

Article 1: Separately Regulated Use Regulations

Division 4: Institutional Use Category--Separately Regulated Uses

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

§141.0401 Airports

Airports may be permitted with a Conditional Use Permit decided in accordance with Process Five 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) Airports are not permitted within floodplains located in agriculturally zoned areas of the Coastal Overlay Zone.
- (b) The *applicant* shall submit a master *development* plan for the facility, a public facilities program, a noise impact analysis, and a noise abatement plan to the decision maker for consideration before approval of the Conditional Use Permit.

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

§141.0402 Botanical Gardens and Arboretums

Botanical gardens and arboretums may be permitted with a Conditional Use Permit decided in accordance with Process Four 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) The design of any *structures* shall incorporate a variety of architectural elements that help to diminish building bulk.
- (b) *Structures* and parking areas shall be located on the site away from surrounding *development* that is smaller in scale and less intense.
- (c) Irrigation and stormwater runoff shall be managed in a manner that protects surrounding *development* from harmful pollutants, including fertilizer and insecticide.
- (d) A water reclamation plan is required before approval of the permit.
- (e) Off-street parking shall be provided in accordance with Table 142.05F.

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

§141.0403 Cemeteries, Mausoleums, and Crematories

Cemeteries, mausoleums, and crematories may be permitted with a Conditional Use Permit decided in accordance with Process Four 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) Cemeteries, mausoleums, and crematories are not permitted in agricultural zones in *Proposition A Lands* or within *floodplains* located in agriculturally zoned areas of the Coastal Overlay Zone.
- (b) Crematories are permitted only within cemeteries.
- (c) The design of the *structures* shall incorporate a variety of architectural elements that help to diminish building bulk.
- (d) *Structures* and parking areas shall be located on the site away from surrounding *development* that is smaller in scale and less intense.
- (e) Irrigation and stormwater runoff shall be managed in a manner that protects surrounding *development* from harmful pollutants, including fertilizer and insecticide.
- (f) A water reclamation plan is required before approval of the permit.
- (g) Off-street parking shall be significant to serve the facility without impacting adjacent or nearby property.

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

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

§141.0405 Satellite Antennas

Satellite antennas are permitted as a limited use subject to Section 141.0405(b), and may be permitted with a Neighborhood Use Permit subject to Section 141.0405(c), or with a Conditional Use Permit decided in accordance with Process Three subject to Section 141.0405(d).

- (a) Exemption. The following satellite *antennas* are exempt from Sections 141.0405 and 141.0420:
 - (1) Satellite *antennas* that are 5 feet in diameter or smaller; and
 - (2) In industrial zones, satellite *antennas* that are *accessory uses*.

- (b) Limited Use Regulations. Satellite *antennas* that exceed 5 feet in diameter are permitted as a limited use in zones indicated with an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:
- (1) Satellite *antennas* are not permitted within the *MHPA*.
 - (2) Satellite *antennas* are not permitted on *premises* that have been designated as *historical resources*.
 - (3) Satellite *antennas* shall not exceed 10 feet in diameter.
 - (4) Ground-mounted satellite *antennas* shall not exceed 15 feet in *structure* height.
 - (5) Ground-mounted satellite *antennas* shall not be located in the *street yard*, *front yard*, or *street side yard* of a *premises*.
 - (6) Satellite *antennas* shall not be light-reflective.
 - (7) Satellite *antennas* shall not have any *sign copy* on them nor shall they be illuminated.
 - (8) Ground-, roof-, and pole-mounted satellite *antennas* shall be screened by fencing, buildings, or parapets that appear to be an integral part of the building, or by landscaping so that not more than 25 percent of the *antenna* height is visible from the grade level of adjacent *premises* and adjacent *public right-of-way*.
- (c) Neighborhood Use Permit Regulations. Proposed satellite *antennas* that do not comply with Section 141.0405(b) may be permitted with a Neighborhood Use Permit subject to the following regulations:
- (1) Satellite *antennas* are not permitted within the *MHPA*.
 - (2) Satellite *antennas* are not permitted on *premises* that have been designated as *historical resources*.
 - (3) Satellite *antennas* shall not exceed 10 feet in diameter.
 - (4) Satellite *antennas* shall not be light reflective.
 - (5) Satellite *antennas* shall not have any *sign copy* on them nor shall they be illuminated.

- (6) The visual impacts of the *antenna* to adjacent *premises* and adjacent *public rights-of-way* shall be minimized by the positioning of the *antenna* on the *premises* and the use of landscaping or other *screening*.
- (d) Conditional Use Permit Regulations. Except where exempt in accordance with Section 141.0405(a)(2), satellite *antennas* that exceed 10 feet in diameter may be permitted only with a Conditional Use Permit decided in accordance with Process Three subject to the following regulations:
 - (1) Satellite *antennas* are not permitted within the *MHPA*.
 - (2) Satellite *antennas* are not permitted on *premises* or its appurtenances that have been designated as *historical resources*.
 - (3) The visual impacts of the *antenna* to adjacent *premises* and adjacent *public rights-of-way* shall be minimized by the positioning of the *antenna* on the *premises* and the use of landscaping or other *screening*.

(Amended 1-9-2001 by O-18910 N.S.; effective 8-8-2001.)

(Amended 8-10-2004 by O-19308 N.S.; effective 4-11-2007.)

(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

§141.0406 Correctional Placement Centers

Correctional placement centers, including work furlough and probationary residential facilities, may be permitted with a Conditional Use Permit decided in accordance with Process Four 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) Correctional placement centers are not permitted in any of the following locations:
 - (1) Within the beach impact area of the Parking Impact Overlay Zone;
 - (2) Within 1/4 mile of any type of residential care facility, *social service institution*, welfare institution, or similar type of facility, measured from *property line* to *property line* in accordance with Section 113.0225;
 - (3) Within 1 mile of another correctional placement center, measured from *property line* to *property line* in accordance with Section 113.0225;

- (4) Within 1,000 feet of a *school*, library, *public park*, or recreation area, measured from *property line* to *property line* in accordance with Section 113.0225; or
 - (5) Within 600 feet of a property zoned for residential *development*, measured from *property line* to *property line* in accordance with Section 113.0225.
- (b) The center shall provide a minimum of 60 square feet of sleeping space per bed, not including closet space, storage space, multipurpose rooms, bathrooms, dining rooms, and halls. There shall be no more than 64 beds per sleeping space.
- (c) The center shall provide a minimum of 10 square feet of multi-purpose space per bed, not including sleeping space and *kitchen* areas, for games and activities, dining, visiting, television lounge, meetings, and quiet space for study, counseling and reading. This space shall be designed so that several activities can occur simultaneously without conflict.
- (d) The center shall provide a minimum of 8 cubic feet of closet and drawer space for clothing and personal belongings per bed. The required closet and drawer space may consist of portable or permanent fixtures and shall be located in the sleeping space.
- (e) The center shall provide a minimum of 15 square feet of dining area for each resident, not including *kitchen* areas and sleeping space. Centers may have food prepared off the *premises* if the preparation source meets all applicable requirements for commercial food service. The center shall provide adequate equipment and staff to receive and serve the food and clean up. The center shall provide and maintain adequate equipment for in-house preparation, storage, and service of food in case the residents elect to do so. For centers that have food prepared on the *premises*, the preparation source shall meet all applicable requirements for commercial food services and shall have equipment and staff necessary to receive, store, serve, and prepare meals and to clean up.
- (f) The center shall provide at least one toilet and wash basin for every eight beds. At least one shower or bathtub shall be provided for every 12 beds. The center shall provide for individual privacy in all toilet, shower, and bath areas.

- (g) The center shall make laundry facilities available to all residents. The center shall provide at least one operable washer and dryer for every 16 beds, or the center may be serviced by a commercial laundry. The space used for laundry purposes shall not be part of an area used for storage of anything other than clean linens and other supplies normally associated with laundry activities.
- (h) Centers that have 99 or fewer residents shall provide an exercise area of at least 900 square feet, not including required *yards* and required landscape areas. Centers that have 100 or more residents shall have an exercise area of at least 2,400 square feet, not including required *yards* and required landscape areas. If an outdoor exercise area is provided, it shall be easily accessible to residents, protected from traffic, and *screened* by solid fencing from the *public right-of-way*.
- (i) The center shall provide the following number of *off-street parking spaces*:
 - (1) At least one parking space per staff person assigned to the shift that has the greatest number of staff persons; and
 - (2) For centers confining up to 24 persons, at least one parking space for every four beds or for centers confining 25 or more persons, at least one parking space for every seven beds.
- (j) At least two uniformed custodial guards or monitors who are CPR-qualified shall be on duty at the center at all times.
- (k) Centers confining 25 or more persons shall provide at least one additional uniformed custodial guard or monitor for each 64 beds, or portion thereof, to be on duty between the hours of 4:00 p.m. and 8:00 a.m. during the week and during all hours on the weekend.
- (l) The center shall maintain a list of all residents accommodated during the past 6 months and shall provide their sentence/offense analysis available upon request.
- (m) The center shall maintain records of all vehicles being driven by residents of the facility and shall provide the records upon request.
- (n) All personnel shall be trained in accordance with selection and training requirements adopted by the Board of Corrections as set forth in the California Code of Regulations, Subchapter 1 (commencing with Section 100) of Chapter 1 of Division 1 of Title 15 and all other requirements outlined in Title 15. A Certificate of Compliance issued by an institute accredited by the State Board of Corrections shall be submitted to the City Manager.

- (o) Adult offenders housed in correctional placement centers shall be regularly employed, regularly attending job training, or regularly attending a learning institution. The sentencing judge may determine that other similar circumstances qualify an offender for housing in a correctional placement center.
- (p) No person convicted of any of the offenses listed in Table 141-04A, which are defined in the California Penal Code, may be ordered by any court into a City of San Diego Correctional Placement Center. This prohibition shall apply if the court order is a direct sentence or the placement is a condition of probation, regardless of whether the offense is a felony or misdemeanor. The Correctional Placement Center shall not accept or lodge any such person improperly placed by a court.

Table 141-04A

Excludable Offenses

No.	Offenses
1.	Murder
2.	Vehicular manslaughter
3.	Voluntary manslaughter
4	Mayhem
5.	Kidnaping
6.	Robbery (including bank robbery)
7.	Assault with intent to rape or rob
8.	Assault with a deadly weapon on a peace officer
9.	Rape
10.	Forcible sodomy
11.	Lewd act on a child
12.	Forcible oral copulation
13.	Forcible penetration by foreign object

No.	Offenses
14.	Arson
15.	Grand theft using a firearm
16.	Assault by a life prisoner on a non-inmate
17.	Assault with a deadly weapon by an inmate
18.	Holding of a hostage by a prisoner
19.	Personal use of a deadly weapon
20.	Personal use of a firearm
21.	Personal infliction of great bodily injury
22.	Exploding a destructive device with intent to injure
23.	Exploding a destructive device with intent to murder
24.	Exploding a destructive device with intent to cause mayhem or great bodily injury
25.	Selling and/or furnishing drugs to a minor
26.	Sale or possession for sale of a controlled substance
27.	Any felony punishable by death or life imprisonment
28.	An attempt to commit any of the crimes listed, except assaults
29.	Any sex offense, either a misdemeanor or a felony, wherein the victim is a child under the age of 18, including all offenses registerable as sex offenses under California Penal Code section 290, and also offenses involving child pornography as described in California Penal Code sections 311 through 312.3
30.	Any person convicted of a crime whom the sentencing judge deems unacceptable for community access
31.	Any person sentenced for a federal crime that is similar in nature or type, to any of the crimes listed.

(Amended 6-12-2001 by O-18948 N.S.; effective 12-12-2001.)

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

§141.0407 Educational Facilities--Schools for Kindergarten to Grade 12, Colleges/Universities, and Vocational/Trade Schools

Educational facilities are facilities that are designed or used to provide specialized training or education. This section distinguishes between kindergarten to grade 12 schools, colleges and universities, and vocational schools and trade schools.

Educational facilities are permitted by right in zones indicated with a “P”, as a limited use in the zones indicated with an “L”, and may be permitted 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) Permanent *development* associated with educational facilities is not permitted in agricultural zones in *Proposition A Lands* or within *floodplains* located in the Coastal Overlay Zone.
- (b) Schools for Kindergarten to Grade 12
 - (1) This use category applies to schools that provide instruction to children enrolled in any grade kindergarten to grade 12.
 - (2) Schools for kindergarten to grade 12 are not permitted on a *premises* that is identified as Prime Industrial Land in a *land use plan*.
 - (3) Limited use regulations. Schools for kindergarten to grade 12 are permitted as limited uses in zones indicated by an “L” subject to the following:
 - (A) Outside of a *Sustainable Development Area*, the facility design shall not accommodate more than 300 students, except that a new school may replace an existing school with current enrollment over 300 students if the result is no increase in the number of students.
 - (B) Within a *Sustainable Development Area*, the facility design shall not accommodate more than 600 students, except that a new school may replace an existing school with current enrollment over 600 students if the result is no increase in the number of students.
 - (C) Parking shall be provided in accordance with Table 142-05G.

- (D) Deviations from Section 141.0407(b)(3)(A) or (B) may be permitted with a Conditional Use Permit decided in accordance with Process Three and subject to the conditional use regulations in Section 141.0407(b)(5).
- (4) One-on-one teaching facilities with a maximum capacity of 50 students that provide education for children enrolled in grades 6 through 12 in a traditional office building are permitted by right in locations where business and professional offices are a permitted use in zones indicated with a “P”, except that such facilities are not permitted where in conflict with Section 141.0407(e)(1).
- (5) Conditional use regulations. Schools for kindergarten to grade 12 are permitted as conditional uses in zones indicated by a “C” subject to the following:
 - (A) The *applicant* shall provide a master development plan that includes the following:
 - (i) The student capacity of the campus;
 - (ii) The size, number, and location of all proposed facilities;
 - (iii) The pedestrian and traffic circulation systems proposed for the site;
 - (iv) A transportation and parking development program; and
 - (v) A *development* phasing schedule.
 - (B) The design of the *structures* shall incorporate architectural elements that help to diminish building bulk.
 - (C) Larger *structures*, areas with high levels of activity, and parking areas shall be located on the site away from surrounding *development* that is smaller in scale or less intense.
 - (D) Off-street parking shall be provided in accordance with Table 142-05G.

(c) Colleges/Universities

- (1) Colleges and universities are facilities that provide post secondary education or higher in a campus setting where the campus typically has at least one of the following accessory activities or facilities: intercollegiate athletics, fraternities and sororities, student clubs, student unions, student dormitories, a campus library, or other campus facilities to accommodate a large assembly of people.
- (2) Conditional use regulations. Colleges and universities are permitted as conditional uses in zones indicated by a “C” subject to the following:
 - (A) Colleges and universities are not permitted on a *premises* that is identified as Prime Industrial Land in a *land use plan*, except as otherwise allowed in accordance with Section 141.0407(e).
 - (B) Colleges and universities are subject to the conditional use criteria applicable to schools for kindergarten to grade 12 in Section 141.0407(b)(5).
 - (C) Access to colleges and universities shall be as direct as possible from *freeways* and primary arterials and shall avoid residential *streets*.
 - (D) Colleges and universities that provide education in a traditional office building without any extracurricular facilities of a traditional post secondary educational facility are permitted by right where business and professional offices are permitted uses in zones indicated with a “P”. However, this type of educational facility is not permitted on a *premises* that is identified as Prime Industrial Land in a *land use plan*, except as otherwise allowed in accordance with Section 141.0407(e).

(d) Vocational and Trade Schools

- (1) Vocational schools are facilities that offer instruction and practical introductory experience in skilled trades such as mechanics, carpentry, plumbing, or construction with training that emphasizes the skills and knowledge needed for a particular job. Trade schools are facilities organized by an industry or a large corporation to provide training, apprentice education, and similar courses.

- (2) Limited use regulations. Vocational schools and trade schools are permitted as limited uses in zones indicated by an “L” subject to the following:
 - (A) Vocational schools and trade schools are not permitted on a *premises* that is identified as Prime Industrial Land in a *land use plan*, except as otherwise allowed in accordance with Section 141.0407(e).
 - (B) Off-street parking shall be provided in accordance with Table 142-05G.
- (e) Educational Facilities on Prime Industrial Land
 - (1) Schools for kindergarten to grade 12 are not permitted on a *premises* identified as Prime Industrial Land in a *land use plan*.
 - (2) Educational facilities that are limited to the instruction of adults may be permitted on a *premises* identified as Prime Industrial Land in a *land use plan* if:
 - (A) The primary emphasis of the educational facility is instruction in subjects incidental to manufacturing and industrial uses; or
 - (B) A Process Two Neighborhood Development Permit is granted in accordance with Section 126.0402 for a proposed educational facility that would be located in an existing office building that is not suitable for manufacturing or research and development due to the lack of loading docks/roll up doors and insufficient height clearance on the first floor (floor to ceiling height less than 14 feet).

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

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

(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 11-16-2012 by O-20216 N.S.; effective 12-16-2012.)

(Retitled to “Educational Facilities--Schools for Kindergarten to Grade 12, Colleges/Universities, and Vocational/Trade Schools” and amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

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

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

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

[Editors Note: Amendments as adopted by O-21618 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21618-SO.pdf]

§141.0408 Energy Generation and Distribution Stations

Energy generation and distribution stations may be permitted 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) Activities involving aerial transmissions are not permitted.
- (b) All mechanical equipment and all storage areas shall be located within an enclosed building.
- (c) The design of the *structures* shall incorporate architectural elements that help to minimize conflicts in scale with surrounding *development*.
- (d) Service areas and parking areas shall be buffered from adjacent *development* that is not of a similar nature.
- (e) *Fences*, walls, trees and other forms of landscaping shall be used to minimize visibility of *structures* from adjacent *public rights-of-way* or adjacent residential *development*.

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

§141.0409 Exhibit Halls and Convention Facilities

Exhibit halls and convention facilities may be permitted with a Conditional Use Permit decided in accordance with Process Four 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) Exhibit halls and convention facilities are not permitted within *floodplains* located in agriculturally zoned areas of the Coastal Overlay Zone.

(b) The proximity and capacity of *freeways*, primary arterials, and major *streets* will be used to determine the appropriate size and intensity of the proposed facility.

(c) Off-street parking shall be provided in accordance with Table 142-05G.

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

(Amended 11-16-2012 by O-20216 N.S.; effective 12-16-2012.)

§141.0410 Flood Control Facilities

Flood control facilities 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.

(a) *Flood* control facilities are permitted only for essential public projects where it has been determined that there is no feasible, less environmentally damaging location or alternative.

(b) *Flood* control facilities are permitted only when mitigation measures have been provided to minimize adverse environmental effects.

(c) Any *encroachment* or disturbance to *environmentally sensitive lands* is subject to Chapter 14, Article 3, Division 1 (*Environmentally Sensitive Lands*).

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

§141.0411 Historical Buildings Occupied by Uses Not Otherwise Allowed

Historical buildings occupied by uses not otherwise allowed may be permitted 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) In *Proposition A Lands*, a Conditional Use Permit shall not be approved for *historical buildings* occupied by uses not otherwise allowed.

(b) The building must be designated as a *historical resource* by the City of San Diego Historical Resources Board before approval of the Conditional Use Permit.

- (c) The use of the building shall be compatible with the uses in the surrounding area or shall be consistent with the purpose for which the building was originally designed. In order to minimize detrimental effects to neighboring properties, any proposed separately regulated uses in a *historical building* shall comply with the applicable regulations in Chapter 14, Article 1 (Separately Regulated Use Regulations).
- (d) The site shall be maintained in, or restored to, its original or historical appearance, in accordance with Chapter 14, Article 3, Division 2 (Historical Resources Regulations).
- (e) Any facilities that are constructed as part of the new use shall be designed to be similar in scale and style with the historical use, in accordance with Chapter 14, Article 3, Division 2 (Historical Resources Regulations).
- (f) Hours of operation shall be limited to conform to hours of normal activity in the neighborhood.
- (g) The decision maker may waive or modify the base zone regulations for maximum *floor area ratio*.
- (h) The decision maker may waive or modify the requirements for off-street parking and landscaping. The *applicant* may be required to preserve existing mature landscaping.

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

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

(Amended 5-5-2015 by O-20481 N.S.; effective 6-4-2015.)

§141.0412 Homeless Facilities

- (a) This section regulates the following homeless facilities.
 - (1) Congregate meal facilities: Any facility that provides scheduled meals on a daily basis for individuals or *families* who are homeless or *low income* or *very low income*, as defined in Section 113.0103.
 - (2) Emergency shelters: Any facility that provides housing for homeless persons with minimal supportive services that is limited to occupancy of six months or less. An emergency shelter may be seasonal or year-round.

Emergency shelters operating for 30 days or less in any 365-day period which are *accessory uses* to religious institutions or religious organizations are exempt from this section.

- (3) Homeless day centers: Any facility that provides basic services, including personal hygiene, information and referral, employment, mail, and telephone services, during daylight hours to homeless persons.

(b) Congregate Meal Facilities

Congregate meal facilities may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) No more than one congregate meal facility may be permitted within 1/4 mile of an emergency shelter, a homeless day center, or another congregate meal facility, measured from *property line to property line* in accordance with Section 113.0225.
- (2) Overnight accommodations are not permitted.
- (3) Drive-up or drive-through service is not permitted.
- (4) Live entertainment is not permitted.
- (5) Distribution or consumption of alcoholic beverages on the *premises* is not permitted.
- (6) The facility shall provide a waiting area for clients to prevent queuing into the *public right-of-way*. The size of the waiting area shall be at least 5 square feet per client, based on the maximum number of clients the facility can accommodate according to Fire Department standards. Any outdoor waiting area shall be physically separated from the *public right-of-way*.
- (7) The facility shall provide off-street parking at a rate of 1 space per full-time-equivalent employee, calculated at 8 hours of working time per employee per 24-hour period.
- (8) Hours of operation shall be limited to the hours between 6:00 a.m. and 10:00 p.m.

- (9) All activities associated with the facility, including the serving of food and beverages, shall occur within an enclosed building.
- (10) The *applicant* shall submit the following materials to the decision maker for consideration:
 - (A) A communications plan that describes how the provider will communicate with local community, neighborhood, and business organizations, and with adjacent neighbors on a regular basis, and how community issues or concerns will be addressed;
 - (B) A plan to minimize loitering in the vicinity of the facility; and
 - (C) A litter control plan to provide for the removal of litter in the vicinity of the facility on a regular basis.
- (c) Emergency Shelters
 - (1) Emergency shelters 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.
 - (A) Emergency shelters shall provide an on *premises* waiting area of at least 10 square feet per bed to accommodate clients and to prevent queuing into the *public right-of-way*. Any outdoor waiting area shall be physically separated from the *public right-of-way*.
 - (B) Emergency shelters shall provide off-street parking at a rate of at least 1 space for each full-time-equivalent employee, calculated at 8 hours of working time per employee per 24-hour period.
 - (C) Hours of operation shall be limited to the hours between 6:00 p.m. and 8:00 a.m.
 - (D) Emergency shelters shall provide on-site supervision at all times. At least one full-time-equivalent employee shall be provided for every 20 beds.

- (E) The *applicant* shall submit and implement the following:
 - (i) A communications plan for addressing issues or concerns regarding the emergency shelter raised by the local community, neighborhood, business organizations, and adjacent neighbors;
 - (ii) A loitering control plan to minimize the congregation of overnight residents during daylight hours on the *premises*, in parking lots serving the *premises*, and on public sidewalks adjacent to the *premises*; and
 - (iii) A litter control plan to maintain the *premises* and any adjacent *premises* in a litter free condition at all times.
 - (F) Adequate outdoor lighting for public safety shall be maintained. Outdoor lighting shall comply with Section 142.0740.
- (2) Emergency shelters may be permitted with a Conditional Use Permit decided in accordance with Process Five 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) Emergency shelters are not permitted in *Proposition A Lands*.
 - (B) Emergency shelters shall provide at least 35 square feet of sleeping area per bed.
 - (C) Emergency shelters shall provide a waiting area of at least 10 square feet per bed to accommodate clients and to prevent queuing into the *public right-of-way*. Any outdoor waiting area shall be physically separated from the *public right-of-way*.
 - (D) Emergency shelters shall provide at least 1 toilet for every 15 beds.
 - (E) Emergency shelters shall provide off-street parking at a rate of at least 1 space for each full-time-equivalent employee, calculated at 8 hours of working time per employee per 24-hour period.

- (F) Hours of operation shall be limited to the hours between 6:00 p.m. and 8:00 a.m.
- (G) Emergency shelters shall provide on-site supervision at all times. At least one full-time-equivalent employee shall be provided for every 20 beds.
- (H) Living, dining, and *kitchen* areas shall be physically separated from sleeping areas. The shelter shall provide telephone services separate from the office phone in order to provide privacy.
- (I) The *applicant* shall submit and implement the following:
 - (i) A communications plan for addressing community-raised issues or concerns regarding the emergency shelter with the local community, neighborhood, business organizations, and adjacent neighbors;
 - (ii) A loitering control plan to minimize the congregation of overnight residents during daylight hours on the *premises*, in parking lots serving the *premises*, and on public sidewalks adjacent to the *premises*; and
 - (iii) A litter control plan to maintain the *premises* and any adjacent *premises* in a litter free condition at all times.

(d) Homeless Day Centers

Homeless day centers may be permitted with a Conditional Use Permit decided in accordance with Process Four in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (1) No more than one homeless day center may be permitted within 1/4 mile of an emergency shelter, a congregate meal facility, or another homeless day center, measured from *property line* to *property line* in accordance with Section 113.0225.
- (2) Overnight accommodations and meals for transients are not permitted.

- (3) The center shall provide off-street parking at a rate of at least 1 space per full-time-equivalent employee, calculated at 8 hours of working time per employee per 24-hour period.
- (4) Hours of operation shall be limited to 6:00 a.m. to 6:00 p.m.
- (5) The center shall provide on-site supervision at all times. At least one staff member shall be located on the *premises* 24 hours per day.
- (6) The *applicant* shall submit the following materials to the decision maker for consideration:
 - (A) A communications plan that describes how the provider will communicate with local community, neighborhood, and business organizations, and with adjacent neighbors on a regular basis, and how community issues or concerns will be addressed;
 - (B) A plan to minimize loitering in the vicinity of the facility; and
 - (C) A litter control plan to provide for the removal of litter in the vicinity of the facility on a regular basis.

(Amended 7-31-2001 by O-18965 N.S.; effective outside the Coastal Overlay Zone on 8-30-2001; effective within the Coastal Overlay Zone on 12-12-2001.)

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

(Amended 8-4-2016 by O-20704 N.S.; effective 8-27-2016.)

§141.0413 Hospitals, Intermediate Care Facilities, and Nursing Facilities

Hospitals, intermediate care facilities, and nursing facilities may be permitted with a Process Four Conditional Use Permit 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) These facilities are not permitted in agricultural zones in *Proposition A Lands* or within *floodplains* located in the Coastal Overlay Zone.
- (b) The design of the *structures* shall incorporate a variety of architectural elements that help to diminish building bulk.

- (c) The location of larger *structures*, areas of high activity, and parking areas shall be planned to minimize impacts to surrounding *development* that is smaller in scale and less intense.
- (d) Access to the site shall be as direct as possible from *freeways*, primary arterials, and major *streets* and shall avoid residential *streets*.
- (e) Off-street parking shall be provided in accordance with Table 142-05G.
- (f) All storage, service, and repair areas shall be located on the *premises* or *screened* so that they are not visible from adjacent *development* and *public rights-of-way*.

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

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

(Amended 11-16-2012 by O-20216 N.S.; effective 12-16-2012.)

§141.0414 Interpretive Centers

Interpretive centers are *structures* or facilities designed to inform and educate the public about the surrounding environment.

Interpretive centers may be permitted with a Conditional Use Permit decided in accordance with Process Four 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) The design of the *structures* shall incorporate a variety of architectural elements that help diminish building bulk.
- (b) The location of larger *structures*, areas of high activity, and parking areas shall be planned to minimize impacts to surrounding *development* that is smaller in scale and less intense.
- (c) Off-street parking shall be provided in accordance with Table 142-05G.

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

(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)

(Amended 11-16-2012 by O-20216 N.S.; effective 12-16-2012.)

§141.0415 Museums

Museums may be permitted 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) The design of the *structures* shall incorporate a variety of architectural elements that help to diminish building bulk.
- (b) The location of larger *structures*, areas of high activity, and parking areas shall be planned to minimize impacts to surrounding *development* that is smaller in scale and less intense.
- (c) Off-street parking shall be provided in accordance with Table 142-05G.

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

(Amended 11-16-2012 by O-20216 N.S.; effective 12-16-2012.)

§141.0416 Major Transmission, Relay, or Communication Switching Systems

These facilities may be permitted 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) The *structures* shall be located on the site so that visibility from adjacent *public rights-of-way* or adjacent residential *development* is minimized.
- (b) *Fences*, walls, trees and other forms of landscaping shall be used to *screen structures* from adjacent *public rights-of-way* or adjacent residential *development*.

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

§141.0417 Social Service Institutions

Social Service Institutions may be permitted with a Conditional Use Permit decided in accordance with Process Four 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) The design of the *structures* shall incorporate a variety of architectural elements that help to diminish building bulk.

- (b) The location of larger *structures*, areas of high activity, and parking areas shall be planned to minimize impacts to surrounding *development* that is smaller in scale and less intense.
- (c) Off-street parking shall be sufficient to serve the facility without impacting adjacent or nearby property.

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

§141.0418 Solar Energy Systems

- (a) This Section regulates small rooftop solar energy systems and other solar energy systems, which are collectively referred to as solar energy systems, except where specifically distinguished herein. Nothing in this Section grants any deviation from the Environmentally Sensitive Lands Regulations (Chapter 14, Article 3, Division 1) or Historic Resource Regulations (Chapter 14 Article 3, Division 2).
 - (1) Small rooftop solar energy systems are devices or structural design features of a building, the primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electric generation, or water heating, which are not larger than 10 kilowatts alternating current nameplate rating or 30 kilowatts thermal, and are installed on a *single dwelling unit* or duplex *development*.
 - (2) Other solar energy systems are any other solar energy system devices or structural design features of a building, the primary purpose of which is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, electric generation, or water heating that are not within the scope of a small rooftop solar energy system described in Section 141.0418(a)(1).
- (b) Solar energy systems 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. The regulations are intended to facilitate the use of renewable energy technology to attain environmental and energy goals and comply with state law related to small rooftop solar energy systems, to provide for timely administrative approvals, and to allow an *applicant* to appeal a denial to the Planning Commission.

- (1) A *construction permit* decided in accordance with Process One shall be required for the installation of a solar energy system, in accordance with the following:
 - (A) An Electrical Permit is required for a solar energy system. A Combination Building Permit and Electrical Permit is required if the scope of work also includes the *development* of a new *structure* or requires structural modifications to an existing *structure* to support the solar energy system.
 - (B) The *construction permit* application shall be submitted in accordance with Sections 112.0102 and 129.0105.
 - (C) Within a planned district (subject to Land Development Code Chapter 15), a separate Planned District Ordinance Permit shall not be required in addition to the *construction permit* required for a solar energy system pursuant to Section 141.0418(b)(1).
- (2) Solar energy systems are exempt from the regulations requiring undergrounding of utilities and from the screening requirements of Section 142.0910.
- (3) Solar energy systems as an *accessory use* are permitted to encroach into required *yards* and the angled *building envelope* plane as follows:
 - (A) Solar energy systems may encroach into required side *yards* and rear *yards* where securely attached to a *previously conforming structure* or other *structure* that is permitted to project or encroach into the required *setback* or angled *building envelope* plane in accordance with Section 131.0461. Stand alone solar energy systems may encroach into required side *yards* and rear *yards* in compliance with Section 131.0461.
 - (B) Within the Mission Beach Planned District Ordinance, proposed *encroachment* of a solar energy system shall comply with Section 1513.0304(d).
- (4) Solar energy systems shall comply with all applicable height limits, except that solar panels may be added to a *previously conforming structure* that does not conform to the existing height limit of the Coastal Height Limit Overlay Zone (Section 132.0505) or the Clairemont Mesa Height Limit Overlay Zone (Section 132.1305), if the proposed solar panels do not exceed the height of the existing *structure*, in accordance with the California Solar Rights Act.

(c) Small Rooftop Solar Energy Systems Permit Review

- (1) In reviewing a *construction permit* application for a small rooftop solar energy system, the Building Official shall evaluate only whether the small rooftop solar energy system meets applicable health and safety requirements of local, state, and federal law.
- (2) The Building Official shall administratively approve the small rooftop solar energy system, unless the small rooftop solar energy system would exceed the height requirements set forth in Section 141.0418(b)(4), or the Building Official determines there is substantial evidence of a specific, adverse impact upon the public health and safety, which for the purpose of Section 141.0418(c) means a significant, quantifiable, direct, and unavoidable impact based on objective, identified, and written public health and safety standards, policies, or conditions as they existed on the date the application was *deemed complete*, and there is no feasible method or alternative to satisfactorily mitigate or avoid the specific, adverse impact.
- (3) If the Building Official determines that the proposed small rooftop solar energy system could have a specific, adverse impact upon the public health and safety, then the Building Official shall make written *findings* notifying the *applicant* that the permit for the small rooftop solar energy system is denied, the basis for that denial in accordance with Section 141.0418(c)(2), and the appeal rights set forth in Section 141.0418(c)(4). The *applicant* shall be responsible for all administrative costs associated with processing the appeal.
- (4) Applicant Appeal Process. Notwithstanding Section 112.0504, an *applicant* may appeal the denial of an application for a small rooftop solar energy system to the Planning Commission by filing an application for a Process Two appeal hearing with the City Manager no later than 12 *business days* after the *decision date*. The application shall include the contents for appeal identified in Section 112.0510(a).
 - (A) Grounds for Appeal. A denial may only be appealed on the grounds that the stated *findings* to deny the *construction permit* are not supported by substantial evidence.

- (B) Scheduling an Appeal Hearing. The City Manager shall assign a date for an appeal hearing before the Planning Commission no later than 10 calendar days after the date on which an application for the appeal hearing is filed with the City Manager. The appeal hearing shall generally be held within 60 calendar days following the filing of the application for the hearing.
- (C) Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the decision to deny a small rooftop solar energy system in accordance with the following:
 - (i) A decision to affirm the Building Official decision shall require a *finding* based on substantial evidence in the record that the proposed small rooftop solar energy system could have a specific, adverse impact upon the public health and safety.
 - (ii) If the Planning Commission determines that there is not substantial evidence that the small rooftop solar energy system could have a specific, adverse impact upon the public health and safety, then the decision shall be reversed and the *construction permit* shall be approved.
 - (iii) If the Planning Commission determines that conditions of approval would mitigate the specific, adverse impact upon the public health and safety, then the decision shall be reversed and the *construction permit* shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible, which generally means the permit conditions shall not cause an increase in the cost of the small rooftop solar energy system by more than 10 percent or decrease the efficiency of the small rooftop solar energy system by more than 10 percent.

(“Solar Energy Systems” added 8-7-2015 by O-20555 N.S.; effective 9-6-2015.)

§141.0419 Electric Vehicle Charging Stations

Electric vehicle charging stations are facilities that supply electric energy for the recharging of electric vehicles as defined in Section 86.0151(a). Nothing in Section 141.0419 grants any deviation from the Environmentally Sensitive Lands Regulations (Chapter 14, Article 3, Division 1) or Historic Resource Regulations (Chapter 14, Article 3, Division 2).

Electric vehicle charging 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. The regulations are intended to facilitate the use of electric vehicle charging stations and to comply with state law requirements for timely administrative approvals and allow an *applicant* to appeal a denial of an application of a *construction permit* for an electric vehicle charging station.

- (a) A *construction permit* decided in accordance with Process One shall be required for the installation of an electric vehicle charging station.
 - (1) An Electrical Permit shall be required for the installation of an electric vehicle charging station.
 - (2) A Building Permit may be required if alterations will be made to an existing *structure* or to modify or relocate an existing disabled accessible parking space serving the *premises*.
 - (3) The *construction permit* application shall be submitted in accordance with Sections 112.0102 and 129.0105.
 - (4) Within a planned district (subject to Land Development Code Charter 15), a separate Planned District Ordinance Permit shall not be required in addition to the *construction permit* required pursuant to Section 141.0419.
- (b) In reviewing the *construction permit*, the Building Official shall evaluate only whether the electric vehicle charging station meets all applicable health and safety requirements of local, state, and federal law and shall apply the following general regulations:
 - (1) Electric vehicle supply equipment shall be listed and labeled by an approved nationally recognized testing laboratory.
 - (2) Electric vehicle charging stations may encroach into setbacks where *off-street parking spaces* are permitted.

- (3) Existing landscaping shall not be removed if it is required pursuant to the Landscape Regulations (Chapter 14, Article 2 Division 4), unless it is replaced with equivalent or greater landscape elsewhere on the *premises*.
 - (4) The *applicant* shall demonstrate that an electric vehicle charging station on private property will accommodate a vehicle to be charged while parked without protruding into the *public right-of-way*.
 - (5) Electric vehicle charging stations located within the *public right-of-way* shall comply with Section 86.0151.
- (c) The Building Official shall approve, in accordance with Process One, the electric vehicle charging station unless the Building Official determines there is substantial evidence of a specific adverse impact upon the public health or safety, which for the purpose of Section 141.0419(c) means a significant quantifiable, direct, and unavoidable impact based on objective, identified, and written public health or safety standards, policies, or conditions as they existed on the date the application was *deemed complete*, and there is no feasible method or alternative to satisfactorily mitigate or avoid the specific, adverse impact.
- (d) If the Building Official determines that the proposed electric vehicle charging station could have a specific, adverse impact upon public health or safety, then the Building Official shall make written findings notifying the *applicant* that the *construction permit* for the electric vehicle charging station is denied, the basis for that denial, and the appeal rights set forth in Section 141.0419(e). The *applicant* shall be responsible for all administrative costs associated with processing the appeal.
- (e) Notwithstanding Section 112.0504, an *applicant* may appeal the denial of an application for a *construction permit* for an electric vehicle charging station to the Planning Commission by filing an application for a Process Two appeal hearing with the City Manager no later than 12 *business days* after the *decision date*. The application shall include the contents for appeal identified in Section 112.0510(a).
- (1) Grounds for Appeal. A denial may only be appealed on the grounds that the stated *findings* to deny the *construction permit* are not supported by substantial evidence.

- (2) Scheduling an Appeal Hearing. The City Manager shall assign a date for an appeal hearing before the Planning Commission no later than 30 calendar days after the date on which an application for the appeal hearing is filed with the City Manager.
- (3) Power to Act on the Decision at Appeal Hearing. The Planning Commission may affirm, reverse, or modify the decision to deny an electric vehicle charging station in accordance with the following:
 - (A) A decision to affirm the Building Official decision requires a *finding* based on substantial evidence in the record that the proposed electric vehicle charging station would have a specific, adverse impact upon the public health or safety and there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact. In addition, the *finding* shall include the basis for rejection of potential feasible alternatives to prevent the adverse impact.
 - (B) If the Planning Commission determines that there is not substantial evidence in the record that the proposed electric vehicle charging station could have a specific, adverse impact upon the public health or safety, then the decision shall be reversed and the *construction permit* shall be approved.
 - (C) If the Planning Commission determines that conditions of approval would mitigate the specific, adverse impact upon the public health or safety, then the decision shall be reversed and the *construction permit* shall be conditionally approved. Any conditions imposed shall mitigate at the lowest cost possible.

(“Electric Vehicle Charging Stations” added 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)

§141.0420 Wireless Communication Facilities

Wireless communication facilities shall comply with the approval process set forth in Section 141.0420(a) through (c) as applicable to the *development*. All *wireless communication facilities* are subject to the general regulations in Section 141.0420(d), the general design requirements in Section 141.0420(e) and the *Wireless Communication Facilities* Guidelines in the Land Development Manual. Section 141.0420 does not apply to amateur (HAM) radio communication facilities.

(a) Limited Use Regulations

Wireless communication facilities are permitted as a limited use decided in accordance with Process One as follows:

- (1) In commercial and industrial zones on a *premises* that does not contain residential *development*;
- (2) For collocation of *wireless communication facilities* in any zone on existing monopoles that does not increase the area occupied by the *antennas* by more than 100 percent of the originally approved *wireless communication facilities* and does not increase the area occupied by an outdoor equipment enclosure more than 150 square feet beyond the originally approved *wireless communication facilities*;
- (3) In the *public right-of-way* provided that the *wireless communication facility* is a small cell *wireless communication facility* as defined in Section 141.0420(a)(3)(A) below.
 - (A) A small cell *wireless communication facility* is a *wireless communication facility* on or concealed within a streetlight pole with a cobra arm mounted working luminaire that meets the following requirements:
 - (i) The *wireless communication facility* is attached to an existing, replacement, or new streetlight pole that is standard for the proposed location and complies with the applicable guidelines in the Land Development Manual; the *antennas* and associated equipment do not exceed a total of 15 cubic feet, and no part of the *wireless communication facility* extends more than 24 inches from the streetlight pole in any direction; except that if the *antenna* is top-mounted, the *antenna* or any material concealing the *antenna* may extend vertically up to 48 inches above the highest point of the cobra arm.

- (ii) The *wireless communication facility* includes a new streetlight pole, within which all of the associated equipment is completely concealed, that is consistent with the streetlight poles located within the same block, or if there are no streetlight poles in the same block, the blocks adjacent to the proposed location; that complies with the applicable guidelines in the Land Development Manual; that has a diameter that does not exceed 18 inches at any point; and that does not include any visible *antennas* that exceed 24 inches in any dimension.
 - (B) A *wireless communication facility* that includes any ground-mounted equipment other than the pole to which the equipment is attached or is concealed within is not a small cell *wireless communication facility*.
- (4) An *eligible facilities request*, the approval of which is required by 47 U.S.C. § 1455 (2018), as may be amended, is permitted as a limited use in any zone, notwithstanding any other provision of the San Diego Municipal Code, subject to the following:
- (A) For the purposes of Section 141.0420(a)(4), italicized terms have the same meaning as in 47 C.F.R. § 1.6100(b) (2019), as may be amended.
 - (B) Failure to assert in writing at the time an application is filed that the application is an *eligible facilities request* shall result in the application being processed pursuant to the regulations that would otherwise be applicable in the absence of 47 U.S.C. § 1455 (2018).
 - (C) An application for modification of an *eligible support structure* that involves the installation of more than four additional equipment cabinets shall not be considered a *substantial change* to the physical dimensions of the *eligible support structure*, provided that all of the equipment cabinets are completely concealed within the *eligible support structure*, and there is no change to the physical dimensions of the *eligible support structure* itself.

- (5) Ground-mounted equipment required for a *wireless communication facility*, other than a pole to which *wireless communication facility* is attached, that meets the requirements in Sections 129.0710(a)(10) and 129.0710(b)(6).

(b) Neighborhood Use Permit Regulations

Wireless communication facilities may be permitted with a Neighborhood Use Permit decided in accordance with Process Two, as follows:

- (1) In commercial or industrial zones on a *premises* containing residential or mixed-use *development*;
- (2) With *antennas* located at least 100 feet from the *property line* of a *premises* with a *dwelling unit*, child care center, or *school* with children enrolled in any grade kindergarten through grade 8 where located:
 - (A) in an agricultural zone;
 - (B) on dedicated parkland subject to San Diego Charter section 55, except in an open space zone; or
 - (C) in a residential zone on a *premises* that does not contain residential *development*;
- (3) In the *public right-of-way* when the *wireless communication facilities* are not small cell *wireless communication facilities*, provided that the *wireless communication facility* does not include any ground-mounted equipment other than a pole to which the *wireless communication facility* is attached or is concealed within.

(c) Conditional Use Permit Regulations

Wireless communication facilities may be permitted with a Conditional Use Permit as follows:

- (1) Decided in accordance with Process Three, where the *development* meets the following locational criteria:
 - (A) *Wireless communication facilities* with *antennas* located less than 100 feet from the *property line* of a *premises* with a *dwelling unit*, child care center, or *school* with children enrolled in any grade kindergarten through grade 8 where located:

- (i) in a residential zone on a *premises* that does not contain residential *development*; or
 - (ii) in an agricultural zone.
 - (B) In the *public right-of-way* with ground-mounted equipment exceeding 3 feet above the finished *grade* of the curb line and greater than 4 feet in diameter; other than a pole to which the *wireless communication facility* is attached.
- (2) Decided in accordance with Process Four, where the *development* meets the following locational criteria:
 - (A) On dedicated parkland subject to San Diego Charter section 55 in any zone, except on *public right-of-way* within dedicated parkland, with *antennas* located less than 100 feet from the *property line* of a *premises* with a *dwelling unit*, child care center, or *school* with children enrolled in any grade kindergarten through grade 8.
 - (B) In a residential zone on a *premises* that contains residential *development*.
 - (C) In an open space zone.
- (d) General Regulations for *Wireless Communication Facilities*
 - (1) Every application shall include documentation satisfactory to the City Manager, as follows:
 - (A) Demonstrating that the *wireless communication facility* complies with federal standards for radio frequency radiation in accordance with the Telecommunication Act of 1996 and subsequent amendments and any other requirements imposed by state or federal regulatory agencies.
 - (B) Identifying the location type, capacity, field strength or power density, and calculated geographic service of the *wireless communication facility*.
 - (2) Within the Coastal Overlay Zone, the Coastal Development Permit regulations in Chapter 12, Article 6, Division 7, shall also apply.

- (3) *Wireless communication facilities* located within or adjacent to the City's Multi-Habitat Planning Areas shall comply with the Multiple Species Conservation Program Subarea Plan's Land Use Adjacency Guidelines.
- (4) *Wireless communication facilities* located in a designated *historical district* or in a *historical district* identified in a historical resources survey prepared by the City, or on a *premises* with a *historical resource* on it, must comply with the Historical Resource Regulations and the U.S. Secretary of Interior Standards and Guidelines.
- (5) At least 60 days prior to an *applicant* asserting that an application for a *wireless communication facility* is deemed approved pursuant to California Government Code section 65964.1, the *applicant* shall provide public notice as follows:
 - (A) The notice shall be mailed to all persons described in Section 112.0302(b) and to the City Manager.
 - (B) The notice shall be posted in the manner prescribed by Section 112.0304.
 - (C) The notice shall include all of the information as prescribed in Section 112.0301(a)(1)(A) through (D), and the following:
 - (i) The name, address, and telephone number of the *applicant*; and
 - (ii) The following statement: "This application may be deemed approved, with no public hearing, no earlier than 60 days after this notice has been mailed and posted as required."
- (6) The *applicant* shall obtain all necessary *construction permits* to comply with applicable building, fire, mechanical, and plumbing codes, and state and federal disability access laws.
- (7) The permittee shall provide documentation to verify that a *wireless communication facility* is operating in compliance with federal standards for radio frequency radiation in accordance with the Telecommunication Act of 1996 and subsequent amendments and any other requirements imposed by state or federal regulatory agencies within 30 calendar days of receipt of a written request for such documentation from the City Manager.

- (8) The *wireless communication facilities* shall be maintained in good working order, free from trash, debris, and graffiti, and designed to discourage vandalism. The permittee or owner shall repair or replace any damaged equipment within 30 calendar days of receipt of a written notification from the City Manager.
- (9) The permittee or owner shall remove the *wireless communication facilities* from the *premises* and restore the *premises* to the condition preceding the construction and installation of the *wireless communication facility*, at the owner's or permittee's sole cost and expense, if any of the following circumstances exists:
 - (A) The permit authorizing the *wireless communication facility* is expired and a new permit has not been obtained.
 - (B) If no permit was granted, it has been ten years from the date that the *wireless communication facility* was authorized by federal or state law and no new permit or legal authorization has been obtained.
 - (C) The City Manager determines that the *wireless communication facility* or components of the *wireless communication facility* are non-operational or no longer used.
- (10) Prior to January 31 of every year, each *wireless communication facility* provider shall submit documentation, satisfactory to the City Manager, identifying the location of each *wireless communication facility* in its City of San Diego network organized by community plan area. The documentation shall include *wireless communication facilities* that are approved, but not yet built, *wireless communication facilities* that are currently operating, and non-operating *wireless communication facilities*.

(e) Design Requirements

The following regulations apply to all *wireless communication facilities*:

- (1) *Wireless communication facilities* shall utilize the smallest, least visually intrusive *antennas*, components, and other necessary equipment.

- (2) The *applicant* shall use all reasonable means to conceal or minimize the visual impacts of the *wireless communication facilities* through integration and installation on existing *structures*. Integration with existing *structures* or among other existing uses shall be accomplished through the use of architecture, landscape, and siting solutions.
- (3) Equipment associated with *wireless communication facilities* shall be located within an existing *building envelope*, whenever possible. If an equipment enclosure is necessary, it shall be of a height minimally necessary to conceal the equipment, with an area not to exceed 250 square feet, unless a Neighborhood Development Permit is granted in accordance with Section 126.0402.
- (4) Overhead wires are not permitted.
- (5) Equipment located on the roof of an existing *structure* shall be set back or located to minimize visibility, especially from the *public right-of-way* or public places.
- (6) Faux landscaping may be used on *premises* where natural vegetation similar in size and species exists or is proposed as part of the *development*. The *applicant* shall provide sufficient samples, models, or other means to demonstrate the quality, appearance, and durability of the faux vegetation.
- (7) If trees with a trunk width of 4 inches or more (measured by caliper, 4 feet above grade) are removed or significantly trimmed for the installation or operation of the *wireless communication facility*, then replacement trees of a similar size shall be planted to the satisfaction of the City Manager.
- (8) *Antennas* shall comply with the following design requirements:
 - (A) Each *antenna*, including any concealment measures, shall appear as an integral part of the *structure*, except for *public right-of-way* site installations as set forth in Section 141.0420(f).

