Article 3: Supplemental Development Regulations

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

Division 1: Environmentally Sensitive Lands Regulations

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

§143.0101 Purpose of Environmentally Sensitive Lands Regulations

The purpose of these regulations is to protect, preserve and, where damaged, restore, the environment sensitive lands of San Diego and the viability of the species supported by those lands. These regulations are intended to assure that development, including, but not limited to coastal development in the Coastal Overlay Zone, occurs in a manner that protects the overall quality of the resources and the natural and topographic character of the area, encourages a sensitive form of development, retains biodiversity and interconnected habitats, maximizes physical and visual public access to and along the shoreline, and reduces hazards due to flooding in specific areas while minimizing the need for construction of flood control facilities. These regulations are intended to protect the public health, safety, and welfare while employing regulations that are consistent with sound resource conservation principles and the rights of private property owners.

It is further intended for the Development Regulations for Environmentally Sensitive Lands and accompanying Biology, Steep Hillside, and Coastal Bluffs and Beaches Guidelines to serve as standards for the determination of impacts and mitigation under the California Environmental Quality Act and the California Coastal Act. These standards will also serve to implement the Multiple Species Conservation Program by placing priority on the preservation of biological resources within the Multi-Habitat Planning Area (MHPA), as identified in the City of San Diego MSCP Subarea Plan and VPHCP. The habitat based level of protection which will result through implementation of the MHPA is intended to meet the mitigation obligations of the Covered Species addressed. In certain circumstances, this level of protection may satisfy mitigation obligations for other species not covered under the MSCP Subarea Plan but determined to be sensitive pursuant to the CEQA review process. This determination will be addressed in the environmental documentation.


(Amended 3-1-2006 by O-19468 N.S.; effective 4-1-2006.)

(Amended 2-9-2018 by O-20899 N.S.; effective 3-11-2018.)

[Editors Note: Amendments as adopted by O-20899 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-20899-SO.pdf]
§143.0110 When Environmentally Sensitive Lands Regulations Apply

This Division applies to all proposed development when environmentally sensitive lands are present on the premises.

(a) Where any portion of the premises contains any of the following environmentally sensitive lands, this division shall apply to the entire premises, unless otherwise provided in this division:

1. Sensitive biological resources;
2. Steep hillsides;
3. Coastal beaches (including V zones);
4. Sensitive coastal bluffs; and
5. Special Flood Hazard Areas (except V zones).

(b) Table 143-01A identifies the appropriate development regulations, the required decision process, and the permitted uses applicable to various types of development proposals that propose to encroach into environmentally sensitive lands or that do not qualify for an exemption pursuant to Section 143.0110(c).

1. A Neighborhood Development Permit or Site Development Permit is required for all types of development proposals listed, in accordance with the indicated decision process. If coastal development is proposed in the Coastal Overlay Zone, a Coastal Development Permit is required in accordance with Section 126.0702.

2. All types of development proposals are subject to Section 143.0140.

3. Any development proposal that proposes to encroach into more than one type of environmentally sensitive lands is subject to all of the development regulations sections for each type of environmentally sensitive lands present. The applicable decision process is the higher process number indicated.

4. Any development proposal on a site containing environmentally sensitive lands may be exempt from the permit requirements of this division if no encroachment into the environmentally sensitive lands is proposed and the development complies with Section 143.0110(c). Within the Coastal Overlay Zone, a Coastal Development Permit is required for all coastal development and the regulations of this division shall apply.
(5) Limited exceptions to the applicable development regulations for specific types of development are listed in Section 143.0111.

**Table 143-01A**

Applicability of Environmentally Sensitive Lands Regulations

<table>
<thead>
<tr>
<th>Type of Development Proposal</th>
<th>Wetlands, listed species habitat</th>
<th>Other Sensitive Biological Resources other than Wetlands and listed species habitat</th>
<th>Steep Hillsides</th>
<th>Sensitive Coastal Bluffs and Coastal Beaches</th>
<th>Floodplains</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Single dwelling units on individual lots equal to or less than 15,000 square feet</td>
<td>R 143.0141(a),(b)</td>
<td>143.0141</td>
<td>143.0142 except (a)</td>
<td>143.0143, 143.0144</td>
<td>143.0145, 143.0146</td>
</tr>
<tr>
<td>P NDP/Process Two</td>
<td>NDP/Process Two</td>
<td>NDP/Process Two</td>
<td></td>
<td>SDP/Process Three</td>
<td></td>
</tr>
<tr>
<td>U 143.0130(d),(e)</td>
<td>--</td>
<td>--</td>
<td>143.0130(a), (b)</td>
<td>143.0130(c)</td>
<td></td>
</tr>
<tr>
<td>2. Single dwelling units on lots or multiple lots totaling more than 15,000 square feet</td>
<td>R 143.0141(a),(b)</td>
<td>143.0141</td>
<td>143.0142</td>
<td>143.0143, 143.0144</td>
<td>143.0145</td>
</tr>
<tr>
<td>P SDP/Process Three</td>
<td>SDP/Process Three</td>
<td>SDP/Process Three</td>
<td>SDP/Process Three</td>
<td>SDP/Process Three</td>
<td>SDP/Process Three</td>
</tr>
<tr>
<td>U 143.0130(d),(e)</td>
<td>--</td>
<td>--</td>
<td>143.0130(a), (b)</td>
<td>143.0130(c)</td>
<td></td>
</tr>
<tr>
<td>3. Multiple dwelling unit and non-residential development and public works projects</td>
<td>R 143.0141(a),(b)</td>
<td>143.0141</td>
<td>143.0142</td>
<td>143.0143, 143.0144</td>
<td>143.0145, 143.0146</td>
</tr>
<tr>
<td>P SDP/Process Three</td>
<td>SDP/Process Three</td>
<td>SDP/Process Three</td>
<td>SDP/Process Three</td>
<td>SDP/Process Three</td>
<td>SDP Process Three</td>
</tr>
<tr>
<td>U 143.0130(d),(e)</td>
<td>--</td>
<td>--</td>
<td>143.0130(a), (b)</td>
<td>143.0130(c)</td>
<td></td>
</tr>
<tr>
<td>4. Any subdivision of a premises</td>
<td>R 143.0141(a),(b)</td>
<td>143.0141</td>
<td>143.0142</td>
<td>143.0143, 143.0144</td>
<td>143.0145, 143.0146</td>
</tr>
<tr>
<td>P SDP/Process Four</td>
<td>SDP/Process Four</td>
<td>SDP/Process Four</td>
<td>SDP/Process Four</td>
<td>SDP/Process Four</td>
<td>SDP Process Four</td>
</tr>
<tr>
<td>U 143.0130(d),(e)</td>
<td>--</td>
<td>--</td>
<td>143.0130(a), (b)</td>
<td>143.0130(c)</td>
<td></td>
</tr>
<tr>
<td>5. Project-specific land use plans</td>
<td>R 143.0141(a),(b), 143.0115</td>
<td>143.0141, 143.0115</td>
<td>143.0142, 143.0115</td>
<td>143.0143, 143.0144, 143.0115</td>
<td>143.0115, 143.0145, 143.0146</td>
</tr>
</tbody>
</table>
### Environmentally Sensitive Lands Potentially Impacted by Project

<table>
<thead>
<tr>
<th>Type of Development Proposal</th>
<th>Wetlands, listed species habitat⁽¹⁾</th>
<th>Other Sensitive Biological Resources other than Wetlands and listed species habitat⁽⁶⁾</th>
<th>Steep Hillsides⁽⁶⁾</th>
<th>Sensitive Coastal Bluffs and Coastal Beaches</th>
<th>Floodplains</th>
</tr>
</thead>
<tbody>
<tr>
<td>P</td>
<td>SDP/Process Four/Five</td>
<td>SDP/Process Four/Five</td>
<td>SDP/Process Four/Five</td>
<td>SDP/Process Four/Five</td>
<td>SDP/Process Four/Five</td>
</tr>
<tr>
<td>U</td>
<td>143.0130(d),(e)</td>
<td>--</td>
<td>--</td>
<td>143.0130(a), (b)</td>
<td>143.0130(c)</td>
</tr>
</tbody>
</table>

6. Any development that proposes deviations from any portion of the Environmentally Sensitive Lands Regulations, except capital improvement program projects.

| R                           | 143.0141(a),(b), 143.0150            | 143.0141, 143.0150                               | 143.0142, 143.0150⁽⁴⁾ | 143.0143, 143.0144, 143.0150               | 143.0145, 143.0146, 143.0150 |
| P                           | SDP/Process Four                     | SDP/Process Four                                 | SDP/Process Four      | SDP/Process Four                           | SDP/Process Four |
| U                            | 143.0130(d),(e)                       | --                                              | --                  | 143.0130(a), (b)                           | 143.0130(c) |

7. Development other than single dwelling units on individual lots, that proposes alternative compliance for development area in steep hillsides.

| R                           | --                                   | --                                              | 143.0142 except (a), 143.0151 | --                                          | -- |
| P                           | --                                   | --                                              | SDP/Process Four           | --                                          | -- |
| U                            | --                                   | --                                              | --                           | --                                          | -- |

8. Any capital improvement program project determined to be in compliance with the Environmentally Sensitive Lands Regulations without deviation.

| R                           | 143.0141(a), (b)                      | 143.0141                                       | 143.0142               | 143.0143, 143.0144                         | 143.0145, 143.0146 |
| P                           | SDP/Process CIP-Two                   | SDP/Process CIP-Two                             | SDP/Process CIP-Two     | SDP/Process CIP-Two                         | SDP/Process CIP-Two |
| U                            | 143.0130(d),(e)                       | --                                              | --                  | 143.0130(a), (b)                           | 143.0130(c) |

9. Any capital improvement program project that deviates from the Environmentally Sensitive Lands Regulations.

| R                           | 143.0141(a), (b), 143.0150            | 143.0141, 143.0150                               | 143.0142, 143.0150⁽⁴⁾ | 143.0143, 143.0144, 143.0150               | 143.0145, 143.0146, 143.0150 |
| P                           | SDP/Process CIP-Five                  | SDP/Process CIP-Five                             | SDP/Process CIP-Five    | SDP/Process CIP-Five                        | SDP/Process CIP-Five |
| U                            | 143.0130(d),(e)                       | --                                              | --                  | 143.0130(a), (b)                           | 143.0130(c) |
Legend to Table 143-01A

<table>
<thead>
<tr>
<th>R</th>
<th>Development regulation sections (in addition to Section 143.0140) applicable to the environmentally sensitive lands present.</th>
</tr>
</thead>
<tbody>
<tr>
<td>P</td>
<td>Type of Permit/Decision process required. Neighborhood Development Permit (NDP) Site Development Permit (SDP)</td>
</tr>
<tr>
<td>U</td>
<td>Regulations that identify permitted uses when they are different than the applicable zone due to the environmentally sensitive lands present.</td>
</tr>
</tbody>
</table>

Footnotes for Table 143-01A

1 State and federal laws and regulations regulate adverse impacts to wetlands and listed species habitat. The City does not have incidental take authorization for listed species within federal jurisdictional waters, except for vernal pool species covered under the VPHCP.

2 This includes the development of one or more lots as long as the total area of the lots does not exceed 15,000 feet and the lots were not joined in ownership to any contiguous lot or parcel on or before the adoption date of this division so that the total area of contiguous ownership exceeded 15,000 square feet.

3 Outside the Coastal Overlay Zone, subdivision of a premises less than 15,000 square feet (for single dwelling unit development) is not subject to Section 143.0142(a).

4 Development other than a single dwelling unit on an individual lot may use alternative compliance for development area in steep hillsides that does not comply with Section 143.0142(a).

5 Within the Coastal Overlay Zone, single dwelling units on individual lots equal to or less than 15,000 square feet are subject to Section 143.0142(a).

6 A development that is affordable housing, an in-fill project, and/or a sustainable building as described in Section 143.0915 may be permitted with a Neighborhood Development Permit decided in accordance with Process Two, subject to Section 143.0920(b).

(c) A Neighborhood Development Permit or Site Development Permit is not required for the following development activity:

1 Development on a premises containing environmentally sensitive lands that is limited to interior modifications or repairs, or any exterior repairs, alterations or maintenance that does not increase the footprint of an existing building or accessory structure, and will not encroach into the environmentally sensitive lands during or after construction.
Outside of the Coastal Overlay Zone, development on a premises containing environmentally sensitive lands where the development:

(A) Would not encroach into environmentally sensitive lands during or after construction;

(B) Would not expand brush management Zone One into environmentally sensitive lands;

(C) Would comply with the MHPA adjacency guidelines as applicable;

(D) Would maintain a minimum 40 foot setback from the coastal bluff edge of a sensitive coastal bluff; and

(E) Would either:

(i) Maintain at least a 100 feet separation distance from sensitive biological resources and at least a 40 feet separation distance from the top of slope of steep hillsides; or

(ii) Locate development in a legally graded or developed portion of the premises separated from environmentally sensitive lands by an existing fence or other physical barrier.

Outside the Coastal Overlay Zone, minor improvements to existing structures on steep hillsides, subject to all of the following applicable requirements:

(A) Clearing and grubbing shall not exceed 100 square feet per acre.

(B) Excavation for foundations or pilings shall total less than 10 cubic yards.

(C) The proposed improvements do not encroach into sensitive biological resources.

(D) One story structures supported by pilings or pillars may be located on steep hillsides provided that the total of all encroachments into the steep hillsides area does not exceed 5 percent of the total floor area of the building or structure.
(E) Residential decks up to 500 square feet may be located on steep hillsides provided that the deck is attached to the building or structure and does not exceed 12 feet in elevation above the existing grade at any point.

(4) Development activity that is limited to permissible grading for the preparation of a site for cultivation of crops and where grading for agriculture purposes has occurred in compliance with all legal requirements within the previous 3 years.

(5) Outside the Coastal Overlay Zone, city public works projects for which plans, specifications, or funding have been approved by the City Council or the City Manager before July 1, 1991.

(6) Outside the Coastal Overlay Zone, restoration projects where the sole purpose is enhancement or restoration of native habitats.

(7) Except for brush management in wetlands in accordance with Section 142.0412(a)(3), Zone Two brush management activity if the brush management complies with the landscape regulations in Chapter 14, Article 2, Division 4 (Landscape Regulations) and the Biology Guidelines.

(8) Site reconnaissance and testing for proposed projects, provided that:

(A) Any direct or indirect effects on sensitive biological resources are addressed in accordance with the Biology Guidelines of the Land Development Manual.

(B) Any subsurface explorations for historical resources are conducted in conformance with the Historical Resources Guidelines of the Land Development Manual.

(C) A bond consistent with Section 129.0119 has been submitted for revegetation of disturbed areas.

(9) Development in a Special Flood Hazard Area that is permitted in accordance with the underlying base zone and complies with the regulations in Sections 143.0145 and 143.0146.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 11-28-2005 by O-19445 N.S. effective 1-12-06.)
(Amended 9-19-2005 by O-19413 N.S.; effective 10-19-2005.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 3-1-2006 by O-19467 N.S.; effective 8-10-2006.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)
§143.0111 Limited Exceptions from Environmentally Sensitive Lands Regulations

The following development activities require a Neighborhood Development Permit or Site Development Permit in accordance with Table 143-01A, but the applicable development regulations are modified as indicated:

(a) Outside the MHPA and the Coastal Overlay Zone, mining and extractive industries may exceed the maximum allowable steep hillside development area described in Section 143.0142(a). Both inside and outside the MHPA, a Conditional Use Permit is required in accordance with Section 141.1006 and restoration of the on-site landform to a natural-appearing condition is required.

(b) Zone Two brush management activity is exempt from the steep hillside development area regulations in Section 143.0142(a) if the brush management is the minimum necessary to comply with City fire codes and no grading occurs in the brush management area. Within the Coastal Overlay Zone, all brush management within 30 feet of a primary structure shall be subject to the Steep Hillside Regulations for development within the Coastal Overlay Zone pursuant to Section 143.0142(a)(4).

(c) Erosion control measures are exempt from the steep hillside development area regulations in Section 143.0142(a) if they are determined to be the only feasible means of erosion control necessary to protect the existing primary structures or public improvements.

(d) Outside the Coastal Overlay Zone, City linear utility projects are exempt from the development area regulations of the OR-1-2 zone in Section 131.0250(b) and the development area regulations for steep hillsides in Section 143.0142(a) and for sensitive biological resources in Section 143.0141(a)(5).

(e) Development in the OF zone or within any Special Flood Hazard Area (formerly the FW, FC, and FPF zones) in the Mission Valley Community Plan area, is subject only to the Federal Emergency Management Agency Special Regulations in Section 143.0146.
(f) Development in the Calle Cristobal Assessment District area and outside the Coastal Overlay Zone is subject only to the steep hillside development regulations in Section 143.0142(b) through (h).

(g) Development in the Miramar Ranch North Community Plan area and the 70 acre high school project in Scripps Ranch is subject only to the steep hillside development regulations in Section 143.0142(b) through (h).

(h) Development of the 178 acres of land known as Sorrento Hills that was the subject of the land exchange approved by the voters as Proposition D on November 4, 1986, is subject only to the steep hillside development regulations in Section 143.0142(b) through (g).

(i) Public linear trail and public maintenance access projects are exempt from the development area regulations of the OR-1-2 zone in Section 131.0250(b) and the development area regulations for steep hillsides in Section 143.0142(a) and for sensitive biological resources in Section 143.0141(a)(5).

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 12-1-2016 by O-20752 N.S.; effective 12-31-2016.)
(Amended 10-17-2017 by O-20859 N.S.; effective 11-16-2017.)
(Amended 2-9-2018 by O-20899 N.S.; effective 3-1-2018.)

[Editors Note: Amendments as adopted by O-20899 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/municodeStrikeoutOrd/O-20899-SO.pdf ]

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

[Editors Note: Amendments as adopted by O-21114 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/municodeStrikeoutOrd/O-21114-SO.pdf ]
§143.0112 Requirement to Submit Required Documentation and Obtain Permit Prior to Development on Environmentally Sensitive Lands

It is unlawful to begin development on a premises that contains environmentally sensitive lands without submitting required documentation and obtaining the applicable development permit, or an exemption as required pursuant to this division. If unlawful development occurs on property containing environmentally sensitive lands and an enforcement action has been commenced by the City pursuant to Section 143.0160, a development permit application shall not be processed for the premises until the enforcement action has been concluded, or the City Manager determines a development permit is necessary to resolve the enforcement action.

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

§143.0113 Determination of Location of Environmentally Sensitive Lands, Applicability of Division and Decision Process

(a) In connection with any permit application for development on a parcel, the applicant shall provide the information used to determine the existence and location of environmentally sensitive lands in accordance with Section 112.0102(b).

(b) Based on a project-specific analysis and the best scientific information available, the City Manager shall determine the existence and precise location of environmentally sensitive lands on the premises.

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

§143.0115 Procedures and Regulations for Project-Specific Land Use Plans

(a) Project-specific land use plans, including specific plans, precise plans, privately initiated land use plan amendments, and Proposition A Land subarea plans, proposed for sites where environmentally sensitive lands are present, are subject to the regulations in this section to ensure adequate analysis of the constraints and opportunities of the planning area relative to environmentally sensitive lands. The analysis of environmentally sensitive lands for project-specific land use plans will be conducted in accordance with either Section 143.0115(b) or (c) based on whether or not a Site Development Permit is processed concurrently with the project-specific land use plan. Within the Coastal Overlay Zone, a project-specific land use plan is subject to the Local Coastal Program amendment process.
(b) Where a Site Development Permit is requested concurrently with the processing of a project-specific land use plan, the proposed development is subject to the following regulations. However, where a Coastal Development Permit is required, the project must conform to the Local Coastal Program, as certified by the Coastal Commission.

1. The boundaries of the Site Development Permit will be the boundaries of the project-specific land use plan, including all individual interior lots within the plan area.

2. A decision on a Site Development Permit processed concurrently with a project-specific land use plan will be made in accordance with Process Five.

3. The environmentally sensitive lands regulations applicable to the Site Development Permit will be determined in accordance with Table 143-01A. Sufficient information must be submitted for the entire plan area in order to evaluate potential impacts to environmentally sensitive lands. Any deviations proposed, other than as permitted in Section 143.0115(b)(4), are subject to Section 143.0150.

4. For individual lots outside the MHPA, the development area regulations for steep hillsides in Section 143.0142(a) may be varied provided the regulations are complied with comprehensively for the entire plan area.

5. The applicant shall prepare a development suitability analysis to evaluate the proposed development of the entire plan area and its relationship to the environmentally sensitive lands regulations as well as other factors such as historical resources, visual resources, public facilities needs, public safety issues, and adjacent land uses. The constraints and opportunities identified shall be used to determine the portions of the plan area that are most suitable for development and those that should be preserved as open space. Overall development within the plan area, including public facilities and circulation elements, shall be located to minimize impacts to environmentally sensitive lands, in accordance with this division and the associated guidelines in the Land Development Manual.

6. The project-specific land use plan shall include a summary of the allowable development area and any required mitigation for each parcel. If the project-specific land use plan contains MHPA lands, mitigation for impacts to sensitive biological resources should be directed toward acquisition of MHPA lands within the city boundaries and preferably within the same plan area.
(7) Subsequent development proposals within the Site Development Permit area will be reviewed in accordance with the substantial conformance procedures. If the development is determined to be in conformance with the Site Development Permit and any required mitigation is provided, an amendment to the Site Development Permit will not be required. If the proposed development is not in conformance with the approved project-specific land use plan, an amendment to the Site Development Permit will be required for the development in addition to an amendment to the approved project-specific land use plan.

(8) Any coastal development requiring a Coastal Development Permit must conform to the regulations in the certified Local Coastal Program. In case of conflict with the provisions of Section 143.0115(b)(1)-(7), the coastal development regulations apply.

(c) Where a Site Development Permit is not requested concurrently with the processing of a project-specific land use plan, the proposed plan and subsequent Site Development Permits and/or Coastal Development Permits are subject to the following regulations.

(1) The applicant shall prepare a development suitability analysis that evaluates the proposed development of the entire plan area and its relationship to the environmentally sensitive lands regulations as well as other factors such as historical resources, visual resources, public facilities needs, public safety issues, and adjacent land uses. The constraints and opportunities identified shall be used to determine the portions of the plan area that are most suitable for development and those that should be preserved as open space. Overall development within the plan area, including public facilities and circulation elements, shall be located to minimize impacts to environmentally sensitive lands, in accordance with this division and the associated guidelines in the Land Development Manual.

(2) The project-specific land use plan shall indicate how subsequent developments within the plan area will comply with the environmentally sensitive lands regulations and the associated guidelines in the Land Development Manual. Where any deviation from this division is proposed for the plan area or on an premises, a description of the deviation shall be provided along with a statement of how the deviation benefits the overall design of the entire plan area. Deviations may be approved only under the following conditions:
(A) When there are no feasible measures that can further minimize the potential adverse effects on *environmentally sensitive lands* and when the deviation is the minimum necessary to afford relief and accommodate the *development*; and

(B) When there are special circumstances or conditions applying to the plan area that are peculiar to the land and not of the applicant’s making, whereby strict application of the provisions of the *environmentally sensitive lands* regulations would deprive a property owner of reasonable use of his or her land and would result in a less desirable project-specific *land use plan*.

(3) The development area regulations for *steep hillsides* in Section 143.0142(a) may be varied for individual lots outside the *MHPA* provided the intent of these regulations is complied with comprehensively for the entire plan area.

(4) The project-specific *land use plan* shall acknowledge that any privately owned property that is designated entirely as open space could be proposed for *development* in accordance with the base zone. This possibility shall be taken into consideration when analyzing the total potential development area within the plan area.

(5) The project-specific *land use plan* shall include an implementation strategy for acquisition of those parcels designated as open space. If the project-specific *land use plan* contains *MHPA* lands, mitigation for impacts to *sensitive biological resources* should be directed toward acquisition of *MHPA* lands within the City boundaries and preferably within the same plan area.

(6) After approval of the project-specific *land use plan*, a Site Development Permit shall be required for all proposed individual *developments* within the plan area and shall be reviewed in accordance with Process Four. Additional information pertaining to *environmentally sensitive lands* may be required in order to conduct a detailed analysis of the specific *development* proposal. Approval of the individual Site Development Permits will require conformance with the approved project-specific *land use plan* and any required mitigation shall be provided. Deviation *findings* will not be required if the proposed *development* is consistent with the approved project-specific *land use plan*. If a proposed *development* is not in conformance with the approved project-specific *land use plan*, approval of a Site Development Permit requires compliance with all of the *environmentally sensitive lands* regulations.
(7) Conformance with the *environmentally sensitive lands* regulations and associated guidelines in the Land Development Manual is required for all *environmentally sensitive lands* impacts not addressed by the approved project-specific *land use plan*.

(8) Any *coastal development* requiring a Coastal Development Permit must conform to the regulations in the certified *Local Coastal Program*. In case of conflict with the provisions of Section 143.0115(c)(1)-(7), the coastal development regulations apply.


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

(Amended 5-7-2012 by O-20161 N.S.; effective 6-6-2012.)

**EDITORS NOTE:** The Land Development Manual includes:
- Coastal Bluffs and Beaches Guidelines
- Biology Guidelines
- Historical Resources Guidelines
- Submittal Requirements for Deviations within the Coastal Overlay Zone


§143.0126 **Procedures for Emergency Authorization to Impact Environmentally Sensitive Lands**

Whenever *development* activity within *environmentally sensitive lands* is deemed necessary by order of the City Manager to protect the public health or safety, the City Manager may authorize, without a public hearing, the minimum amount of impact necessary to protect the public health or safety, subject to the following:

(a) Application. When an emergency exists, an *applicant* may use the procedures of this section instead of the standard application and decision procedures for a Site Development Permit. The *applicant* may apply for an emergency Site Development Permit in person, by letter to the City Manager, or by telephone.

(b) Contents of Application. The application for an emergency Site Development Permit shall include the following information:
(1) The nature of the emergency;

(2) The cause of the emergency;

(3) The location of the emergency;

(4) The remedial, protective, or preventive work required to deal with the emergency;

(5) The circumstances during the 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 emergency, including the least environmentally damaging alternative.

(c) Verification. The City Manager shall verify the facts, including the existence and nature of the emergency, to the extent that time allows.

(d) Decision on Permit. A decision to approve, conditionally approve, or deny an emergency Site Development Permit shall be made by the City Manager.

(e) Findings. An emergency Site Development Permit may be approved or conditionally approved only if the City Manager makes the following findings:

(1) An emergency exists that requires action more quickly than would be permitted by the normal procedures for acquiring a Site Development Permit and the development can and will be completed within 30 days unless otherwise specified in the permit; and

(2) Public comment on the proposed emergency action has been solicited and reviewed to the extent feasible.

(f) Conditions. The City Manager may approve an emergency Site Development Permit with conditions, including an expiration date for any work authorized by the City Manager.

(1) All emergency Site Development Permits shall authorize only the minimum development necessary to stabilize the emergency.
(2) If the emergency work involves only temporary impacts to *environmentally sensitive lands*, a subsequent Neighborhood Development Permit or Site Development Permit is not required provided the *environmentally sensitive lands* are restored in a timely manner to their natural state, to the satisfaction of the City Manager. Restoration shall be in accordance with a restoration plan that conforms with the Biology Guidelines and is approved by the City Manager. The restoration plan shall be submitted to the City Manager within 60 days of completion of the emergency work and work on the approved restoration plan shall be initiated within 90 days of project completion or prior to the beginning of the next rainy season, whichever is greater.

(3) If the emergency work results in permanent impacts to *environmentally sensitive lands*, a subsequent Neighborhood Development Permit or Site Development Permit is required through the regular process in accordance with this Division. The application for the Neighborhood Development Permit or Site Development Permit shall be submitted within 60 days of completion of the emergency work, except that an application for a *capital improvement program project* shall be submitted within 180 days of completion of the emergency work.

(g) Within the Coastal Overlay Zone, a Coastal Development Permit is required for any emergency *coastal development* in accordance with Section 126.0718.


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

(Retitled from “Emergency Authorization to Impact Environmentally Sensitive Lands” to “Procedures for Emergency Authorization to Impact Environmentally Sensitive Lands” and amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

(Amended 3-22-2018 by O-20917 N.S.; effective 4-21-2018.)

§143.0130 Uses Allowed Within Environmentally Sensitive Lands

Allowed uses within *environmentally sensitive lands* are those allowed in the applicable zone, except where limited by this section.

(a) *Sensitive Coastal Bluff Areas.* Permitted uses and activities in *sensitive coastal bluff* areas, as indicated on Map Drawing No. C-713, are limited to the following:

(1) *Single Dwelling Units* together with *accessory structures* and landscape features incidental to residential uses;
(2) Bicycle storage facilities;
(3) Public comfort stations;
(4) Public pergolas and gazebos;
(5) Public parking lots;
(6) Public seating benches;
(7) Open fences and walls for public safety, provided they do not interfere with existing or designated public or visual access ways;
(8) Safety and public information signs;
(9) Public stairways, ramps, and other physical beach access facilities, as identified within an applicable land use plan;
(10) Essential public walkways leading to permitted beach access facilities;
(11) Essential public drainage facilities; and
(12) Bluff repair and erosion control measures, when necessary to protect existing primary structures and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

(b) Coastal Beach Areas. Permitted uses and activities in coastal beach areas, as identified on Map Drawing No. C-713, are limited to the following:

(1) Lifeguard towers and stations and associated life and security facilities;
(2) Public comfort stations;
(3) Public piers;
(4) Safety and public information signs;
(5) Shoreline protective works when necessary to prevent bluff and beach erosion and to protect coastal dependent uses, public beach roadways, or existing primary structures in danger from wave action and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply;
(6) Public stairways, ramps, and other physical access structures, as proposed within an applicable land use plan; and
(7) Public recreational equipment.

(c) Floodways. Uses permitted within the floodway portion of a Special Flood Hazard Area are those allowed by the OF zone, as indicated in Table 131-02B.
(d) *Wetlands* in the Coastal Overlay Zone. Uses permitted in *wetlands* shall be limited to the following:

1. Aquaculture, *wetlands*-related scientific research and *wetlands*-related educational uses;
2. Wetland restoration projects where the primary purpose is restoration of the habitat;
3. Incidental public service projects, where it has been demonstrated that there is no feasible less environmentally damaging location or alternative, and where mitigation measures have been provided to minimize adverse environmental effects.

(e) *Wetland Buffer* Areas in the Coastal Overlay Zone. Permitted uses in *wetland buffer* areas shall be limited to the following:

1. Public Access paths;
2. Fences;
3. Restoration and enhancement activities; and
4. Other improvements necessary to protect *wetlands*.

*(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)*

§143.0140 General Development Regulations for all Environmentally Sensitive Lands

*Development* that proposes encroachment into *environmentally sensitive lands* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations.

(a) *Environmentally sensitive lands* that are outside of the allowable development area on a *premises* shall be left in a natural state and used only for those passive activities allowed as a condition of permit approval. The landowner may elect to offer to dedicate in fee the undeveloped remainder portion of the *premises* to the City to relieve the land owner of management and liability obligations associated with that portion of the *premises*. Otherwise, the passive activities allowed on the undeveloped remainder of the *premises* and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.0152.

(b) The allowable development area for all proposed *subdivisions* is based on the existing *lot* or *premises* to be subdivided. If no *development* is proposed on any newly created *lot*, the future development area of the *lot* shall be indicated on the required *grading* plan and included in the maximum allowable development area calculation for the *subdivision*. 
(c) No building lot shall be created that provides such a small development area that future reasonable development of the lot will require additional encroachment into environmentally sensitive lands beyond the maximum allowable development area of the original, unsubdivided premises. If additional development area is proposed for a lot that would exceed the maximum allowable development area of the original, unsubdivided premises, a deviation in accordance with Section 143.0150 is required, regardless of the lot size and the existing development area of the individual lot.

(d) No temporary disturbance or storage of material or equipment is permitted in environmentally sensitive lands, unless the disturbance or storage occurs within an area approved for development by a Site Development Permit or unless it can be demonstrated that the disturbance or storage will not alter the landform or cause permanent habitat loss and the land will be revegetated and restored in accordance with the Biology Guidelines in the Land Development Manual.

(Added 12-9-1997 by O-18451 N.S.; effective 1-1-2000.)
(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 5-7-2012 by O-20161 N.S.; effective 6-6-2012.)

EDITORS NOTE: The Land Development Manual includes:
- Coastal Bluffs and Beaches Guidelines
- Biology Guidelines
- Historical Resources Guidelines
- Submittal Requirements for Deviations within the Coastal Overlay Zone


§143.0141 Development Regulations for Sensitive Biological Resources

Development that proposes encroachment into sensitive biological resources requires a development permit in accordance with Section 143.0110, unless exempted pursuant to Section 143.0110(c) and is subject to the following regulations and the Biology Guidelines in the Land Development Manual.

(a) General Regulations for Sensitive Biological Resources
(1) All development occurring in sensitive biological resources is subject to a site-specific impact analysis conducted by a qualified Biologist, in accordance with the Biology Guidelines in the Land Development Manual. The impact analysis shall evaluate impacts to sensitive biological resources and CEQA sensitive species. The analysis shall determine the corresponding mitigation, where appropriate, and the requirements for protection and management. Mitigation may include any of the following, as appropriate to the nature and extent of the impact:

(A) Dedication in fee title to the City of San Diego; or

(B) Dedication of a covenant of easement in favor of the City of San Diego, the California Department of Fish and Wildlife and the U.S. Fish and Wildlife Service for either:

   (i) An off-site location with long-term viability and biological values equal to or greater than the impacted site, and with limited right of entry for habitat management, as necessary; or

   (ii) On-site creation of new habitat, or enhancement of existing degraded habitat, with limited right of entry for habitat management, as necessary. The location of the easement must have long-term viability and biological values equal to or greater than the impacted site.

(C) If the area of impact is small, monetary payment of compensation into a fund may be accepted in lieu of other forms of mitigation. The City shall use the fund to acquire, maintain and administer habitat areas pursuant to City Council Resolution No. R-275129, adopted February 12, 1990. Where appropriate, the City Manager is authorized to enter into agreements with public agencies or private non-profit conservancies or foundations to administer the funds and acquire or maintain habitat preservation areas.

(2) Grading during wildlife breeding seasons shall be consistent with the requirements of the MSCP Subarea Plan.
(3) **Sensitive biological resources** that are outside of the allowable development area on a **premises**, or are acquired as off-site mitigation as a condition of permit issuance, are to be left in a natural state and used only for those passive activities allowed as a condition of permit approval. If the land is not dedicated in fee to the City, identification of permissible passive activities and any other conditions of the permit shall be incorporated into a covenant of easement that shall be recorded against title to the property, in accordance with procedures set forth in Section 143.0152. The U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife are to be named as third party beneficiaries to any covenant of easement recorded pursuant to this section.

(4) Inside and adjacent to the MHPA, all development proposals shall be consistent with the **MSCP Subarea Plan** and **VPHCP**.

(5) **Projects Located Inside the MHPA**

(A) **Development** is permitted only in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b), unless exempted from the development area regulations pursuant to Section 143.0111.

(B) Any change of an agricultural use to a non-agricultural use is subject to the development area regulations of Section 143.0141(a)(5)(A). Existing agricultural operations that exceed the allowable development area may remain as agricultural use only and do not count as part of the allowable development area.

(C) **Development of a premises containing wetlands** is subject to Section 143.0141(b). Any **development** with impacts to wetlands, including vernal pools and road pools with listed fairy shrimp, is required to process a deviation in accordance with Section 143.0150(d).

(6) **Projects Located Outside of the MHPA**

(A) **Development** of lands that are designated as open space in the applicable **land use plan** and zoned OR-1-1 is permitted only if necessary to achieve the allowable development area, in accordance with Section 131.0250(a).

(B) **Development of a premises containing wetlands** is subject to Section 143.0141(b).
(C) Outside the Coastal Overlay Zone, impacts to vernal pools and road pools with listed fairy shrimp are not subject to Section 143.0150(d) if mitigated in accordance with the Biology Guidelines in the Land Development Manual and VPHCP.

(7) Narrow Endemic Species

Inside the MHPA, development shall avoid impacts to narrow endemic species. Outside the MHPA, measures for protection of narrow endemic species shall be required such as management enhancement, restoration and/or transplantation. A list of narrow endemic species is included in the Biology Guidelines in the Land Development Manual.

(b) Wetland Regulations

(1) State and federal law regulate adverse impacts to wetlands and listed species habitat. The applicant shall confer, when applicable, with the U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Wildlife before any public hearing for the development proposal.

(2) The applicant shall solicit input from U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Wildlife on impact avoidance, minimization, mitigation and buffer requirements, including the need for upland transitional habitat.

(3) The applicant shall, to the maximum extent feasible, incorporate U.S. Army Corps of Engineers, U.S. Fish & Wildlife Service and/or California Department of Fish and Wildlife recommendations into the development proposal prior to the first public hearing.

(4) Construction permits shall not be issued for any project that impacts wetlands or listed species habitat until all necessary federal and state permits have been obtained.

(5) Impacts to wetlands shall be avoided, except where permitted in accordance with Section 143.0141(b)(6). A wetland buffer shall be maintained around all wetlands as appropriate to protect the functions and values of the wetlands. In the Coastal Overlay Zone the applicant shall provide a minimum 100-foot buffer, unless a lesser or greater buffer is warranted as determined through the process described in this section.
(6) Outside the Coastal Overlay Zone, *encroachment* into a vernal pool is allowed outside of the MHPA where the *development* is consistent with the Biology Guidelines of the Land Development Manual and *VPHCP*. Such *development* does not require a deviation to the wetland regulations.

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

*(Amended 5-7-2012 by O-20161 N.S.; effective 6-6-2012.)*

*(Amended 2-9-2018 by O-20899 N.S.; effective 3-11-2018.)*

**Editors Note:** Amendments as adopted by O-20899 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-20899-SO.pdf](http://docs.sandiego.gov/municode_strikeout_ord/O-20899-SO.pdf)

**Editors Note:** The Land Development Manual includes:

- Coastal Bluffs and Beaches Guidelines
- Biology Guidelines
- Historical Resources Guidelines
- Submittal Requirements for Deviations within the Coastal Overlay Zone


§143.0142 Development Regulations for Steep Hillsides

*Development* that proposes *encroachment* into *steep hillsides* or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Steep Hillside Guidelines in the Land Development Manual.

(a) Allowable Development Area

(1) Inside of the MHPA, the allowable development area is determined in accordance with the regulations set forth in the OR-1-2 zone, pursuant to Section 131.0250(b). However, within the Coastal Overlay Zone, *coastal development* is permitted only if in conformance with Section 143.0142(a)(4) and the certified *local coastal program*. 
Outside of the MHPA, the allowable development area includes all portions of the premises without steep hillsides. Steep hillsides shall be preserved in their natural state, except that development is permitted in steep hillsides if necessary to achieve a maximum development area of 25 percent of the premises. However, within the Coastal Overlay Zone, coastal development on steep hillsides shall be minimized to the maximum extent possible and permitted only when in conformance with Section 143.0142(a)(4).

Outside of the MHPA and outside the Coastal Overlay Zone, up to an additional 15 percent development area is permitted only as follows and as long as the total development area does not exceed 40 percent of the premises, pursuant to the Steep Hillside Guidelines in the Land Development Manual:

(A) For projects where the following major public facilities are required: publicly owned parks and recreation facilities, fire and police stations, publicly owned libraries, public schools, major streets and primary arterials, and public utility systems;

(B) For projects where the existing development area is not contiguous, and access to the entirety of the development area is not otherwise available; and

(C) For projects where the existing development area does not have direct access to a public right-of-way.

Within the Coastal Overlay Zone, steep hillsides shall be preserved in their natural state and coastal development on steep hillsides containing sensitive biological resources or mapped as Viewshed or Geologic Hazard on Map C-720 shall avoid encroachment into such steep hillsides to the maximum extent possible.

(A) When encroachment onto such steep hillsides is unavoidable, encroachment shall be minimized; except that encroachment is permitted in such steep hillsides to provide for a development area of up to a maximum of 25 percent of the premises on premises containing less than 91 percent of such steep hillsides. On premises containing 91 percent or greater of such steep hillsides, the maximum allowable development area is 20 percent of the premises; however, an additional 5 percent encroachment into such steep hillsides may be permitted if necessary to allow an economically viable use, pursuant to the Steep Hillside Guidelines.
For the purposes of this Section 143.0142(a)(4), the development area shall include Zone 1 brush management pursuant to the Landscape Regulations in Chapter 14, Article 2, Division 4.

Up to an additional 15 percent of encroachment onto such steep hillsides is permitted for the following:

(i) Major public roads and collector streets identified in the Circulation Element of an applicable land use plan;

(ii) Public utility systems;

(iii) In the North City Local Coastal Program Land Use Plan areas only: Local public streets or private roads and driveways which are necessary for access to the more developable portions of a site containing slopes of less than 25 percent grade, provided no less environmentally damaging alternative exists. The determination of whether or not a proposed road or driveway qualifies for an exemption, in whole or in part, shall be made by the City Manager based upon an analysis of the project site.

For the purposes of Section 143.0142, encroachment shall be defined as any area of 25 percent or greater slope in which the natural landform is altered by grading, is rendered incapable of supporting vegetation due to the displacement required for the building, accessory structures, or paving, or is cleared of vegetation (including Zone 1 brush management).

In the approval of any Coastal Development Permit for a subdivision, and any other division of land, including lot splits, no encroachment into steep hillsides containing sensitive biological resources, or mapped as Viewshed or Geologic Hazard on Map C-720 shall be permitted. The decision maker shall require a setback for Zone One brush management consistent with Section 142.0142.

All development occurring in steep hillsides shall comply with the design standards identified in the Steep Hillside Guidelines in the Land Development Manual for the type of development proposed.

Newly created slopes shall not exceed the slope gradient permitted in Section 142.0133.
(d) Disturbed portions of the site in 25 percent (4 horizontal feet to 1 vertical foot) or greater slopes shall be revegetated or restored in accordance with Chapter 14, Article 2, Division 4 (Landscape Regulations).

(e) Before approval of any Neighborhood Development Permit or Site Development Permit, the applicant shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved development, as necessary and appropriate.

(f) Any increase in runoff resulting from the development of the site shall be directed away from any steep hillside areas and either into an existing or newly improved public storm drain system or onto a street developed with a gutter system or public right-of-way designated to carry surface drainage run-off.

(g) Erosion Control Measures

(1) Outside of the Coastal Overlay Zone, erosion control measures are not subject to the 25 percent development area regulations in Section 143.0142(a), but are subject to the landscape regulations in Chapter 14, Article 2, Division 4 and the Steep Hillside Guidelines in the Land Development Manual. Within the Coastal Overlay Zone, erosion control measures are subject to Section 142.0142(a)(4).

(2) Air-placed concrete, including gunite or shotcrete, retaining walls, buttress fills, and other similar erosion control measures may be allowed only if determined to be the only feasible means of erosion control to protect the existing primary structures or public improvements.

(A) These measures shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing adjacent landform characteristics including color coating, texturing, landscape, and topographical features.

(B) Where erosion control measures are proposed to encroach upon or affect any portion of property owned by the City of San Diego, the permittee shall provide written permission from the City Manager before approval of the Site Development Permit. Documentation of this approval shall be recorded with the conditions of permit approval.
(h) All development on steep hillsides located in La Jolla or La Jolla Shores Community Plan areas, shall, in addition to meeting all other requirements of this section, be found consistent with the Hillside Development Guidelines set forth in the La Jolla - La Jolla Shores Local Coastal Program land use plan.

(Amended 11-28-2005 by O-19444 N.S.; effective 2-9-2006.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)

EDITORS NOTE:
The Land Development Manual includes:
Coastal Bluffs and Beaches Guidelines
Biology Guidelines
Historical Resources Guidelines
Submittal Requirements for Deviations within the Coastal Overlay Zone


§143.0143 Development Regulations for Sensitive Coastal Bluffs

Coastal development on premises containing sensitive coastal bluffs, as identified on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. 00-17062 or that does not qualify for an exemption pursuant to Section 143.0110(c) is subject to the following regulations and the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(a) No development is permitted on the face of a sensitive coastal bluff, except as permitted in Section 143.0143(g) and (h), and the coastal bluff face shall be preserved as a condition of permit approval.

(b) On the portion of a premises where development is permitted, the proposed grading shall minimize the alteration of natural landforms and graded areas shall topographically resemble natural landforms of the surrounding area.

(c) Only native or other drought-tolerant plant species shall be used in landscaped areas in order to minimize irrigation requirements and to reduce potential slide hazards due to overwatering of the coastal bluffs.
(d) All drainage from the improvements on the premises shall be directed away from any coastal bluff and either into an existing or newly improved public storm drain system or onto a street developed with a gutter system or public right-of-way designated to carry surface drainage run-off. All drainage from any unimproved areas shall be appropriately collected and discharged in order to reduce, control, or mitigate erosion of the coastal bluff.

(e) Before approval of any development permit, the applicant shall execute and record in favor of the City a hold harmless and/or indemnification agreement for the approved development, as necessary and appropriate.

(f) All development including buildings, accessory structures, and any additions to existing structures shall be set back at least 40 feet from the coastal bluff edge, except as follows:

(1) The City Manager may permit structures to be located between 25 and 40 feet from the bluff edge where the evidence contained in a geology report indicates that the site is stable enough to support the development at the proposed distance from the coastal bluff edge and the project can be designed so that it will not be subject to or contribute to significant geologic instability throughout the anticipated life span of the primary structures, and no shoreline protection is required.

