

MARY JO LANZAFAME  
ASSISTANT CITY ATTORNEY

SHANNON M. THOMAS  
DEPUTY CITY ATTORNEY

OFFICE OF  
**THE CITY ATTORNEY**  
CITY OF SAN DIEGO

1200 THIRD AVENUE, SUITE 1100  
SAN DIEGO, CALIFORNIA 92101-4178  
TELEPHONE (619) 533-5800  
FAX (619) 533-5856

**Jan I. Goldsmith**  
CITY ATTORNEY

May 27, 2010  
Revised

REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL

DRAFT ZONING AMENDMENTS FOR MEDICAL MARIJUANA DISPENSARIES

**INTRODUCTION**

In 1996, Proposition 215, the Compassionate Use Act, was passed by the electorate. Proposition 215, codified at California Health and Safety Code section 11362.5, allows the use of marijuana for medical purposes when recommended by a physician and excludes from criminal prosecution the patient and the primary caregiver, as defined. In 2003, the State of California enacted Senate Bill 420, the Medical Marijuana Program Act (MMPA), that set forth requirements for the issuance of voluntary identification cards; allowed the cultivation, possession, sale, or storage of marijuana; prohibited the distribution of marijuana for profit; exempted from prosecution qualified patients and designated primary caregivers who associate to collectively or cooperatively cultivate marijuana for medical purposes; required the Attorney General to issue guidelines for the security and nondiversion of medical marijuana; and allowed cities to adopt and enforce laws consistent with the MMPA. The MMPA is codified at California Health and Safety Code sections 11362.7-11362.83.

The distribution of, or possession with intent to distribute, marijuana remains a federal crime. 21 U.S.C. § 841 (2010). This Office has been asked on several occasions to reconcile the State of California's medical marijuana laws with the federal prohibitions. 1999 City Att'y Report 169 (99-8; August 31, 1999); 2002 City Att'y MOL 79 (2002-5; Sept. 19, 2002); Op. City Att'y 2007-3 (June 21, 2007); Op. City Att'y 2009-18 (July 24, 2009). As has been stated, the two cannot be reconciled. However, the Tenth Amendment to the United States Constitution provides that all powers not delegated by the United States Constitution to the United States nor prohibited by it to the states are reserved to the states or the people; the authority to make land use regulations is based on this reservation of power. 9 Miller & Starr, Cal. Real Estate §25.2

(3d ed. 2009). In California, zoning is a local matter exercised by the cities pursuant to the police powers set forth in article XI, section 7 of the California Constitution. *Id.*<sup>1</sup>

It is unlawful to maintain or use any premises in violation of the Land Development Code. SDMC § 121.0302. A use determination is made by reference to the general description in SDMC section 131.0112, as well as the needs and operational characteristics of the use. SDMC § 131.0110(a). The City Manager determines the use category. *Id.* If an applicant disagrees with the determination, the Planning Commission shall recommend its interpretation to the City Manager. SDMC § 131.0110(b). If an appropriate use cannot be determined, a new zone may be initiated. SDMC § 131.0110(c). In a memorandum to the Public Safety & Neighborhood Services Committee, dated July 27, 2009, the Development Services Department Director stated his determination that there is no existing use category for medical marijuana dispensaries. The use of a premise as a medical marijuana dispensary in violation of local zoning laws is a public nuisance. *City of Corona v. Naulls*, 166 Cal. App. 4th 418 (2008); *City of Claremont v. Kruse*, 177 Cal. App. 4th 1153 (2009). To date, the Planning Commission has not recommended a use category.

Compliance with a municipal code zoning amendment that permits medical marijuana dispensaries will not provide for any defense to criminal charges against an operator who complies with that local zoning ordinance, but yet is found to be operating in violation of California's Proposition 215 or the MMPA. Neither will compliance with a local zoning ordinance shield an operator or clients from prosecution under federal law. A zoning ordinance simply provides for a way for medical marijuana dispensaries to be sited in compliance with zoning law.

## BACKGROUND

On October 6, 2009, the City Council formed the Medical Marijuana Task Force (MMTF). The MMTF was asked to return to the City Council with recommendations regarding land use and zoning issues. A draft ordinance amending the City's zoning ordinances has been

---

<sup>1</sup> It should be noted that many of the legal issues associated with medical marijuana are unsettled. On May 11, 2010, in *City of Lake Forest v. Moes*, et al, Case No. 30-2009-00298887, the trial court ruled that the City of Lake Forest could not promulgate code or zoning regulations due to the conflict with federal law, citing California Government Code section 37100. California Government Code section 37100 states that the legislative body may pass ordinances not in conflict with the Constitution and laws of the State and United States. However, a specific statute is deemed to prevail over a general one, when the two cannot be reconciled. 58 Cal.Jur.3d *Statutes* § 122 (Supp. 2010). Therefore, the more specific provisions of Proposition 215 and the MMPA should prevail over the more general California Government Code section 37100. The minute order in the *Lake Forest* case does not provide this analysis. A trial court ruling is binding only on the parties involved in the litigation. Eisenberg, Horvitz & Wiener, CAL. PRAC. GUIDE: CIVIL APPEALS & WRITS Vol. 1.1 § 1:14.1 (The Rutter Group 2009).

prepared, based on the recommendations by the MMTF, dated November 12, 2009, as modified by the Land Use and Housing (LU&H) Committee on March 24, 2010. (Attachment A.)<sup>2</sup>

The MMTF presented its law enforcement recommendations to the Public Safety and Neighborhood Services (PS&NS) Committee on April 28, 2010. Some of these recommendations are duplicative of or similar to recommendations made regarding land use and zoning, specifically, the recommendation that the dispensaries establish that they are operating in a non-profit manner. Therefore, that recommendation is discussed herein. The MMTF also recommended that physicians be prohibited from providing patient consultations at dispensaries. In that this is a restriction on use, it more appropriately belongs in the land use regulations and is included in the draft ordinance as a prohibited accessory use.

## I. LAND DEVELOPMENT CODE AMENDMENTS

### A. Definitions

Definitions have been added to the Land Development Code (LDC) for playground, library, medical marijuana dispensary, and youth-oriented facility. Definitions already exist in the LDC for school, childcare facility, park, and church (i.e., places of worship).<sup>3</sup> Those definitions are not proposed to be amended.

The proposed definition of a medical marijuana dispensary is “a facility where marijuana is transferred to qualified patients or primary caregivers in accordance with the Compassionate Use Act of 1996 and the Medical Marijuana Program Act set forth in California Health and Safety Code sections 11362.5 through 11362.83. A *medical marijuana dispensary* shall not include clinics licensed by the State of California pursuant to Chapters 1, 2, 3.01, 3.2, or 8 of Division 2 of the California Health and Safety Code.”

---

<sup>2</sup>Adoption of this ordinance would necessitate the renumbering of several existing sections of the Land Development Code. In addition, amendments to these section numbers would be needed wherever they are referenced in other places of the LDC. Finally, the Open Space, Agricultural, and Residential Zone use tables would need to be amended to show the medical marijuana dispensaries as a use that would not be allowed. These housekeeping amendments have not been prepared at this time. Should Council direct that an ordinance be finalized for introduction and adoption, the renumbering, updated cross-references and additional use tables will be included at that time.

<sup>3</sup> These Land Development Code definitions, set forth in SDMC § 113.0103 are as follows: *School* means an institution of learning that offers instruction in those courses of study required by the California Education Code or that is maintained pursuant to standards set by the State Board of Education. This definition does not include a vocational or professional institution or an institution of higher education, including a community or junior college, college, or university. *Child care facility* means a facility that provides nonmedical care for children less than 18 years of age, on less than a 24-hour basis including small family day care homes, large family day care homes, and child care centers. *Public park* means a publicly owned area that is designated as a park. *Church* means an institution that people regularly attend to participate in or hold religious services, meetings, or other activities. This term does not carry a secular connotation and includes the buildings or other locations in which the religious services of any denomination are held.

The reference to the licensed clinics comes from the statutory definition of a primary caregiver. The MMPA specifically includes in the definition of primary caregiver the owner, operator, or no more than three employees of various health care facilities licensed by the State of California, if designated as a primary caregiver by the qualified patient. Cal. Health & Safety Code § 11362.7(d)(1). These facilities are clinics, health care facilities, residential care facilities for those with chronic life-threatening illness, residential care facilities for the elderly, and hospices and home health agencies, licensed pursuant to Chapters 1, 2, 3.01, 3.2, and 8 of Division 2 of the Health and Safety Code, respectively.<sup>4</sup> *Id.*

The proposed definition of a medical marijuana dispensary excludes these licensed facilities because 1) the location of some of these facilities, such as hospitals, are already regulated by the LDC; 2) the location of some facilities, such as intermediate or residential care facilities, is regulated by the State; 3) in some cases, such as congregate living health facilities, residential care facilities for those with life-threatening illnesses and for the elderly, the City is prohibited from regulating facilities serving 6 or less people differently than other residential uses; and 4) there has not been any intent expressed thus far to include these type of health care facilities in the proposed land use regulations. The Council will need to decide whether, for the purposes of zoning, these facilities should be included in the definition of medical marijuana dispensary. Further analysis of the amendments to the LDC will be needed if these facilities are included. The various types of facilities excluded from the definition of a medical marijuana dispensary are summarized as follows:

**i. Clinics**

The clinics licensed by Chapter 1, Division 2 of the Health and Safety Code are various. A clinic is “an organized outpatient health facility which provides direct medical, surgical, dental, optometric, or podiatric advice services, or treatment to persons who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility.” Cal. Health & Safety § 1200. A clinic is also “an organized outpatient health facility which, pursuant to Section 1204.1, provides direct psychological advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services authorized under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code to patients in the home as an incident to care provided at the clinic facility.” Cal. Health & Safety Code §1200.1. Clinics include community clinics, defined as “a clinic operated by a tax-exempt nonprofit corporation that is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, that may be in the form of money, goods, or services.” Cal. Health & Safety Code 1204(a)(1)(A). A free clinic is a clinic “operated by a tax-exempt, nonprofit corporation supported in whole or in part by voluntary donations, bequests, gifts,

---

<sup>4</sup> Although a “hospice” is listed as type of qualifying facility in the MMPA, hospices are regulated by Chapter 8.5, Division 2 of the California Health and Safety Code, which is not included in California Health and Safety Code section 11362.7(d)(1). The legislative history indicates the intent of the MMPA was to allow seriously ill patients to use medical marijuana without fear of criminal liability, however, so the discussion of hospices is included here. Cal. Stats. 2003, ch. 875, § 1.

grants, government funds or contributions, that may be in the form of money, goods, or services.” Cal. Health & Safety Code 1204(a)(1)(B). Specialty clinics licensed pursuant to Chapter 1, Division 2 of the Health and Safety Code are surgical clinics (provide ambulatory surgical care for patients remaining less than 24 hours), chronic dialysis clinics (provide less than 24 hour care for the treatment of patients with end-stage renal disease, including renal dialysis services), rehabilitation clinics (provide direct medical services, as well as physical rehabilitation services for patients remaining less than 24 hours, and at least two of the following rehabilitation services: physical therapy, occupational therapy, social, speech pathology, and audiology) and alternative birth centers providing perinatal and delivery care to women who remain at the facility less than 24 hours. Cal. Health & Safety Code § 1204(b). Psychology clinics, i.e., those clinics providing psychological advice, services, or treatment to patients under the direction of a clinical psychologist and operated by a tax-exempt nonprofit corporation, also fall within the licensing requirements of Chapter 1, Division 2. Cal. Health & Safety Code § 1204.1.

**ii. Health Care Facilities**

Health facilities licensed by Chapter 2, Division 2 of the California Health and Safety Code are “any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer” and includes general acute care hospitals, acute psychiatric hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities/developmentally disabled habilitative, special hospitals, intermediate care facilities/developmentally disabled, intermediate care facilities/developmentally disabled-nursing, congregate living health facilities, correctional treatment centers, nursing facilities, and intermediate care facilities/developmentally disabled-continuous nursing. Cal. Health & Safety Code § 1250.

As part of the licensure of these facilities, the Director of Health Services shall deny a license for a new intermediate care facility/developmentally disabled habilitative, intermediate care facility/developmentally disabled-nursing, congregate living health facility, or pediatric day health and respite care facility for inpatient care of medically fragile or terminally ill children (licensed pursuant to Health and Safety Code section Chapter 8.6) if the director finds that the location is in such proximity to an existing facility as would result in an over-concentration. Cal. Health & Safety Code § 1267.9(a). An over-concentration means that the new license would result in either an intermediate care facility/developmentally disabled habilitative, intermediate care facility/developmentally disabled-nursing, residential care facility, or pediatric day health and respite care facility being located less than 300 feet from another, or there will be congregate living facilities serving persons who are terminally ill, diagnosed with a terminal illness, or catastrophically and severely disabled, separated by less than 1,000 feet. Cal. Health & Safety Code § 1267.9(b). Based on special needs and conditions, the Director may approve a separation less than that set forth above, with the approval of the city or county. *Id.* The Director is to notify the city or county 45 days prior to the approval of a new license and the city or county may object, based on over-concentration. *Id.* A congregate living health facility serving 6 or less shall

be considered a residential use of property for the purposes of zoning. Cal. Health & Safety Code § 1267.16. Development regulations similar to those placed on other single-family dwellings are permitted. *Id.* “Health facilities” in Chapter 2, Division 2, also include chemical dependency recovery hospitals that provide 24-hour inpatient care to persons with a dependency on alcohol, drugs, or both. Cal. Health & Safety § 1250.3. Dental services may be provided at health care facilities licensed pursuant to Chapter 2, Division 2 of the Health and Safety Code. Cal. Health & Safety Code § 1315.

**iii. Residential Care Facilities for Persons with Chronic Life-Threatening Illnesses**

Clinics licensed pursuant to Chapter 3.01 are facilities for persons with chronic, life-threatening illnesses. Cal. Health & Safety Code § 1568.01(j). Residential care facilities serving 6 or fewer persons shall be considered a residential use for local zoning purposes. Cal. Health & Safety Code § 1568.0831(a)(1). The city may apply development regulations to residential care facilities that serve 6 or fewer to the same extent those regulations apply to other family dwellings of the same type, in the same zone. Cal. Health & Safety Code § 1568.0831(a)(3).

**iv. Residential Care Facilities for the Elderly**

A clinic licensed pursuant to Chapter 3.2 is “a housing arrangement chosen voluntarily by persons 60 years of age or over, or their authorized representative, where varying levels and intensities of care and supervision, protective supervision, personal care, or health-related services are provided, based upon their varying needs, as determined in order to be admitted and to remain in the facility.” Cal. Health & Safety Code § 1569.2(l). Residential care facilities for the elderly that serve 6 or fewer people shall be considered a residential use, and a city may apply development regulations to these facilities to the same extent the regulations are applied to other family dwellings of the same type, in the same zone. Cal. Health & Safety Code § 1569.85.

**v. Hospice, or Home Health Agency**

Hospices are defined as a “specialized form of interdisciplinary health care that is designed to provide palliative care, alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of life due to the existence of a terminal disease . . . .” Cal. Health & Safety Code § 1746(b).

Home health agencies are licensed pursuant to California Health and Safety Code, Division 2, Chapter 8. A home health agency is one “which provides, or arranges for the provision of, skilled nursing services, to persons in their temporary or permanent place of residence.” Cal. Health & Safety Code § 1727. Home health agencies may also provide physical, speech, or occupational therapy, and medical social services. Cal. Health & Safety Code § 1727.1.

**B. Process Level, Development, Operating and Distance Requirements**

The requirement for a medical marijuana dispensary to be approved as a Process Four has been added to the list of Conditional Use Permits (CUP) decided by Process Four found in San Diego Municipal Code section 126.0303(b). A section outlining the conditions of operation for medical marijuana dispensaries has been added to Chapter 14, Article 1, Division 6, Commercial Services Use Category--Separately Regulated Uses. This section contains the two-year limitation on the CUP, as well as the lighting, security, signage, and hours of operation requirements consistent with the MMTF recommendation. The distance requirements, as modified by the LU&H Committee, contained here. Finally, consultations by medical professionals are specifically prohibited as an accessory use of the premises.

The MMTF recommended to the LU&H Committee that the dispensaries submit proof of operation as a non-profit as part of their CUP application. The MMTF also recommended to the PS&NS Committee that the dispensaries submit annually to the City Controller an audit showing proof of non-profit operation. Conditional Use Permits create a right that attach to the land, not to any individual permittee. *Anza Parking Corporation v. City of Burlingame*, 195 Cal.App.3d 855 (1987); *Malibu Mountains Recreation, Inc. v. County of Los Angeles*, 67 Cal.App.4th 359 (1999). Therefore, a requirement such as an operational plan or audit imposed upon an individual cannot be used to prohibit transfers of otherwise legal uses and this recommendation was not included in the draft zoning ordinance.

**C. Cost Recovery**

The City Council approved an update of the development fees for the Development Services Department on October 13, 2009. The current fees include the processing costs for Process Four CUPs, and Development Services Department staff confirms that the fees are not in need of revision at this time.

**D. Zones**

**i. Commercial**

The MMTF recommended that dispensaries be allowed in the following commercial zones: CR (Commercial--Regional), CO (Commercial--Office), CC (Commercial--Community), CN (Commercial--Neighborhood), and CV (Commercial--Visitor). The LU&H Committee directed that the CN and CV zones be removed from consideration, along with any other commercial zones that allowed residential use.

The purpose of the commercial zone in general is to provide for the employment, shopping, services, recreation, and lodging needs for the City's residents and visitors. SDMC § 131.0501. These uses are further described in SDMC sections 131.0522.

The purpose of the CR zone specifically is “to provide areas for a broad mix of business/professional office, commercial service, retail, wholesale, and limited manufacturing uses.” SDMC § 131.0503(a). The CR Zones are further described as intended to accommodate large-scale, high intensity developments primarily located along major streets, primary arterials, and major public transportation lines. *Id.* The CR-1-1 zone allows a mix of regional serving commercial uses and residential uses, with an auto orientation. SDMC § 131.0504(b). The CR-2-1 allows regional serving commercial and limited industrial uses with an auto orientation but no residential use. *Id.*

The purpose of the CO zone is to provide areas for employment uses with limited, complementary retail uses and medium to high density residential development. SDMC § 131.0504. The CO-1-1 zone allows for a mix of office and residential uses with a neighborhood scale and orientation. *Id.* The CO-1-2 zone allows for a mix of office and residential uses that serve as an employment center. *Id.*

The purpose of the CC zone is to accommodate “community-serving commercial services, retail uses, and limited industrial uses of moderate intensity and small to medium scale.” SDMC § 131.0507(a). The CC zones are intended to provide from a range of development patterns, including pedestrian friendly commercial streets to shopping centers and auto-oriented strip commercial streets. *Id.* The CC-1 zones allow a mix of community serving commercial uses and residential uses. SDMC § 131.0507(b)(1). The CC-1-1 zone is intended to accommodate development with strip commercial characteristics. *Id.* The CC-1-2 zone is intended to accommodate development with high intensity, strip commercial characteristics. *Id.* The CC-1-3 zone is intended to accommodate development with an auto orientation. *Id.*

The CC-2 zones allow community serving uses.<sup>5</sup> SDMC § 131.0507(b)(2). The CC-2-1 zone is intended to accommodate development with strip commercial characteristics. *Id.* The CC-2-2 zone is intended to accommodate development with high intensity, strip commercial characteristics. *Id.* The CC-2-3 zone is intended to accommodate development with an auto orientation. *Id.*

The CC-3 zones allow a mix of pedestrian-oriented, community serving commercial uses and residential uses. SDMC § 131.0507(b)(3). The CC-3-4 zone is intended to accommodate development with a pedestrian orientation. *Id.* The CC-3-5 zone is intended to accommodate development with a high intensity, pedestrian orientation. *Id.*

The CC-4 zones allow heavy commercial uses and residential uses. SDMC § 131.0507(b)(4). The CC-4-1 zone is intended to accommodate development with strip commercial characteristics. *Id.* The CC-4-2 zone is intended to accommodate development with high intensity, strip commercial characteristics. *Id.* The CC-4-3 zone is intended to accommodate

---

<sup>5</sup> Although the San Diego Municipal Code states that the CC-2 zones do not allow any residential uses, Table 131-05B shows watchkeeper quarters as an allowed use. SDMC § 131.0507(b)(2).

development with an auto orientation. *Id.* The CC-4-5 zone is intended to accommodate development with a high intensity, pedestrian orientation.

The CC-5 zones allow a mix of heavy commercial and limited industrial uses and residential uses. SDMC § 131.0507(b)(5). The CC-5-1 zone is intended to accommodate development with strip commercial characteristics. *Id.* The CC-5-2 zone is intended to accommodate development with high intensity, strip commercial characteristics. *Id.* The CC-5-3 is intended to accommodate development with an auto orientation. *Id.* The CC-5-4 is intended to accommodate development with a pedestrian orientation. *Id.* The CC-5-5 is intended to accommodate development with a high intensity, pedestrian orientation. *Id.*

The draft ordinance presents the Commercial Use table amended to add medical marijuana dispensaries as a separately regulated commercial use. However, no corresponding zones reflect marijuana medical dispensaries as a conditionally permitted use, pending further decisions by the Council.

The CR, CO, and CC zones permit the following types of residential uses:

1. The CR 1-1 zone allows multiple dwelling units, rooming house, boarder and lodger accommodations, fraternities, sororities, and student dormitories; home occupations, housing for senior citizens, live/work quarters, residential care facilities (6 or more), transitional housing, and watchkeeper quarters.
2. The CO 1-1,2 zones allow multiple dwelling units, rooming house, boarder and lodger accommodations, fraternities, sororities, and student dormitories, home occupations, housing for senior citizens, residential care facilities (6 or more), and transitional housing.
3. The CC 1-1, 2, 3 zones allow multiple dwelling units, rooming house, boarder and lodger accommodations, fraternities, sororities, and student dormitories, home occupations, housing for senior citizens, live/work quarters, residential care facilities and transitional housing.
4. The CC 3-4, 5 zones allow multiple dwelling units, rooming house, boarder and lodger accommodations, fraternities, sororities, and student dormitories, home occupations, housing for senior citizens, live/work quarters, residential care facilities and transitional housing.
5. The CC 4-1, 2, 3, 4, 5 zone allows multiple dwelling units, rooming house, boarder and lodger accommodations, fraternities, sororities, and student dormitories, home occupations, housing for senior citizens, live/work quarters, residential care facilities and transitional housing.

6. The CC 5-1, 2, 3, 4, 5 zone allows multiple dwelling units, rooming house, boarder and lodger accommodations, fraternities, sororities, and student dormitories, home occupations, housing for senior citizens, live/work quarters, residential care facilities and transitional housing.
7. The CC 2-1, 2, 3 zone allows watchkeeper quarters.

SDMC § 131.0520, Table 131-05B. Therefore, all of the Commercial Zones allow some residential use. The zones with the least residential use allowed are CR 1-2 and CC 2-1, 2, and 3, which only allow watchkeeper quarters. Watchkeeper quarters are a limited use allowed pursuant to SDMC section 141.0314 as an accessory use and may not exceed 1200 square feet in gross floor area.

## **ii. Industrial**

The MMTF also recommended that medical marijuana dispensaries be allowed in the Industrial--Park (IP), Industrial--Light (IL), and Industrial--Heavy (IH) zones. The purpose of the IP zone is to provide for high quality business and science park development. SDMC § 131.0602(a). The purpose of the IL zone is to provide for a wide range of manufacturing and distribution activities. SDMC § 131.0603(a). The purpose of the IH zone is to allow for “land-intensive industrial activities.” SDMC § 131.0604(a). The use of the IH zoned land for non-industrial uses is limited in order to preserve land appropriate for large scale industrial users. *Id.*

The LU&H Committee directed analysis of the IL-3 and IS zones. The purpose of the IL-3 zone is to allow for a mix of light industrial, office, and commercial. SDMC § 131.0603(b). The zone does not allow for any residential uses, other than watchkeeper quarters. SDMC § 131.0620, Table 131-06B.

The purpose of the IS zone is to allow for small scale industrial activities in urbanized areas. SDMC § 131.0605. The zone allows a wide range of industrial and non-industrial uses. *Id.* The IS zone does not allow for any residential uses, other than watchkeeper quarters. SDMC § 131.0620, Table 131-06B.

The draft ordinance presents the Industrial Use chart as amended to add medical marijuana dispensaries as a separately regulated commercial use, pending further decisions by the Council.

## **iii. Planned District Ordinances (PDO)**

San Diego Municipal Code section 151.0401(e), Uses Permitted in the Planned Districts, Conditional Use Permits/Process Four, has been amended to allow medical marijuana dispensaries as a use allowed with a CUP decided as a Process Four in the PDOs. Each PDO varies as to what portions of the LDC are applicable to it, and some PDOs create new zones. Therefore, each PDO was also reviewed separately for compatibility with the draft ordinance.

(Attachments B-T.) Further analysis of each PDO will be necessary, based on Council's direction.

## II. RETROACTIVITY

The LU&H Committee also directed that the proposed ordinance be made retroactive. Laws are generally presumed not to be retroactive, absent a very clear expressed intent to make them so. *Bates v. Franchise Tax Board*, 124 Cal. App. 4th 367 (2004), *rev. denied* (2005); 58 Cal. Jur. 3d, *Statutes*, § 32 (Supp. 2010). As discussed above, the current use of a premises as a medical marijuana dispensary is not currently a use allowed by the City's zoning ordinances. Therefore, there is no need to make the proposed ordinance retroactive in order to make its provisions applicable to those medical marijuana dispensaries that are already in operation. The proposed ordinance will be applicable to those dispensaries upon its effective date and they will be operating in violation of the law until a permit is granted in accordance with the law.

The intent of LU&H may have been to grant the existing medical marijuana dispensaries a period of time with which to come into compliance with the proposed ordinance. The draft ordinance reflects this direction to the best of this Office's understanding.

## III. FUTURE PROCESSES

The General Plan and various community plans will need to be analyzed for consistency with any specific ordinance that Council directs be brought forward for introduction. *See*, City of San Diego General Plan, Land Use and Community Planning Element, Section F, Consistency. Zoning changes must go to the Planning Commission for a recommendation prior to City Council action. SDMC §§ 123.0105(a); 112.0501, Diagram 112-05A. Environmental analysis must also be conducted on the proposed changes. Cal. Pub. Res. Code § 21080(a); SDMC § 128.0202(a). Finally, any zoning changes within the Coastal Zone are subject to approval by the California Coastal Commission. Cal. Pub. Res. Code § 30108.5. Any changes in use within an Airport Land Use Overlay Zone, also known as an Airport Land Use Compatibility Plan, will be subject to a consistency determination by the San Diego Regional Airport Authority, or a subsequent Council action to overrule a determination of inconsistency. Cal. Pub. Util. Code § 21676(b).

## CONCLUSION

The draft ordinance proposes new definitions where needed. The Process Four decision making, Conditional Use Permit, development and operating requirements, and distance requirements have been drafted. Analysis of the Commercial and Industrial Base Zone is presented for Council's determination of the appropriate zones. The proposed ordinance allows existing medical marijuana dispensaries as a use for 30 calendar days from the effective date of

the proposed ordinance, pending submission of a development application. Each Planned District Ordinance was reviewed and analyzed. Several other reviews, processes, and approvals are necessary prior to implementation of a proposed ordinance.

Respectfully submitted,

JAN I. GOLDSMITH, City Attorney

By   
Shannon Thomas  
Deputy City Attorney

ST:mm

RC-2010-20

Attachment A: Draft Ordinance amending general LDC provisions

Attachment B: Barrio Logan PDO Analysis

Attachment C: Carmel Valley PDO Analysis

Attachment D: Cass Street Commercial PDO Analysis

Attachment E: Central Urbanized Planned District Analysis

Attachment F: Centre City PDO Analysis

Attachment G: Gaslamp Quarter PDO Analysis

Attachment H: Golden Hill PDO Analysis

Attachment I: La Jolla PDO Analysis

Attachment J: La Jolla Shores PDO Analysis

Attachment K: Marina PDO Analysis

Attachment L: Mid-Cities Communities PDO Analysis

Attachment M: Mission Beach PDO Analysis

Attachment N: Mission Valley PDO Analysis

Attachment O: Mount Hope PDO Analysis

Attachment P: Old Town PDO Analysis

Attachment Q: Otay Mesa PDO Analysis

Attachment R: San Ysidro PDO Analysis

Attachment S: Southeastern PDO Analysis

Attachment T: West Lewis PDO Analysis

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE, BY AMENDING SECTION 113.0103; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 3 BY AMENDING SECTION 126.0303; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTION 131.0522, TABLE 131-05B; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 131.0622, TABLE 131-06B; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY ADDING A NEW SECTION 141.0614 AND RENUMBERING THE CURRENT SECTION 141.0614 TO 141.0615; AMENDING CHAPTER 15, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 151.0103 AMENDING CHAPTER 15, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 151.0401, ALL RELATED TO MEDICAL MARIJUANA DISPENSARIES.

WHEREAS, in 1996 the people of the State of California passed Proposition 215, the Compassionate Use Act, that allows the use of marijuana for medical purposes when recommended by a physician and excludes from criminal prosecution the patient and the primary caregiver, as defined; and

WHEREAS, in 2003, the State of California enacted Senate Bill 420, the Medical Marijuana Program Act [MMPA], that set forth requirements for the issuance of voluntary identification cards; allowed the cultivation, possession, sale, or storage of marijuana; prohibited the distribution of marijuana for profit; exempted from prosecution qualified patients and designated primary caregivers who associate to collectively or cooperatively cultivate marijuana for medical purposes; required the Attorney General to issue guidelines for the security and non-diversion of medical marijuana; and allowed cities to adopt and enforce laws consistent with the MMPA; and

WHEREAS, under federal law, the possession, transfer, or sale of marijuana remains a criminal act; and

WHEREAS, all powers not delegated by the United States Constitution to the United States nor prohibited by it to the states are reserved to the states or the people, pursuant to the Tenth Amendment of the United States Constitution; and

WHEREAS, in the State of California, zoning is a local matter exercised by the cities pursuant to the police powers set forth in article XI, section 7 of the California Constitution; and

WHEREAS, on October 6, 2009, the San Diego City Council formed a Medical Marijuana Task Force in part for the purpose of advising on land use and zoning issues; and

WHEREAS, the land use recommendations of the Medical Marijuana Task Force have been considered by the City Council, which now desires to exercise its police powers solely to provide for the zoning of medical marijuana dispensaries in such a manner as to limit the impact on the City generally and residential neighborhoods in particular; NOW THEREFORE,

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

Section 1. That Chapter 11, Article 3, Division 1, of the San Diego Municipal Code is amended by amending section 113.0103 to read as follows:

**§113.0103 Definitions**

*Abutting property to Marquee* [No change in text.]

*Medical marijuana dispensary* means a facility where marijuana is transferred to qualified patients or primary caregivers in accordance with the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, set forth in California Health and Safety Code sections 11362.5 through 11362.83. A *medical marijuana dispensary* shall not include clinics licensed by the State of California pursuant to

Chapters 1, 2, 3.01, 3.2, or 8 of Division 2 of the California Health and Safety Code.

*MHPA to Planned Urbanized Communities* [No change in text.]

*Playground* has the same meaning as in section 58.0602.

*Premises to Yard* [No change in text.]

*Youth-oriented facility* means any establishment that primarily provides services intended for people under the age of 18 years, such as youth hostels, youth centers, and youth clubs.

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

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

[No change in text.]

(a) [No change in text.]

(b) Conditional Use Permits Decided by Process Four

Botanical gardens and arboretums to Marine-related uses in the Coastal Overlay Zone [No change in text.]

*Medical marijuana dispensaries*

Mining and extractive industries to Wrecking and dismantling of motor vehicles [No change in text.]

(c) [No change in text.]

Section 3. That Chapter 13, Article 1, Division 5, of the San Diego Municipal Code is amended by amending section 131.0522, Table 131-05B to read as follows:

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

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1 <sup>st</sup> & 2 <sup>nd</sup> >> 3 <sup>rd</sup> >> 4 <sup>th</sup> >>	CN <sup>(1)</sup> -			CR-		CO-		CV-		CP-
		1-			1-	2-	1-		1-		1-
		1	2	3	1	1	1	2	1	2	1
<i>Child Care Facilities:</i>											
Child Care Centers	L	L	-	L	L <sup>(10)</sup>	-					
Large Family Child Care Homes	L	L	-	L	L <sup>(10)</sup>	-					
Small Family Child Care Homes	L	L	-	L	L	-					
Eating and Drinking Establishment Abutting Residentially Zoned Property	L	L	L	L	L	-					
Fairgrounds	-	C	C	-	C	-					
Golf Course, Driving Ranges, and Pitch & Putt Courses	-	C	C	C	C	-					
Helicopter Landing Facilities	-	C	C	C	C <sup>(10)</sup>	-					
Instructional Studios	P	P	P	C	C	-					
Massage Establishments, Specialized Practice	L	L	L	-	-	-					
<i>Medical marijuana dispensaries</i>											
Nightclubs Bars over 5,000 square feet in size	-	C	C	C	C	-					
<i>Parking Facilities as a Primary Use:</i>											
Permanent Parking Facilities	-	P	P	C	C	-					
Temporary Parking Facilities	-	N	N	C	C	-					
Private Clubs, Lodges and Fraternal Organizations	C	C	P	P	P	-					
Private Operated, Outdoor Recreation Facilities over 40,000 Square Feet in Size	-	C	C	-	C	-					
<i>Pushcarts:</i>											
Pushcarts on Private Property	L	L	L	L	L	-					
Pushcarts in Public Right of Way	N	N	N	N	N	-					
<i>Recycling Facilities:</i>											
Large Collection Facility	N	N	N	N	N <sup>(10)</sup>	-					
Small Collection Facility	L	L	L	L	L <sup>(10)</sup>	-					

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zone																	
	1 <sup>st</sup> & 2 <sup>nd</sup> >> 3 <sup>rd</sup> >> 4 <sup>th</sup> >>	CC-																	
		1-			2-			3-		4-					5-				
		1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Small Family Child Care Centers		L			-			L		L					L				
Eating and Drinking Establishment Abutting Residentially Zoned Property		L			E			L		L					L				
Fairgrounds		C			C			-		C					C				
Golf Course, Driving Ranges, and Pitch & Putt Courses		C			C			C		C					C				
Helicopter Landing Facilities		C			C			C		C					C				
Instructional Studios		C			C			C		C					C				
Massage Establishments, Specialized Practice <i>Medical marijuana dispensaries</i>		L			L			-		-					L				
Nightclubs & Bars over 5,000 square feet in size		C			C			C		C					C				
Parking Facilities as a <i>Primary Use</i> :																			
Permanent Parking Facilities		P			C			P		P					P				
Temporary Parking Facilities		N			C			N		N					N				
Private Clubs, Lodges and Fraternal Organizations		P			C			P		P					P				
Private Operated, Outdoor Recreation Facilities over 40,000 Square Feet in Size <sup>(9)</sup>		C			C			-		C					C				
Pushcarts:																			
Pushcarts on Private Property		L			L			L		L					L				
Pushcarts in Public Right of Way		N			N			N		N					N				
Recycling Facilities:																			
Large Collection Facility		N			N			N		N					N				
Small Collection Facility		L			L			L		L					L				
Large Construction & Demolition Debris <i>Recycling Facility</i>		-			-			-		-					-				
Small Construction & Demolition Debris <i>Recycling Facility</i>		-			-			-		-					-				

Section 4. That Chapter 13, Article 1, Division 6, of the San Diego Municipal Code is amended by amending section 131.0622, Table 131-06B to read as follows:

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

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones							
	1 <sup>st</sup> & 2 <sup>nd</sup> >> 3 <sup>rd</sup> >>> 4 <sup>th</sup> >>>	IP-		IL-			IH-		IS-
		1-	2-	1-	2-	3-	1-	2-	1-
		1	1	1	1	1	1	1	1
1-2 Guest Rooms		-	-	-	-	-	-	-	-
3-5 Guest Rooms		-	-	-	-	-	-	-	-
6+ Guest Rooms		-	-	-	-	-	-	-	-
Boarding Kennels		-	C	C	C	C	C	C	C
Camping Parks		-	-	-	-	-	-	-	-
<i>Child Care Facilities:</i>									
Child Care Centers		L	L	-	L	L	-	L	L
Large Family Child Care Homes		-	-	-	-	-	-	-	-
Small Family Child Care Homes		-	-	-	-	-	-	-	-
Eating and Drinking Establishment Abutting Residentially Zoned Property		-	-	-	-	L	-	-	-
Fairgrounds		-	C	C	C	C	C	C	C
Golf Courses, Driving Ranges, and Pitch & Putt Courses		-	C	C	C	C	C	C	C
Helicopter Landing Facilities		C	C	C	C	C	C	C	C
Instructional Studios		-	-	-	-	P	-	-	P
Massage Establishments, Specialized Practice		-	-	-	-	L	-	-	-
<i>Medical marijuana dispensaries</i>									
Nightclubs & Bars over 5,000 square feet in size		-	-	-	-	-	-	-	-
<i>Parking Facilities as a Primary Use:</i>									
Permanent Parking Facilities		C	C	P	C	P	P	P	C
Temporary Parking Facilities		C	C	N	C	N	N	N	C
Private Clubs, Lodges and Fraternal Organizations		C	C	C	C	C	C	C	C
Privately Operated, Outdoor Recreation Facilities over 40,000 square feet in size <sup>(13)</sup>		C	C	C	C	C	C	C	C
<i>Pushcarts:</i>									
Pushcarts on Private Property		L	L	L	L	L	L	L	L

Section 5. That Chapter 14, Article 1, Division 6, of the San Diego Municipal Code is amended by adding a new section 141.0614 and by renumbering the current section 141.0614 to section 141.0615.

**§141.0614 Medical Marijuana Dispensaries**

*Medical marijuana dispensaries* may be permitted to operate for no more than two years with a Conditional Use Permit decided in accordance with Process 4 in the zones indicated with a "C" in the Use Regulations Table in Chapter 13, Article 1 (Base Zones), subject to the following regulations.

- (a) *Medical marijuana dispensaries* shall not be permitted within 1,000 feet of *schools, parks, churches, child care facilities, playgrounds, libraries* owned and operated by the City of San Diego, *youth-serving facilities*, or other *medical marijuana dispensaries*.
- (b) Consultations by medical professionals shall not be a permitted *accessory use* at a *medical marijuana dispensary*.
- (c) Medical marijuana dispensaries shall comply with the following requirements:
  - (i) Lighting shall adequately illuminate the interior of the *medical marijuana dispensary*, façade, and the immediate surrounding area, including any *accessory uses*, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
  - (ii) Security shall include operable cameras and alarms. A security guard licensed by the State of California shall be present during business hours.
  - (iii) Signs on the outside of the *medical marijuana dispensary* shall contain only the name of the business, and shall be limited to two colors.

- (iv) There shall be posted in a location visible from outside of the *medical marijuana dispensary* the name and emergency contact phone number of an operator or manager in character size at least two inches in height.
- (v) *Medical marijuana dispensaries* shall be permitted to operate only between the hours of 7:00 a.m. to 9:00 p.m., seven days a week.

**§141.0615 Nightclubs and Bars over 5,000 Square Feet in Size**

[No Change in Text.]

Section 6. That Chapter 15, Article 1, Division 1, of the San Diego Municipal Code is amended by amending section 151.0103 to read as follows:

**§151.0103 Applicable Regulations**

- (a) [No change in text.]
- (b) (1)–(3) [No change in text.]
- (4) *Medical marijuana dispensary* regulations contained in Land Development Code section 141.0614.

Section 7. That Chapter 15, Article 1, Division 4, of the San Diego Municipal Code is amended by amending section 151.0401 to read as follows:

**§151.0401 Uses Permitted in the Planned Districts**

- (a) through (d) [No change in text.]
- (e) Conditional Use Permits/Process Four [No change in text.]
- (1)–(10) [No change in text.]
- (11) *Medical marijuana dispensaries*, subject to the conditions in Land Development Code section 141.0614.

Section 8. That the operators of any medical marijuana dispensaries, as defined herein, in operation as of the effective date of this ordinance must file a development permit application with the City of San Diego within 30 calendar days of the effective date of this ordinance.

Section 9. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 10. Except in the Coastal Overlay Zone, this ordinance shall take effect and be in force on the thirtieth day from and after its passage. Within the Coastal Overlay Zone, this ordinance shall be in force and effect on the date it is unconditionally certified by the California Coastal Commission as a City of San Diego Local Coastal Program amendment.

APPROVED: JAN I. GOLDSMITH, City Attorney

By

\_\_\_\_\_  
Shannon Thomas  
Deputy City Attorney

ST:mm  
05/24/2010  
Or.Dept: Planning  
O-2009-96  
MMS#8900

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

ELIZABETH S. MALAND  
City Clerk

By \_\_\_\_\_  
Deputy City Clerk

Approved: \_\_\_\_\_  
(date)

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

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

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

DRAFT

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: STRIKEOUT**

**NEW LANGUAGE: UNDERLINE**

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 11, ARTICLE 3, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE, BY AMENDING SECTION 113.0103; AMENDING CHAPTER 12, ARTICLE 6, DIVISION 3 BY AMENDING SECTION 126.0303; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTION 131.0522, TABLE 131-05B; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 131.0622, TABLE 131-06B; AMENDING CHAPTER 14, ARTICLE 1, DIVISION 6 BY ADDING A NEW SECTION 141.0614 AND RENUMBERING THE CURRENT SECTION 141.0614 TO 141.0615; AMENDING CHAPTER 15, ARTICLE 1, DIVISION 1 BY AMENDING SECTION 151.0103; AMENDING CHAPTER 15, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 151.0401, ALL RELATED TO MEDICAL MARIJUANA DISPENSARIES.

**§113.0103 Definitions**

*Abutting property to Marquee* [No change in text.]

*Medical marijuana dispensary* means a facility where marijuana is transferred to qualified patients or primary caregivers in accordance with the Compassionate Use Act of 1996 and the Medical Marijuana Program Act, set forth in California Health and Safety Code sections 11362.5 through 11362.83. A *medical marijuana dispensary* shall not include clinics licensed by the State of California pursuant to Chapters 1, 2, 3.01, 3.2, or 8 of Division 2 of the California Health and Safety Code.

*MHPA to Planned Urbanized Communities* [No change in text.]

Playground has the same meaning as in section 58.0602.

*Premises to Yard* [No change in text.]

Youth-oriented facility means any establishment that primarily provides services intended for people under the age of 18 years, such as youth hostels, youth centers, and youth clubs.

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

[No change in text.]

(a) [No change in text.]

(b) Conditional Use Permits Decided by Process Four

Botanical gardens and arboretums to Marine-related uses in the Coastal  
Overlay Zone [No change in text.]

Medical marijuana dispensaries

Mining and extractive industries to Wrecking and dismantling of motor  
vehicles [No change in text.]

(c) [No change in text.]

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

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1 <sup>st</sup> & 2 <sup>nd</sup> >>	CN <sup>(1)</sup> -			CR-		CO-		CV-		CP-
	3 <sup>rd</sup> >>	1-			1-	2-	1-		1-		1-
	4 <sup>th</sup> >>	1	2	3	1	1	1	2	1	2	1
<i>Child Care Facilities</i>											
Child Care Centers		L	L	-	L			L <sup>(10)</sup>		-	
Large Family Child Care Homes		L	L	-	L			L <sup>(10)</sup>		-	
Small Family Child Care Homes		L	L	-	L			L		-	
Eating and Drinking Establishment Abutting Residentially Zoned Property		L	L	L	L			L		-	
Fairgrounds		-		C	C	-		C		-	
Golf Course, Driving Ranges, and Pitch & Putt Courses		-		C	C	C		C		-	
Helicopter Landing Facilities				C	C	C		C <sup>(10)</sup>		-	
Instructional Studios		P	P	P	C			C		-	
Massage Establishments, Specialized Practice		L	L	L	-			-		-	
<i>Medical marijuana dispensaries</i>											
Nightclubs Bars over 5,000 square feet in size		-		C	C	C		C		-	
<i>Parking Facilities as a Primary Use:</i>											
Permanent Parking Facilities		-		P	P	C		C		P	
Temporary Parking Facilities		-		N	N	C		C		N	
Private Clubs, Lodges and Fraternal Organizations		C		C	P	P		P		-	
Private Operated, Outdoor Recreation Facilities over 40,000 Square Feet in Size		-		C	C	-		C		-	
<i>Pushcarts:</i>											
Pushcarts on Private Property		L		L	L	L		L		-	
Pushcarts in Public Right of Way		N		N	N	N		N		-	
<i>Recycling Facilities:</i>											
Large Collection Facility		N		N	N	N		N <sup>(10)</sup>		-	
Small Collection Facility		L		L	L	L		L <sup>(10)</sup>		-	

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zone																	
	1 <sup>st</sup> & 2 <sup>nd</sup> >>	CC-																	
	3 <sup>rd</sup> >> 4 <sup>th</sup> >>	1-			2-			3-		4-					5-				
		1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Small Family Child Care Centers		L			-			L		L					L				
Eating and Drinking Establishment Abutting Residentially Zoned Property		L			L			L		L					L				
Fairgrounds		C			C			-		C					C				
Golf Course, Driving Ranges, and Pitch & Putt Courses		C			C			C		C					C				
Helicopter Landing Facilities		C			C			C		C					C				
Instructional Studios		C			C			C		C					C				
Massage Establishments, Specialized Practice <i>Medical marijuana dispensaries</i>		L			L			-		-					L				
Nightclubs & Bars over 5,000 square feet in size		C			C			C		C					C				
Parking Facilities as a <i>Primary Use</i> :																			
Permanent Parking Facilities		P			C			P		P					P				
Temporary Parking Facilities		N			C			N		N					N				
Private Clubs, Lodges and Fraternal Organizations		P			C			P		P					P				
Private Operated, Outdoor Recreation Facilities over 40,000 Square Feet in Size <sup>(9)</sup>		C			C			-		C					C				
Pushcarts:																			
Pushcarts on Private Property		L			L			L		L					L				
Pushcarts in Public Right of Way		N			N			N		N					N				
Recycling Facilities:																			
Large Collection Facility		N			N			N		N					N				
Small Collection Facility		L			L			L		L					L				
Large Construction & Demolition Debris Recycling Facility		-			-			-		-					-				
Small Construction & Demolition Debris Recycling Facility		-			-			-		-					-				

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

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones							
	1 <sup>st</sup> & 2 <sup>nd</sup> >> 3 <sup>rd</sup> >> 4 <sup>th</sup> >>	IP-		IL-			IH-		IS-
		1-	2-	1-	2-	3-	1-	2-	1-
		1	1	1	1	1	1	1	1
1-2 Guest Rooms		-	-	-	-	-	-	-	-
3-5 Guest Rooms		-	-	-	-	-	-	-	-
6+ Guest Rooms		-	-	-	-	-	-	-	-
Boarding Kennels		-	C	C	C	C	C	C	C
Camping Parks		-	-	-	-	-	-	-	-
<i>Child Care Facilities:</i>									
Child Care Centers		L	L	-	L	L	-	L	L
Large Family Child Care Homes		-	-	-	-	-	-	-	-
Small Family Child Care Homes		-	-	-	-	-	-	-	-
Eating and Drinking Establishment Abutting Residentially Zoned Property		-	-	-	-	L	-	-	-
Fairgrounds		-	C	C	C	C	C	C	C
Golf Courses, Driving Ranges, and Pitch & Putt Courses		-	C	C	C	C	C	C	C
Helicopter Landing Facilities		C	C	C	C	C	C	C	C
Instructional Studios		-	-	-	-	P	-	-	P
Massage Establishments, Specialized Practice		-	-	-	-	L	-	-	-
<i>Medical marijuana dispensaries</i>									
Nightclubs & Bars over 5,000 square feet in size		-	-	-	-	-	-	-	-
<i>Parking Facilities as a Primary Use:</i>									
Permanent Parking Facilities		C	C	P	C	P	P	P	C
Temporary Parking Facilities		C	C	N	C	N	N	N	C
Private Clubs, Lodges and Fraternal Organizations		C	C	C	C	C	C	C	C
Privately Operated, Outdoor Recreation Facilities over 40,000 square feet in size <sup>(13)</sup>		C	C	C	C	C	C	C	C
<i>Pushcarts:</i>									
Pushcarts on Private Property		L	L	L	L	L	L	L	L

**§141.0615** **Medical Marijuana Dispensaries**

Medical marijuana dispensaries may be permitted to operate for no more than two years with a Conditional Use Permit decided in accordance with Process 4 in the zones indicated with a “C” in the Use Regulations Table in Chapter 13, Article 1 (Base Zones), subject to the following regulations.

- (a) Medical marijuana dispensaries shall not be permitted within 1,000 feet of schools, parks, churches, child care facilities, playgrounds, libraries owned and operated by the City of San Diego, youth-serving facilities, or other medical marijuana dispensaries.
- (b) Consultations by medical professionals shall not be a permitted accessory use at a medical marijuana dispensary.
- (c) Medical marijuana dispensaries shall comply with the following requirements:
  - (i) Lighting shall adequately illuminate the interior of the medical marijuana dispensary, facade, and the immediate surrounding area, including any accessory uses, parking lots, and adjoining sidewalks. Lighting shall be hooded or oriented so as to deflect light away from adjacent properties.
  - (ii) Security shall include operable cameras and alarms. A security guard licensed by the State of California shall be present during business hours.

- (iii) Signs on the outside of the *medical marijuana dispensary* shall contain only the name of the business, and shall be limited to two colors.
- (iv) There shall be posted in a location visible from outside of the *medical marijuana dispensary* the name and emergency contact phone number of an operator or manager in character size at least two inches in height.
- (v) *Medical marijuana dispensaries* shall be permitted to operate only between the hours of 7:00 a.m. to 9:00 p.m., seven days a week.

**§ 141.0614 141.0615 Nightclubs and Bars over 5,000 Square Feet in Size**

[No Change in Text.]

**§151.0103 Applicable Regulations**

- (a) [No change in text.]
- (b) (1)– (3) [No change in text.]
- (4) *Medical marijuana dispensary* regulations contained in Land Development Code section 141.0614.

**§151.0401 Uses Permitted in the Planned Districts**

- (a) through (d) [No change in text.]
- (e) Conditional Use Permits/Process Four [No change in text.]
- (1)-(10) [No change in text.]
- (11) ~~Mining and extractive industries, subject to Land Development Code~~

Section 141.1001 *Medical marijuana dispensaries*, subject to the conditions in

Land Development Code section 141.0614

ST:mm  
05/24/2010  
Or.Dept: Planning  
O-2009-96  
MMS#8900

DR A F F

---

## Barrio Logan PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The Barrio Logan PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Uses) of the LDC. SDMC § 152.0102. Therefore, an amendment to add medical marijuana dispensaries to the uses allowed in the commercial and industrial zones will be applicable to the Barrio Logan PDO. Also, an amendment to add the dispensaries as a Process Four CUP, with the conditions set forth in the draft ordinance, will also be applicable to the Barrio Logan PDO.

### 2. PDO-Specific Zones:

The Barrio Logan PDO consists of four Subdistricts (A-D) and a Redevelopment Subdistrict that contains six major land use categories. Subdistricts A-C all allow single and multifamily residential use. SDMC §§ 152.0303(a); 152.0306; 152.0309. Subdistrict D prohibits residential uses, except for an onsite caretaker or superintendent. SDMC § 152.0312(a)(2). The purpose of Subdistrict D is to allow for industrial and heavy commercial uses customarily associated with the waterfront industry. SDMC § 152.0311. The allowed uses are limited to those in the IH-2-1 zone, set forth in SDMC section 131.0622, with some uses, such as residential and churches, specifically prohibited.<sup>1</sup> SDMC § 152.0312. The only residential uses allowed in the IH-2-1 zone are watchkeeper quarters. SDMC § 131.0622.

---

<sup>1</sup> The IH-2-1 zone allows active recreation; aquaculture facilities; horticulture nurseries and greenhouses; raising and harvesting of crops; agriculture equipment and repair shops; community gardens; watchkeeper quarters; airports; cemeteries, mausoleums, crematories; correctional placement facilities; colleges/universities; vocational trade school; energy generation and distribution facilities; exhibit hall and convention facilities; flood control facilities; historical buildings use for purposes not otherwise allowed; congregate meal facilities; homeless shelters; homeless day centers; hospitals, intermediate care and nursing facilities; major transmission, relay, or communication switching stations; satellite antennas; wireless communication facilities in and outside of the public right of way; retail sales of building supplies and equipment, sundries, pharmaceutical, convenience, agriculture related supplies and equipment, plant nurseries; swap meets and other large outdoor retail facilities; building services; building support; eating and drinking establishments; funeral and mortuary services; off-site services; radio and television studios; adult book stores; boarding kennels; child care centers; fairgrounds; golf courses, driving ranges, and pitch and putt courses; helicopter landing facilities; permanent and temporary parking facilities; private clubs, lodges, and fraternal organizations; privately operated, outdoor recreations facilities over 40,000 square feet; pushcarts; recycling facilities; sidewalk cafes; sports arenas; theaters that are outdoor or over 5,000 square feet; urgent care facilities; veterinarian clinics and animal hospitals; government offices; regional and corporate headquarters; commercial vehicle repair and maintenance; commercial and personal vehicle sales and rentals; vehicle equipment and supplies sales and rentals; automobile service stations; outdoor displays of new vehicles; equipment and materials storage yards; moving and storage facilities; warehouses; wholesales distribution; impound storage; junk yards; temporary construction yards located off-site; heavy and light manufacturing; marine industry; research and development; trucking and transportation terminals; hazardous waste research and treatment facilities; marine related uses in the Coastal Overlay Zone; mining and extractive industries; newspaper publishing plants; packaging and processing of plant and animal by-products; very heavy industrial; wrecking and dismantling of motor vehicles; and signs. SDMC § 131.0622; Table 131-06B.

The Redevelopment Subdistrict is established for the purpose of furthering the goals of the Barrio Logan Redevelopment Project. SDMC § 152.0315. The six major land use categories are Commercial Use, Mercado District, Commercial/Residential Mixed Use, Residential Use, Public/Quasi-Public Use and Light Industry/Commercial Use, as set forth in Table 152-03A. SDMC § 152.0316.

The permitted residential uses in these land use categories for the Redevelopment District are as follows:

Commercial: live/work (lofts)  
senior citizen housing

Mercado: multi-family  
senior citizen housing  
Mercado District residential (a one block district defined in § 152.0317(a)(6))

Commercial/Residential Mixed Use: single family  
multi-family  
live/work (lofts)  
senior citizen housing

Residential: single family  
multi-family  
live/work (lofts)  
senior citizen housing

Public/Quasi-Public: none

Light Industrial/Commercial Use: live/work (lofts)

SDMC § 152.0316 Table 152-03A. The permitted uses are grouped in the Barrio Logan Redevelopment Subdistrict according to land use classification. SDMC § 152.0317. *See*, Figure 2, Barrio Logan PDO.

### 3. Analysis of Uses Allowed:

The Barrio Logan zones with permitted commercial and industrial use and restrictions on residential uses are Subdistrict D and Redevelopment Light Industrial/Commercial Use category.

### 4. Amendments Needed:

If the I-H zone is amended as recommended by LU&H, medical marijuana dispensaries would be an allowed use in Subdistrict D. No amendments are needed to the Barrio Logan PDO to make this change effective. The proposed amendments to sections

151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

## Carmel Valley PDO Analysis

## 1. Adoption of Relevant LDC Provisions:

The Carmel Valley PDO adopts the Commercial Base zone in Chapter 13, Article 1, Division 5, with some exceptions. The PDO does not adopt the Industrial Base zone in Chapter 13, Article 1, however, as discussed below, some uses are allowed by reference. The PDO adopts all of Chapter 14, Article 1 (Separately Regulated Uses). The requirement that the medical marijuana dispensaries be a Process Four CUP will be applicable.

## 2. PDO-Specific Zones:

The Neighborhood Commercial (NC) zone applies the Commercial Base zones for the CN-1-2 zone, except for the Neighborhood Commercial Center of Neighborhood 6 of the Development Units 4, 5, and 6 Precise Plan area. SDMC § 153.0304. Within Neighborhood 6, a total of 15 acres may be developed with Visitor Commercial uses in accordance with the use regulations for the CV-1-1 zone. *Id.*

The Town Center (TC) zone allows a variety of commercial and professional services and retail. SDMC § 153.0306.

The LDC Commercial Base Zone (termed “Specialized Commercial (SC)”), is amended by prohibiting the following uses: apartments, truck sales, automobile wash establishments, automobile repair and paint shops (including body and fender work if entirely within a closed building), boat and trailer sales agencies, equipment and tool rental establishments, frozen food lockers, and hotel, motels, and time share projects. SDMC § 153.0307.

The Educational and Park (EP) area may be used for elementary, junior high, and senior high school or neighborhood or commercial parks. SDMC § 153.0308.

The Employment Center (EC) zone allows those industrial uses allowed in the IP-1-1 zone.<sup>1</sup> SDMC § 153.0309(a)(1). Other assembly, distribution, and manufacturing uses are also allowed in the EC zone. SDMC § 153.0309(a)(4), (5). Residential uses, other

---

<sup>1</sup> Those uses are: active and passive recreation; watchkeeper quarters; airports; cemeteries, mausoleums, and crematories; churches and places of religious assembly; correctional placement centers; colleges/universities; energy generation and distribution facilities; flood control facilities; historical buildings used for purposes not otherwise allowed; hospitals, intermediate care and nursing facilities; major transmission, relay, or communication switching stations; satellite antennas; social service institutions; wireless communication facilities; child care centers; helicopter landing facilities; parking facilities; private clubs, lodges, and fraternal organizations; privately operated, outdoor recreation facilities over 40,000 square feet in size; pushcarts; large and small collection recycling facilities; drop off recycling facilities; reverse vending machines; regional and corporate headquarters; automobile service stations; temporary construction storage yards located off-site; light manufacturing; research and development; hazardous waste research and treatment facilities; newspaper publishing plants; and signs. SDMC § 131.0622; Table 131-06B.

than watchkeeper quarters, are specifically prohibited in the EC zone, as are churches, schools, and commercial uses not specifically permitted. SDMC § 153.0309(a)(12).

The Special Use (SP) area allows the development of uses of an educational, recreational, institutional, public, or quasi-public nature. SDMC § 153.0310(a). The SP area may be used by bodies having the power of eminent domain; schools; home day cares; intermediate health facilities and nursing homes; private recreational facilities; non-profit institutions with the primary purpose of promoting public health and welfare; private clubs, lodges, and fraternities; electric distribution and gas regulation stations entirely enclosed by a building; and churches. SDMC § 153.0310(b).

### 3. Analysis of Uses Allowed:

The Carmel Valley PDO NC, TC, SC, and EC zones allow commercial and, in the case of the EC zone, industrial uses, and limit residential use.

### 4. Amendments Needed:

The proposed amendments to the uses permitted in the Commercial Base Zones will apply by reference to the NC and SC Zones, and the proposed amendments to the permitted uses in the IP-1-1 zone will be incorporated by reference as a use allowed in the EC Zone. The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

## Cass Street Commercial PDO Analysis

### 1. Adoption of LDC Provisions:

The Cass Street PDO adopts both Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 154.0103. Any changes to these chapters will be applicable to the Cass Street PDO.<sup>1</sup>

### 2. PDO-Specific Zones:

The Cass Street Commercial PDO does not create any PDO-specific zones. The allowable uses in the PDO are hotels and motels; residential; retail of goods and services; public utility substations and regulators and communications equipment buildings; business and professional offices; automobile, live entertainment, and funeral parlors, subject to certain conditions and issuance of a Special Use Permit; parking lots; and uses allowed in the CN-1-2 Zone subject to a Special Use Permit. SDMC § 154.0301. The Cass Street Commercial PDO area is zoned Community Commercial (CC).

### 3. Analysis of Uses Allowed:

The Cass Street Commercial PDO is currently zoned CC. This zone does not permit any industrial uses, therefore, no area is similar to the IP, IL, IH, and IS zones. Furthermore, residential uses are allowed throughout the PDO.

