

# AGENDA NO. 7



**PLANNING COMMISSION**

**STAFF REPORT**

DATE: July 23, 2007

TO: Chairman and Members of the Planning Commission

FROM: Community Development Department/Planning Division

SUBJECT: **CONSIDERATION OF ZONE AMENDMENT (ZA-4-07) AND LOCAL COASTAL PLAN AMENDMENT (LCPA-2-07) AMENDING SECTIONS OF THE OCEANSIDE ZONING ORDINANCE TO ADD A NEW USE CLASSIFICATION AND AMEND RELATED CODE SECTIONS TO REGULATE PAYDAY LOAN/PAYCHECK ADVANCE BUSINESSES AND LIMITING WHERE SUCH BUSINESSES MAY BE PERMITTED – PAYDAY LOAN/PAYCHECK ADVANCE REGULATIONS – APPLICANT: CITY OF OCEANSIDE**

## **RECOMMENDATION**

Staff recommends that the Planning Commission by motion:

1. Confirm issuance of a Class 8, Categorical Exemption per Section 15308 of the California Environmental Quality Act; and
2. Adopt Planning Commission Resolution No 2007-P39 recommending approval of Zoning Amendment (ZA-4-07) and Local Coastal Plan Amendment (LCPA-2-07) with findings of approval attached herein.

## **PROJECT DESCRIPTION AND BACKGROUND**

At the January 17, 2007 City Council meeting Major General Michael R. Lehnert presented information and raised issues regarding operations of non-traditional lending businesses (payday loan/paycheck advance establishments) within the City of Oceanside. At that time the City Council directed the City Attorney and planning staff to evaluate current zoning regulations applicable to the aforementioned land uses and bring back an ordinance that would regulate such businesses through the conditional use permit process. Under current zoning ordinance regulations payday loan/paycheck advance establishments are subject to the same zoning provisions as "Banks Savings

and Loans” and can be established without discretionary land use review and approval of a conditional use permit within the majority of commercial districts.

Staff met with supporters and opponents of the lending industry, considered studies on non-traditional lending industry practices and potential land use impacts. Based on staff’s research and issues related to the unique operational characteristics of non-traditional lending businesses it was determined that a zoning text amendment is necessary to separately define and regulate such uses.

The proposed amendment involves the following additions and revisions to the zoning ordinance:

1) Article 4 - Use Classification: Addition of a new commercial use classification for payday loan/paycheck advance businesses, defined as follows:

“A person or persons that for compensation, engages in whole or in part, in the business of lending limited amounts of funds for a short-term, against the borrower’s future paychecks. The aforementioned definition excludes State or federally chartered banks, saving associations, credit unions, or industrial loan companies offering direct deposit advance service to their customers that is incidental to their main purpose or business.”

2) Article 11 - Commercial Districts: Addition of the payday loan/paycheck advance use classification to the commercial zone land use chart, permitting the establishment of said uses within the Community Commercial and General Commercial zoning districts, subject to approval of a conditional use permit by the City Council and compliance with Article 36 of the zoning ordinance.

3) Article 36 - Separation of Regulated Uses: Addition of the payday loan/paycheck advance use classification as a regulated land use. Establishment of the subject use as a regulated use would impose the following locational requirements: a) Minimum separation of 1,000-ft. to any other regulated use; b) Minimum separation of 500-ft. from any residential, public or private school, park, playground or public beach, church or similar religious facility and child care or pre-school facility.

The proposed zoning ordinance requirements would apply to all new and pending payday loan/paycheck advance proposals as of the time of adoption of the ordinance amendment. Established payday loan/paycheck advance uses not in compliance with the aforementioned regulations would be considered existing non-conforming and would be subject to compliance with Article 35 – Non-conforming Uses and Structures, in terms of operation and termination of non-conforming uses.

## ANALYSIS

### DISCUSSION

The City Council has previously found that the location and concentration of certain businesses, defined as "regulated uses", can create conditions harmful to public health, welfare and safety due to the nature of their operations, type of clientele and hours of operation. When such uses are allowed to become numerous within a limited geographic area they could adversely impact the quality of life in the area, revitalization and neighborhood preservation efforts. "Regulated Uses" include but are not limited to arcades and game centers, tobacco and drug paraphernalia establishments, liquor stores, pool and billiard rooms, massage establishments, and adult entertainment businesses. All regulated uses are subject to locational distance separation requirements and are subject to review and approval of a conditional use permit by the City Council prior to their establishment.

The Oceanside zoning ordinance does not define or specifically regulate non-traditional lending establishments. Current zoning ordinance regulations and land use definitions allow the establishment of non-traditional lending uses without discretionary review within most commercial zoning districts and along the City's major corridors. Many Oceanside commercial corridors are narrow in width and bounded by residential zoning districts, placing such businesses in proximity to residential neighborhoods and other sensitive land uses.

A total of sixteen payday loan/paycheck advance businesses operate within the City of Oceanside. Many of the businesses maintain extensive and non-traditional hours of operation, maximize upon signage and/or other means of advertising causing aesthetic impacts and are subject to frequent code enforcement compliance actions. Crime statistics within 1/5 mile from existing non-traditional lending facilities indicate a high percentage of crime incidents within the immediate area of such establishments, however conclusions specifically tying the criminal activities to the payday loan uses cannot be drawn due to their proximity to other potential crime sources/causes.

Windshield surveys conducted by staff confirm reports on non-traditional lending businesses which indicate that payday loan/paycheck advance establishments are typically located in lower income neighborhoods, in proximity to military bases, and or in areas in need of urban revitalization. In Oceanside the majority of payday loans/payday advance businesses can also be found in proximity to "regulated uses" and "adult-oriented" uses.

Based on the above findings and in order to ensure that the location and operation of non-traditional lending establishments do not interfere with residential uses, do not adversely affect property values; do not contribute to enforcement problems, and do not support/advocate the over-concentration of other regulated uses, staff recommends: a) that payday loan/paycheck advance businesses are separately defined and classified as a "regulated use"; b) their establishment is limited to the General Commercial (CG)

and Community Commercial (CC) zoning district areas and only allowed upon review/approval of a conditional use permit; and c) special regulations separating non-traditional lending establishments from other such businesses, residential districts, regulated uses and other sensitive uses be set in place. Implementation of the proposed regulations will result in the review, approval, establishment and operation of non-traditional lending businesses in a compatible and complimentary manner to other uses in the immediate area - on a case by case basis.

**ENVIRONMENTAL DETERMINATION**

The proposed zone text amendment and local coastal plan amendment is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15308 "Actions by Regulatory Agencies for Protection of the Environment", as a Class 8 exemption.

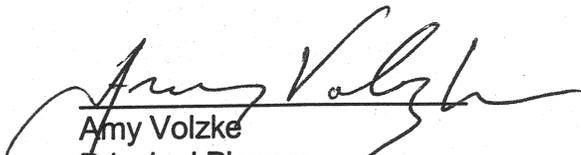
**SUMMARY**

Approval and implementation of Zoning Amendment (ZA-4-07) and Local Coastal Plan Amendment (LCPA-2-07) will ensure that establishment of new payday loan/paycheck advance businesses within the City of Oceanside would not adversely impact the quality of life, the character of the community or impair the integrity of the underlying zoning district. As such, staff recommends that the Planning Commission:

- Adopt Planning Commission Resolution No 2007-P39 recommending approval of Zoning Amendment (ZA-4-07) and Local Coastal Plan Amendment (LCPA-2-07) with findings of approval attached herein.

PREPARED BY:

SUBMITTED BY:

  
Amy Volzke  
Principal Planner

  
Jerry Hittleman  
City Planner

AV/fil

Attachments:

1. Planning Commission Resolution No. 2007-P39
2. Exhibit "A" - Zoning Ordinance Legislative Draft

**ATTACHMENT 1**

1 PLANNING COMMISSION  
2 RESOLUTION NO. 2007-P39

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE  
4 CITY OF OCEANSIDE, CALIFORNIA RECOMMENDING  
APPROVAL OF A ZONE AMENDMENT AND LOCAL  
COASTAL PROGRAM AMENDMENT

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5 APPLICATION NO: ZA-4-07, LCPA-2-07  
6 APPLICANT: City of Oceanside  
7 LOCATION: Citywide

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8 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
9 RESOLVE AS FOLLOWS:

10 WHEREAS, there was filed with this Commission a verified petition on the forms  
11 prescribed by the Commission requesting a Zone Amendment and Local Coastal Program  
12 Amendment under the provisions of Article 45 of the Zoning Ordinance of the City of Oceanside  
13 to permit the following:

14 Zoning Ordinance text amendment as shown in the attached Exhibit "A";

15 WHEREAS, the Planning Commission, after giving the required notice, did on the 23rd  
16 day of July, 2007, conduct a duly advertised public hearing as prescribed by law to consider said  
17 application; and

18 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State  
19 Guidelines thereto; a Notice of Exemption has been prepared for the project; and

20 WHEREAS, studies and investigations made by this Commission and in its behalf reveal  
21 the following facts:

22 For the Zone Amendment and Local Coastal Program Amendment:

- 23 1. The Zone Text Amendment, as proposed, conforms to the General Plan of the City.
- 24 2. That the granting of the Zoning Amendment is consistent with the purposes of the  
25 Zoning Ordinance.
- 26 3. The Zone Amendment conforms to the Local Coastal Plan, including the policies of the  
27 plan.

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1 4. The Zone Amendment conforms to the California Coastal Act of 1976.

2 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
3 recommend approval of Zone Amendment (ZA-4-07) and Local Coastal Program Amendment  
4 (LCPA-2-07) as represented in the attached Exhibit "A".

5 PASSED AND ADOPTED Resolution No. 2007-P39 on July 23, 2007 by the following  
6 vote, to wit:

7 AYES:

8 NAYS:

9 ABSENT:

10 ABSTAIN:

11 \_\_\_\_\_  
12 Dennis Martinek, Chairman  
13 Oceanside Planning Commission

14 ATTEST:

15 \_\_\_\_\_  
16 Jerry Hittleman, Secretary

17 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that  
18 this is a true and correct copy of Resolution No. 2007-P39.

19 Dated: July 23, 2007  
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**ATTACHMENT 2**

## **Article 4 Use Classifications**

### **Sections:**

- 410 Purpose and Applicability
- 420 Uses Not Classified
- 430 Residential Use Classifications
- 440 Public and Semipublic Use Classifications
- 450 Commercial Use Classifications
- 460 Industrial Use Classifications
- 470 Agricultural and Extractive Use Classifications
- 480 Accessory Use Classifications
- 490 Temporary Use Classifications

### **410 Purpose and Applicability**

Use classifications describe one or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The Planning Director shall determine whether a specific use shall be deemed to be within one or more use classifications or not within any classification in this Title. The Planning Director may determine that a specific use shall not be deemed to be within a classification, whether or not named within the classification, if its characteristics are substantially incompatible with those typical of uses named within the classification. The Planning Director's decision may be appealed to the Planning Commission.

### **420 Uses Not Classified**

Any new use, or any use that cannot be clearly determined to be in an existing use classification, may be incorporated into the zoning regulations by a Zoning Ordinance text amendment, as provided in Article 45.

### **430 Residential Use Classifications**

- A. Day Care, Limited. Non-medical care and supervision of up to and including fourteen persons on a less than 24-hour basis within a licensee's home for children and adults.
- B. Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes boardinghouses, dormitories, fraternities, sororities, and private residential clubs, but excludes residential hotels (see Single-Room Occupancy (SRO) Residential Hotels).

- C. Live/Work Quarters. An area comprising one or more rooms in a building originally designed for industrial or commercial occupancy that includes cooking space, sanitary facilities, and working space for artists, artisans and similarly activities and Custom Industry uses as defined herein.
- D. Multifamily Residential. Two or more dwelling units on a site. This classification includes mobile home and factory-built housing.
- E. Residential Care, Limited. Twenty-four-hour non-medical care for six or fewer persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.
- F. Single-Family Residential. Buildings containing one dwelling unit located on a single lot. This classification includes mobile home and factory-built housing.
- G. RV Parks. A facility renting or leasing space on a short-term or long-term basis to owners or users of recreational vehicles, not for permanent residence.

#### **440 Public and Semipublic Use Classifications**

- A. Airport. Runways and related facilities for airplane landing and take-off.
- B. Cemetery. Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes. Cemetery purposes include columbariums, crematoriums, mausoleums, and mortuaries operated in conjunction with the cemetery.
- C. Child Care. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity, and not within a licensee's home for persons under the age of 18.
- D. Clubs and Lodges. Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls, social clubs, youth, and senior centers.
  - 1. Small scale. Establishments occupying no more than 5,000 square feet.

- E. Convalescent Facilities. Establishments providing care on a 24-hour basis for persons requiring regular medical attention, but excluding facilities providing surgical or emergency medical services.
- F. Cultural Institutions. Nonprofit institutions displaying or preserving objects of interest in one or more of the arts or sciences. This classification includes libraries, museums, and art galleries.
1. Small-scale. Establishments occupying no more than 5,000 square feet.
- G. Day Care, General. Non-medical care and supervision on a less than 24-hour basis in any care facility of any capacity, and not within a licensee's home for persons over the age of 18.
- H. Detention Facilities. Publicly owned and operated facilities providing housing, care, and supervision for persons confined by law.
- I. Emergency Health Care. Facilities providing emergency medical service with no provision for continuing care on an inpatient basis.
- J. Emergency Shelter. Overnight sleeping accommodations intended to provide temporary housing to homeless families and/or individuals. Such accommodations may include basic supportive services such as food, shower and rest room facilities, laundry room, storage areas, and limited administrative or intake offices.
- K. Government Offices. Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.
1. Small-scale. Establishments occupying no more than 5,000 square feet.
- L. Heliports. Pads and facilities enabling takeoffs and landings by helicopters.
- M. Hospitals. Facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons, primarily on an inpatient basis. This classification includes incidental facilities for outpatient treatment, as well as training, research, and administrative services for patients and employees.

- N. Maintenance and Service Facilities. Facilities providing maintenance and repair services for vehicles and equipment, and materials storage areas. This classification includes corporation yards, equipment service centers, and similar facilities.
- O. Marinas. A boat basis with docks, mooring facilities, supplies and equipment for boats.
- P. Park and Recreation Facilities. Noncommercial parks, playgrounds, recreation facilities, and open spaces.
- Q. Public Safety Facilities. Facilities for public safety and emergency services, including police and fire protection.
1. Small-scale. Establishments occupying no more than 5,000 square feet.
- R. Religious Assembly. Facilities for religious worship and incidental religious education and other religious facility related supportive and social services. This use classification specifically excludes private schools as defined in this section.
1. Small-scale. Establishments occupying no more than 5,000 square feet.
- S. Residential Care, General. Twenty-four hour non-medical care for seven or more persons, including wards of the juvenile court, in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living.
- T. Resource Centers. Neighborhood facilities that are City-sponsored or under the control of the City and are used for neighborhood safety, enhancement, education, health care, and other similar neighborhood programs.
- U. Schools, Public or Private. Educational institutions having a curriculum comparable to that required in the public schools of the State of California.
- V. Transitional Housing. Transitional housing encompasses both housing and appropriate supportive services for homeless persons designed to enable them to move to independent living within a 24-month period.
- W. Utilities, Major. Generating plants, electrical substations, aboveground electrical transmission lines, lone switching buildings, refuse collection, transfer, recycling or disposal facilities, water reservoirs, flood

control or drainage facilities, water or waste water treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities. A structure that may have a significant effect on surrounding uses shall be regulated under this classification.

- X. Utilities, Minor. Utility facilities that are necessary to support legally established uses and involve only minor structures such as electrical distribution lines, underground water and sewer lines, and recycling centers within convenience zones, as defined by the California Beverage Container Recycling and Litter Reduction Act.

#### 450 Commercial Use Classifications

- A. Adult Businesses. Establishments based primarily on materials or performances that depict, describe, or relate to "specified sexual activities", as defined in Article 36. This classification includes adult businesses that are listed as "regulated uses", as defined in Article 36, Section 3602.
- B. Ambulance Services. Provision of emergency medical care or transportation, including incidental storage and maintenance of vehicles.
- C. Animal Sales and Services.
1. Animal Boarding. Provision of shelter and care for animals on a commercial basis. This classification includes activities such as feeding, exercising, grooming, and incidental medical care.
  2. Animal Grooming. Provision of bathing and trimming services for animals on a commercial basis. This classification includes boarding of domestic animals for a maximum period of 48 hours.
  3. Animal Hospitals. Establishments where animals receive medical and surgical treatment. This classification includes only facilities that are entirely enclosed, soundproofed, and air-conditioned. Grooming and temporary (30 days) boarding of animals is included if incidental to the hospital use.
  4. Animals: Retail Sales. Retail sales and boarding of animals provided such activities take place within an entirely enclosed building. This classification includes grooming if incidental to the retail use, and boarding of animals not offered for sale for a maximum period of 48 hours.

- D. Artists Studios. Work and display space for artists and artisans, including individuals practicing one of the fine arts or performing arts, or skilled in an applied art or craft.
1. Small-scale. Establishments occupying no more than 5,000 square feet.
- E. Banks and Savings and Loans. Financial institutions that provide retail banking services to individuals and businesses. This classification is limited to institutions engaged in the on-site circulation of cash money including businesses offering check-cashing facilities.
1. Drive-through/Drive-up Service. Institutions providing self-service banking facilities that are not associated with a primary banking or savings and loan building located on the same site.
  2. Self-service Facilities (ATM's). Institutions providing self-service banking facilities that are not associated with a primary banking or savings and loan building located on the same site.
- F. Building Materials and Services. Retailing, wholesaling, or rental of building supplies or equipment. This classification includes lumber yards, tool and equipment sales or rental establishments, and building contractors' yards, but excludes establishments devoted exclusively to retail sales of paint and hardware, and activities classified under Vehicle/Equipment Sales and Services, including vehicle towing services.
- G. Catering Services. Preparation and delivery of food and beverages for off-site consumption with provision for on-site pickup or consumption not to exceed 1,000 square feet. (See also Eating and Drinking Establishments.)
- H. Commercial Recreation and Entertainment. Provision of participant or spectator recreation or entertainment. This classification includes theaters, sports stadiums and arenas, amusement parks, bowling alleys, billiard parlors, pool rooms, dance halls, ice/roller skating rinks, golf courses, miniature golf courses, scale-model courses, shooting galleries, tennis/racquetball courts, arcades and games centers having five or more coin-operated game machines and card rooms.

1. Limited. Indoor movie theaters and performing arts theaters.
  2. Small-scale. Establishments occupying no more than 5,000 square feet.
- I. Communications Facilities. Broadcasting, recording, and other communication services accomplished through electronic or telephonic mechanisms, but excluding Utilities (Major). This classification includes radio, television, or recording studios; telephone switching centers; and telegraph offices.
- J. Eating and Drinking Establishments. Businesses providing for the preparation and the service of food or beverages for consumption on or off the premises.
1. Drive-through/Drive-up. Service from a building to persons in vehicles through an outdoor service window (Drive-through) or delivery service to vehicles parked in designated parking spaces (Drive-up).
  2. With Live Entertainment. Establishments providing live entertainment for patrons.
    - (a) Small-scale. Establishments with 5 or fewer performers, 75 percent food sales compared to alcohol sales, no dance floor and with entertainment provided only during typical lunch and dinner hours (11:00 AM - 11:00 PM).
- K. Food and Beverage Sales. Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries, liquor stores, or delicatessens. Establishments at which 20 percent or more of the transactions are sales of prepared food for on-site or take-out consumption shall be classified as Catering Services or Eating and Drinking Establishments.
1. Convenience Markets. Retail sales of food, beverage and small convenience items typically found in establishments with long or late hours of operation. This definition excludes delicatessens and other specialty food shops having a sizeable assortment of fresh fruits and vegetables, and fresh-cut meat or fish.
- L. Funeral and Interment Services. Establishments primarily engaged in the provision of services involving the care, preparation or disposition of human dead other than in cemeteries. Typical uses include crematories, columbariums, mausoleums or mortuaries.

- M. Home Improvement. Retailing or wholesaling of goods to be used for home improvements or the furnishing of homes. This classification is limited to specialty businesses in which the primary inventory of the business includes one of the following merchandise; furniture, carpet and other floor coverings, window coverings, wall coverings, bed and bath products, kitchen remodels, doors and windows, garage doors, glass, paint, mattresses, cabinets and shelves, fireplaces, patios, lighting materials, pool and spas, and similar uses. This use classification does not include a comprehensive home improvement store.
- N. Horticulture, Limited. The raising of fruits, vegetables, flowers, ornamental trees and shrubs on sites of 2.5 acres or less, as a wholesale commercial enterprise, provided that nursery equipment or materials necessary for the operation shall be stored on-site within structures. Wholesale commercial horticulture accessory to a dwelling unit shall be regulated as a home occupation. On-site Agricultural Sales Stands may be allowed subject to the location and development standards of Section 3038.
- O. Laboratories. Establishments providing medical or dental laboratory services; or establishments with less than 2,000 square feet providing photographic, analytical, or testing services. Other laboratories are classified as Limited Industry.
- P. Maintenance and Repair Services. Establishments providing appliance repair, office machine repair, or building maintenance services. This classification excludes maintenance and repair of vehicles or boats and ships (see Vehicle/Equipment Repair and Marine Sales and Services).
- Q. Marine Sales, Rentals, and Services. Establishments providing supplies and equipment for shipping or related services, or pleasure boating and recreation. Typical uses include chandleries, yacht brokerage, sales, boat yards, boat docks, and sail-making lofts.
- R. Nurseries. Wholesale or retail establishments for the selling of plants, shrubs, trees and related products in which all merchandise other than plants is kept within an enclosed building or a fully screened enclosure, and fertilizer or chemicals of any type are stored and sold in package form only. Nurseries may include the growing

and propagation of plants as part of the operation.

S. Offices, Business and Professional. Offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, engineering, real estate, insurance, investment, legal, and medical/dental offices. This classification includes medical/dental laboratories incidental to an office use, but excludes banks and savings and loan associations.

T. Payday Loan/ Paycheck Advance Establishments. A person or entity that for compensation, engages in whole or in part, in the business of lending limited amounts of funds for a short-term, against the borrower's future paychecks. The aforementioned definition excludes State or federally chartered banks, savings associations, credit unions, or industrial loan companies offering direct deposit advance service to their customer that is incidental to their main purpose or business.

T.U. Pawn Shops. Establishments engaged in the buying or selling of new or secondhand merchandise and offering loans secured by personal property and subject to Chapter 22 of the Municipal Code.

U.V. Personal Improvement Services. Provision of instructional services or facilities, including: photography, fine arts, crafts, dance or music studios; driving, business or trade schools; diet centers, or reducing salons; and health/fitness studios, spas or clubs.

1. Health/Fitness Studios, Spas or Clubs. Establishments with equipment for exercise and physical conditioning.
2. Massage Establishments. Establishments providing massage service.
3. Small Scale. Establishments occupying no more than 5,000 square feet.

V.W. Personal Services. Provision of services of a personal nature. This classification includes: barber and beauty shops, seamstresses, tailors, shoe repair shops, laundry and dry cleaning agencies (excluding large-sale plants - see Section 460.B.1), photo-copying, word processing, packaging, postal and office supply support facilities, and self-service laundries.

1. Limited. Excludes laundry and dry cleaning agencies and self-service laundries.
2. Small-scale. Establishments occupying no more than 2,500 square feet.

W-X. Research and Development Services. Establishments primarily engaged in industrial or scientific research, including limited product testing. This classification includes electronic research firms, pharmaceutical research laboratories, and medical testing and analysis, but excludes manufacturing, except of prototypes.

X-Y. Retail Sales. The retail sale of merchandise not specifically listed under another use classification. This classification includes department stores, clothing stores, comprehensive home improvement stores, furniture stores, and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies (including limited processing), electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, antiques, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

1. Limited. Excludes comprehensive home improvement stores, furniture, hardware, paint and wallpaper, carpeting and floor covering, and new automotive parts and accessories.
2. Pharmacies and Medical Supplies. Establishments primarily selling prescription drugs, and medical supplies and equipment.

Y-Z. Secondhand Furniture, Appliance, "Collectible" and Clothing Sales. The retail sale of used furniture, appliances, "collectibles" and clothing, and secondhand dealers who are subject to Chapter 22 of the Municipal Code. This classification excludes antique shops primarily engaged in the sale of antique furniture and accessories.

1. Small-scale. Establishments occupying no more than 5,000 square feet.

Z-AA. Swap Meets, Recurring. Retail sale or exchange of handcrafted or secondhand merchandise for a maximum period of 48 hours, conducted by a sponsor on a more than twice yearly basis.

~~AA~~-BB. Travel Services. Establishments providing travel information and reservations to individuals and businesses. This classification excludes car rental agencies.

~~BB~~-CC. Vehicle/Equipment Sales and Services.

1. Automobile Washing. Washing, waxing, or cleaning of automobiles or similar light vehicles.
2. Commercial Parking Facility. Lots offering short-term or long-term parking to the public for a fee.
3. Service Stations. Establishments engaged in the retail sale of gas, diesel fuel, lubricants, parts, and accessories. This classification includes incidental maintenance and repair of automobiles and light trucks, but excludes body and fender work or repair of heavy trucks or vehicles.
4. Vehicle/Equipment Repair. Repair of automobiles, trucks, motorcycles, mobile homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This classification includes auto repair shops, body and fender shops, wheel and brake shops, and tire sales and installation, but excludes vehicle dismantling or salvage and tire retreading or recapping.
  - (a) Limited. Excludes body and fender shops.
5. Vehicle/Equipment Sales and Rentals. Sale or rental of automobiles, motorcycles, trucks, tractors, construction or agricultural equipment, mobile homes, and similar equipment, including storage and incidental maintenance.
6. Vehicle Storage. Storage of operative or inoperative vehicles. This classification includes storage of parking tow-aways, impound yards, and storage lots for automobiles, trucks, buses and recreational vehicles, but does not include vehicle dismantling.
  - (a) Limited. Storage of operable passenger automobiles, standard and small vans and motorcycles.

~~CC~~-DD. Visitor Accommodations.

1. Bed and Breakfast Inns. Establishments offering lodging on a less than weekly basis in a converted single-family or multi-family dwelling, with incidental eating and drinking service for lodgers only provided from a single kitchen.
    - (a) Small-scale. Establishments renting four or fewer rooms.
  2. Hotels, Motels, and Time-Share Facilities. Establishments offering commercial lodging on a less than monthly basis. This classification includes incidental eating, drinking, and banquet services intended for the convenience of guests.
  3. Single-Room Occupancy (SRO) Residential Hotels. Buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests.
  4. Vacation Club. Prepaid point or credit based establishments offering lodging on a less than weekly basis and having kitchens. This classification includes eating, drinking and banquet services.
- ~~DD.~~ EE. Warehousing and Storage, Limited. Provision of storage space for household or commercial goods within an enclosed building. Access to individual storage units shall be via an interior accessway. Exterior entry to individual storage units shall not be permitted. This classification includes facilities with a maximum of 5,000 square feet of gross floor area, but excludes Wholesale, Distribution and Storage, and Vehicle Storage. "Limited" vehicle storage as part of a Warehousing and Storage, Limited, facility is permitted subject to the approval of a Conditional Use Permit.

#### 460 Industrial Use Classifications

- A. Food Processing. Establishments primarily engaged in the manufacturing or processing and packaging of food or beverages for human consumption and wholesale distribution.
  1. Limited. Establishments of less than 2500 square feet of floor area.
- B. Industry, Custom. Establishments primarily engaged in on-site production of goods by hand manufacturing involving the use of hand tools and small-scale equipment. This use may include affiliated office and

support facilities and limited showroom and a retail sales area when clearly secondary and associated with the primary business.

1. Limited. Includes mechanical equipment not exceeding two horsepower or a single kiln not exceeding eight kilowatts and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle-making shops, and custom jewelry manufacture.

C. Industry, General. Manufacturing of products, primarily from extracted or raw materials, or bulk storage and handling of such products and materials. Uses in this classification typically involve a high incidence of truck or rail traffic, and/or outdoor storage of products, materials, equipment, or bulk fuel. This classification includes chemical manufacture or processing, large scale laundry and dry cleaning plants, auto dismantling within an enclosed building, oil and gas refining, stonework and concrete products manufacture, small animal production and processing within an enclosed building and power generation.

1. Large Scale Laundry and Dry Cleaning Plants. A laundry or dry cleaning facility having any of the following or similar type equipment:

- (a) Boiler(s) exceeding a total of 15 horsepower;
- (b) Dry cleaning machine(s) exceeding 60 pounds total capacity;
- (c) Dryer(s) exceeding 50 pounds total capacity;
- (d) Wet cleaning washer(s) exceeding 50 pounds total capacity.

D. Industry, Limited. Manufacturing of finished parts or products, primarily from previously prepared materials; and provision of industrial services; both within an enclosed building. This classification includes processing, fabrication, assembly, treatment, and packaging, but excludes basic industrial processing from raw materials, and Vehicle/Equipment Services. This classification may include affiliated office and support facilities and a limited showroom and retail sales area when clearly secondary and associated with the primary business.

1. Small-Scale. Limited to a maximum gross floor area of 5,000 square feet.

- E. Industry, Research and Development. Establishments primarily engaged in the research, development, and controlled production of high-technology electronic, industrial or scientific products or commodities for sale, but prohibits uses that may be objectionable in the opinion of the Planning Director, by reason of production of offensive odor, dust, noise, vibration, or storage of hazardous materials. Uses include biotechnology, films, and non-toxic computer component manufacturers. This classification may include affiliated office and support facilities and a limited showroom and retail sales area when clearly secondary and associated with the primary business.
- F. Wholesaling, Distribution and Storage. Storage and distribution facilities. This classification may include affiliated office and support facilities and a limited showroom and retail sales area when clearly secondary and associated with the primary business.
1. Trucking Terminals. Storage and distribution facilities having more than six heavy trucks on the premises at one time, but excluding trucking accessory to a Limited or General Industry classification.
  2. Small-Scale. Wholesaling, distribution and storage having a maximum gross floor area of 5,000 square feet and having no more than two docks or service bays.

#### **470 Agricultural and Extractive Use Classifications**

- A. Animal Husbandry. Raising of animals or production of animal products, such as eggs or dairy products, on an agricultural or wholesale commercial basis. Typical uses include grazing, ranching, animal breeding, dairy farming, and poultry farming.
- B. Crop Production. Raising and harvesting of tree crops, row crops, greenhouse crops or field crops on sites of greater than 2.5 acres on an agricultural or wholesale commercial basis, including packing and processing.
- C. Mining and Processing. Places or plants primarily devoted to surface or subsurface mining of metallic and nonmetallic minerals, oil or gas, together with essential on-site processing and production of only nonmetallic mineral products. Typical places are borrow pits, quarries, oil and gas drilling rigs, or concrete batch plants. This classification specifically excludes any activities that are directly or indirectly associated

with off-shore oil and gas exploration, production, or processing.

#### **480 Accessory Use Classifications**

- A. Accessory Uses and Structures. Uses and structures that are incidental to the principal permitted or conditionally permitted use or structure on a site and are customarily found on the same site. This classification includes accessory dwelling units ("second units") and home occupations.

#### **490 Temporary Use Classifications**

- A. Agricultural Specialty Sales, Seasonal. Retail sale of seasonal specialty items for a period not to exceed 45 days (e.g. Christmas Tree Sales, Pumpkin Sales).
- B. Yard/Garage Sales. A sales event advertised by any means at a residential location where members of the public may purchase identifiable or tangible items of personal property; provided however, it shall not mean any event which constitutes a sales activity, wholesale or retail, by any business which has a current business license issued by the City. Items sold shall be limited to personal property owned by the occupant of the property and/or surrounding neighbors.

## **Article 11 C Commercial Districts**

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### **Sections:**

- 1110 Specific Purposes
- 1120 CN, CC, CG, CL, CR, CV, CS, and CP Districts:  
Land Use Regulations
- 1130 CN, CC, CG, CL, CR, CV, CS, and CP Districts:  
Property Development Regulations
- 1140 Review of Plans

### **1110 Specific Purposes**

In addition to the general purposes listed in Article 1, the specific purposes of commercial district regulations are to:

- A. Provide appropriately located areas consistent with the General Plan for a full range of office, retail commercial, and service commercial uses needed by residents of, and visitors to, the city and region.
- B. Strengthen the city's economic base, and provide employment opportunities close to home for residents of the city and surrounding communities.
- C. Create suitable environments for various types of commercial uses, and protect them from the adverse effects of inharmonious uses.
- D. Minimize the impact of commercial development on adjacent residential districts.
- E. Ensure that the appearance and effects of commercial buildings and uses are harmonious with the character of the area in which they are located.
- F. Ensure the provision of adequate off-street parking and loading facilities.
- G. Provide sites for public and semipublic uses needed to complement commercial development or compatible with a commercial environment.

The additional purposes of each C district are as follows:

CN Neighborhood Commercial District. To provide sites for businesses serving the daily needs of nearby residential areas while establishing development standards that prevent significant adverse effects on residential uses adjoining a CN district.

CC Community Commercial District. To provide sites for commercial centers containing a wide variety of commercial establishments, including businesses selling home furnishings, apparel, durable goods, and specialty items and generally having a citywide market area. Support facilities such as entertainment and eating-and-drinking establishments are permitted, subject to certain limitations to avoid adverse effects on adjacent uses.

CG General Commercial District. To provide opportunities for the full range of retail and service businesses deemed suitable for location in Oceanside, including businesses not permitted in other commercial districts because they attract heavy vehicular traffic or have certain adverse impacts; and to provide opportunities for certain limited manufacturing uses that have impacts comparable to those of permitted retail and service uses to occupy space not in demand for retailing or services.

CL Limited Commercial District. To provide opportunities for a limited range of retail and service businesses that do not generate significant amounts of traffic, nor have high public service demands. Automobile-oriented uses, such as service stations and drive-up restaurants, are not permitted or are limited.

CR Commercial Recreation District. To provide sites for recreation-oriented residential and commercial activities conveniently located near recreational and scenic areas with easy access to freeways, expressways and arterials.

CV Visitor-Commercial District. To provide opportunities for recreation-oriented and visitor-serving commercial activities conveniently located near recreational and scenic areas. This district is intended for specialized commercial uses directly dependent, supportive or related to the Coast, including the Harbor, the San Luis River area, and the municipal pier.

CS Special Commercial District. To provide opportunities for residential, commercial, public and semipublic uses appropriate for the special commercial areas identified by the General Plan. Subdistrict designators are established as:

- HO for highway oriented commercial areas;
- L for limited commercial areas including the Mission Area and certain scenic areas.

CP Commercial Professional District. To provide a landscaped environment for offices that is protected from the more intense levels of activity associated with retail commercial development.

The specific purposes of the Mixed-Use Plan are to:

- A. Establish a procedure for the development of parcels as a mixed-use development.
- B. Ensure orderly and thorough planning and review procedures that will result in quality urban design.
- C. Encourage variety and avoid monotony in developments by allowing greater freedom in selecting the means to provide access, light, open space and amenities.
- D. Provide a mechanism whereby the City may authorize desirable developments consistent with the General Plan without inviting speculative rezoning applications, which, if granted, often could deprive other owners of development opportunities without resulting in construction of the proposed facilities.
- E. Encourage the preservation of serviceable existing structures of historic value or artistic merit by providing the opportunity to use them imaginatively for purposes other than that for which they were originally intended.
- F. Encourage the assembly of properties that might otherwise be developed in unrelated increments to the detriment of surrounding neighborhoods.

**1120 CN, CC, CG, CL, CR, CV, CS, and CP Districts: Land Use Regulations**

In the following schedules, the letter "P" designates use classifications permitted in commercial districts. The letter "L" designates use classifications subject to certain limitations prescribed by the "Additional Use Regulations" that follow. The letter "U" designates use classifications permitted on approval of a use permit. The letters "P/U" designate use classifications permitted on the site of a permitted use, but requiring a use permit on the site of a conditional use. Use classifications that are not listed are prohibited. Letters in parentheses in the "Additional Regulations" column reference regulations following the schedule or located elsewhere in this ordinance. Where letters in parentheses are opposite a use classification heading, referenced regulations shall apply to all use classifications under the heading.

**CN, CC, CG, CL, CR, CV,  
CS, AND CP DISTRICTS:  
LAND USE REGULATIONS**

- P - Permitted
- U - Use Permit
- L - Limited, (See Additional Use Regulations)
- - Not Permitted

	CN	CC	CG	CL	CR	CV	CS- HO	CS -L	CP	Add. Reg.
<b>Residential</b>										(A)
Day Care, Ltd.	P	P	P	P	P	P	P	P	P	
Single-family Residential	L1	-	L1	L1	L1	-	L1	L1	P	
RV Parks	-	-	U	-	-	U	-	-	-	(L)
<b>Public and Semipublic</b>										(A) (T)
Child Care Clubs and Lodges	L-11	L-11	L-11							
	L29	L29	L29	L29	L29	-	L29	U	L29	

**C Commercial Land Use Regulations (continued)**

	CN	CC	CG	CL	CR	CV	CS- HO	CS -L	CP	Add. Reg.
Convalescent Facilities	-	-	-	-	-	-	-	-	U	
Cultural Institutions	L29	L29	L29							
Day Care, General	U	U	U	U	U	U	U	U	U	
Emergency Health Care	L15	L15	L15	-	-	-	L15	L15	L15	
Emergency Shelter	U	U	U	U	-	-	U	-	U	
Government Offices	L29	L29	L29	L29	-	-	L29	-	P	(T)
Heliports	-	-	-	-	U	-	-	-	U	(B)
Hospitals	-	U	-	-	-	-	U	-	U	
Park and Recreation Facilities	-	P	-	-	P	P	P	P	P	(C)
Public Safety Facilities	U	U	U	U	U	U	U	U	U	
Religious Assembly	L26	L26	L26	L26	-	-	-	L33	L26	(M)
Residential Care, General	L34	L34	L34	L34	-	-	L34	L34	U	
Resource Centers	L27	L27	L27							
Schools, Public or Private	U	U	U	U	-	-	U	U	U	
Transitional Housing	U	-	U	U	-	-	U	-	U	
Utilities, Major	L19	L19	L19							
Utilities, Minor	P	P	P	P	P	P	P	P	P	(Q)
<b>Commercial Uses</b>										(A) (D) (J) (K) (T)
Adult Businesses	-	L3	L3	-	-	-	-	-	-	(E) (K)
Ambulance Services	L15	L15	L15	-	-	-	L15	-	P	

**C Commercial Land Use Regulations (continued)**

	CN	CC	CG	CL	CR	CV	CS- HO	CS -L	CP	Add. Reg.
Animal Sales and Services:										
Animal Boarding	L27	L27	L27	L27	-	-	-	-	-	
Animal Grooming	P	P	P	P	-	-	-	L16	-	
Animal Hospitals	P	P	P	P	-	-	P	L16	-	
Animals Retail Sales	P	P	P	P	-	-	P	L16	-	
Artists' Studios	P	P	P	P	L28	L28	-	L28	-	(K)
Banks and Savings & Loans:	P	P	P	P	-	-	P	P	P	
Drive-thru/ Drive-up Service	L27	L27	L27	L27	-	-	L27	L27	L27	
Self Service Facilities (ATMs)	L21	L21	L21							
Building Materials & Services	P	P	P	U	-	-	P	-	-	(T)
Catering Services	P	P	P	P	-	-	P	P	-	
Commercial Recreation and Enter- tainment	L29	L29	L29	L30	L29	L29	L29	L16	-	(F) (K)
Communication Facilities	-	P	P	-	-	-	-	-	P	

**C Commercial Land Use Regulations (continued)**

	CN	CC	CG	CL	CR	CV	CS- HO	CS -L	CP	Add. Reg.
Eating and/or Drinking Establish- ments:	P	P	P	P	P	P	P	P	L4	(K) (T)
With Wine and Beer Service	P	P	P	P	P	P	P	P	L4	(K) (T)
With Full Alcoholic Beverage Service	U	U	U	U	U	U	U	U	U	(K) (T)
With Live Entertain- ment	L30	L29	L29	L30	L29	L29	L29	L29	-	(O) (T)
w/Take-out Service:										
Drive-thru/ Drive-up	L23	U	U	-	U	-	U	-	-	(N)
Food and Beverage Sales	L5	L5	L5	L5	L5	L5	P	L5	-	(K) (T)
Funeral and Interment Services	L6	L6	L6	-	-	-	L6	L6	-	
Home Improvement	P	P	P	P	-	-	P	-	-	(T)
Horticulture, Limited	P	P	P	P	P	P	P	P	P	(R) (S)
Laboratories	-	-	P	-	-	-	-	-	P	
Maintenance and Repair Services	P	P	P	P	-	-	-	-	-	(T)
Marine Sales and Services	-	-	P	-	-	P	-	-	-	(T)
Nurseries	L35	L35	L35	-	-	-	L35	L35	-	(T)

C Commercial Land Use Regulations (continued)

	CN	CC	CG	CL	CR	CV	CS- HO	CS -L	CP	Add. Reg.
Offices, Business & Professional	P	P	P	P	L2	L2	P	L2	P	(T)
<b>Payday Loan/ Paycheck Adv.</b>	-	<b>L3</b>	<b>L3</b>	-	-	-	-	-	-	<b>(E) (K)</b>
Pawn Shops	-	U	U	-	-	-	-	-	-	
Personal Improvement Services	L25	L25	L25	L25	L25	-	L25	L25	L25	(K)
Personal Services	P	P	P	P	L29	L29	P	L29	L29	(K)
Research and Development Services	-	-	P	-	-	-	-	-	P	(T)
Retail Sales	P	P	P	P	L8	L8	P	P	-	(T)
Secondhand Furniture/ Appliances/ Clothing	L28	L28	L28	L28	-	-	L28	L28	-	(T)
Swap Meets, recurring	-	-	U	-	-	-	-	-	-	
Travel Services	P	P	P	P	P	P	P	P	P	
Vehicle/Equipment Sales & Services:										
Automobile Washing	U	U	U	L31	-	-	U	-	-	(G) (T)
Service Stations	U	U	U	L31	L7	-	U	U	-	(G) (T)
Vehicle/ Equipment Repair	L32	L32	L32	L31	-	-	L32	L20	-	(T)

**C Commercial Land Use Regulations (continued)**

	CN	CC	CG	CL	CR	CV	CS- HO	CS- -L	CP	Add. Reg.
Vehicle/ Equipment Sales & Rentals	U	U	U	L31	L14	L14	U	-	-	(T)
Visitor Accommodations:										
Bed and Breakfast Inns	L27	L27	L27	(H)						
Hotels, Motels and Time-Shares	U	U	U	U	U	U	U	L12	-	(P)
SRO Hotels	-	U	U	-	-	-	-	-	-	
Warehousing and Storage, Ltd.	-	-	L9	-	-	-	-	-	-	(T)
<b>Industrial</b>										
Food Processing Industry, Custom	L22	L22	L22	L22	-	-	L22	L22	-	
Industry, Limited	-	-	L8	-	-	-	-	-	-	(T)
Wholesaling, Distribution & Storage	-	-	L8	-	-	-	-	-	-	(T)
<b>Agriculture and Extractive Uses</b>										
Crop Production	L24	L24	L24	(R) (S)						
Accessory Uses	P/U	P/U	P/U	(I) (S) (T)						

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**C Commercial Land Use Regulations (continued)**

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	CN	CC	CG	CL	CR	CV	CS- HO	CS -L	CP	Add. Reg.
<b>Nonconforming Uses</b>										(J)
<b>Temporary Uses</b>										
Agricultural Special Sales, Seasonal	P	P	P	P	P	-	P	P	-	(U)
<b>Mixed Uses</b>	L-37	L-37	L-37	-	-	-	L-37	-	-	

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**C Districts: Additional Use Regulations**

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- L-1 Not permitted on ground level.
- L-2 Permitted as part of a mixed-use project, occupying less than 25 percent of the gross floor area.
- L-3 Allowed with Conditional Use Permit, subject to the requirements of Article 36 of this Ordinance.
- L-4 Permitted as a secondary use occupying no more than 1000 square feet in a building; Administrative Use Permit required for more space up to 5 percent of gross floor area of a building.
- L-5 A Conditional Use Permit is required for convenience stores. Convenience stores shall not be located within 500 feet of a site occupied by a public or private school, park or recreational facilities, and no exterior vending machines shall be permitted. Convenience stores may be operated only between the hours of 6 a.m. and 10 p.m.. Longer hours may be approved with the use permit if the use is found not to have an adverse effect on neighboring uses.
- L-6 Only mortuaries allowed - subject to a Conditional Use Permit.
- L-7 Conditional Use Permit required. Repair services and automobile washing are prohibited.

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**C Districts: Additional Use Regulations**

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- L-8 Only "limited," or "small-scale," facilities, as defined in Use Classifications allowed with a Conditional Use Permit.
- L-9 Storage tanks, distribution terminals, emission-control systems, pumping stations, service yards, transportation facilities, pipelines, or any other facilities supporting offshore oil and gas drilling operations shall be prohibited.
- L-10 Reserved.
- L-11 See Article 30: Section 3041, Child Care Facility. Allowed within the RE, RS, RM, RH, RT, CN, CC, CG, CL, CR, CV, CS, CS-HO, CS-L, CP, IL, IG, IP, A, OS, PS and the D Districts subject to obtaining a Child Care Facility Permit issued by the Planning Director and subject to the City's adopted Child Care Guidelines. If new development (construction) is proposed for a child care facility, a Development Plan Review is required. A Development Plan Review may be conducted independently or concurrently with the Child Care Facility Permit review.
- L-12 Up to 200 rooms allowed with a Conditional Use Permit.
- L-13 Reserved.
- L-14 Recreational vehicles and recreational equipment rentals only.
- L-15 Conditional Use Permit required if use is an Ambulance Service or an Emergency Health Care facility which utilizes ambulance service and either use is also located within 1,000 feet of an R district or the boundaries of a site occupied by a Public or Private School or Park and Recreation Facility. conditions may be imposed in approving such a permit to limit vehicle speeds or use of sirens. In the CS-L district, Emergency Health Care facility permitted with a Conditional Use Permit if outside the Mission San Luis Rey Historic Core Area.
- L-16 Only permitted outside the Mission San Luis Rey Historic Core Area. "Small-scale" Commercial Recreation and Entertainment allowed, all others require a Conditional Use Permit. Any "regulated" use or card room requires a Conditional Use Permit.
- L-17 Reserved.
- L-18 Only "small-scale" facilities allowed with the approval of an Administrative Use Permit.

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**C Districts: Additional Use Regulations**

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- L-19 A Conditional Use Permit is required for generating plants, electrical substations, lone switching buildings, refuse collection, transfer, recycling or disposal facilities, water reservoirs, water or wastewater treatment plants, transportation or communication utilities, and similar facilities of public agencies or public utilities. Aboveground electrical transmission lines are not permitted unless determined to be consistent with a utility corridor plan approved by the Planning Commission. Flood control or drainage facilities are permitted if they are consistent with approved master drainage and/or flood-control plans.
- L-20 Limited or "small-scale" facilities allowed with a Conditional Use Permit outside the Commercial Village Core designated in the Mission SLR Historic Guidelines within a multi-tenant structure.
- L-21 Walk-up automatic teller machines (ATMs) allowed if included within or attached to a building serving another use; freestanding structures for walk-up ATMs allowed with an Administrative Use Permit.
- L-22 Large Scale facilities may be allowed if they include a retail component and an area for consumption of the products produced on the site (i.e., tables, chairs, etc.). An administrative use permit, approved by the Planning Director, would define the minimum area devoted to retail customer service and office support to the principle food processing activity, but a minimum of 1/3 of the gross square footage of the building facility shall be used as a guideline for the retail service/office support area.
- L-23 One drive-thru/drive-up restaurant allowed with a Conditional Use Permit in a Shopping Center of 10 acres or greater.
- L-24 Allowed on sites of more than 2.5 acres with the approval of an Administrative Use Permit issued by the Planning Director.
- L-25 "Small-scale" facilities allowed. All others require a Conditional Use Permit. Within the CS-HO and CS-L, a personal improvement use greater than 5,000 square feet is allowed only in a community shopping center and requires a Conditional Use Permit.
- L-26 "Small-scale" facilities (5,000 square feet or less) allowed with the approval Administrative Conditional Use Permit issued by the Planning Director. All others allowed with the approval of a Conditional Use Permit.

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**C Districts: Additional Use Regulations (continued)**

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- L-27 Allowed with an Administrative Use Permit issued by the Planning Director.
- L-28 "Small-scale" facilities allowed. All others require the approval of an Administrative Use Permit issued by the Planning Director.
- L-29 "Small-scale" facilities allowed. All others require the approval of a Conditional Use Permit. "Regulated" uses or card rooms require a Conditional Use Permit.
- L-30 Only "small-scale" facilities allowed. "Regulated" uses or card rooms require a Conditional Use Permit.
- L-31 Allowed with a Conditional Use Permit or an Administrative Use Permit in a building existing as of October 20, 1995 that does not require substantial modifications to accommodate the use. Substantial modifications shall mean greater than a ten percent increase in square footage of the existing building. Glass installation and tinting, cellular phone installation, and stereo installation allowed with an Administrative Use Permit. All others require a Conditional Use Permit.
- L-32 Glass installation and tinting, cellular phone installation, and stereo installation allowed with an Administrative Use Permit. All others require a Conditional Use Permit.
- L-33 Religious assembly allowed with the approval of a Conditional Use Permit allowing for a maximum of 5-years, if the following findings can be made:
- a. The location proposed is not in an area considered "prime" for immediate commercial development.
  - b. Parking must be provided as required by the parking regulations for religious assemblies under Article 31, except that parking may be shared with other commercial uses in the vicinity, if it can be shown that the uses will not conflict.
  - c. Buildings shall meet the requirements imposed by the current applicable edition of the Uniform Building Code for assembly occupancy.

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**C Districts: Additional Use Regulations (continued)**

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- d. The religious assembly activities do not interfere with the primary commercial uses in the area. The analysis of whether there is such interference shall include consideration of the immediate existing users in the vicinity, and any public health and safety issues in establishing a religious assembly use at that location.
- e. Religious assembly uses are considered temporary uses, and are limited to a 5-year duration. Additional 5-year or shorter increments, whichever is deemed appropriate, may be requested through an additional Conditional Use Permit process.
- L-34 Limited to senior, residential care assisted-living units for persons age 55 and older with the approval of a Conditional Use Permit.
- L-35 An Administrative Use Permit is required for nurseries having growing or propagation areas greater than 2.5 acres.
- L-36 See Article 30: Section 3041, Child Care Facility. Allowed within the RE, RS, RM, RH, RT, CN, CC, CG, CL, CR, CV, CS, CS-HO, CS-L, CP, IL, IG, IP, A, OS, PS and the D Districts subject to obtaining a child Care Facility Permit issued by the Planning Director and subject to the City's adopted Child Care Guidelines. If new development (construction) is proposed for a child care facility, a Development Plan Review is required. A Development Plan Review may be conducted independently or concurrently with the Child Care Facility Permit review.
- L-37 Mixed use development is permitted and requires the approval of a "Mixed-Use Development Plan" and Conditional Use Permit to determine compatibility with surrounding development and uses in the area.
- (A) See Section 3002: Relocated Buildings (Administrative Use Permit required).
- (B) See Section 3036: Helicopter Takeoff and Landing Areas.
- (C) Limited to facilities on sites 2 acres or less.
- (D) In the CN district, a commercial use having open parking or wall openings within 100 feet of an R district shall not operate between 10 p.m. and 7 a.m. unless authorized by a use permit.

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**C Districts: Additional Use Regulations (continued)**

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- (E) The exterior walls of any use regulated by Article 36 shall be located so as to comply with the provisions of that Article.
- (F) See Section 3027: Arcades and Game Centers. Card rooms, as defined and regulated by Chapter 8 of the City Code, are not permitted in the Coastal Zone.
- (G) See Section 3011: Service Stations and Automobile Washing.
- (H) See Section 3031: Bed and Breakfast Inns.
- (I) See Section 3005: Nonresidential Accessory Structures.
- (J) See Article 35: Nonconforming Uses and Structures.
- (K) All "regulated uses", as defined in Article 36, shall be subject to a use permit as well as other requirements as may be imposed by that Article.
- (L) See Section 3029: Recreational Vehicle Parks.
- (M) See Section 3004: Religious Assembly Yard Requirements.
- (N) Uses on separate freestanding sites that are outside shopping centers and have adjoining parking shall not be closer than 500 feet to a public or private school, park, or playground. Identifiable containers and napkins shall be used for all carryout food, and all litter shall be promptly removed. A use permit may require the operator to contract with a cleanup service if it is determined that a litter problem exists.
- (O) See Section 3010: Live Entertainment.
- (P) See Section 3030: Time-Share Resort Projects.
- (Q) See Section 3025: Antennas and Microwave Equipment.
- (R) Any Horticulture, Limited or Crop Production use must conform to the City's Grading Ordinance including the requirement that the grading and/or agricultural operation will not cause significant damage to any environmentally sensitive areas nor cause elimination of any significant wildlife habitat or riparian area. Sufficient buffering of the operation should be provided from adjacent residential uses.

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**C Districts: Additional Use Regulations (continued)**

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- (S) Agricultural Sales Stands, in conjunction with a Horticulture, Limited or Crop Production use, shall be permitted subject to the locational and development standards of Section 3038.
- (T) See Section 3020: Outdoor Facilities; outdoor storage, outdoor display of materials, outdoor food service, outdoor storage containers, working outdoors and temporary outdoor sales events and activities shall comply with the standards of this section.
- (U) See Section 3038: Agricultural Sales; Seasonal Agricultural Specialty Sales requires a business license and is subject to the operational standards of Section 3038.

**1130 CN, CC, CG, CL, CR, CS, CV, and CP Districts: Property Development Regulations**

The following schedule prescribes development regulations for the CN, CC, CG, CL, CR, CS, CV, and CP districts. The columns prescribe basic requirements for permitted and conditional uses in each district. Letters in parentheses in the "Additional Regulations" column reference regulations following the schedule or located elsewhere in the zoning ordinance.

**CN, CC, CG, CL, CR, CS, CV, and CP DISTRICTS  
DEVELOPMENT REGULATIONS**

	CN	CC	CL CG	CR CS CV	CP	Add. Reg.
<b>Residential Development</b>						(A) (X)
<b>Nonresidential Development</b>						(X)
Minimum Lot Area (sq. ft.)	10,000	10,000	10,000	10,000	10,000	(B) (C)
Minimum Lot Width (ft.)	-	-	-	-	-	(C)
Minimum yards:						
Front (ft.)	15	15	15	15	20	(D) (F)
Side (ft.)	-	-	-	-	-	(D) (E) (F)
Corner Side (ft.)	10	15	10	10	20	(D) (F)
Rear (ft.)	-	-	-	-	10	(D) (E) (F)
Maximum Height of Structures (ft.)	50	50	50	50	50	(G) (H) (V) (W)
Maximum Lot Coverage	50%	50%	75%	50%	50%	
Maximum Base FAR	1.0	1.0	1.0	1.0	1.0	
Maximum FAR Bonus	0.2	0.5	0.2	0.2	0.5	(I)
Minimum Site Landscaping	15%	15%		15%	15%	(J) (K)
< 5 acres			10%			
> 5 acres			15%			

**CN, CC, CG, CL, CR, CS, CV, and CP DISTRICTS  
DEVELOPMENT REGULATIONS (continued)**

	CN	CC	CL CG	CR CS CV	CP	Add. Reg.	
Maximum Vertical Wall Dimension (ft.)	(L)	(L)	(L)	(L)	(L)		
Maximum Horizontal Wall Dimension (ft.)	-	200	-	-	200	(M)	
Fences and Walls			See Section 3040				
Required Building Lines	-	-	(P)	(P)	-		
Off-Street Parking and Loading						(Q) (R)	
Vehicular Access			See Section 3114				
Signs			See Article 33				
Outdoor Facilities			See Section 3020				(S)
Views into Buildings							(T)
Screening of Mechanical Equipment			See Section 3021				(S)
Employee Eating Areas							(U)
Refuse Storage Areas			See Section 3022				
Underground Utilities			See Section 3023				
Performance Standards			See Section 3024				
Nonconforming Structures			See Article 35				

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**CN, CC, CG, CL, CR, CS, CV, and CP Districts:  
Additional Development Regulations**

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- (A) Dwelling units shall be subject to the standards for height limits, maximum density, court provisions, and outdoor living areas for the RM-A District, as prescribed by Section 1050. Recreational vehicle parks shall be subject to the requirements of Section 3029.
- (B) See Section 3013: Development on Substandard Lots.
- (C) Smaller lot requirements may be permitted with an approved development plan and tentative subdivision maps.
- (D) See Section 3015: Building Projections into Yards and Courts. Double-frontage lots shall provide front yards on each frontage.
- (E) A 15-foot side or rear yard shall adjoin an R district, and structures shall not intercept a 1:1 or 45-degree daylight plane inclined inward from a height of 6 feet above existing grade at the R district boundary line (See Diagram E).
- (F) At least 50 percent of each required yard shall be landscaped. This area may be counted in determining compliance with minimum site landscaping requirements. The remainder of the required yard area may be used for necessary drives and walks.
- (G) See Section 3017: Measurement of Height.
- (H) See Section 3018: Exceptions to Height Limits.
- (I) Additional FAR shall be permitted for:
  - (1) Underground parking: 0.05 for each 10 percent increment of required parking that is provided underground or in structures up to a maximum of 0.4.
  - (2) Transfer of FAR from historic buildings: twice the amount of unused FAR (restricted by recorded covenants or deed restriction) up to a maximum of 0.2.
  - (3) Participation in a Planned Block Development (60,000 square feet or more of site area) approved by the City under the provisions of Article 24.

(E) REQUIRED DAYLIGHT PLANE AT ADJOINING DISTRICT  
(DIAGRAM)

DRAFT

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**CN, CC, CG, CL, CR, CS, CV, and CP Districts:  
Additional Development Regulations (continued)**

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(J) Planting Areas.

- (1) All Commercial Districts. Sites in all C districts shall comply with the planting area requirements and design standards of Section 3019.
  - (2) CN, CG, CL, and CS Districts. Required yards shall be enclosed by a solid concrete or masonry wall at least 6 feet in height or shall be planting areas, provided that a wall within 15 feet of a street property line shall not exceed 3.5 feet in height.
  - (3) CN, CC, CR, CS, CV, and CP Districts. The minimum percentage of the site to be landscaped may be reduced 1 percent for each 20 percent increment of street frontage with a 25-foot-wide landscaped strip.
- (K) See Section 3019: Landscaping, Irrigation and Hydroseeding.
- (L) The maximum vertical wall height at the setback line shall be 26 feet in the CR and CV districts and 50 feet in all other districts. Walls shall be set back at least 1.5 feet for every foot above the maximum vertical wall height limit. During development plan review, exceptions from this standard may be granted by the Planning Commission for department stores, hotels, or other uses with unique requirements (See Diagram L).
- (M) This requirement shall apply to building elements above 36 feet. A wall surface shall be no longer than 200 feet without a break: a recess or offset measuring at least 20 feet in depth and one-quarter of the building in length or a series of recesses or offsets, at intervals of not more than 40 feet, that vary the depth of the building wall by a minimum of 4 feet. Not less than 25 percent of the building wall shall be varied in this way (See Diagram M).
- (N) Maximum height of a fence or wall shall be 6 feet.

**(L) REQUIRED SETBACKS ABOVE BASE WALL HEIGHT (DIAGRAM)**

DRAFT

(M) AVERAGING OPTION FOR MAXIMUM WALL LENGTH (DIAGRAM)

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**CN, CC, CG, CL, CR, CS, CV, and CP Districts:  
Additional Development Regulations (continued)**

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- (O) A 6-foot solid masonry or concrete wall shall adjoin the property line of the site of a new ground-floor residential use abutting an existing non-residential use or the property line of a new non-residential use abutting the site of an existing ground-floor residential use. However, where the portion of the site within 10 feet of the property line is occupied by planting area or by a building having no openings except openings opposite a street property line, the City Planner may grant an exception to this requirement. A wall within 15 feet of a street property line shall not exceed 3 feet in height (See Diagram O Required Walls).
- (P) In the CG, CL, CR, and CV districts that are within the Coastal Zone, a minimum of 40 percent of the front building surface on a street with a collector classification or greater, as designated in the Master Street Plan, shall be at the front-yard setback line (See Diagram P).
- In the CS-L Special Commercial Mission Historic Area District building lines shall be required as follows:
- (1) Village Core (as designated in the Development Guidelines for the Mission Area): At the first level a minimum of 50 percent of the front building face shall be at the front-yard setback line;
  - (2) Major Streets (as designated in the Development Guidelines): A minimum of 25 percent of the front building face shall be at the front-building setback line.
- (Q) Parking of automobiles, motorhomes, motorcycles, and other such motor vehicles is not permitted in a required front, corner side, side, or rear yard setback areas. See Section 315, Driveways; Visibility.
- (R) See Article 31: Off-Street Parking and Loading Regulations.
- (S) See Section 3025: Antennas and Microwave Equipment.

**DIAGRAM O REQUIRED WALLS: RESIDENTIAL USE  
ABUTTING NONRESIDENTIAL USE**

DRAFT

**(P) BUILDING FACE AT SETBACK LINE (DIAGRAM)**

DRAFT

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## Additional Development Regulations (continued)

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- (T) On frontages designated on the Zoning Map, 50 percent of the first story of that portion of a building facing a street shall consist of opening, clear or tinted glass windows providing views of merchandise displayed, building interiors, or courtyards.

Exceptions: This requirement may be waived by the Planning Director with respect to the following building types:

- (1) corner buildings, provided that at least 20 percent of the site facing the street affords views into the building; or
  - (2) architecturally and historically significant buildings.
- (U) Outdoor eating facilities for employees shall be provided for all industrial and office buildings or developments containing more than 10,000 square feet of building area. See Section 3028: Employee Eating Areas.
- (V) The maximum height of structures may be increased beyond 50 feet with the approval of a use permit.
- (W) Within the Coastal Zone the maximum height of structures is limited to 36 feet provided that structural height in excess of 36 feet may be granted through a Conditional Use Permit and in accordance with the necessary findings for such an approval.
- (X) See Section 3042: Mixed-Use Plans.

### 1140 Review of Plans

All projects shall require development plan review, as per Article 43.

## Article 36 Separation of Regulated Uses

### Sections:

- 3601 Statement of Purpose
- 3602 Regulated Uses
- 3603 Definitions
- 3604 Locational Requirements
- 3605 Waiver of Locational Requirements
- 3606 Applicability of Other Regulations
- 3607 Severance Clause

### **3601 Statement of Purpose**

In the development and execution of this ordinance, it is recognized that there are certain adult-oriented uses which create conditions harmful to the public health, welfare, and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods, family-oriented uses or sites commonly used by minors. Special regulations separating such uses from each other and from nearby residential areas, family-oriented uses, or sites commonly used by minors, are therefore necessary to protect the community from consequent blight, depreciated property values, law enforcement problems, and interference with residential neighborhoods as well as interference with activities oriented toward families or minors.

- A. In that connection, the following studies that substantiate the adverse, secondary effects of adult businesses were reviewed by the City of Oceanside in considering the adoption of this Article:

- Austin, Texas; 1986
- Indianapolis, Indiana; 1984
- Los Angeles, California; 1977
- Phoenix, Arizona; 1979
- St. Paul, Minnesota; 1987
- Garden Grove, California; 1991
- Minnesota Attorney General's Working Group; 1989

Based on the foregoing studies and other evidence of the impact of adult businesses, the City of Oceanside finds as follows:

1. Adult businesses are linked to increases in the crime rates of those areas in which they are located and that surround them.

2. Both the proximity of adult businesses to sensitive land uses and the concentration of adult businesses tend to result in the blighting and downgrading of the areas in which they are located.
3. The proximity and concentration of adult businesses adjacent to residential, recreational, religious, educational, or other adult businesses can cause other businesses and residents to move elsewhere.
4. The special regulation of adult businesses is necessary to ensure that their adverse secondary effects will not contribute to an increase in the crime rates or the blighting or downgrading of the areas in which they are located or surrounding areas. The need for the special regulation is based on the recognition that the adult businesses have objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or located in direct proximity to sensitive uses such as residential zones and uses, parks, schools, churches, or child care centers, thereby having a deleterious effect upon the adjacent areas.
5. Community impacts of sexually oriented businesses are primarily a function of two variables, proximity to family oriented use areas and concentration. Property values are directly affected within a small radius, typically one block from the location of a sexually oriented business. Concentration may compound depression of property values and may lead to an increase in crime sufficient to change the quality of life and perceived desirability of property in a residential neighborhood. The impacts of sexually oriented businesses are exacerbated when they are located near each other. When sexually oriented businesses have multiple uses (i.e. theater, bookstore, nude dancing, peep booths), one building can have an impact of several businesses. Accordingly, it is appropriate to prohibit the concentration of multiple adult businesses within one building in order to mitigate the compounded adverse secondary effects associated with such concentrations.

The primary purpose of this special regulation is to prevent the concentration or location of adult businesses in a manner that would create such adverse secondary effects. Thus, in order to protect and preserve the public health, safety, and welfare of the citizenry, especially including minors, the special regulation of the location and operation of adult businesses is necessary.

The protection and preservation of the public health, safety, and welfare require that certain distances be maintained between adult businesses and residential uses and zones, churches, schools, child care centers, parks and other adult businesses.

The need to regulate the proximity of adult businesses to sensitive land uses such as residential, religious, educational, recreational, and other adult businesses is documented in studies conducted by other jurisdictions as listed elsewhere in this Section.

B. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials, that are protected by the First Amendment of the United States Constitution. This Article provides a sufficient and reasonable number of appropriate locations in commercial districts of the City of Oceanside for regulated uses. The locational, design and performance standards contained in this Article do not unreasonably restrict the establishment of constitutionally protected regulated uses in the City of Oceanside.

C. In addition, the City of Oceanside further finds that the location and concentration of certain businesses other than adult businesses also create conditions harmful to the public health, welfare, and safety, due to the nature of their operations, type of clientele, and hours of operation. Therefore, special regulations separating such uses from each other and from residential districts, schools, parks, churches, or child care facilities are also necessary to protect the community from consequent depreciated property values, law enforcement problems, and interference with residential neighborhoods.

### 3602 Regulated Uses

The uses subject to the application of this Article are as follows:

- A. Adult Bookstores /Novelty Store/ Video Stores
- B. Adult Business
- C. Adult Cabaret
- D. Adult Entertainment Business
- E. Adult Motel
- F. Adult Motion Picture Theaters
- G. Adult Theaters
- H. Arcades and Game Centers
- I. Bars and Cocktail Lounges
- J. Bath Houses
- ~~X.K.~~ Body Piercing Establishments
- ~~K.L.~~ Dance Establishments
- ~~L.M.~~ Escort Services
- ~~M.N.~~ Figure Studios
- ~~N.O.~~ Liquor Stores
- ~~O.P.~~ Massage Establishments
- Q. Payday Loans/ Paycheck Advance Establishments**
- ~~P.R.~~ Peep-Show Establishments
- ~~Q.S.~~ Pool Rooms, Billiard Rooms, and Shooting Galleries
- ~~R.T.~~ Regulated Use/Body Piercing Establishments/Tobacco and Drug Paraphernalia Establishments/Drug Paraphernalia Establishments
- ~~S.U.~~ Sex Supermarket/Sex Mini-Mall
- ~~T.V.~~ Specified Sexual Activities
- ~~U.W.~~ Specified Anatomical Areas
- ~~V.X.~~ The definitions appearing in Article 3...
- ~~W.Y.~~ Tattooing Establishments
- ~~X.Z.~~ Tobacco and Drug Paraphernalia Establishments

The uses listed in this Section shall require a use permit issued in accord with Article 41, with the exception that the City Council shall have final authority to approve or disapprove the use permit.

### 3603 Definitions

Words and phrases used in this Article shall mean the following:

- A. Adult Bookstore/Novelty Store/Video Store. An establishment which has: (1) a substantial or significant portion of its gross revenues or of its stock in trade, books, magazines, and other periodicals or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations that are distinguished or characterized by their emphasis on matter depicting, describing, or

relating to "Specified Sexual Activities" or "Specified Anatomical Areas"; or (2) a substantial or significant portion of its stock in trade, instruments, devices or paraphernalia designed for use in connection with "Specified Sexual Activities".

- B. Adult Business. An Adult Business is any business, where employees, independent contractors, or patrons expose "specified anatomical areas" or engage in "specified sexual activities," or any business which offers to its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities or "specified anatomical areas".

A use which has a majority of its conduct of activities, floor area, stock-in-trade, or revenue derived from, material characterized by an emphasis on matter depicting, exposing, describing, discussing of relating to "specified sexual activities" or "specified anatomical areas", shall be considered to be an Adult Business.

Adult Businesses do not include bona fide medical establishments operated by properly licensed and registered medical personnel with appropriate medical credentials for the treatment of patients.

Adult Businesses include, but are not limited to those regulated uses listed in Section 3602 as Items A, B, C, D, E, F, G, L, N, and R.

- C. Adult Cabaret. A nightclub, bar, restaurant, or similar commercial establishment which regularly features: (1) persons who appear in a state of nudity; or (2) live performances which are characterized by the exposure of "Specified Anatomical Areas" or by "Specified Sexual Activities"; or (3) films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas."

- D. Adult Entertainment Business. Any establishment that (1) is customarily only open to adults and excludes minors by reason of age, and (2) devotes a substantial or significant portion of its stock in trade to the sale or display of instruments, devices, or paraphernalia which are designed for use in connection with "Specified Sexual Activities."

- E. Adult Motel. A motel or similar establishment offering public accommodations for any consideration, which provides patrons with material distinguished or characterized by an emphasis on depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas".
- F. Adult Motion Picture Theater. An enclosed building used for presenting motion picture films, video cassettes, cable television, or any other such visual media, distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" for observation by patrons therein.
- G. Adult Theater. A theater, concert hall, auditorium, or other similar establishment, either indoor or outdoor in nature, which regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.
- H. Arcades and Game Centers. Any place having five or more coin-operated, slug-operated, or any type of amusement or entertainment machines for which payment is necessary for operation. These include, but are not limited to pinball machines and video games, but do not include merchandise vending machines or mini-jukeboxes (See Section 3027, Arcades and Game Centers).
- I. Bars and Cocktail Lounges. Any premises designed, used or intended to be used for the selling or serving of alcoholic beverages to the public for consumption on the premises, and in which food is not sold or served to the public as in a bona fide restaurant.
- J. Bath Houses. Any establishment or business which has as its primary activity or service the provision of communal or private bathing in a sauna, jacuzzi or other therapeutic bath save and except for bathing conducted as part of a hydrotherapy treatment practiced by or under the supervision of a medical practitioner who is formally associated therewith.
- ~~X.~~K. Body Piercing Establishment. Any establishment or business engaged in "body piercing". Body piercing means the creation of an opening in the body of a human being for the purpose of inserting jewelry or other decoration. This includes, but is not limited to,

piercing of an ear, lip, tongue, nose, eyebrow, naval, male genitals, female breasts or female genitals. "Body piercing" does not include piercing an ear with a disposable, single-use stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear.

K-L. Dance Establishment. Any premises wherein a public dance, as defined in the Oceanside City Code, is held.

L-M. Escort Services. Any premises where patrons can purchase the social company or companionship of another person.

M-N. Figure Studio. Any premises on which there is conducted the business of furnishing nude models who pose for the purpose of being photographed, sketched, painted, drawn or observed by persons who pay a fee, or other consideration or compensation, or a gratuity, for the right or opportunity to depict or observe the model, or for admission to, or for permission to remain upon, or as a condition for remaining upon, the premises.

1. Any person, male or female, who poses nude to be photographed, sketched, painted, drawn or observed.

2. Nude shall include:

(a) Completely without clothing;

(b) With any pubic area exposed, or with the pubic area covered in such a manner that the private parts are visible or the form thereof discernible;

(c) With the breasts exposed by female so that the nipples thereof are exposed.

"Figure studio" does not include any studio or classroom which is operated by any public agency, or any private post secondary educational institution authorized by California state law to issue and confer a diploma or degree.

N-O. Liquor Store. A place or business engaged in the primary business of off-sale alcoholic beverages. For the purposes of this ordinance, primary business shall mean 25 percent or more of the shelf area of a

business.

Ø-P. Massage Establishment. Massage Establishment is defined in the Oceanside City Code.

Q. Payday Loan/ Paycheck Advance Establishment. A person or entity that for compensation, engages in whole or in part, in the business of lending limited amounts of funds for a short term, against the borrower's future paychecks. The aforementioned definition excludes State or federally chartered banks, savings associations, credit unions, or industrial loan companies offering direct deposit advance service to their customers that is incidental to their main purpose of business.

P-R. Peep-Show Establishment. Peep-Show Establishment is defined in the Oceanside City Code.

Ø-S. Pool Rooms, Billiard Rooms, and Shooting Galleries. Pool rooms, billiard rooms, and shooting galleries are defined in the Oceanside City Code.

R-T. Regulated Use shall mean any use listed in Section 3602.

S-U. Sex Supermarket/Sex Mini-Mall. The establishment or operation within the same building of more than one of any of the following Adult Businesses: adult bookstore or adult video store, adult cabaret, adult entertainment business, adult motion picture theater, adult theater, peep-show establishment.

T-V. Specified Sexual Activities. Defined as:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, or sodomy;
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

U-W. Specified Anatomical Areas. Defined as:

1. Less than completely and opaquely covered: (a) human genitals, pubic region; (b) buttock; and (c) female breast below a point immediately the top of the areola; and

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

~~V.X.~~ The definitions appearing in Article 3 of this ordinance shall apply to any terms used but not defined in this section.

~~W.Y.~~ Tattooing Establishment. Any establishment or business engaged in "tattooing" as defined in the Oceanside City Code.

~~X.Z.~~ Tobacco and Drug Paraphernalia Establishment. Any premises where tobacco and drug and paraphernalia is displayed for sale, offered for sale or sold, and which devotes more than a two foot by four foot (two feet in depth maximum) section of shelf space for tobacco and drug paraphernalia.

1. Tobacco and drug paraphernalia is defined as:

a. Including but not limited to one or more of those items identified in that list set forth in Subdivision c. below, shall mean any device designed primarily for use by individuals for the smoking or ingestion of tobacco, marijuana, hashish, hashish oil, cocaine or any other "controlled substance," as that term is defined in the Health and Safety Code of the State of California.

b. A device "designed primarily for" the smoking or ingestion set forth in subdivision a. above, is a device which has been fabricated, constructed, altered, adjusted, or marked especially for use in the smoking or ingestion of tobacco, marijuana, hashish, hashish oil, cocaine or any other "controlled substance," and is peculiarly adapted to that purposes by virtue of a distinctive feature or combination of features associated with tobacco or drug paraphernalia, notwithstanding that it might also be possible to use the device for some other purpose.

c. Includable items or devices:

(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or

without screens, permanent or otherwise, heads or punctured metal bowls;

- (2) A device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke that would otherwise be possible, whether the device is known as a "bong," or otherwise;
- (3) A smokable pipe constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested;
- (4) A smokable pipe, which contains a heating unit, whether the device is known as an "electric pipe," or otherwise;
- (5) A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a "buzz bomb," or otherwise;
- (6) A canister, container or other device with a tube, nozzle or other similar arrangement attached and so constructed as to permit the forcing of accumulated smoke into the user's lungs under pressure;
- (7) A device for holding burning material, such as a cigarette that has become too small or too short to be held in the hand, whether the device is known as a "roach clip," or otherwise;"

d. Lighters and matches shall be excluded from the definition of tobacco and drug paraphernalia.

2. Nothing in the definition of Tobacco and Drug Paraphernalia Establishments is intended to, nor shall be interpreted as legalizing or applying to the delivery, furnishing, transferring, possessing or manufacture of drug paraphernalia or any use

otherwise prohibited by state or federal law, including without limitation, Penal Code Section 308 and Health and Safety Code Sections 11014.5, 11364, 11364.5 and 11364.7.

3. Chapter 7, Article XI of the Oceanside Municipal Code prohibiting minors from entering or remaining in Tobacco and Drug Paraphernalia Establishments shall apply to all Tobacco and Drug Paraphernalia Establishments and is incorporated herein by this reference.

### **3604 Locational Requirements**

- A. It shall be unlawful for any regulated use to be located closer than one thousand (1,000) feet to any other regulated use.

This distance shall be measured in a straight line, without regard to intervening structures from the closest point on the exterior structure walls of each business.

- B. It shall be unlawful for any regulated use listed as Items A, B, C, D, E, F, G, H, N, or R of Section 3602 to be located closer than one thousand (1,000) feet from any residential district or any parcel of land which contains any one or more of the following specific land uses:

1. Public or Private School;
2. Park, playground or public beach;
3. Church or other similar religious facility, and
4. Child care or pre-school facility.

It shall be unlawful for two or more of the regulated uses enumerated in this subsection to be located so as to create a Sex Supermarket/Sex Mini-Mall.

- C. It shall be unlawful for any regulated use not enumerated in Subsection B to be any closer than five hundred (500) feet from any residential district or any specific land use enumerated in Subsection B.
- D. The distance between any regulated use and any residential district shall be measured in a straight

line, without regard to intervening structures, from the closest point on the exterior structure wall of the use to the closest district line of any residential district. The distance between any regulated use and any specific land use enumerated in Subdivisions (1) or (2) of Subsection B shall be measured in a straight line, without regard to intervening structures, from the closest point of the exterior structure wall of the regulated use to the closest point of the parcel line of such enumerated land use. The distance between any regulated use and any specific land use enumerated in Subdivisions (3) or (4) of Subsection B shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior structure wall of the regulated use to the closest point on the exterior structure wall of such enumerated land use.

### **3605 Waiver of Locational Requirements**

- A. Any person proposing a permitted regulated use as listed in Section 3602 may apply for a waiver of the locational requirements provided in Section 3604, except where such waiver would allow for the creation of a Sex Supermarket/Sex Mini-Mall. Such application shall be filed and processed concurrently with the application for the use permit for the proposed use. The Planning Director shall set the use permit application, including the waiver application, for public hearing before the Planning Commission provided that at least ten (10) days written notice of such hearing is given to owners and occupants of all property lying within all applicable distances set forth in the locational requirements.

The Planning Commission shall make recommendations to the City Council for the approval or disapproval of such waiver. No waiver shall be approved unless all of the following findings are made regarding the proposed use:

1. It will not be contrary to the public interest.
2. It will not be contrary to the spirit or intent of this Article.
3. It will not impair nearby property or the integrity of the underlying district.
4. It will not encourage the development of an adult entertainment area or otherwise promote community

blight.

5. It will not negatively impact any governmental programs of redevelopment, revitalization, or neighborhood preservation.

B. First Amendment Application. The findings enumerated in Subsection A, or any of them, shall be modified, restricted, severed, or eliminated as may be necessary to protect the rights of the applicant as guaranteed under the First Amendment of the United States Constitution.

### **3606 Applicability of Other Regulations**

The provisions of this article are not intended to provide exclusive regulation of the regulated uses. Such uses must comply with any and all applicable regulations imposed in other articles of this zoning ordinance, other city ordinances, and state and federal law.

### **3607 Severance Clause**

If any section, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, or phrases of this ordinance, or the ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of such section, sentence, clause or phrase.