131-04B**  
**Use Regulations Table of Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																					
	1st & 2nd >>	RE-			RS-										RX-		RT-						
	3rd >>	1-			1-										1-		1-						
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3

**Open Space through Agriculture [No change.]**

<b>Residential</b>	
<i>Mobilehome Parks through Single Dwelling Units [No change.]</i>	
<b>Separately Regulated Residential Uses</b>	
<i>Boarder &amp; Lodger Accommodations through Companion Units [No change.]</i>	
<b>Employee Housing:</b>	
6 or Fewer Employees	- - - - -
12 or Fewer Employees	- - - - -
Greater than 12 Employees	- - - - -
Fraternities, Sororities and Student Dormitories through Garage, Yard, & Estate Sales [No change.]	
Guest Quarters	L L L -
Home Occupations through Watchkeeper Quarters [No change.]	
<b>Institutional through Signs [No change.]</b>	

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 >>	RM-											
	3rd >>	1-			2-			3-			4-		5-
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12

**Open Space through Agriculture [No change.]**

<b>Residential</b>	
<i>Mobilehome Parks through Single Dwelling Units [No change.]</i>	
<b>Separately Regulated Residential Uses</b>	
<i>Boarder &amp; Lodger Accommodations through Companion Units [No change.]</i>	
<b>Employee Housing:</b>	
6 or Fewer Employees	- - - - -
12 or Fewer Employees	- - - - -
Greater than 12 Employees	- - - - -
Fraternities, Sororities and Student Dormitories	

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 >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
through Watchkeeper Quarters [No change.]														
Institutional through Signs [No change.]														

Footnotes for Table 131-04B [No change.]

**§131.0466 Deviations from Development Regulations for Reasonable Accommodations**

The Federal Fair Housing Act and the California Fair Employment and Housing Act require that jurisdictions make *reasonable accommodations* to afford *disabled persons* the equal opportunity to use and enjoy a dwelling. In consideration of the special need and the potential benefit that can be accomplished with a requested modification, deviations may be approved through Process One subject to the following:

- (a) The *development* will be used by a *disabled person*;
- (b) The deviation request is necessary to make specific housing available to a *disabled person* and complies with all applicable development regulations to the maximum extent feasible;
- (c) The deviation request will not impose an undue financial or administrative burden on the City;
- (d) The deviation request will not create a fundamental alteration in the implementation of the City's zoning regulations.

- (e) For *coastal development* in the *coastal overlay zone*, that is not exempt pursuant to Section 126.0704, there is no feasible alternative that provides greater consistency with the certified Local Coastal Program.

Section 9. That the San Diego Municipal Code is amended by amending Chapter 13, Article 1, Division 5, Section 131.0522 to read as follows:

**§131.0522 Use Regulations Table of Commercial Zones**

**Table 131-05B  
Use Regulations Table for Commercial Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones									
	1st & 2nd >>	CN <sup>(1)-</sup>	CR-		CO-		CV-		CP-			
		3rd >>	1-	1-	2-	1-	1-	1-				
	4th >>	1	2	3	1	1	1	2	1	2	1	
<b>Vehicle &amp; Vehicular Equipment Sales &amp; Service</b>												
Commercial Vehicle Repair & Maintenance		-			P	P	-	-	-			
Commercial Vehicle Sales & Rentals		-			P	P	-	-	-			
Personal Vehicle Repair & Maintenance		-			P	P	-	-	-			
Personal Vehicle Sales & Rentals		-			P	P	-	-	-			
Vehicle Equipment & Supplies Sales & Rentals		-			P	P	-	-	-			
<b>Separately Regulated Vehicle &amp; Vehicular Equipment Sales &amp; Service Uses</b>												
Automobile Service Stations		-			N	N	C	C	-			
Outdoor Storage & Display of New, Unregistered Motor Vehicles as a <i>Primary Use</i>		-			C	C	-	-	-			

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																	
	1st & 2nd >>	CC-																		
		3rd >>	1-	2-	3-	4-	5-													
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5	
<b>Vehicle &amp; Vehicular Equipment Sales &amp; Service</b>																				
Commercial Vehicle Repair & Maintenance		-	-	-											P				P	
Commercial Vehicle Sales & Rentals		-	-	-											P				P	

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																	
	1st & 2nd >>		CC-																	
	3rd >>		1-			2-			3-			4-			5-					
	4th >>		1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Personal Vehicle Repair & Maintenance			P			P			-			P						P		
Personal Vehicle Sales & Rentals			P			P			-			P						P		
Vehicle Equipment & Supplies Sales & Rentals			P			P			-			P						P		
Separately Regulated Vehicle & Vehicular Equipment Sales & Service Uses																				
Automobile Service Stations			N			N			N			N			N			N		
Outdoor Storage & Display of New, unregistered Motor Vehicles as a <i>primary use</i>			C			C			-			C						C		

Section 10. That the San Diego Municipal Code is amended by amending Chapter 13, Article 1, Division 6, Section 131.0622 to read as follows:

**§131.0622 Use Regulations Table for Industrial Zones**

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

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone designator		Zones								
	1st & 2nd >>		IP-			IL-			IH-		IS-
	3rd >>		1-	2-	1-	2-	3-	1-	2-	1-	
	4th >>		1	1	1	1	1	1	1	1	
<b>Vehicle &amp; Vehicular Equipment Sales &amp; Service</b>											
Commercial Vehicle Repair & Maintenance			-	-	P	P	P	P	P	P	
Commercial Vehicle Sales & Rentals			-	-	P	P	P	P	P	P	
Personal Vehicle Repair & Maintenance			-	-	P	P	P	-	-	P	
Personal Vehicle Sales & Rentals			-	-	P	P	P	-	P	P	
Vehicle Equipment & Supplies Sales & Rentals			-	-	P	-	P	P	P	P	
Separately Regulated Vehicle & Vehicular Equipment Sales & Service Uses											
Automobile Service Stations			L	L	L	L	L	L	L	L	
Outdoor Storage & Display of New, Unregistered Motor Vehicles as a <i>primary use</i>			-	-	P	P	P	P	P	P	

Section 11. That the San Diego Municipal Code is amended by amending Chapter 14, Article 1, Division 3, Sections 141.0303 and 141.0306 to read as follows:

**§141.0303 Employee Housing**

Employee housing is housing provided for agricultural workers in accordance with the California Health and Safety Code, Employee Housing Act. Employee housing does not include housing for persons engaged in household domestic service. Employee housing is permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Section 141.0303(a). Employee housing may be permitted with a Neighborhood Use Permit or a Conditional Use Permit in the zones indicated with an “N” or a “C”, respectively, in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Section 141.0303(b).

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

**§141.0306 Guest Quarters**

Guest quarters are attached or detached accessory living quarters located on a *lot* with a *single dwelling unit* that do not provide complete, independent living facilities and do not have direct access to the primary dwelling unit. A guest quarters is solely for the use of the occupants of the primary dwelling unit or their guests or employees. Guest quarters may be permitted as a limited use in accordance with Process One in the zones indicated with an “L” in the Use

Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

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

Section 12. That the San Diego Municipal Code is amended by amending Chapter 14, Article 1, Division 6, Section 141.0607 to read as follows:

**§141.0607 Eating and Drinking Establishments Abutting Residentially Zoned Property**

Eating and drinking establishments on *premises* abutting residential zones are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the regulations in Section 141.0607(a). Eating and drinking establishments abutting residentially zoned property that do not comply with Section 141.0607(a) may be permitted with a Neighborhood Use Permit subject to the regulations in Section 141.0607(b).

(a) Limited Use Regulations

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

(3) Drive-in and drive through restaurants, live entertainment, and the sale of intoxicating beverages other than beer and wine are not permitted in the CN zones.

(b) [No change.]

Section 13. That the San Diego Municipal Code is amended by amending Chapter 14, Article 1, Division 8, Section 141.0801 to read as follows:

**§141.0801 Automobile Service Stations**

Automobile service stations are permitted as a limited use in the zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations. Automobile service stations may be permitted with a Neighborhood Use Permit decided in accordance with a Process Two in the zones indicated with an “N” or with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

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

Section 14. That the San Diego Municipal Code is amended by amending Chapter 14, Article 3, Division 3, Section 143.0302 to read as follows:

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

[No change.]

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

Type of Development Proposal	Applicable Sections	Required Development Permit/Decision Process
Affordable/In-Fill Housing and Sustainable Building Projects with Deviations	143.0910, 143.0915, 143.0920	SDP/Process Four
Site Containing <i>Environmentally Sensitive Lands</i> through Affordable Housing in RE, RS, RX, RT, AR Zones [No change.]		

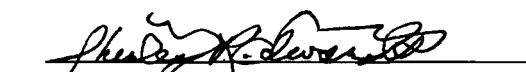
Type of Development Proposal	Applicable Sections	Required Development Permit/Decision Process
Condominium Conversions with Deviations from Development Regulations through Clairemont Mesa Height Limit Overlay Zone [No change.]		

Section 15. 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 16. Except in the Coastal Overlay Zone, this ordinance shall take effect and be in force on the thirtieth day from and after its final passage. Within the Coastal Overlay Zone, this ordinance shall be in force and effect on the date it is effectively certified by the California Coastal Commission as a City of San Diego Local Coastal Program amendment.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

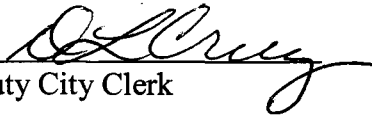
  
Shirley R. Edwards  
Chief Deputy City Attorney

SRE:pev  
09/25/08  
10/03/08 COR.COPY  
10/14/08 COR.COPY2  
Or.Dept:DSD  
O-2009-33  
MMS #6574



I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of OCT 28 2008.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 11.13.08  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor