

Article 6: Development Permits

Division 7: Coastal Development Permit Procedures

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

§126.0701 Purpose of the Coastal Development Permit Procedures

The purpose of these procedures is to establish a City review process for *coastal development* that is consistent with the *Local Coastal Program*, the California Coastal Act of 1976 (Public Resources Code section 30000, et seq.) and the California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 17.

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

§ 126.0702 When a Coastal Development Permit Is Required

- (a) Permits Issued by the City. A Coastal Development Permit issued by the City is required for all *coastal development* of a *premises* within the Coastal Overlay Zone described in Chapter 13, Article 2, Division 4, unless exempted by Section 126.0704, or if the proposed project site lies completely within the Coastal Commission Permit Jurisdiction or the Deferred Certification Area as described in Section 126.0702(b).
- (b) Permits Issued by the Coastal Commission. A Coastal Development Permit or exemption for all *coastal development* on a project site located completely within the Coastal Commission Permit Jurisdiction or in the Deferred Certification Area must be obtained from the Coastal Commission. The Coastal Commission Permit Jurisdiction and the Deferred Certification Area are shown on Map No. C-730.1, Map No. C-908, and Map No. C-1028, on file in the office of the City Clerk as Documents No. OO-17067-1, No. OO-18872, and No. OO-21719.
- (c) Permits Issued by the City and the Coastal Commission. A Coastal Development Permit or exemption issued by the City and the Coastal Commission are required for all *coastal development* on a *premises* located partially within the Coastal Commission permit jurisdiction. A Coastal Development Permit from each agency is required for the portion of the project within the agency's jurisdiction.

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

(Amended 7-22-2024 by O-21836 N.S.; effective 10-5-2024.)

§126.0704 Exemptions from a Coastal Development Permit

The following *coastal development* is exempt from the requirement to obtain a Coastal Development Permit:

- (a) Improvements to existing *structures* are exempt, except if the improvements involve any of the following:
 - (1) Improvements to any *structure* if the *structure* or improvements are located: on a beach; in a *wetland*; stream; lake; seaward of the mean high tide line; or within 50 feet of a *coastal bluff edge*.
 - (2) Improvements to any *structure* that would result in an increase of 10 percent or more of interior *floor* area or an additional improvement of 10 percent or less where an improvement to the structure had previously been exempted or an increase in building height by more than 10 percent where the *structure* is located between the sea and first public roadway paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line where there is no beach, whichever is the greater distance. The first public roadway is shown on Map No. C-731 filed in the office of the City Clerk as Document No. 00-17069.
 - (3) Improvements that result in an intensification of use. For purposes of Section 126.0704, intensification of use means a change in the use of a *lot* or *premises* which, based upon the provisions of the applicable zone, requires more off-street parking than the most recent legal use on the property.
 - (4) Any significant alteration of land forms including removal or placement of vegetation, on a beach, wetland or sand dune, or within 100 feet of the edge of a *coastal bluff*.
 - (5) The demolition or removal of 50 percent or more of the exterior walls of the existing structure.
 - (6) The expansion or construction of water wells or septic systems.

- (7) Any significant non-attached structures such as garages, *fences*, shoreline protective works or docks on property located between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance.
 - (8) Any improvement to a structure where the Coastal Development Permit issued for the original structure indicated that any future improvements would require a *development permit*.
 - (9) *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* that are not completely contained in the existing primary *structure* or include increases in habitable area or include conversion of nonhabitable space. Such *ADUs* and *JADUs* are considered self-contained residential units within new construction and are therefore ineligible for an exemption.
- (b) Repair or maintenance activities are exempt except if the repairs or maintenance involve any of the following:
- (1) Repair or maintenance of a seawall, revetment, bluff *retaining wall*, breakwater, groin, culvert, outfall, or similar shoreline work that involves substantial alteration to the foundation of the protective work including pilings and other surface or subsurface structures; the placement, whether temporary or permanent, of riprap, artificial berms of sand or other beach materials, or any other forms of solid materials on a beach or in coastal waters, streams, *wetlands*, estuaries or on a shoreline protective work, unless destroyed by a natural disaster; the replacement of 20 percent or more of the materials of an existing *structure* with materials of a different kind; the placement, whether temporary or permanent, of mechanized construction equipment on any sand area, *coastal bluff*, or within 20 feet of coastal waters or streams, except that the use of such equipment solely for routine beach and park maintenance shall not require a Coastal Development Permit.
 - (2) Any repair or maintenance to facilities or *structures* or any work located within a *wetland*, any sandy beach area, within 50 feet of a *coastal bluff edge* or *wetland*, or within 20 feet of any coastal waters or streams that include; the placement or removal, whether temporary or permanent, of riprap, rocks, sand or other beach materials or any other forms of solid materials or the presence, whether temporary or permanent, of mechanized equipment or construction materials.

- (c) Any *coastal development* that has been categorically excluded pursuant to Categorical Exclusion Order No. (Editor's note: a number will be inserted if and when a Categorical Exclusion Order is issued by the California Coastal Commission.)
- (d) A *temporary event* which does not meet all of the following criteria:
 - (1) The event is held between Memorial Day weekend and Labor Day; and,
 - (2) The event will occupy all or a portion of a sandy beach or public parking area; and
 - (3) The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).

However, a *temporary event* which does not meet all of the criteria in Sections 126.0704(d)(1)-(3) may require a Coastal Development Permit if the City Manager determines the event has the potential to adversely affect public access to the shoreline and/or *environmentally sensitive lands*, and the event involves any of the following circumstances:

- (4) The event and its associated activities or access requirements will either directly or indirectly impact *environmentally sensitive lands*;
 - (5) The event is scheduled between Memorial Day weekend and Labor Day and would restrict or close to the public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters;
 - (6) The event has historically required a Coastal Development Permit to address and monitor associated impacts to coastal resources.
- (e) *Public utility* installation of new or increased service to *development* approved or exempted in the Municipal Code, and *public utility* repair or maintenance as exempted under the Coastal Commission's Interpretive Guidelines on Exclusions from Permit Requirements filed with the City Clerk as Document No. OO-17067-2.
- (f) Any action necessary to abate a *public nuisance* as provided under California Public Resources Code Section 30005(b).
- (g) Agricultural *grading* on land that has been cultivated within the previous 10 years.

- (h) The replacement of any *structure* destroyed by a disaster, except a public works facility. The replacement *structure* shall comply with the applicable zone, shall be for the same use as the destroyed *structure*, shall not exceed the *floor area ratio*, height, or bulk of the destroyed *structure* by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed *structure*.
- (i) Any improvement to a *single dwelling unit* that constitutes part of a “single-family residential building” as defined in title 14, section 13250(a) of the California Code of Regulations and that does not require a coastal development permit pursuant to title 14, section 13250(b) of the California Code of Regulations.

(Amended 7-14-2003 by O-19197 N.S.)

(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)

(Amended 8-9-2019 by O-21114 N.S.; effective 9-8-2019.)

(Amended 10-30-2020 by O-21254 N.S.; effective 11-29-2020.)

(Amended 11-23-2021 by O-21391 N.S.; effective 1-6-2022.)

(Amended 7-21-2022 by O-21477 N.S.; effective 9-7-2022.)

(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)

(Amended 6-12-2023 by O-21655 N.S.; effective 8-10-2023.)

§126.0705 How to Apply for a Coastal Development Permit

An *applicant* shall file an application for a City-issued Coastal Development Permit in accordance with Section 112.0102. The application shall include the required submittal materials and any other information that in the opinion of the City Manager is necessary to adequately review the proposed *coastal development*. If the site is located within the watershed of Los Penasquitos Lagoon and would involve *grading* or construction of impervious surfaces, a computation of the required Los Penasquitos Lagoon Restoration and Enhancement Fee as set forth in Section 126.0720 shall be included with the application.

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

§126.0706 Determination of Appellate Jurisdiction

The City Manager shall determine whether the proposed *coastal development* lies within the *appealable area* at the time the application for the Coastal Development Permit is submitted to the City. The City Manager's determination may be reviewed by the Executive Director of the Coastal Commission in accordance with Coastal Commission regulations.

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

§126.0707 Decision Process for a Coastal Development Permit

- (a) A decision on an application for a City-issued Coastal Development Permit in the *non-appealable area* of the Coastal Overlay Zone shall be made in accordance with Process Two. The decision may be appealed to the Planning Commission in accordance with Section 112.0504. The following are exceptions to this decision process:
 - (1) A decision on an application for a *capital improvement program project* or *public project* in the *non-appealable* or the *appealable area* of the Coastal Overlay Zone shall be made in accordance with Section 126.0707(c).
 - (2) A decision on an application in the *non-appealable area* of the Coastal Overlay Zone for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on private property in accordance with Section 141.0628, and promenades in accordance with Section 141.0629 shall be made in accordance with Section 126.0707(h).
- (b) A decision on an application for a City-issued Coastal Development Permit in the *appealable area* of the Coastal Overlay Zone shall be made in accordance with Process Three, as set forth in Sections 112.0505 and 112.0506, except a decision on an *Accessory Dwelling Unit* shall be made in accordance with Section 126.0707(a). The decision may be appealed to the Planning Commission in accordance with Section 112.0506.
- (c) A decision on an application for a City-issued Coastal Development Permit for a *capital improvement program project* or *public project* shall be made as follows:
 - (1) In the *non-appealable area* of the Coastal Overlay Zone, the decision shall be made in accordance with Process CIP/Public Project-Two. The decision may be appealed to the City Council in accordance with Section 112.0603.

- (2) In the *appealable area* of the Coastal Overlay Zone, the decision shall be made in accordance with a Process Three as set forth in with Sections 112.0505 and 112.0506.
- (d) Except for Coastal Development Permits issued in accordance with Sections 126.0707(g) and 126.0707(h), conditions may be imposed by the decision maker when approving a Coastal Development Permit to carry out the purpose and the requirements of this division. The conditions may include a provision for public access, open space, or conservation easements or the relocation or redesign of proposed site improvements. In any *subdivision* or other land division, such conditions shall be imposed at the time of the *subdivision* or other land division, rather than through subsequent development permits. When conditions pertaining to public access, open space, or conservation easements are imposed, the City Manager shall notify the Executive Director of the Coastal Commission as set forth in Section 126.0719.
- (e) When more than one permit, map or other approval is required for a single *development*, the applications shall be consolidated and the action of the decision maker shall be considered one consolidated action. In the Coastal Overlay Zone, the *findings* for each approval shall be consolidated and shall constitute the *findings* of the Coastal Development Permit. For decisions involving *coastal development* within the *appealable area*, the entire consolidated decision is appealable to the Coastal Commission.
- (f) Any *coastal development* involving a *subdivision* pursuant to the Subdivision Map Act and any other division of land requires a Coastal Development Permit. The land division shall be processed as part of the Coastal Development Permit in accordance with the Subdivision Regulations (Chapter 14, Article 4) and Subdivision Procedures (Chapter 12, Article 5). Any tentative map, lot line adjustment, merger, *public right-of-way* abandonment or public easement abandonment may be approved or conditionally approved only if the decision maker makes the *findings* pursuant to Section 126.0708.
- (g) A decision on an application for a City-issued Coastal Development Permit for an *Accessory Dwelling Unit* or *Junior Accessory Dwelling Unit* in the non-*appealable area* of the Coastal Overlay Zone shall be made as follows:
- (1) The Coastal Development Permit shall be issued as a Building Permit in accordance with Process One as specified in Section 112.0502 and Chapter 12, Article 9, Division 2.

Sections 126.0711, 126.0712, 126.0713, 126.0715 and 126.0716 related to recordation, issuance, initial utilization, time extension, and modification or amendment of a Coastal Development Permit shall not apply.

- (2) If the proposed coastal development involves any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8), a Coastal Development Permit shall be required in accordance with a Process Two as specified in Section 126.0707(a).
- (h) A decision on an application in the *non-appealable area* of the Coastal Overlay Zone for a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks in accordance with Section 141.0621, outdoor dining on private property in accordance with Section 141.0628, and promenades in accordance with Section 141.0629 shall be made as follows:
 - (1) A Coastal Development Permit for sidewalk cafes, streetaries, active sidewalks, and promenades shall be issued as a Public Right-of-Way Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 7, Section 129.0730, Section 112.0502, and Section 141.0621 or 141.0629, as applicable.
 - (2) A Coastal Development Permit for outdoor dining on private property shall be issued as a Building Permit in accordance with Process One as specified in Chapter 12, Article 9, Division 2, Section 129.0730, Section 112.0502, and Section 141.0628.
 - (3) Sections 126.0711, 126.0712, 126.0713, 126.0715 and 126.0716 related to recordation, issuance, initial utilization, time extension, and modification or amendment of a Coastal Development Permit shall not apply to a City-issued Coastal Development Permit for sidewalk cafes, streeteries, and active sidewalks.
 - (4) If the proposed *coastal development* involves any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8), a Coastal Development Permit shall be required in accordance with a Process Two as specified in Section 126.0707(a).

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

(Amended 10-22-2013 by O-20309 N.S.; effective 12-12-2013.)

(Amended 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)

(Amended 9-15-2017 by O-20857 N.S.; effective 10-15-2017.)

(Amended 1-8-2020 by O-21164 N.S.; effective 2-9-2020.)

(Amended 7-21-2022 by O-21477 N.S.; effective 9-7-2022.)
(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)
(Amended 6-12-2023 by O-21655 N.S.; effective 8-10-2023.)

§126.0708 Findings for Coastal Development Permit Approval

Except for Coastal Development Permits issued in accordance with Section 126.0707(g) through (h), an application for a Coastal Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0708(b) that are applicable to the proposed *development*. Coastal Development Permits issued in accordance with Section 126.0707(g) shall be approved if the administrative *findings* in Section 126.0708(c), and if applicable, the supplemental *findings* in Section 126.0708(b), are satisfied. Coastal Development Permits issued in accordance with Section 126.0707(h) shall be approved if the administrative findings in Section 126.0708(d) and, if applicable, the supplemental *findings* in Section 126.0708(b), are satisfied.

(a) Finding for all Coastal Development Permits

- (1) The proposed *coastal development* will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program land use plan*; and the proposed *coastal development* will enhance and protect public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program land use plan*;
- (2) The proposed *coastal development* will not adversely affect *environmentally sensitive lands*; and
- (3) The proposed *coastal development* is in conformity with the certified *Local Coastal Program land use plan* and complies with all regulations of the certified Implementation Program.
- (4) For every Coastal Development Permit issued for any *coastal development* between the nearest public road and the sea or the shoreline of any body of water located within the Coastal Overlay Zone the *coastal development* is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act.

(b) Supplemental *Findings*--Deviations to Environmentally Sensitive Lands Within the Coastal Overlay Zone

When a deviation is requested from the Environmentally Sensitive Lands Regulations because the *applicant* contends that application of the regulations would result in denial of all economically viable use, the Coastal Development Permit shall include a determination of economically viable use. A Coastal Development Permit, or a Site Development Permit in the Coastal Overlay Zone, required in accordance with Section 143.0110 because of potential impacts to *environmentally sensitive lands* where a deviation is requested in accordance with Section 143.0150 may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0708(a) and the supplemental *findings* in Section 126.0505(b).

The decision maker shall hold a public hearing on any application on a Coastal Development Permit that includes a deviation from the Environmentally Sensitive Lands Regulations in the Coastal Overlay Zone.

Such hearing shall address the economically viable use determination. Prior to approving a Coastal Development Permit for development within the Coastal Overlay Zone that requires a deviation from the Environmentally Sensitive Lands Regulations, the decision maker shall make all of the following *findings*:

- (1) Based on the economic information provided by the applicant, as well as any other relevant evidence, each use provided for in the Environmentally Sensitive Lands Regulations would not provide any economically viable use of the applicant's property; and
- (2) Application of the Environmentally Sensitive Lands Regulations would interfere with the applicant's reasonable investment-backed expectations; and
- (3) The use proposed by the applicant is consistent with the applicable zoning; and
- (4) The use and project design, siting, and size are the minimum necessary to provide the applicant with an economically viable use of the premises; and

- (5) The project is the least environmentally damaging alternative and is consistent with all provisions of the certified *Local Coastal Program* with the exception of the provision for which the deviation is requested.

The *findings* adopted by the decision making authority shall identify the evidence supporting the *findings*.

- (c) The following administrative *findings* shall be made for Coastal Development Permits required for *Accessory Dwelling Units* and *Junior Accessory Dwelling Units* permitted in accordance with Section 126.0707(g) in order to ensure that the *development* conforms to the Local Coastal Program:
 - (1) The proposed *coastal development* will not encroach upon any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program land use plan*.
 - (2) The proposed *coastal development* permit will preserve existing public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program land use plan* and Chapter 13, Article 2, Division 4.
 - (3) The proposed *coastal development* complies with the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1.
 - (4) The proposed *coastal development* does not involve any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8).
- (d) The following administrative findings shall be made for Coastal Development Permits required for sidewalk cafes, streetaries, active sidewalks, outdoor dining on private property, and promenades permitted in accordance with Section 126.0707(h) in order to ensure that the *cooastal development* conforms to the *Local Coastal Program*:
 - (1) The proposed Coastal Development Permit will preserve existing public views to and along the ocean and other scenic coastal areas as specified in the *Local Coastal Program land use plan* and Chapter 13, Article 2, Division 4.
 - (2) The proposed *coastal development* complies with the Environmentally Sensitive Lands Regulations in Chapter 14, Article 3, Division 1.

- (3) The proposed *coastal development* does not involve any of the activities in Section 126.0704(a)(1)-(2) or Section 126.0704(a)(4)-(8).
- (4) The proposed *coastal development* will not preclude public access to any existing physical accessway that is legally used by the public or any proposed public accessway identified in a *Local Coastal Program* land use plan.

(Amended 1-9-2001 by O-18910 N.S.; effective 8-8-2001.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)
(Amended 9-15-2017 by O-20856 N.S.; effective 10-20-2017.)
(Amended 7-21-2022 by O-21477 N.S.; effective 9-7-2022.)
(Amended 6-12-2023 by O-21655 N.S.; effective 8-10-2023.)

§126.0709 Notice of Final City Action on a Coastal Development Permit

- (a) Notice of Final City Action by Mail. No later than *5 business days* after the date on which all rights of appeal have expired for a Coastal Development Permit or any amendment or extension of a Coastal Development Permit, the City Manager shall provide a Notice of Final City Action to the Coastal Commission and to any other person who has requested this notice. Notice may be provided by any acceptable delivery means pursuant to state law.
- (b) Contents of Notice of Final City Action. The Notice of Final City Action shall include the following:
 - (1) The conditions of approval for the Coastal Development Permit;
 - (2) The written *findings* required to approve the Coastal Development Permit; and
 - (3) The procedure for appealing the City's action to the Coastal Commission for decisions which are appealable to the Coastal Commission.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)
(Amended 12-18-2024 by O-21905 N.S.; effective 2-6-2025.)

§126.0710 Appeals to the Coastal Commission

- (a) A Coastal Development Permit that has been approved by the City may be appealed to the Coastal Commission if the *coastal development* that is authorized by the permit is located within the *appealable area* of the Coastal Overlay Zone.
- (b) A Coastal Development Permit that has been approved or denied for a major public works project or a major energy facility as these are defined by California Public Resources Code Sections 30114 and 30107, respectively, and Section 13012, California Code of Regulations, Title 14, Division 5.5, may be appealed to the Coastal Commission if the *development* authorized by the permit is located anywhere within the Coastal Overlay Zone.
- (c) Exhaustion of City Appeal. A decision on a Coastal Development Permit may be appealed to the Coastal Commission only after all appeal remedies of the City have been exhausted, except that exhaustion of all local appeals shall not be required if any of the following occur: an appellant is required to appeal to more local appellate bodies than have been certified as appellate bodies for Coastal Development Permits; an appellant was denied the right of the initial local appeal by a local ordinance which restricts the class of persons who may appeal a local decision; an appellant was denied the right of local appeal because local notice and hearing procedures for the development were inadequate or an appeal fee is required for the filing or processing of appeals.
- (d) Coastal Commission Responsibility
 - (1) If the Coastal Commission determines that a substantial issue exists in an appeal of a City Coastal Development Permit, the Coastal Development Permit becomes the responsibility of the Coastal Commission. All future responsibility pertaining to the Coastal Development Permit lies with the Coastal Commission, including any future amendment to, extension to, or enforcement of the conditions of approval of the permit.
 - (2) If an appeal is filed with the Coastal Commission and the Coastal Commission does not determine that a substantial issue exists, the City's action is upheld and the City's decision on the permit is final.

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

§126.0711 Recordation of a Coastal Development Permit

A Coastal Development Permit that will be issued by the City shall be recorded in accordance with Section 126.0106. The recordation of easement documents shall comply with Section 126.0719.

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

§126.0712 Issuance of a Coastal Development Permit

(a) The City shall issue the Coastal Development Permit in accordance with Section 126.0107 only after receiving notification that:

- (1) The appeal period to the Coastal Commission has ended and no appeal was filed; or
- (2) An appeal was filed and the Coastal Commission made a determination of no substantial issue with the City's decision.

(b) If a decision on a Coastal Development Permit is appealed to the Coastal Commission and the Coastal Commission determines that a substantial issue exists, the issuance of the permit will be regulated by the Coastal Commission.

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

§126.0713 Initial Utilization of a Coastal Development Permit

A Coastal Development Permit issued by the City shall be initially utilized in accordance with Section 126.0108.

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

§126.0715 Time Extension for a Coastal Development Permit

A Coastal Development Permit issued by the City may be extended in accordance with Section 126.0111.

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

§126.0716 Modifications and Amendments to a Coastal Development Permit

Modifications and amendments to a previously approved Coastal Development Permit issued by the City shall be decided in accordance with Sections 126.0112 and 126.0114.

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

(Amended 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)

§126.0717 Permits Issued by the Coastal Commission

Any person who has a valid Coastal Development Permit issued by the Coastal Commission is not required to obtain a Coastal Development Permit for that same *coastal development* from the City. The Coastal Commission is exclusively responsible for the issuance of an amendment to a Coastal Development Permit that has been approved by the Coastal Commission, regardless of the jurisdictional boundaries governing applications for Coastal Development Permits. The City may not grant a Coastal Development Permit for the same *coastal development* on a site that has a previously approved Coastal Development Permit issued by the Coastal Commission unless the previously approved permit has expired or been forfeited to the Coastal Commission. Following a decision on a Coastal Development Permit, no applicant or the applicant's successor in interest may reapply for a Coastal Development Permit for substantially the same *development* for a period of six months from the date of the prior final decision.

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

§126.0718 Procedures for Emergency Coastal Development Permits

- (a) Coastal Emergency. A coastal emergency is a sudden, unexpected occurrence within the Coastal Overlay Zone that demands immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services.
- (b) Application. When a coastal emergency exists, an *applicant* may use the procedures of this section instead of the standard application and decision procedures for a Coastal Development Permit. However, all emergency Coastal Development Permits shall authorize only the minimum necessary to stabilize the emergency. In addition, emergency development requires the subsequent processing of a standard Coastal Development Permit application for any work authorized on an emergency basis by these procedures. The *applicant* may apply for an emergency Coastal Development Permit in person, by letter to the City Manager, or by telephone.
- (c) Contents of Application. The application shall include the following information:
 - (1) The nature of the coastal emergency;
 - (2) The cause of the coastal emergency;
 - (3) The location of the coastal emergency;

- (4) The remedial, protective, or preventive work required to deal with the coastal emergency;
 - (5) The circumstances during the coastal 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 coastal emergency, including the least environmentally damaging alternative.
- (d) Verification. The City Manager shall verify the facts, including the existence and nature of the coastal emergency, to the extent that time allows.
- (e) Decision on Permit. A decision to approve, conditionally approve, or deny the emergency Coastal Development Permit shall be made by the City Manager.
- (f) *Findings.* An emergency Coastal Development Permit may be approved or conditionally approved only if the City Manager makes the following *findings*:
 - (1) A coastal emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a Coastal Development Permit and the *development* can and will be completed within 30 days unless otherwise specified in the permit;
 - (2) Public comment on the proposed coastal emergency action has been solicited and reviewed to the extent feasible; and
 - (3) The proposed emergency work is consistent with the *Local Coastal Program*.
- (g) Conditions. The City Manager may approve an emergency Coastal Development Permit with conditions, including an expiration date. All emergency Coastal Development Permits shall include a condition requiring the processing of a regular Coastal Development Permit application for any work authorized by the City Manager.
- (h) Notice. The City Manager shall provide public notice of the emergency work, with the extent and type of notice determined by the nature and time constraints of the coastal emergency. Notice of the issuance of an emergency Coastal Development Permit shall always be provided to the Coastal Commission.

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

§126.0719 Public Access, Open Space, or Conservation Easements Associated with a Coastal Development Permit

- (a) Documents to be Approved. The City Manager shall forward any legal documents used in complying with required conditions of a Coastal Development Permit that pertains to public access, open space, or conservation easements to the Executive Director of the Coastal Commission for approval before the issuance of the Coastal Development Permit.
- (b) Revisions to Documents. If the Executive Director of the Coastal Commission recommends revisions to the format of the legal documents, the Coastal Development Permit shall not be issued until all deficiencies have been resolved to the satisfaction of the Executive Director of the Coastal Commission.
- (c) Permit Issued. A Coastal Development Permit shall not be issued until the legal documents have been recorded with the County Recorder and verification of the recordation has been sent to, and receipt has been acknowledged by, the Executive Director of the Coastal Commission.

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

§126.0720 Payment of Los Penasquitos Watershed Restoration and Enhancement Fee for Grading and Creation of Impervious Surfaces

- (a) An *applicant* for a Coastal Development Permit, as identified in Document No. 00-17068 on file in the City Clerk's office, for a *coastal development* proposal located in the watershed of Los Penasquitos Lagoon that involves *grading* or would construct any impervious surfaces shall, as a condition of *development* approval, be required to pay a fee to the Los Penasquitos Lagoon Enhancement Fund and escrow account for restoration of the lagoon and watershed. The fee shall not be required for *coastal developments* that are exempt under Section 126.0704.
- (b) The fee shall be based on the site surface affected by *grading* for urban *development*, agriculture, transportation, and other public service facility improvements, exclusive of habitat restoration or enhancement areas. The fee shall be computed at a rate of \$0.005 per square foot for all areas to be graded, with an additional rate of \$0.03 per square foot for any impervious surfaces to be created by the finished *development*. The amount of the fee shall be based on the *grading* and impervious surfaces proposed under the initial Coastal Development Permit and for any additional *development* increments (*grading* or impervious surfaces) for which permits are required. Fees for the maintenance and administration of the escrow account shall also be required.

- (c) The required fee shall be computed by the *applicant* and the information shall be included with the permit application. The calculations shall be verified by the City Manager. The *applicant* shall deposit the required fee in an escrow account established by the City of San Diego, the California Coastal Commission, and the State Coastal Conservancy. Administration of the funds shall be the responsibility of the State Coastal Conservancy in accordance with the terms of the escrow account. The *applicant* shall provide evidence satisfactory to the City Manager that the deposit has been made before the Coastal Development Permit is issued.

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

§126.0721 Los Penasquitos Watershed Maintenance and Conservation Fund

An *applicant* for a Coastal Development Permit for a *coastal development* located in the watershed of Los Penasquitos Lagoon shall, as a condition of the permit, agree to participate in any benefit assessment district or other financing mechanism created to fund the permanent maintenance and conservation of the stream channels and related habitats located in the watershed and within the boundaries of the City of San Diego.

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

§126.0722 Beach Sand Mitigation Fee

- (a) An applicant for a Coastal Development Permit for a *coastal development* proposal involving a bluff or shoreline protective device may be required, as a condition of development approval, to pay a fee to the City of San Diego Beach Sand Mitigation Fund held at the San Diego Association of Governments to be used for beach replenishment and/or public access improvements within the City of San Diego.
- (b) The fee shall be to mitigate impacts to local shoreline sand supply and/or to compensate for direct encroachment by the protective device onto State tidelands or public beach. The amount of the fee shall be roughly proportional to the value of the beach area and sand supply lost as a result of the approved protective device. The information necessary to quantify potential impacts and to calculate a mitigation fee, as discussed within the Beach and Bluff Guidelines in the Land Development Manual, shall be included with the permit application.

(Added 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

§126.0723 Violations of a Coastal Development Permit

It is unlawful for any person to maintain, use, or undertake *coastal development* on any lot or *premises* without a Coastal 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 Coastal Development Permit, except as provided in Sections 126.0112 or 126.0113. 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.

(Renumbered from Sec. 126.0722 and amended 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)

(Amended 1-8-2020 by O-21161 N.S.; effective 2-9-2020.)

§126.0724 Revocation of Coastal Development Permits

The provisions of this section shall govern proceedings for revocation of a Coastal Development Permit. The revocation of a Coastal Development Permit issued by the City shall be considered and acted upon in accordance with Sections 121.0313, 121.0314, 121.0315 and 121.0316 of this code. However, the Coastal Development Permit may be revoked if the Hearing Officer makes any of the *findings* stated in Section 121.0314 or the following:

- (a) Intentional inclusion of inaccurate, erroneous or incomplete information in connection with a Coastal Development Permit application, where the decision maker finds that accurate and complete information would have caused the decision maker to require additional or different conditions on a Coastal Development Permit or deny an application; or
- (b) Failure to comply with the notice provisions of Section 112.0306 where the views of the person(s) not notified were not otherwise made known to the decision maker and could have caused the decision maker to require additional or different conditions on the Coastal Development Permit or to deny the application.

(Added 10-18-1999 by O-18691 N.S.; effective 1-1-2000.)