Reductions from the 40-foot setback shall be approved only if the geology report concludes the structure will not be subject to significant geologic instability, and not require construction of shoreline protection measures throughout the economic life span of the structure. In addition, the applicants shall accept a deed restriction to waive all rights to protective devices associated with the subject property. The geology report shall contain:

(A) An analysis of bluff retreat and coastal stability for the project site, according to accepted professional standards;

(B) An analysis of the potential effects on bluff stability of rising sea levels, using latest scientific information;

(C) An analysis of the potential effects of past and projected El Nino events on bluff stability;

(D) An analysis of whether this section of coastline is under a process of retreat.
(2) **Accessory structures** and landscape features customary and incidental to residential uses shall not be closer than 5 feet to the **coastal bluff edge** provided, however, that these shall be located at **grade**. **Accessory structures** and features may be landscaping, walkways, unenclosed patios, open shade **structures**, decks that are less than 3 feet above grade, lighting standards, **fences** and walls, seating benches, **signs**, or similar **structures** and features, excluding garages, carports, buildings, pools, spas, and upper floor decks with load-bearing support **structures**.

(3) **Open fences** may be permitted closer than 5 feet to the **coastal bluff edge** only if necessary to provide for public safety and to protect resource areas accessible from public right-of-ways or on public parkland.

(4) Essential public drainage facilities and public walkways leading to permitted beach access facilities may be installed within the 5-foot **coastal bluff edge** setback provided they are designed to minimize impacts to the **coastal bluff face** and **coastal beach** areas.

(g) **Coastal bluff** repair and erosion control measures may occur on the bluff face only if they comply with the following:

(1) **Coastal bluff** repair and erosion control measures may be allowed on the **coastal bluff face** only if determined to be the only feasible means of erosion control and when necessary, to protect the existing primary **structures** or to protect **public improvements** that cannot feasibly be relocated.

(2) **Coastal bluff** repair and erosion control measures shall not cause significant alteration of the natural character of the bluff face.

(3) The **applicant** shall submit a **geotechnical report** that documents the need for an erosion control measure to the City Manager. The **geotechnical report** shall identify the type and design of the erosion control measure necessary for protection of the existing primary **structures**, based upon site-specific conditions and analysis of alternatives. The report must be accepted as adequate by the City Manager before any erosion control measures can be approved.

(4) Air-placed concrete, including gunite or shotcrete, **retaining walls, fills** or other similar erosion control measures shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing and adjacent landform characteristics including color coating, texturing, landscape, and topographical features.
Where erosion control measures are proposed to encroach upon or affect any portion of property owned by the City of San Diego, the applicant shall provide written permission from the City Manager before approval of any permit. Documentation of this approval shall be recorded with the conditions of permit approval.

Essential public facilities including drainage facilities, stairways, ramps, and other physical beach access facilities may be permitted on a coastal bluff face only if identified in an approved land use plan or if located in an areas historically used by the public. These facilities shall be designed to minimize impacts to the bluff face and beach area.

All development occurring on sensitive coastal bluffs shall be in conformance with the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

Public views shall be preserved pursuant to Section 132.0403.

A vertical public access easement of not less than 10 feet in width, and running the full depth of the premises, shall be offered, as a public easement as a condition of Coastal Development Permit approval, for dedication whenever all of the following conditions exist:

1. The proposed development is located on premises that lies between the shoreline and the first public roadway paralleling the sea, as defined within the California Coastal Commission Regulations.

2. The need for the accessway has been identified in the applicable land use plan or no other easement exists within a lateral distance of 500 feet of the subject premises; and

3. Impacts caused by the proposed development, including, but not limited to, direct encroachment into an accessway identified in the applicable land use plan, justify the requirement for a vertical accessway.

EDITORS NOTE: The Land Development Manual includes:
Coastal Bluffs and Beaches Guidelines
Biology Guidelines
Historical Resources Guidelines
Submittal Requirements for Deviations within the Coastal Overlay Zone


§143.0144 Development Regulations for Coastal Beaches

The following development regulations apply to development proposed on a premises containing a coastal beach, as identified on Map Drawing No. C-713, filed in the office of the City Clerk under Document No. 00-17062, and coastal development is subject to the following regulations and the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(a) No development is permitted on the portion of the site containing the coastal beach, except as permitted in Section 143.0130(b).

(b) All development occurring on a site containing coastal beaches must conform with the Coastal Bluffs and Beaches Guidelines in the Land Development Manual.

(c) Public views shall be preserved pursuant to Section 132.0403.

(d) A vertical public access easement of not less than 10 feet in width, and running the full depth of the premises, shall be offered for dedication as a public easement as a condition of Coastal Development Permit approval whenever both of the following conditions exist:

(1) The need for the accessway has been identified in the applicable land use plan, or no other easement exists within a lateral distance of 500 feet of the subject premises; and

(2) Impacts caused by the proposed development, including, but not limited to, direct encroachment into an accessway identified in the applicable land use plan, justify the requirement for a vertical accessway.
(e) An easement for public access and passive recreational uses located along the shoreline paralleling the water’s edge shall be offered for dedication as a public easement as a condition of development permit approval. The easement shall have a minimum width of 25 feet measured from the mean high tide line to the toe of an existing coastal bluff, the first line of terrestrial vegetation where there is no coastal bluff, or an existing or proposed seawall or other protective device seaward to the mean high tide line whenever both of the following conditions exist:

(1) The proposed development is located on property that contains a sandy or cobble beach or passable headland; and

(2) The proposed development will fix the location of the back of the beach, encroach onto the shoreline or cause other impacts which justify the requirement for the easement.

(f) For applications involving a shoreline protective work, the applicant shall submit a geotechnical report that documents the need for the erosion control measure to the City Manager. If the geotechnical report documents an existing primary structure is in danger from erosion, the geotechnical report shall identify the type and design of the protective device necessary to protect the existing primary structure, and other feasible alternatives to reduce the risk and address site-specific hazardous conditions. The report must be accepted as adequate by the City Manager before any erosion control measures can be approved.

(g) Air-placed concrete, including gunite or shotcrete, retaining walls, seawalls, fills or other similar erosion control measures shall be permitted only when necessary to protect an existing primary structure and when determined to be the least environmentally damaging feasible alternative pursuant to the California Environmental Quality Act. Mitigation for impacts to local shoreline sand supply shall be required.

(h) Any approved shoreline protective device shall be designed and implemented in accordance with generally accepted engineering standards and specifications and shall also incorporate existing and adjacent landform characteristics including color coating, texturing, landscape, and topographical features.
(i) Where erosion control measures are proposed to encroach upon or affect any portion of property owned by The City of San Diego or other public agency, or on lands subject to the public trust, the applicant shall provide written permission from the City Manager or public property owner before approval of any development permit. Documentation of this approval shall be recorded with the conditions of development permit approval. When an erosion control device encroaches directly on or otherwise affects State tidelands or publicly-owned property, the property owner shall be required to compensate for the use of public property and to mitigate the impacts of the protective device on the public beach.

(j) Mitigation for impacts on State tidelands or public beach may include, but not be limited to, a mitigation fee to be used for beach and sand replenishment within the littoral cell of the project. The fee shall be roughly proportional to the value of the beach area lost as a result of the protective device and shall be deposited in the City of San Diego Beach Sand Mitigation Fund held by the San Diego Association of Governments.


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

EDITORS NOTE: The Land Development Manual includes:

Coastal Bluffs and Beaches Guidelines
Biology Guidelines
Historical Resources Guidelines
Submittal Requirements for Deviations within the Coastal Overlay Zone


§143.0145 Development Regulations for Special Flood Hazard Areas

(a) Special Flood Hazard Areas within the City of San Diego are established in accordance with the report entitled “Flood Insurance Study, San Diego County, California,” dated June 16, 1999 and the accompanying Flood Insurance Rate Maps (FIRM), published by the Federal Emergency Management Agency (FEMA), on file in the office of the City Clerk as Document Nos. 18910-1 and 18910-2, including any supplements, amendments, and revisions which are properly promulgated by FEMA or the Federal Insurance Administrator.
(b) For the purpose of Sections 143.0145 and 143.0146, the City Engineer is the designated Floodplain Administrator and shall administer, implement, and enforce these regulations.

(c) The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. It is possible that increased flood heights may result from man-made or natural causes. This section does not imply that land outside a Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the City, any officer or employee thereof, or the FEMA, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

(d) The following development regulations and all other applicable requirements and regulations of FEMA apply to all development proposing to encroach into a Special Flood Hazard Area, including both the floodway and flood fringe areas or that does not qualify for an exemption pursuant to Section 143.0110(c):

(e) **Floodways**

1. Within the floodway portion of a premises, development regulations are as set forth for the OF zone, pursuant to Section 131.0231.

2. Structures associated with any allowed use shall comply with the following requirements:
   
   (A) Structures shall not be attached to a foundation, in order to readily move them in case of flood; and
   
   (B) Structures shall be removed upon imminence of flooding, as predicted by the National Weather Service or local public weather broadcast. If a structure is not removed and flooding occurs, the retrieval or salvage of the structure and repair of any damage caused by the structure shall be the responsibility of the owner.

