



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: October 16, 2013

PLANNER: Christopher Wright, Associate Planner *CW*

SUBJECT: Zoning Amendment 13-313, Zoning Ordinance Clean-Up and Streamlining Items, a request to consider City initiated amendments to correct Zoning Ordinance errors and inconsistencies and streamline processes.

SUMMARY

This is a City-initiated request to clean-up and streamline several rules and procedures in the Zoning Ordinance. The Planning Commission is requested to forward a recommendation to the City Council on amendments that:

1. make “clean-up” changes to correct erroneous text and/or formatting problems, clarify ambiguous language, remove unnecessary and/or obsolete text; and provide new and updated definitions to clarify existing standards; and
2. allow the City to withdraw projects that have been inactive longer than 180 days due to applicant delays.

BACKGROUND

On September 18, 2013, the Commission supported most of the zoning amendments, but had some questions about the elimination of Home Occupation Permits, procedures for the withdrawal of inactive applications, and day care definitions. The Commission continued the item so staff could research and report on: 1) business license procedures and how they compare to Home Occupation Permits, 2) the refunding of surplus deposit account funds for the withdrawal of inactive applications, and 3) State definitions and rules for day care facilities in residential zones.

Staff made minor revisions to the ordinance based on this research. This is the subject of this report. Refer to Attachment 5 for the prior Planning Commission report and Attachment 6 for meeting minutes. The previous staff report describes the proposed procedures to withdraw inactive applications, and the ordinance’s consistency with the General Plan and California Environmental Quality Act (CEQA). Refer to Attachment 1 for a description of the proposed code amendments and refer to Attachment 3 to see amendments in “track changes” format.

Noticing

Public notices were posted at City Hall for the continuance of this agenda item as required. Staff did not receive comments on this project since the September 18, 2013 Planning Commission meeting.

ANALYSIS

Elimination of Home Occupation Permits

The Commission asked if the elimination of Home Occupation Permits would reduce the Planning Division's ability to review and restrict home based businesses that have the potential to adversely impact a residential neighborhood. The Commission asked staff to research business license procedures (in Title 5 of the Municipal Code) to confirm whether business licenses must be approved by planning staff.

Staff confirmed licenses for new businesses must be approved by the Planning Division. When an existing business license is modified (e.g. business name change), the Planning Division is able to re-review a business license if necessary. Business license regulations do not allow staff to add conditions on a business license if desired. In contrast, the Zoning Ordinance allows conditions to be added to Home Occupation Permits. If Home Occupation Permits were eliminated, it would reduce the Planning Division's ability to add special restrictions on home-based businesses.

After further review, staff recommends revisions that eliminate Home Occupation Permits, but provide the ability to put conditions of approval on home-based businesses. This type of a change is beyond the scope of this phase of zoning amendments and may trigger more CEQA environmental analysis. The change will be revisited at a later phase of the Zoning Ordinance update.

Refund of funds for withdrawn applications

The Commission directed the City Attorney to confirm what the City should do with deposit accounts if an inactive application is withdrawn, there is extra money in an account, and an applicant does not request a refund. The City Attorney researched State law (Government Code Sections 50050-50057) and determined procedures must be followed to keep unclaimed funds. Staff makes an effort to notify an applicant when a refund can be issued and arrange for a check to be mailed. Sometimes, applicants can not be contacted or an applicant does not respond. When this occurs, staff keeps deposit accounts open for years in hope that an applicant will contact the City for a refund. The City wishes to close these accounts.

According to State law, the City may close accounts and keep unclaimed funds, if funds are unclaimed for three years and the City posts a notice in a newspaper (once a week for two consecutive weeks) and an applicant fails to request a refund within 45 days. The public notices must identify the amount of unclaimed money, the deposit account, and that the City proposes to keep the money if an applicant does not request a refund in writing.

The City Attorney stated it is not necessary to identify these procedures in the Zoning Ordinance.

State Day Care definitions and requirements

The Commission directed staff to make sure: 1) the proposed day care definitions are consistent with State law, and that 2) day care facilities are restricted as much as possible in residential zones.

Definitions

Day care facility definitions would be amended to be consistent with State law. The State law sections are provided as Attachment 6. At the previous Commission meeting, staff was asked why there appears to be overlap between the definition of a small-family day care home and a large-family day care home. The definitions stated that a small-family day care home can have less than 8 children and a large-family day care home can have 7 to 14 children. This means a day care home with 7 children could be classified as either a large-family and small-family day care home.

The Commission directed staff to review State law with the City Attorney. Staff determined revisions were necessary. Large-family day care homes can care for 14 or fewer children, not for 7 to 14 children as was stated at the previous meeting. Large-family day care homes also differ from small-family day care homes in the maximum number of infants that can be supervised at one time. A large-family day care home can care for more than two infants when a facility cares more than six children. A small-family day care home can care for a maximum of two infants when a facility cares for seven or eight children at a time. The definitions have been updated. Refer to Section 14 of Attachment 2, Exhibit A to see the revised text.

Small-family day care home regulations

Currently, the Zoning Ordinance allows small-family day care homes in single-family homes by-right and within multi-family dwellings with a Minor Conditional Use Permit (MCUP). State law requires the City to allow small-family day care homes in single-family homes. The law does not address multi-family dwellings, so the City may prohibit small-family day care homes in this instance. The Commission directed staff to restrict day care homes as much as possible in residential zones, so the ordinance has been revised to prohibit small-family day care homes in multi-family dwellings. A MCUP would no longer be an option. Staff is not sure if the Commission intended to make this type of a change so staff provided alternate text as Attachment 7. The alternate text includes clean up edits but does not add restrictions on small-family day care homes.

Large-family day care home regulations

The State allows the City to require a discretionary permit for a large-family day care home in zones where single-family dwellings are permitted. If the City requires a permit, it must be reviewed and acted on by the Zoning Administrator. Currently, the Zoning Ordinance

requires a Conditional Use Permit (CUP) to allow large-family day care homes in Residential Very-Low Density zones. This must be changed to a Minor Conditional Use Permit so the Zoning Administrator is the designated decision making authority to allow large-family day care homes.

Required public noticing for sidewalk waiver appeals

Since the previous Commission meeting, the Public Works Department has requested the addition of a minor code clean-up item to clarify public notification requirements for Sidewalk Waiver appeals. This clean-up amendment has been added to Section 22 of the attached ordinance.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

The Commission may, based on findings:

1. *Concur with staff and recommend approval of the proposed amendments.*

This is the recommended action. It would result in the project moving forward for City Council action. Adoption of Resolution No. 13-034 would be a recommendation to the City Council to approve the changes in their entirety, as staff has recommended.

2. *Add, modify or delete provisions of the proposed amendments.*

If extensive changes are made, staff may need time to evaluate whether edits are consistent with the General Plan and to determine if the California Environmental Quality Act (CEQA) requires an environmental study. If staff needs time, it is advised that the Planning Commission table this agenda item to a date uncertain.

3. *Continue the item for further review or discussion.*

There is no deadline for taking action on the proposed amendments; however, these amendments or similar amendments were initiated to make progress on the Zoning Ordinance update so prompt action is desirable.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve Draft Resolution PC13-034, recommending City Council approval of zoning amendments shown on Attachment 2, Exhibit A.

Attachments:

1. Summary of the proposed amendments
2. Draft Resolution No. 13-034
 Exhibit A - Zoning Amendments
3. Zoning Amendments in tracked changes
4. September 18, 2013 Planning Commission staff report
5. September 18, 2013 Planning Commission meeting minutes
6. State law sections that describe day care homes
7. Alternate text for residential zone land use table and footnotes

ATTACHMENT 1

Table 1 describes amendments and explains why they are proposed. It also identifies the location of each amendment in the draft resolution (Attachment 2, Exhibit A), and within Attachment 3 that shows the proposed changes in "track changes" format.

Table 1 - Amendment Summary

Section of draft ordinance	Zoning Ordinance Update Phase	Municipal Code Section Number(s)	Page Number(s) in Attachment 3	Subject	Amendment Description
1	1	17.08.010	1-2	List of zones	Updates list to include missing zones and districts
2	2	17.12.065	3	Application withdrawal process	Adds procedures that allow the City Planner to close applications that have been inactive for 180 days. The proposed text allows the City Planner to: 1) withdrawal an application, or 2) place it on consent calender for the decision making authority to consider denying it "without prejudice."
3	1	17.16.050 (C)(2)	3	Minor site plan permits	Rewords section for clarity and grammar
4	1	17.16.060 (C)	3-5	Conditional Use Permits	Main changes are: 1) removes a redundant reference to "Amusement centers," and 2) adds text for clarification (to reflect citations in Zoning Ordinance)
5	1	Table 17.24.080 (B)	5	Setback encroachments	Identifies "tankless water heaters" for clarity
6	1	17.24.110	6-7	Height Limits	Corrects minor grammatical errors
7	1, 2	17.32.030(B) and Table 17.32.030	7-10	Prohibited uses	Main changes are: 1) reformats residential land use tables to clearly and consistently identify prohibited uses, and 2) rewords some text for clarification
8	1	17.36.020(B) and Table 17.36.020	10-19	Prohibited uses	Main changes are: 1) reformats commercial land use tables to clearly and consistently identify prohibited uses, 2) adds a footnote and rewords some text for clarification
9	1	17.40.030(B) and Table 17.40.030	19-26	Prohibited uses	Main changes are: 1) reformats mixed use land use tables to clearly and consistently identify prohibited uses, and 2) rewords some text for clarification
10	1	17.44.020(B) and Table 17.44.020	27-30	Prohibited uses	Reformats open-space land use tables to clearly and consistently identify prohibited uses
11	1	17.48.020	30	Prohibited uses	Rewords to clearly and consistently identify prohibited uses