- (B) No portion of an *antenna*, including any concealment measures, shall be more than 12 inches away from the *structure*, unless the *applicant* provides evidence demonstrating to the satisfaction of the City Manager that the *wireless communication facilities* cannot operate without exceeding 12 inches, in which case no portion of the *antenna* shall be more than 18 inches away from the *structure*.
 - (C) Each *antenna*, including any concealment measures, shall fit into the design of the *structure*, shall be no longer or wider than the portion of the *structure* upon which it is mounted, and shall not interrupt the architectural lines of the *structure*.
 - (D) Associated mounting brackets and coaxial cable shall be concealed from view.
 - (E) Any pipes or similar apparatus used to attach *antennas*, including any concealment measures, to the *structure* shall not extend beyond the length or width of the *antenna*.
- (9) Vertical elements, designed as flagpoles or light standards, shall replicate the design, diameter, and proportion of the vertical element they are intending to imitate. Flagpoles shall maintain a tapered design.
 - (10) Use of or replacement of any *building facade* or mechanical screen with fiberglass reinforced panels or similar industry standard material for purposes of concealing *antennas* shall not result in any noticeable lines or edges in the transition to the original *structure*. All screening material shall be painted and textured to match the original *structure*.
 - (11) All equipment, including transformers, emergency generators, and air conditioners, shall be designed and operated consistent with the Noise Ordinance in Chapter 5, Article 9.5 of the Municipal Code. Ventilation openings shall be baffled and directed away from residential areas. Vibration resonance of operating equipment in the equipment enclosures shall be eliminated.

(f) *Public Right-of-Way Installations*

Wireless communication facilities may be installed in the *public right-of-way* in the *parkway*. *Wireless communication facilities* located in the *public right-of-way* are subject to all other applicable requirements of the Municipal Code and the following additional design requirements:

- (1) *Antennas* associated with *wireless communication facilities*, other than those allowed pursuant to Section 141.0420(a)(3), shall be vertically mounted to the pole in compliance with any applicable separation requirements and shall not exceed 6 inches in distance from the pole.
- (2) No more than four panel *antennas* or two omni-directional *antennas* shall be mounted on any utility pole by any one *wireless communication facilities* provider.
- (3) *Antennas* shall be painted to match the color of the surface of the pole on which they are attached.

(g) *Park Site Installations*

The following additional design requirements apply to *wireless communication facilities* in parks within the City of San Diego:

- (1) Where practicable, *antennas* shall be mounted on sports field light poles, security light poles, or inside foul line poles or flagpoles. *Antennas* shall not be mounted above the light source on any light poles. All *antennas* on flagpoles or foul line poles shall be concealed within the pole.
- (2) If the proposed *wireless communication facility* would be located on dedicated parkland subject to San Diego Charter section 55, equipment enclosures shall be placed underground unless the Parks and Recreation Department Director, or their designee, determines that an above-ground equipment enclosure would not violate Charter section 55, and a Neighborhood Development Permit is granted in accordance with Section 126.0402.

(“*Wireless Communication Facilities*” added 8-10-2004 by O-19308 N.S.; effective 4-11-2007.)

(Amended 5-3-2005 by O-19369 N.S.; effective 4-11-2007.)

(Amended 9-29-2006 by O-19545 N.S.; effective 4-11-2007.)

(Amended 6-18-2013 by O-20261 N.S.; effective 7-19-2013.)

(Amended 8-9-2019 by O-21117 N.S.; effective 9-8-2019.)

(Amended 4-27-2021 by Emergency Ordinance O-21315 N.S.; effective 4-27-2021.)

[Editors Note: This Ordinance is effective citywide, including inside the Coastal Overlay Zone, which is subject to California Coastal Commission jurisdiction. The Coastal Commission determined the Ordinance did not require certification on April 23, 2021. The Ordinance is effective for 45 days from the effective date, unless extended pursuant to California Government Code section 65858.]

(Amended 1-27-2022 by O-21417 N.S.; effective 2-26-2022.)

[Editors Note: Amendments as adopted by O-21417 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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http://docs.sandiego.gov/municode_strikeout_ord/O-21417-SO.pdf]

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

[Editors Note: Amendments as adopted by O-21618 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language
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§141.0421 Placemaking on Private Property

Placemaking on private property 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 following regulations:

- (a) Written permission from the *record owner* of the property is required.
- (b) *Off-street parking spaces* are not required, but may be permitted as an *accessory use* to serve the *placemaking* use if the square footage designated for the *off-street parking spaces* does not exceed 25 percent of the total square footage designated for the *placemaking* use.
- (c) A Temporary Use Permit shall be obtained in accordance with Section 123.0402.

- (d) At the expiration of the term of the Temporary Use Permit, the *placemaking* project shall be removed and the *permit holder* shall return the *premises* to its original condition, to the satisfaction of the City Manager. Removal shall not be required if a new Temporary Use Permit is obtained prior to its expiration.
- (e) The Temporary Use Permit *permit holder* shall be responsible for maintaining the *placemaking* project. Maintenance shall include, but not be limited to, posting of the name, phone number, and email address of the party responsible for the *placemaking* project in a location visible from the *public right-of-way*, keeping the *placemaking* project area free of litter, and preventing litter attributable to the *placemaking* project from occurring on adjacent properties.
- (f) A *placemaking* project shall only occur on *premises* that are vacant at the time the Temporary Use Permit application is submitted or within parking lots on *premises* within *transit priority areas*, except in existing disabled accessible parking spaces serving the *premises*.
- (g) A *placemaking* use that also qualifies as another separately regulated use shall also be subject to those separately regulated use regulations. A *placemaking* use that contains elements governed by other laws and regulations shall also be subject to those laws and regulations.
- (h) A *placemaking* project on a *premises* within a *transit priority area* that was a parking lot of a permitted eating and drinking establishment shall not include retail or commercial services uses except for outdoor dining operating in association with the permitted eating and drinking establishment in accordance with Section 141.0628.
- (i) *Placemaking* on private property in Open Space and Residential Base Zones shall not include commercial services or assembly and entertainment uses as *accessory uses*.
- (j) In the Coastal Overlay Zone, an *applicant* for a *placemaking* project on private property shall obtain a Coastal Development Permit pursuant to Section 126.0702.

(“*Placemaking on Private Property*” added 5-22-2018 by O-20928 N.S.; effective 6-21-2018.)

(Amended 10-24-2019 by O-21142 N.S.; effective 2-14-2020.)

(Amended 2-1-2021 by O-21288 N.S.; effective 3-3-2021.)

[Editors Note: Amendments as adopted by O-21288 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

Click the link to view the Strikeout Ordinance highlighting changes to prior language http://docs.sandiego.gov/municode_strikeout_ord/O-21288-SO.pdf]

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[Editors Note: Amendments as adopted by O-21618 N.S. will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment.

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§141.0422 Battery Energy Storage Facilities

This section regulates utility-serving battery energy storage facilities which store energy within enclosed buildings or modular containers and then solely release the energy directly back to the electrical grid. Battery energy storage facilities do not include behind the meter battery installations that provide energy to the same *premises* on which they are located.

This section distinguishes between small-scale battery energy storage facilities with a *development* footprint of one-quarter acre or less, medium-scale battery energy storage facilities with a *development* footprint of more than one-quarter acre but less than one acre, and large-scale battery energy storage facilities with a *development* footprint of one acre or more. Battery energy storage facilities shall comply with the approval process set forth in Section 141.0422(a) through (c) as applicable to the *development*. All battery energy storage facilities are subject to the general regulations in Section 141.0422(d) and the general design requirements in Section 141.0422(e).

(a) Small-scale battery energy storage facilities

The following regulations apply to battery energy storage facilities with a *development* footprint of one-quarter acre or less.