3. Channelization or other substantial alteration of rivers or streams shall be limited to that necessary for the following:
   
   (A) Essential public service projects, where no other feasible construction method or alternative project location exists; and
   
   (B) Flood control projects, where no other feasible method for protecting existing public or private development exists and where such protection is necessary for public safety.
(C) Projects where the primary function is the improvement of fish and wildlife habitat.

(4) Development in floodways shall be offset by improvements or modifications to enable the passage of a base flood, in accordance with the FEMA standards and regulations provided in Section 143.0146.

(5) Development that involves channelization or other substantial alteration of rivers or streams is subject to the following requirements.

(A) All requirements and relevant recommendations of hydrological studies for the watershed of the affected stream, as approved by the City Engineer, shall be incorporated into the project design and mitigation measures. These requirements include erosional characteristics, flow velocities, volume, sediment transport, and maintenance of hydrology.

(B) The channel shall be designed to ensure that the following occur:

(i) Stream scour is minimized;

(ii) Erosion protection is provided;

(iii) Water flow velocities are maintained as specified by the City Engineer;

(iv) There are neither significant increases nor contributions to downstream bank erosion and sedimentation of sensitive biological resources; acceptable techniques to control stream sediment include planting riparian vegetation in and near the stream and detention or retention basins;

(v) Wildlife habitat and corridors are maintained;

(vi) Resource management criteria are implemented consistent with applicable land use plans; and

(vii) Groundwater recharge capability is maintained or improved.

(C) Channels that accommodate a base flood shall do so without increasing the water surface elevation more than one foot at any point from the level of a nonconfined base flood in the natural undeveloped floodplain. Channels may accommodate less than a base flood (low-flow channels), but shall be designed and constructed in accordance with FEMA regulations.
(D) All artificial channels shall consist of natural bottoms and sides and shall be designed and sized to accommodate existing and proposed riparian vegetation and other natural or proposed constraints. Where maintenance is proposed or required to keep vegetation at existing levels compatible with the design capacity of the channel, a responsible party shall be identified and a maintenance and monitoring process shall be established to the satisfaction of the City Engineer.

(6) Development shall not significantly adversely affect existing sensitive biological resources on-site or off-site.

(7) Within the Coastal Overlay Zone, no structure or portion thereof shall be erected, constructed, converted, established, altered or enlarged, or no landform alteration grading, placement or removal of vegetation, except that related to a historic and ongoing agricultural operation, or land division shall be permitted, provided:

(A) Parking lots, new roadways and roadway expansions shall be allowed only where indicated on an adopted Local Coastal Program land use plan.

(B) Floodway encroachments for utility and transportation crossings shall be offset by improvements or modifications to enable the passage of the base flood, in accordance with the FEMA standards and regulations provided in Section 143.0146.

(f) Flood Fringe. The applicable development regulations are those in the underlying zone, subject to the following supplemental regulations:

(1) Within the flood fringe of a Special Flood Hazard Area, permanent structures and fill for permanent structures, roads, and other development are allowed only if the following conditions are met:

(A) The development or fill will not significantly adversely affect existing sensitive biological resources on-site or off-site;

(B) The development is capable of withstanding flooding and does not require or cause the construction of off-site flood protective works including artificial flood channels, revetments, and levees nor will it cause adverse impacts related to flooding of properties located upstream or downstream, nor will it increase or expand a (FIRM) Zone A;
(C) Grading and filling are limited to the minimum amount necessary to accommodate the proposed development, harm to the environmental values of the floodplain is minimized including peak flow storage capacity, and wetlands hydrology is maintained;

(D) The development neither significantly increases nor contributes to downstream bank erosion and sedimentation nor causes an increase in flood flow velocities or volume; and

(E) There will be no significant adverse water quality impacts to downstream wetlands, lagoons or other sensitive biological resources, and the development is in compliance with the requirements and regulations of the National Pollution Discharge Elimination System, as implemented by the City of San Diego.

(F) The design of the development incorporates the findings and recommendations of both a site specific and coastal watershed hydrologic study.

(2) All development that involves fill, channelization, or other alteration of a Special Flood Hazard Area is subject to the requirements for channelization in Section 143.0145(e)(5) and with FEMA regulations.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)

(Amended 11-13-08 by O-19805 N.S; effective 12-13-2008.)

§143.0146 Supplemental Regulations for Special Flood Hazard Areas

All proposed development within a Special Flood Hazard Area is subject to the following requirements and all other applicable requirements and regulations of FEMA.

(a) Development and Permit Review

(1) Where base flood elevation data has not been provided by the Flood Insurance Study, the City Engineer shall obtain, review, and utilize base flood elevation and floodway data available from federal or state sources, or require submittal of such data from the applicant. The City Engineer shall make interpretations, where needed, as to the location of the boundaries of the areas of the Special Flood Hazard Area, based on the best available engineering or scientific information.
(2) Proposed development in a Special Flood Hazard Area shall not adversely affect the flood carrying capacity of areas where base flood elevations have been determined but the floodway has not been designated. “Adversely affect” as used in this section means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

(3) In all cases where a watercourse is to be altered the City Engineer shall do the following:

(A) Notify affected, adjacent communities and the California Department of Water Resources of any proposed alteration or relocation of a watercourse and submit evidence of the notice to the Federal Insurance Administration;

(B) Require that the flood carrying capacity of the altered or relocated portion of the watercourse is maintained; and

(C) Secure and maintain for public inspection and availability the certifications, appeals, and variances required by these regulations.

(4) The applicant shall grant a flowage easement to the City for that portion of the property within a floodway.

(5) Appropriate agreements shall be secured between the applicant and the City to assure participation by the applicant or any successor in interest in financing of future flood control works.

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

(7) In all floodways, any encroachment, including fill, new construction, significant modifications, and other development is prohibited unless certification by a registered professional engineer is provided demonstrating that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge except as allowed under Code of Federal Regulations Title 44, Chapter 1, Part 60.3(c)(13).
(b) Standards for Subdivisions

(1) All preliminary subdivision proposals shall identify the Special Flood Hazard Area and the elevation of the base flood.

(2) All final subdivision maps shall provide the elevation of proposed structures and pads. If the site is filled above the base flood elevation, the lowest floor, including basement, shall be certified to be 2 feet above the base flood elevation by a registered professional engineer or surveyor, and the certification shall be provided to the City Engineer.

(3) All subdivisions shall be designed to minimize flood damage.

(4) All subdivisions shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(5) All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

(6) The final map shall bear the notation “Subject to Inundation” for those portions of the property with a grade lower than 2 feet above the base flood elevation.

c) Standards of Construction

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

(1) All permitted, permanent structures and other significant improvements shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) All permitted permanent structures and other significant improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) Construction methods and practices that minimize flood damage shall be used.

(4) All electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and located to prevent water from entering or accumulating within the equipment components during conditions of flooding.
(5)  *Breakaway walls* shall be certified by a registered engineer or architect to meet all applicable FEMA requirements. The *certification* shall be provided to the City Engineer before final inspection approval.

(6)  New construction or *substantial improvement* of any *structure* shall have the *lowest floor*, including *basement*, elevated at least 2 feet above the *base flood elevation*. Upon completion of the *development*, the elevation of the *lowest floor*, including *basement*, shall be certified by a registered professional engineer or surveyor to be properly elevated. The *certification* shall be provided to the City Engineer before final inspection approval. The City Engineer reserves the right to require a preliminary *certification* before foundation inspection approval.

(7)  New construction or *substantial improvement* of any *structure* in *FIRM* Zone AH or AO shall have the *lowest floor*, including *basement*, elevated above the highest adjacent *grade* at least 2 feet higher than the depth number specified on the *FIRM*, or at least 4 feet if no depth number is specified. Upon the completion of the *structure* the elevation of the *lowest floor*, including *basement*, shall be certified by a registered professional engineer or surveyor, to be properly elevated. The *certification* shall be provided to the City Engineer before final inspection approval. The City Engineer may require a preliminary *certification* before foundation inspection approval.

(8)  Permitted nonresidential construction shall either be elevated as required by Section 143.0146(c)(6) or (7) or, together with attendant utility and sanitary facilities, meet the flood proofing requirements of FEMA. *Certification* by a registered professional engineer or architect that such requirements are met shall be provided to the City Engineer before final inspection approval. The City Engineer may require a preliminary *certification* before foundation inspection approval.

(9)  Fully enclosed areas below the *lowest floor* that are subject to *flooding* shall be certified by a registered professional engineer or architect that they comply with the flood proofing requirements of FEMA. The *certification* shall be provided to the City Engineer before final inspection approval.
(10) Within *FIRM* Zones AH or AO, new construction and substantial improvements of any structure shall be constructed so that there are adequate drainage paths around structures on slopes to guide *flood* waters around and away from proposed structures.

(d) Standards for Manufactured Homes
All new and replacement manufactured homes and additions to manufactured homes are subject to the following regulations.

(1) The lowest floor shall be elevated at least 2 feet above the base flood elevation.

(2) Manufactured homes shall be securely anchored to a permanent foundation system to resist flotation, collapse, or lateral movement.

(3) A registered engineer or architect must certify that the conditions of this subsection have been met. The certification shall be provided to the City Engineer before final inspection approval.

(4) Within *FIRM* Zones V1-30, VE, and V, the placement or installation of manufactured homes shall comply with the standards for coastal high hazard areas in Section 143.0146(g).

(e) Standards for Utilities
*Certification* shall be provided to the City Engineer before final inspection approval that the following requirements have been met.