### 4. Amendments Needed:

Currently, all of Cass Street Commercial PDO is zoned CC. Only amendments to that zone will be effective in the Cass Street PDO area. If the Council would like to add the use as permitted in other zones, amendments to the PDO would be required. The proposed amendment to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

---

<sup>1</sup> The Pacific Beach Community Plan recommends the repeal of the Cass Street Commercial PDO. *See*, Pacific Beach Community Plan, Commercial Land Use, Specific Proposals, pg. 44.

## Central Urbanized PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The Central Urbanized Planned District adopts Chapter 13 (Zones), except as modified in sections 155.0231-155.0244. SDMC § 155.0230. In addition, in the CN-1-3, CC-4-3, CC-5-3, and CC-5-4 Zones, a single dwelling unit is permitted. SDMC § 155.0233(a). In the CN-1-3 and CC-5-4 Zones, multiple dwelling units are permitted. SDMC § 155.0233(b).

### 2. PDO-Specific Zones:

In addition to the base zones in Chapter 13, the Central Urbanized Planned District has two PDO-specific zones. The Central Urbanized Commercial Zone (CU) allows for mixed uses, with varying densities. SDMC § 155.0235. The CU-1 Zone permits neighborhood-serving commercial uses, as well as residential uses. SDMC § 155.0235(a). The CU-2 Zone permits heavy commercial and limited industrial, as well as residential uses. SDMC § 155.0235(b). The CU-3 Zone permits a mix of pedestrian-oriented, community serving uses, limited industrial, and residential uses. SDMC § 155.0235(c).

The Commercial-Transitional (CT) Zone is to allow for a transition between commercial and residential uses. SDMC § 155.0235(d). The use may be either commercial or residential. *Id.*

### 3. Analysis of Uses Allowed:

The CR, CO, CC, IP, IL, IH, and IS Zones may be used in the Central Urbanized PDO.

### 4. Amendments Needed:

Although the Central Urbanized PDO does not adopt Chapter 14, Separately Regulated Uses, the proposed amendment to SDMC sections 151.0103 and 151.0401 would allow medical marijuana dispensaries to be issued via a Process Four CUP.

## Centre City PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The Centre City PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1, Division 1, (General Rules for Separately Regulated Uses). SDMC § 156.0306.

### 2. PDO-Specific Zones:

The Centre City PDO has twelve land use districts and twelve overlay districts. The land use districts and purpose are summarized as follows:

Core I- a high-intensity office and employment center, of regional importance and serving as a primary hub for business, communications, office, and hotels.

Neighborhood Mixed-Use Center (NC) - for development of distinctive centers around plazas, parks, or Main Streets that provide a focus to the neighborhoods by supported mixed use projects.

Employment/Residential Mixed Use (ER) - for educational institutions and residential neighborhoods, or transition between the Core District and residential neighborhoods.

Ballpark Mixed-Use (BP) - for mixed use development supporting major sporting facilities and visitor attractions.

Waterfront/Marine (WM) – for a range of maritime-related uses, including ocean-related industry, major tourist and local visitor attractions, trade, office, eating and drinking establishments, and hotels.

Mixed Commercial (MC) - for a wide array of uses, including residential, artists' studios, live/work spaces, hotels, offices, research and development, and retail. Light industrial uses are also permitted.

Residential Emphasis (RE) – primarily for residential development, although small scale commercial services and retail are allowed as well as churches, cultural institutions, and educational facilities.

Industrial (I) – allows a wide range of industrial uses, including light manufacturing, transportation services, and repair and storage.

Transportation (T) – for uses related to trolley, passenger and freight rail operations, maintenance and repair, and associated activities.

Convention Center/Visitor (CC) – for convention centers, hotels, parks and open spaces for visitor uses.

Public/Civic (PC) – provides a center for government, civic, cultural, educational, and public and support services, and accommodates residential uses.

Park/Open Space (OS) – for public parks and open spaces.

SDMC § 156.0307. The twelve overlay districts are the Airport Environs Overlay Zone, Airport Approach Overlay Zone, Coastal Zone Overlay, Commercial Street Overlay, County Administration Center Design Overlay, Employment Required Overlay, Fine Grain Development Overlay, Large Floorplate Overlay, Little Italy Sun Access Overlay, Main Street Overlay, Park/Open Space Overlay, and the Park Sun Access Overlay. *Id.* All of these contain use or development regulations applicable to parts of the Centre City Planned District.

3. Analysis of Uses Allowed:

Restriction on residential uses: the WM, I, T, OS, and CC Districts do not allow any residential use.

Permitted commercial services: the Waterfront/Marine and the Convention Center/Visitor allow almost all commercial services; the Industrial, Transportation, and Park/Open Space Districts are much more restrictive in the commercial services allowed. The Industrial District only allows maintenance and repair, off-site services, and parking and recycling facilities. The Transportation District only allows maintenance and repair, parking and recycling facilities, and pushcarts. The Parks/Open Space District only allows underground assembly and entertainment, eating establishments, parking facilities, pushcarts, and sidewalk cafes.

Permitted industrial uses: the Park/Open Space and Convention Center/Visitor Districts do not allow any industrial uses. The Waterfront/Marine District allows only light manufacturing. The Industrial District allows heavy and light manufacturing, marine industry, research and development, and trucking and transportation terminals. The Transportation District allows light manufacturing, research and development, and trucking and transportation terminals.

4. Amendments Needed:

The proposed amendment to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

## Gaslamp Quarter PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The Gaslamp Quarter PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Uses). SDMC § 157.0104.

### 2. PDO-Specific Zones:

No PDO-specific zones are created; however, specific permitted purposes are set forth:

- 1) the retail of consumer convenience goods and dispensing of consumer services from listed establishments;
- 2) uses such as equipment and furniture sales, newspaper plants, radio and TV stations, clubs, and dwelling units are allowed above the ground floor;
- 3) specialized uses, specifically, charitable organizations and their attendant activities, churches, temples or buildings used primarily for religious purposes, museums, tourist and historical information centers;
- 4) other uses typically conducted in the public right-of-way during the 1880-1910 era.<sup>1</sup>

SDMC 157.0303.

### 3. Analysis of Uses Allowed:

The Gaslamp Quarter PDO allows commercial services throughout the District, and residential uses are allowed above the ground floor throughout the District.

### 4. Amendments Needed:

In the current version of the Gaslamp Quarter PDO, the proposed amendments to section 151.0103 and 151.0401 will apply. However, the Gaslamp Quarter PDO is expected to be presented to Council for amendment within the next few months. The amendment clarifies the current practice that, notwithstanding the uses allowed in Chapter 15, Article 1, the only permitted uses are those listed in the Gaslamp PDO. The basis for the very narrow category of uses is that the Gaslamp Quarter Planned District is a National Register Historical District. If Council would like to add medical marijuana dispensaries as a permitted use, the Gaslamp Quarter PDO would need to be amended to include that use.

---

<sup>1</sup> The draft amendment to the Gaslamp Quarter PDO amends this period of time to the 1873-1930 era, to correspond to the period of time covered by the National Register designation.

## Golden Hill PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The Golden Hill PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 158.0103

### 2. PDO-Specific Zones:

The Golden Hill PDO has a Residential Zone and two Commercial Zones. The Residential Zone allows residential development, schools, parks and playgrounds, churches, libraries, child-care facilities, and professional offices. SDMC § 158.0301. Commercial Zones GH-CN and GH-CC allow various retail and service uses such as antique shops, auto repair, day care, professional offices, dry cleaning, holistic health practitioners, music stores, residential development, restaurants, and pushcarts. SDMC § 158.0302.

### 3. Analysis of Uses Allowed:

Industrial uses are not allowed in the Golden Hill District. All areas of Golden Hill allow residential use.

### 4. Amendments Needed:

The proposed amendment to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

La Jolla PDO Analysis

1. Adoption of Relevant LCD Provisions:

The La Jolla PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 159.0103.

2. PDO-Specific Zones:

The La Jolla PDO creates six zones; Zones 1-6.

Zones 1, 2, 3, and 4 allow the following uses: retail establishments, offices, residential development, hotels/motels (except for in Zone 4), private clubs, churches, civic buildings, libraries, and uses allowed in section 151.0401 in commercial zones pursuant to a CUP.

Zone 5 allows residential development and cultural uses.

Zone 6 allows cultural uses.

All zones allow parking lots. Below ground structures are permitted in Zones 2, 3, 4, and 6.

SDMC § 159.0302.

3. Analysis of Uses Allowed:

All zones except Zone 6 allow residential use.

4. Amendments Needed:

The proposed amendment to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

## La Jolla Shores PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The La Jolla Shores PDO adopts Chapter 13 (Zones). SDMC § 1510.0107.

### 2. PDO-Specific Zones:

The PDO has a Single-Family Zone (SF) that allows single-family dwellings; public parks; playgrounds; golf courses; schools; churches, and electric distribution and gas regulations stations. SDMC § 1510.0303. The PDO also has Multi-Family Zones (MF) that allow any use permitted in the single-family zone, two-family dwellings, and residential care homes for not more than 6 seniors. SDMC § 1510.0305. The Visitor Zone (V) allows any use permitted in the Multi-Family Zone; hotels, motels and the accessory uses, such as restaurants, shops and services; private clubs, lodges, and fraternal organizations; and an automobile service station in a limited location. SDMC § 1510.0307. In the Commercial Zone (CC), the retail of consumer goods and services is allowed as well as business and professional offices, dwelling units and apartments, instructional studios, and automobile parking. SDMC § 1510.0309. The Public Park Area (PP) allows use only for park purposes. SDMC § 1510.0311. The Northwest YMCA Area only allows the premises to be used for YMCA purposes. SDMC § 1510.0312. The Private Recreation Facility area only allows use for private recreation facilities, such as, tennis, golf, guest units, restaurants, swimming pools, meeting rooms, and business supporting these uses. SDMC § 1510.0313.

### 3. Analysis of Uses Allowed:

Residential uses are allowed in the SF, MF Zone, Multi-Family Zone, and V Zone. The CC Zone allows consumer retail and services.

### 4. Amendments Needed:

Although the La Jolla Shores PDO does not adopt Chapter 14, Separately Regulated Uses, the proposed amendment to SDMC sections 151.0103 and 151.0401 would allow medical marijuana dispensaries to be issued via a Process Four CUP.

## Marina PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The Marina PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 1511.0103.

### 2. PDO-Specific Zones:

The Marina PDO does not create any new zones; all areas are a percentage of mixed residential and nonresidential uses. SDMC § 1511.0301. The residential uses allowed are multi-family, single-room occupancy, and live/work quarters. SDMC § 1511.0301(d). The non-residential uses allowed are eating and drinking establishments, food sales, institutional facilities, business and home services, personal improvement services, and retail sales. SDMC § 1511.0301(e). Through the issuance of a Conditional Use Permit, the following uses may be allowed: religious assembly, schools, day care facilities, broadcasting services, utility substations, residential care facilities, and mixed hotel/residential development. SDMC § 1511.0301(e)(2).

### 3. Analysis of Uses Allowed:

All areas of the Marina PDO allow residential use. The area with the least residential use (60%) is that area in SDMC section 1511.0301(c).<sup>1</sup>

### 4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

---

<sup>1</sup> This area is legally described as Lot "L" of Block 30, New San Diego Addition, according to the map thereof No. 456, made by Gray and Johns, on file in the office of the County Recorder of San Diego County. SDMC § 1511.0301(c).

## Mid-Cities Communities PDO Analysis

## 1. Adoption of Relevant LDC Provisions:

The Mid-Cities Communities PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 1512.0103.

## 2. PDO-Specific Zones:

The Mid-Cities Communities PDO creates several zones, summarized as follows:

Residential Zones (MR-3000, MR-2500, MR-1750, MR-1500, MR-1500B, MR-1250B, MR-1000, MR-1000B, MR-800B, MR-400): these zones allow residential development; boarding and lodging houses; schools; public parks and public playgrounds; churches; uses permitted in the abutting commercial zone; public libraries; institution or homes for the day or full-time care of not more than 15 children under 16 years old; professional offices; services in residential developments primarily to serve the occupants; and hotels, motels, time-share projects, and incidental businesses. SDMC § 1512.0302.

Commercial Zones (CN, CL, CV, and NP): these zones generally allow various retail sales and consumer services; business and professional offices; hotels and motels in some zones; live/work quarters in some zones; private clubs, fraternal organizations, and lodges; radio and television studios; recreational facilities; restaurants; instructional studios; theaters with or without live entertainment; construction and manufacturing of cabinets, windows and doors, and furniture in some zones; repair of equipment; public parks and playgrounds; and residential development in all zones. SDMC § 1512.0305, Table 1512-031.

Transition Zones (T suffix added to any Commercial Zone): these zones are commercial zones intended to provide a transition area between commercial use areas and residential use areas. SDMC § 1512.0307. These areas may be used for the expansion of an existing or adjoining commercial use, or may be used for residential development. *Id.*

Commercial Nodes Zones (CN-1 through CN-4): these zones provide for pedestrian oriented commercial and mixed use districts in select higher activity areas. SDMC § 1512.0308. Development standards apply to these zones to provide for a pleasurable walking condition; however, there are no use standards associated with the nodes. *Id.*

Commercial Linear Zones (CL-1 through CL-3, CL-5 through CL-6): these zones provide for automobile oriented commercial districts in which residential or mixed-use development is also encouraged; usually between commercial nodes. SDMC § 1512.0309(a).

Commercial Villages Zones (CV-1 through CV-4): these zones provide for pedestrian oriented districts for commercial, residential, or mixed-use development; usually in linear areas between commercial nodes. SDMC § 1512.0310(a).

Neighborhood Professional Zones (NP-1 through NP-3): these zones provide for business and professional offices and associated uses and residential uses located near hospitals or adjacent to major concentrations of commercial activities. SDMC § 1512.0311(a).

3. Analysis of Uses Allowed:

Residential Uses Allowed:

CN-1, 2; CN-1A, 2A; CL-1, 2, 3; CL-6; and CV-1, 2, 4: hotels, motels, and time shares

CN-1, 2; CN-1A, 2A, 3, 4; CL-1, 2, 3; CL-6; CV-1, 2, 3, 4; live/work quarters

All Commercial Zones: residential development in accordance with the PDO regulations

4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

Mission Beach PDO Analysis

1. Adoption of Relevant LDC Provisions:

The Mission Beach PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 1513.0103.

2. PDO-Specific Zones:

The Mission Beach PDO has two subdistricts; residential and commercial. SDMC §§ 1513.0302; 1513.0305. The purpose of the Residential Subdistricts (R-N and R-S) is to regulate the small-scale and low-profile developed area with a maximum residential density of approximately 36 dwelling units per net residential acre. SDMC § 1513.0302(a). The purpose of the Neighborhood Commercial (NC-N or NC-S) Subdistrict is to provide adequate commercial services for residents. SDMC § 1513.0305. The purpose of the Visitor Commercial (VC-S) Subdistrict is to accommodate tourists, visitors, and vacationers. *Id.*

3. Analysis of Uses:

The Residential Subdistricts allow single dwelling units, duplexes, multiple dwelling units, parks and playgrounds, and off-premises parking lots for residential uses. SDMC § 1513.0303(a). The Commercial Subdistricts allow the residential subdistrict uses, as well as business offices, retail of various consumer goods and services, instructional studios, and hotels and motels in the VC Subdistrict only, including associated restaurants and bars. SDMC § 1513.0306. All of the Mission PDO area allows residential use.

4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

## Mission Valley PDO Analysis

## 1. Adoption of Relevant LDC Provisions:

The Mission Valley PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 1514.0103.

## 2. PDO-Specific Zones:

The Mission Valley PDO creates six zones:

**San Diego River Subdistrict:** This district allows passive and active recreation and sidewalk cafes/outdoor dining in the transitional buffer area. SDMC § 1514.0302(c)(4).

**Hillside Conservation, Design, and Height Limitation Subdistrict:** This district regulates development, and not, with the exception of signs, use. SDMC § 1514.0303.

**Residential Zones (MVR-1 through MVR-5):** These zones provide for multiple-family residential development. SDMC § 1514.0304(a). The zones allow residential, single family dwellings, boarding and lodging houses, child care facilities, schools, parks and playgrounds, churches, mobilehome parks, watchman quarters, and neighborhood commercial uses. SDMC § 1514.0304(b), Table 1514-03D.

**Commercial Zones (MV-CO, MV-CV, MV-CR):** These zones allow business and professional offices and associated services; services for the lodging, dining, and shopping needs of visitors; and the community and regional retail sales establishments. SDMC § 1514.0305(a). The zones all allow child care facilities and churches. SDMC § 1514.0305(b), Table 1514-03I. The MV-CV and MV-CR Zones allow hotels, motels, and time-share projects. *Id.* The MV-CO and MV-CR Zones allow schools. *Id.*

**Industrial Zone (MV-I):** This zone applies the provisions of the IL-2-1 Zone to supplement the provisions of the PDO.<sup>1</sup> SDMC § 1514.0306(a)(1). In addition, commercial uses are allowed. SDMC § 1514.0306(b).

---

<sup>1</sup> The IL-2-1 Zone allows active recreation; aquaculture facilities; agricultural equipment and repair shops; watchkeeper quarters; airports; cemeteries, mausoleums, and crematories; churches; correctional placement centers; schools, colleges, universities, and trade schools; energy generation and distribution facilities; exhibit halls and convention facilities; flood control facilities; historical buildings used for purposes not otherwise allowed; congregate meal facilities; emergency shelters; homeless day centers; hospitals, intermediate care facilities, and nursing facilities; major transmission, relay, or communication facilities; satellite antennas; social services institutions; wireless communication facilities; retail sales of building equipment and supplies, consumer goods, furniture, appliances, equipment, sundries, pharmaceuticals, apparel, agriculture related supplies and equipment, swap meets; commercial building services and business support, eating and drinking establishments; financial institutions; funeral services; maintenance and repair; off-site services; personal services; assembly and entertainment; radio and television studios; adult book stores, drive-in theatres, picture theaters, model studios, peep shows, body painting studios; boarding kennels; child care centers; fairgrounds; golf courses, driving ranges, helicopter landing facilities; parking facilities; private clubs, lodges, and fraternal organizations; private outdoor

Multiple Use Zone (MV-M): This zone allows various commercial and residential uses. SDMC § 1514.0307(c).

3. Analysis of Uses:

The Commercial Zones allow schools, child care, and some residential uses. The Industrial Zone allows limited residential use.

4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

---

recreation facilities over 40,000 square feet; pushcarts; recycling facilities; sidewalk cafes; sports arenas; theaters outdoors or over 5,000 square feet; urgent care facilities; veterinary clinics; business, professional, and government offices; medical, dental, and health practitioner offices; regional and corporate headquarters; sex offender treatment and counseling offices; vehicle equipment sales and service, repair and maintenance, personal sales and rentals, and outdoor display of vehicles; equipment storage yards; storage and moving facilities; warehouses; wholesale distribution; impound yards, junk yards; temporary construction storage yards; light manufacturing; marine industry; research and development; hazardous waste research and treatment facility; marine related uses; mining and extractive industries; newspaper publishing plants; processing and packaging of plant and animal by-products; wrecking and dismantling of motor vehicles; and signs. SDMC § 131.0622, Table 131-06B.

## Mount Hope PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The Mount Hope PDO adopts Chapter 13 (Zones) and Chapter 14 (General Regulations). SDMC § 1515.0103. Any changes to these chapters will be applicable to the Mount Hope PDO.

### 2. PDO-Specific Zones:

The Mount Hope PDO has three subdistricts. SDMC § 1515.0301(a). Subdistrict I applies to the residential areas of the Mount Hope Planned District. SDMC § 1515.0302(a). The intent of Subdistrict I is to allow for mixed use development on Market Street, residential revitalization, planned commercial development, and to encourage new housing and commercial development on aggregated parcels. SDMC § 1515.0302(b). Subdistrict I allows single and multiple family dwelling units, along with recreational facilities and services for the residents; churches; and the commercial uses allowed in section 1515.0306 (Subdistrict II Permitted Uses), depending on the size and location of the lot. SDMC § 1515.0303.

Subdistrict II applies to the commercial areas of the Mount Hope Planned District. SDMC § 1515.0305(a). The purpose of the regulations is to allow for mixed use development on Market Street, commercial revitalization, and to encourage new housing and commercial development on aggregated parcels. *Id.* The permitted uses are banks; business and professional offices; private clubs, lodges, and fraternal organizations; restaurants and bars; indoor theaters; trade and business schools; churches and wedding chapels; labor unions; medical, dental, biological, and x-ray laboratories; public utility electric substations, gas regulators, and communications equipment buildings; retail of various consumer convenience goods and services; and residential uses allowed in Subdistrict I, depending on the size and location of the parcel. SDMC § 1515.0306.

Subdistrict III applies to the commercial and manufacturing area of the Mount Hope Planned District. SDMC § 1515.0308(a). The purpose of the regulations is to allow for the manufacturing of goods sold on the premises; however, the manufacturing use is secondary to the commercial establishment. *Id.* The permitted uses are any use allowed in Subdistrict I, depending on the parcel size, and Subdistrict II; and retail and manufacture of various consumer goods. SDMC § 1515.0309.

### 3. Analysis of Uses Allowed:

All of the Subdistricts allow residential use.

### 4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendments to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

## Old Town PDO Analysis

### 1. Adoption of Relevant LDC Provision:

The Old Town PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Uses). SDMC § 1516.0104.

### 2. PDO-Specific Zones:

The Old Town Planned District has seven subareas. SDMC §§ 1516.0101; 1516.0102. The subareas and allowed uses are:

- 1) Single-family- to preserve the existing single family homes adjacent to Presido Park;
- 2) Multi-family- for low to medium density residential development;
- 3) Public properties - all lands held in public or government agency ownership and are divided further into state historic park lands, preserved to reflect the character of San Diego from its founding to 1871 by preserving, restoring, and recreating historic sites, structures, and activities; Presido Park area, that contain the earliest historic sites in Old Town and offers active and passive recreation; County Heritage Park, maintained to preserve a Victorian Era mini-community; and public parking;
- 4) Core - a pedestrian commercial subarea with pedestrian oriented commercial uses, as well as other commercial retail and services above the ground floor, and dwelling units, boarding and lodging, offices and instructional schools that do not occupy ground floor frontage;
- 5) Jefferson - a mixed-use residential and limited commercial area intended to support the Core and allowing any uses allowed in the Core, however, commercial or office space is not allowed on the ground floor;
- 6) Hortensia - a commercial visitor area, allowing hotel and motels; offices; business services customarily catering to hotel and motel guests, and office users; restaurants; theaters; cultural centers; meeting halls; and some residential development, similar to the Jefferson subarea; and
- 7) Rosecrans - a commercial visitor area allowing any use allowed in the Core and any use allowed in the "Hortensia" subarea, allowing medium to large scale buildings and large open spaces designed to recreate the original river environment.

SDMC §§ 1516.0101; 1516.0301.

3. Analysis of Uses Allowed:

All areas of the Old Town Planned District allow residential use.

4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendments to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

## Otay Mesa Development District Ordinance Analysis

### 1. Adoption of Relevant LDC Provisions:

The Otay Mesa Development District adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 1517.0103.

### 2. PDO-Specific Zones:

The Otay Mesa Development District has the following subdistricts: Industrial Subdistrict, Commercial Subdistrict, Otay International Center Precise Plan Subdistrict, Canyon and Hillside Subdistrict, and the Brown Field Flight Activity Subdistrict and Approach Zone. SDMC §§ 1517.0301, 1517.0302, 1517.0303, 1517.0304.

The Industrial Subdistrict allows all uses in the IH-2-1 Zone;<sup>1</sup> research services such as research and development, manufacturing, fabrication and production of products, manufacturing of biochemical research and diagnostic compounds, production of experimental products, medical, dental, biological, and x-ray laboratories; general industrial uses for the custom manufacturing, manufacturing, fabricating, assembly, testing, repair, servicing, and processing of products; repair and sales of various aircraft, automobile, boats, and farm equipment; construction sales and service uses; wholesale, storage, and distribution uses; business support services provided the use is limited to 5% of the gross ownership area, notice is given to the City Manager, and the use is limited to those in the Commercial Subdistrict (except that hotels, motels, automobile and truck sales, and rental agencies are not allowed); major utility facilities; and services uses such as hospitals and trade schools. SDMC § 1517.0301(a).

---

<sup>1</sup> The IH-2-1 zone allows active recreation; aquaculture facilities; horticulture nurseries and greenhouses; raising and harvesting of crops; agriculture equipment repair shops; community gardens; watchkeeper quarters; airports; cemeteries, mausoleums, crematories; correctional placement centers; colleges/universities; vocational/trade school; energy generation and distribution facilities; exhibit halls and convention facilities; flood control facilities; historical buildings used for purposes not otherwise allowed; congregate meal facilities; emergency homeless shelters; homeless day centers; hospitals, intermediate care and nursing facilities; major transmission, relay, or communications switching stations; satellite antennas; wireless communication facilities in and outside of the public right-of-way; retail sales of building supplies and equipment, sundries, pharmaceutical, convenience, agriculture related supplies and equipment, plants, and at swap meets; building services; business support; eating and drinking establishments; funeral and mortuary services; off-site services; radio and television studios; adult book stores; boarding kennels; child care centers; fairgrounds; golf courses, driving ranges, and pitch and putt courses; helicopter landing facilities; permanent and temporary parking facilities; private clubs, lodges, and fraternal organizations; privately operated, outdoor recreations facilities over 40,000 square feet; pushcarts; recycling facilities; sidewalk cafes; sports arenas; theaters that are outdoor or over 5,000 square feet; urgent care facilities; veterinarian clinics and animal hospitals; government offices; regional and corporate headquarters; commercial vehicle repair and maintenance; commercial and personal vehicle sales and rentals; vehicle equipment and supplies sales and rentals; automobile service stations; outdoor storage and displays of new vehicles; equipment and materials storage yards; moving and storage facilities; warehouses; wholesale distribution; impound storage yards; junk yards; temporary construction storage yards located off-site; heavy and light manufacturing; marine industry; research and development; trucking and transportation terminals; hazardous waste research and treatment facilities; marine related uses in the Coastal Overlay Zone; mining and extractive industries; newspaper publishing plants; packaging and processing of plant and animal by-products; very heavy industrial; wrecking and dismantling of motor vehicles; and signs. SDMC § 131.0622, Table 131-06B.

The Commercial Subdistrict allows the business support services in the Industrial Subdistrict; business and professional office uses; labor unions and trade associations; medical, dental, biological, and x-ray laboratories; hotels and motels; retail of consumer convenience goods and dispensing of consumer services; and in the area bounded by Otay Mesa Road, Airway Road, and Alisa Court, the uses allowed in the Industrial Subdistrict are also allowed. SDMC § 1517.0301(b).

The uses in the Otay International Center Precise Plan (Precise Plan) Subdistrict are limited to those in the Precise Plan. SDMC § 1517.0302. The Precise Plan was adopted by the City Council on September 11, 1984. *See*, San Diego Resolution R-261534 (Sept. 11, 1984). The Subdistrict Basic Use Zone is applied over the entire ownership, with commercial and business components on specific parcels. Precise Plan, pg. 20. The permitted uses in the Basic Use Zone are those manufacturing and industrial uses that have no or very low nuisance characteristics, and compatible nonindustrial uses that support such uses. *Id.* The permitted uses in the Basic Use Zone are: ambulance services; community recreation; essential civic services; fire protection services; parking services; postal services; administrative and professional services; automotive and equipment--parking; business equipment sales and services, business support services; communication services; laundry services; indoor participant sports and recreation; research services; wholesaling, storage, and distribution--mini-warehouses; custom manufacturing; horticulture; tree crops; row and field crops; packing and processing; row and field crops; packing and processing. Precise Plan, pgs. 20-21. The Commercial Use Component is intended to permit border-related commercial services, retail sales, and administrative services. Precise Plan, pg. 21. The uses allowed are clinic services; cultural exhibits and library services; day care/small schools; lodge, fraternal, and civic assembly; minor-impact utilities; religious assembly; agricultural sales; animal sales and services--grooming, veterinary; automotive and equipment--repairs, sales, and rentals; convenience sales and services; eating and drinking establishments; financial, insurance, and real estate services; food and beverage retail sales; funeral and internment services--undertaking; medical services; personal services--generally; repair services--consumer, general and specialty retail sales; spectator sports and entertainment; adult entertainment establishments, and laundry services. Precise Plan, pgs. 21-22. The Business Use Component is intended to allow border-related and industrial business services, limited commercial services, and lodging. Precise Plan, pg. 22. The permitted uses are clinic services; cultural exhibits and library services; day care/small schools; lodge, fraternal, and civic assembly; minor-impact utilities; religious assembly; agricultural sales; animal sales and grooming and veterinary services; automotive and equipment--repairs, sales, and rentals; convenience sales and services; eating and drinking establishments; financial, insurance, and real estate services; food and beverage retail sales; funeral and internment services--undertaking; medical services; general personal services; consumer repair services; transient habitation, lodging; specialty retail sales; and spectator sports and entertainment. Precise Plan, pgs. 22-23.

The Canyon and Hillside Subdistrict allows the Industrial Subdistrict uses, processed through a Otay Mesa Development District Permit. SDMC § 1517.0303.

Brown Field Flight Activity Subdistrict and Approach Zone has two separate areas: the Flight Activity Subdistrict and the Approach Zones. SDMC § 1517.0304. The Flight Activity Subdistrict allows wholesaling, storage, and distribution, as well as the agricultural uses permitted in the AR-1-1 or AR-2-1 Zones, except for single family dwellings and churches.<sup>2</sup> SDMC § 1517.0304(a). The Approach Zones allow the Industrial and Commercial Subdistrict uses. SDMC § 1517.0304(b).

### 3. Analysis of Uses:

The various subdistricts all allow some measure of residential use. The Industrial Subdistrict allows watchkeeper's quarters. The Commercial Subdistrict allows hotels and motels. Some areas of the Otay International Center Precise Plan Subdistrict allow transient habitation (lodging), day care, and churches. The Canyon and Hillside Subdistrict allows watchkeeper's quarters. The Flight Activity Subdistrict allows boarder and lodger accommodations, companion units, employee housing, guest quarters, residential care facilities, transitional care facilities, schools, and child care centers. The Approach Zones allow watchkeeper quarters and hotels and motels.

### 4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

---

<sup>2</sup> The AR-1-1 and AR-2-1 zones allow active and passive recreation and natural resource preservation; agricultural uses; commercial stables; community gardens; equestrian shows and exhibition facilities; open air markets for the sale of agriculture-related products; single dwelling units; boarder and lodger accommodations; companion units; employee housing; garage, yard, and estate sales; guest quarters; home occupations; residential care facilities; transitional housing; airports; botanical gardens and arboretums; cemeteries, mausoleums, and crematories; churches; school from kindergarten to Grade 12 and colleges and universities; energy generation and distribution facilities; flood control facilities; historical buildings used for purposes not otherwise allowed; hospitals, intermediate care and nursing facilities; interpretative centers; major transmission, relay, or communications switching stations; satellite antennas; wireless communication facilities; agriculture related supplies and equipment; plant nurseries; swap meets and other large outdoor retail facilities; bed and breakfast establishments; boarding kennels; camping parks; child care centers; large and small child care homes; fairgrounds; golf courses and driving ranges; helicopter landing facilities; privately operated, outdoor recreation facilities over 40,000 sq. ft. in size; various recycling facilities; veterinary clinics and animal hospitals; zoological parks; real estate sales offices and model homes; temporary construction storage yards located off-site; hazardous waste research and treatment facilities; mining and extractive industries; and signs. SDMC § 131.0322, Table 131-03B.

## San Ysidro PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The San Ysidro PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 1518.0103.

### 2. PDO-Specific Zones:

The San Ysidro PDO has three Commercial Zones (CSF, CSR, and CT) and one Industrial Zone (I-1). SDMC §§ 1518.0301, 1518.0302. The permitted uses in the Commercial Zones are those set forth in the Southeastern San Diego PDO, Appendix A, except as provided by the San Ysidro PDO, Appendix A. SDMC § 1518.0301(b)(1). The San Ysidro PDO Commercial Zones generally allow child care centers; churches; libraries; mobilehome for a temporary watchman (for day use only); commercial retail and services; private clubs, fraternal organizations, and lodges; recreational facilities; instructional studios; trade and business schools; utility substations; and business and professional establishments. SDMC Chapter 15, Art. 18, App. A.

The Industrial Zone uses are those set forth in the Southeastern PDO, Appendix A, except as provided by the San Ysidro PDO, Appendix A. SDMC § 1518.0302(b)(1). The San Ysidro PDO Industrial Zone generally allows libraries; mobilehome for a temporary watchman (for day use only); commercial retail and services; private clubs, fraternal organizations, and lodges; recreational facilities; restaurants; instructional studios; trade and business schools; the manufacturing, fabricating, assembly, testing repair, servicing, or processing of various items including aircraft, apparel; drugs, electronics, bakery products; beverages; brooms and brushes; electronics; furniture; coated, plated, and engraved metal; motor vehicle parts and accessories; paper goods; and textiles. SDMC Chapter 15, Art. 18, App. A.

### 3. Analysis of Uses Allowed:

The Commercial Zones allow child care centers and churches. The Industrial Zone does not allow dwellings, child care centers, or churches.

### 4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

## Southeastern San Diego PDO Analysis

### 1. Adoption of Relevant LDC Provisions:

The Southeastern San Diego PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 1519.0103.

### 2. PDO-Specific Zones:

The Southeastern San Diego PDO has single-family, multi-family, commercial, and industrial zones. SDMC § 1519.0302; 1519.0303; 1519.0304; 1519.0305. The uses allowed are set forth in Appendix A. *Id.*

The Single-family Zone allows single-family dwellings; child care; churches; companion units; guest quarters; libraries; public parks and playgrounds; residential care facilities; and schools. *Id.*

The Multi-family Zone allows single-family dwellings; two-family dwellings; apartment houses; boarding and lodging houses; child care; churches; companion units; elderly or handicapped housing; fraternities and sororities; guest quarters; library; mobilehomes for temporary watchman's quarters; mobilehome park; public parks and playgrounds; real estate offices; temporary model homes in new subdivision, residential care facilities; and schools. *Id.*

The Commercial Zone generally allows child care; churches; libraries; mobilehomes for temporary watchman's quarters; and commercial retail sales and services. *Id.* The Commercial Zone 2 allows professional offices. *Id.* The Commercial Zone 3 allows hotels, motels, and time-share projects, but does not allow child care centers. *Id.*

The Industrial Zone allows mobilehomes for temporary watchman's quarters; commercial retail sales and services are generally permitted; establishments engaged in the manufacturing, fabricating, assembly, testing, repair, servicing, and processing of various transportation equipment, apparel, home furnishings, food and beverages, and toys. *Id.* Wholesale distribution of items such as automotive equipment, machinery, flowers, fruits and vegetables, and office furnishings are permitted in the I-1 Zone. *Id.* Industry such as carpentry, metal working, and welding are allowed in the I-1 Zone. *Id.* Professional offices are allowed in the I-1 Zone. *Id.*

### 3. Analysis of Uses:

Both residential zones allow residential, child care, and churches. The commercial zones 1 and 2 allow child care and churches. Commercial Zone 3 does not allow child care, but does allow churches. The only residential uses allowed in the Industrial Zone are mobilehomes for temporary watchman's quarters. Child care and churches are not allowed in the Industrial Zone.

4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendment to Chapter 14, Article 1, Division 6, section 141.0614 by reference.

## West Lewis PDO Analysis

### 1. Adoption of Relevant LDC Provision:

The West Lewis PDO adopts Chapter 13 (Zones) and Chapter 14, Article 1 (Separately Regulated Use Regulations). SDMC § 1520.0103.

### 2. PDO-Specific Zones:

The West Lewis PDO does not create any new zones.

### 3. Analysis of Uses Allowed:

The permitted uses are business and professional offices; retail of consumer convenience goods and dispensing of consumer services from various types of retail and service providers; single and multi-family dwellings; and signs. SDMC § 1520.0302.

### 4. Amendments Needed:

The proposed amendments to sections 151.0103 and 151.0401 will incorporate the proposed amendments to Chapter 14, Article 1, Division 6, section 141.0614 by reference.