(1) Limited Use Regulations

Small-scale battery energy storage facilities are permitted as a limited use decided in accordance with Process One in zones indicated by an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following:

- (A) In residential, commercial, and mixed-use base zones that permit residential *development*, battery energy storage facilities shall be limited to no more than 25 percent of the allowable *development* area and allowable *gross floor area*, unless the *premises* cannot be developed with residential uses due to site constraints, except for the presence of *environmentally sensitive lands*, beyond the applicant’s control, such as the presence of utilities, in which case the 25 percent limitation shall not apply.
- (B) In the IL (Industrial – Light) and IS (Industrial – Small Scale) Zones, battery energy storage facilities shall be limited to no more than 25 percent of the allowable *development* area and *gross floor area*, unless the *premises* cannot be developed with industrial uses due to site constraints except for the presence of *environmentally sensitive lands* beyond the *applicant’s* control, such as the presence of utilities, in which case the 25 percent limitation shall not apply.

(2) Conditional Use Permit Regulations

Small-scale battery energy storage facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three in zones indicated by a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following:

- (A) In the OP (Open Space – Park) Zone, battery energy storage facilities may be permitted only if they do not result in loss of any publicly accessible active or passive recreation area.
- (B) In the OR (Open Space – Residential) Zones, battery energy storage facilities may be permitted only in previously disturbed areas with existing electrical utility easements.

(b) Medium-scale battery energy storage facilities

The following regulations apply to battery energy storage facilities with a *development* footprint of more than one-quarter acre but less than one acre.

(1) Limited Use Regulations

Medium-scale battery energy storage facilities are permitted as a limited use decided in accordance with Process One in zones indicated by an “L” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones).

(2) Conditional Use Permit Regulations

(A) Medium-scale battery energy storage facilities may be permitted with a Conditional Use Permit decided in accordance with Process Two in industrial zones indicated by a “C” in the Use Regulations Tables in Chapter 13, Article 1, Division 6.

(B) Medium-scale battery energy storage facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three in zones indicated by a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) as follows:

- (i) In commercial base zones that do not permit residential *development*.
- (ii) In residential, commercial, and mixed-use base zones that permit residential *development* if the *premises* cannot be developed with residential uses due to site constraints, except for the presence of *environmentally sensitive lands*, beyond the *applicant’s* control, such as the presence of utilities.

(c) Large-scale battery energy storage facilities

The following regulations apply to battery energy storage facilities with a *development* footprint of one acre or more.

(1) Conditional Use Permit Regulations

- (A) Large-scale battery energy storage facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three in industrial zones indicated by a “C” in the Use Regulations Tables in Chapter 13, Article 1, Division 6.
- (B) Large-scale battery energy storage facilities may be permitted with a Conditional Use Permit decided in accordance with Process Four in zones indicated by a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) as follows:
 - (i) In commercial base zones that do not permit residential *development*.
 - (ii) In residential, commercial, and mixed-use base zones that permit residential *development* if the *premises* cannot be developed with residential uses due to site constraints, except for the presence of *environmentally sensitive lands*, beyond the *applicant’s* control, such as the presence of utilities.

(d) General Regulations

The following regulations apply to all battery energy storage facilities regardless of their size.

(1) Use Regulations

The *premises* shall not contain a *child care facility* or *school*.

(2) Operational, Safety and Decommissioning Regulations

- (A) Every application shall provide the following documentation to the satisfaction of the Chief Building Official:
 - (i) Demonstrating that the battery energy storage facility complies with all applicable requirements imposed by state or federal regulatory agencies; and
 - (ii) Identifying the facility type/application, total rated battery power capacity in kilowatts or megawatts, energy capacity in kilowatt-hours or megawatt-hours, storage duration, cycle life/lifetime, and type of battery chemistry.

- (B) The *applicant* shall submit and implement an emergency response plan for battery storage fire events and other emergency events consistent with state and national standards and regulations to the satisfaction of the Fire Marshal.
- (C) The *applicant* shall obtain all necessary construction permits to comply with applicable building, fire, mechanical, electrical, and plumbing codes, and state and federal laws.
- (D) The *applicant* shall comply with all applicable state and national standards and requirements for the design, construction, installation, commissioning, operation, maintenance, and decommissioning of the battery energy storage facility.
- (E) Battery energy storage facilities shall be maintained pursuant to title 24, part 9, of the California Fire Code, as amended, and be in good working order, free from trash, debris, and graffiti, and designed to discourage vandalism. The *permit holder* or *record owner* shall repair or replace any damaged walls, *fences*, landscaping, buildings, *structures*, and equipment within 30 calendar days of receipt of a written notification from the City Manager.
- (F) The *permit holder* or *record owner* shall remove and decommission the battery energy storage facility from the *premises* and restore the *premises* to the condition preceding the construction and installation of the battery energy storage facility, at the sole cost and expense of the *permit holder* or *record owner*, if any of the following circumstances exists:
 - (i) The permit authorizing the battery energy storage facility is revoked or expired and a new permit has not been obtained; or
 - (ii) The City Manager determines that the battery energy storage facility or components of the battery energy storage facility are non-operational or no longer in use; or
 - (iii) The City Manager determines that the battery energy storage facility is a public nuisance; or

- (iv) The Fire Code Official determines that the facility constitutes a distinct hazard to life or property.
 - (G) The *applicant* shall submit a Hazard Mitigation Analysis when technologies are not specifically identified in title 24, part 9, of the California Fire Code or when more than one technology is provided in a room or enclosed area where there is a potential for adverse reactions between technologies.
- (3) Noise Regulations. Noise generated from battery energy storage facilities shall not exceed the noise limits for the zone as established in the Noise Abatement and Control Regulations (Chapter 5, Article 9.5, Division 4: Limits).
- (e) General Design Requirements

The following design requirements apply to all battery energy storage facilities regardless of their size.

- (1) Overhead wires connecting the battery energy storage facility to an energy generation station or substation are not permitted, unless the *premises* containing the energy generation station or substation immediately abuts the *premises* on which the battery energy storage facility is proposed and existing overhead connections are present on the *premises* containing the energy generation station or substation. Overhead wires shall not be permitted to cross other private property, public property, or *public right-of-way* to connect with an energy generation station or substation.
- (2) Access to a battery energy storage facility shall conform to title 24, part 9, of the California Fire Code and be as direct as possible from primary arterials and major streets and shall avoid residential streets unless no other feasible options exist. Shared access with an adjacent energy generation station or substation is permitted.
- (3) The *development* shall comply with the Street Tree and Public Right-of-Way Requirements in Section 142.0409.
- (4) All mechanical equipment and storage areas shall be located within an enclosed building or modular container, as follows:

- (A) The building or modular container, or both, shall be located on the *premises* so that visibility from adjacent *public rights-of-way* or adjacent *development* that is not of a similar nature is minimized.
 - (B) Battery energy storage facilities located on the same *premises* as residential uses shall be located within an enclosed building that is designed to be architecturally consistent with the primary *structure*.
 - (C) Mechanical equipment that supports the battery energy storage facility, such as HVAC equipment, may be located outside of a building or modular container, provided that the mechanical equipment is completely *screened* on all sides with a solid wall or *fence* that is painted or texturized to match the primary building on the *premises*, if one is present.
- (5) Battery energy storage facilities that are not located within a building shall be enclosed and *screened* from the *public right-of-way* and adjacent properties by walls or *fences* with a minimum height of 6 feet that incorporate finishes and architectural detailing that are consistent with any buildings on the *premises* or any applicable design standards. The walls or *fences* shall be *screened* by landscaping as follows:
 - (A) Along the *street frontage*, the walls or *fences* shall be *screened* from the *public right-of-way* with plant material that includes 24-inch box evergreen canopy form trees separated by a maximum distance of 30 feet; and
 - (B) Along the side and rear yards, the walls or *fences* shall be *screened* from adjacent properties by 10-foot wide landscape strips that include 24-inch box evergreen species separated by a maximum distance of 30 feet along the side and rear yards. For *premises* less than 10,000 square feet, the landscape strips may be reduced to 5-feet in width.
- (6) Brush Management Regulations
 - (A) Battery energy storage facilities in High or Very High Fire Hazard Severity Zones shall meet the City's defensible space brush management regulations and landscape standards.

- (i) If unable to meet the brush management regulations and landscape standards, the agent or owner shall be required to provide a technical report from a qualified engineer, specialist, laboratory, or fire safety organization acceptable to the Fire Code Official. The Fire Code Official is authorized to require design submittals to be prepared by and bear the stamp of a registered design professional, as defined in Title 24, Part 9, Chapter 2 of the California Fire Code. The technical report shall be reviewed by the Fire Code Official.

(“Battery Energy Storage Facilities” added 3-7-2023 by O-21618 N.S.; effective 5-6-2023.)

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