(1) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.

(2) On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during *flooding*. 
(f) Standards for Recreational Vehicles

(1) A recreational vehicle, as defined by FEMA and used in this Section, is a vehicle built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled or permanently towable by a light-duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

(2) All recreational vehicles placed in FIRM Zones A1-30, AE and AH shall comply with one of the following:

   (A) Be on the site for fewer than 180 consecutive days; or

   (B) Be fully licensed with the state and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

   (C) Meet the standards for manufactured homes in Section 143.0146(d).

(g) Standards for Coastal High Hazard Area

(1) A coastal high hazard area is an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a FIRM Zone V1-30, VE, or V.

(2) Within coastal high hazard areas, FIRM Zones V1-30, VE, and V, the following standards shall apply:
(A) **All new development**, including *substantial improvement* to an existing *structure*, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of the lowest horizontal structural member of the *lowest floor* (excluding the pilings or columns) is elevated to or about the *base flood* level. The pile or column foundation and *structure* attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the *base flood*. Wind loading values used shall be those required by applicable state or local building standards.

(B) **All new development** shall be located on the landward side of the reach of mean high tide.

(C) **All new development** and any *substantial improvement* to an existing *structure* shall have the space below the *lowest floor* free of obstructions or constructed with breakaway walls. Such enclosed space shall be used solely for parking of vehicles, building access or storage.

(D) *Fill* shall not be used for structural support of buildings.

(E) Man-made alteration of sand dunes which would increase potential *flood* damage is prohibited.

(F) The *applicant* for any new *development* shall provide the following records to the satisfaction of the City Engineer:

   (i) Certification by a registered engineer or architect that a proposed *structure* complies with Section 143.0146(g); and

   (ii) Plans that identify the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the *lowest floor* (excluding pilings or columns) of all new *structures* and any *substantial improvements* to existing *structures*, and whether such *structures* contain a *basement*. 
The City Engineer shall notify the San Diego District Offices of the Coastal Commission of any pending changes to the adopted Flood Insurance Rate Maps affecting property within the Coastal Overlay Zone when the City Engineer receives notification of such potential changes. The City Engineer shall notify the Commission staff when coastal development within the City of San Diego’s Coastal Development Permit jurisdiction would require processing a change to the FIRM maps. The City Engineer shall ensure that the Commission’s District Office has the most current effective Flood Insurance Rate Maps approved by FEMA by forwarding any revised maps affecting the Coastal Overlay Zone within thirty working days of the City Engineer’s receipt.

If a development changes the base flood elevations due to physical alterations, the permit applicant shall be required to submit technical or scientific data to FEMA for a Letter of Map Revision (LOMR) within 6 months of information becoming available or project completion, whichever comes first. All LOMR’s for flood control projects are approved prior to the issuance of Building Permits. Building Permits shall not be issued based on Conditional Letters of Map Revision.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 8-4-2011 by O-20081 N.S.; effective 10-6-2011.)
(Amended 4-5-2016 by O-20634 N.S.; effective 5-5-2016.)

§143.0150 Deviations from Environmentally Sensitive Lands Regulations
Plans submitted in accordance with this section shall, to the maximum extent feasible, comply with the regulations of this division. If a proposed development does not comply with all applicable development regulations of this division and a deviation is requested as indicated in Table 143-01A, the decision maker may approve, conditionally approve, or deny the proposed Site Development Permit in accordance with the following:

(a) Deviations from the regulations of this division may be granted only if the decision maker makes the findings in Section 126.0504(c).

(b) Deviations from the Supplemental Regulations for Special Flood Hazard Areas in Section 143.0146 may be granted only if the decision maker makes the findings in Section 126.0504(d).

(c) Within the Coastal Overlay Zone, deviations from the Environmentally Sensitive Lands Regulations may be granted only if the decision maker makes the findings in Section 126.0708.
(d) Deviations to the wetland regulations in Section 143.0141(b) shall not be granted unless the development is located outside of the Coastal Overlay Zone and qualifies to be processed as one of the three options set forth in the following regulations and in accordance with the Biology Guidelines in the Land Development Manual:

(1) Essential Public Projects Option

(A) A deviation may only be requested for an Essential Public Project where no feasible alternative exists that would avoid impacts to wetlands.

(B) For the purpose of this section, Essential Public Projects shall include:

(i) Any public project identified in an adopted land use plan or implementing document and identified on the Essential Public Projects List adopted by Resolution No. R-307377 as Appendix III to the Biology Guidelines; or

(ii) Linear infrastructure, including but not limited to major roads and land use plan circulation element roads and facilities including bike lanes, water and sewer pipelines including appurtenances, and stormwater conveyance systems including appurtenances; or

(iii) Maintenance of existing public infrastructure; or

(iv) State and federally mandated projects.

(2) Economic Viability Option

A deviation may be requested to preserve economically viable use of a property that would otherwise be deprived by a strict application of the regulations. Such a deviation shall be the minimum necessary to achieve economically viable use of the property and shall avoid wetland resources to the maximum extent practicable.
(3) Biologically Superior Option

(A) A deviation may be requested to achieve a superior biological result which would provide long term biological benefit and a net increase in quality and viability (functions and value), relative to existing conditions or the project originally proposed by the applicant, and long term biological benefit.

(B) Wetland resources that would be impacted by the project shall be demonstrated to be of low biological quality.

(Amended 4-22-2002 by O-19051 N.S.; effective 10-8-2002.)
(Amended 5-7-2012 by O-20161 N.S.; effective 6-6-2012.)
(Amended 2-9-2018 by O-20899 N.S.; effective 3-11-2018.)

[Editors Note: Amendments as adopted by O-20899 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-20899-SO.pdf ]

§143.0151 Alternative Compliance for Steep Hillside Development Area Regulations

Proposed developments that do not comply with the development area regulations of Section 143.0142(a) and do not result in conflicts with other regulations may be considered as alternative compliance as indicated in Table 143-01A, pursuant to the regulations in this section. The Planning Commission may approve, conditionally approve, or deny the proposed Site Development Permit with alternative compliance in accordance with Process Four, subject to the following:

(a) Alternative compliance shall not be used in conjunction with any development permit for a single dwelling unit on an individual lot;

(b) Conformance with all other Environmentally Sensitive Lands Regulations is required unless a deviation is approved with the Site Development Permit, in accordance with Section 143.0150;

(c) Alternative compliance may be granted only if the decision maker makes the findings in Section 126.0504(e); and

(d) Alternative compliance shall not be considered for lands that are designated as open space in the applicable land use plan or that are zoned OR-1-1 or OR-1-2.
(e) Alternative compliance shall not be considered for lands that are within the Coastal Overlay Zone.


§143.0152 Covenants of Easements Pursuant to Environmentally Sensitive Lands Regulations

As authorized by California Government Code Section 65871, the owner of any premises affected by issuance of a permit under this division as described in Section 143.0140(a), shall execute a covenant of easement unless the owner dedicates the remainder portion of the property in fee to the City. The covenant of easement shall be recorded against title to the affected premises and executed in favor of the City.

(a) The owner shall draft the covenant of easement as follows:

1. To contain a legal description of the premises affected by the permit with a description of the development area and the environmentally sensitive lands that will be preserved;

2. To impart notice to all persons to the extent afforded by the recording laws of the state regarding the restrictions affecting use of the environmentally sensitive lands covered by the permit;

3. To ensure that the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the affected premises; and

4. To ensure enforceability of the covenant of easement by the City, or jointly and severally by the City, the U.S. Fish and Wildlife Service, and the California Department of Fish and Wildlife in those instances when the covenant of easement affects premises containing sensitive biological resources or other lands that have been accepted as mitigation.

(b) A Process Four hearing shall be held to consider a formal, written request directed to the City by any person requesting the release of a covenant of easement recorded pursuant to this division. A release of any covenant of easement recorded pursuant to this division shall be recorded by the City only when it is determined by the decision maker that restriction of the property is no longer necessary to achieve the land use goals of the City. In any instance where the covenant of easement concerns sensitive biological resources, a determination by the decision maker to release the covenant may be made only with the written concurrence of the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.
(c) In the Coastal Overlay Zone, the covenant of easement shall be required as a condition of approval at the tentative map stage of coastal development rather than at subsequent stages to the extent possible.


(Amended 2-9-2018 by O-20899 N.S.; effective 3-11-2018.)

[Editors Note: Amendments as adopted by O-20899 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-20899-SO.pdf ]

§143.0155 Administrative Guidelines for Environmentally Sensitive Lands Regulations

The City Manager is authorized to promulgate and publish Steep Hillside Guidelines, Biology Guidelines, Coastal Bluffs and Beaches Guidelines, and other support documents to be located in the Land Development Manual, as necessary to implement this division. These administrative guidelines shall serve as baseline standards for processing Neighborhood Development Permits, Site Development Permits and Coastal Development Permits issued pursuant to this division. Any revisions to these guidelines will require review and approval of the Coastal Commission as an amendment to the City’s certified Local Coastal Program.


EDITORS NOTE: The Land Development Manual includes:
Coastal Bluffs and Beaches Guidelines
Biology Guidelines
Historical Resources Guidelines
Submittal Requirements for Deviations within the Coastal Overlay Zone

§143.0160 Violations and Remedies

The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2, Enforcement Authorities for the Land Development Code

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