Section of draft ordinance	Zoning Ordinance Update Phase	Municipal Code Section Number(s)	Page Number(s) in Attachment 3	Subject	Amendment Description
12	1	Table 17.64.050	30-35	Parking requirements for group instruction, fitness centers, retail nursery uses, restaurants	Main changes are: 1) renames parking requirement for "Art/Dance studios" as "group instruction/counseling" (to reflect prior Planning Commission interpretation that art/dance studios are a form of group instruction), 2) deletes mention of instruction in the parking requirement for "Fitness Centers" (to remove redundant text. Group instruction has its own parking requirement), 3) Removes duplicate "retail nursery" use, and 4) Removes redundant text for clarity
13	1	17.64.060	36	Parking (off street) design standards	Rewords text to clarify when Engineering Division technical standards are used
14	1	17.88.030	36-37	Definition "Child day care facilities"	Revises definition "Day care facility, child" to be consistent with State law
15	1	17.88.030	37-38	Definition "Historical Resources"	Adds to definition of "Historical Resources" for further clarification
16	1	17.88.030	38	Definition "Lot coverage"	Revises definition "Lot coverage" to include garages and decks
17	1	17.88.030	38	Definitions	Clarifies that a dictionary or other reference can be used when terms and interpretations are not defined in Zoning Ordinance
18	1	17.88.030	38	Definition "Original grade"	Adds definition "Original grade" for clarification
19	1	17.88.030	38-39	Definition "Average building height"	Adds definition "Height, average building" for clarification
20	1	17.88.030	39	Definition "Building height"	Rewords for grammar/clarity
21	1	17.88.030	39	Definition "Covered parking"	Adds definition "Covered parking" for clarification
22	1	Table 17.12.100	39-40	Public notification requirements	Adds "Sidewalk Waiver Appeals" category to table for clarification. The Municipal Code section for sidewalk waivers (Chapter 12.08) refers to this Zoning Ordinance table for required radius of noticing, but the table doesn't include a category for Sidewalk Waiver Appeals

ATTACHMENT 2

RESOLUTION NO. PC 13-034

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, RECOMMENDING THE CITY COUNCIL ADOPT ZONING AMENDMENT 13-313, A REQUEST TO CLEAN UP ZONING ORDINANCE INCONSISTENCIES AND ERRORS AND CREATE A PROVISION FOR THE WITHDRAWAL OF INACTIVE APPLICATIONS

WHEREAS, the City Council approved a 2013 budget to initiate work on the Zoning Ordinance update to reflect policies and programs in the new General Plan. The Zoning Ordinance is being updated in phases so the new General Plan can be implemented as soon as possible; and

WHEREAS, on November 8, 2012, the City Council approved Zoning Amendment 12-285 and adopted Ordinance 1561 to make the Zoning Ordinance more clear, consistent, and user friendly with amendments that: 1) correct erroneous text and/or formatting problems, 2) clarify ambiguous language, 3) repair inaccurate or "broken" text references, 4) remove unnecessary and/or obsolete graphics and text, and 5) provide new and updated definitions to clarify existing standards; and

WHEREAS, this is a City-initiated request to clean-up and streamline several rules and procedures in the Zoning Ordinance. Specifically, the Planning Commission is asked to forward a recommendation to the City Council on the adoption of amendments that: 1) correct erroneous text and/or formatting problems, 2) clarify ambiguous language, 3) remove unnecessary and/or obsolete text, 4) provide new and updated definitions to clarify existing standards, 5) eliminate Home Occupation Permits for the establishment of home-based businesses, and 6) allow the City to withdraw projects that have been deemed incomplete or inactive longer than 180 days due to applicant delays; and

WHEREAS, the Planning Division completed an environmental assessment of the proposed zoning amendments for compliance with the California Environmental Quality Act (CEQA). Pursuant to CEQA Guidelines Section 21065, and determined the proposed Zoning Ordinance amendments do not meet the definition of a "project", as the code amendments do not have the potential to cause either a direct physical change or a reasonably foreseeable indirect physical change in the environment. The proposed amendments clean up textual errors, inconsistencies, and outdated information. The proposed amendments do not change land use designations, allowed land uses, zone boundaries or development standards that can affect the scale or location, of development. Because the request is not a "project" per CEQA, it is not subject to further environmental review; and

WHEREAS, the City's Development Management Team reviewed the proposed amendments and determined they are consistent with the goals, objectives, and programs of the General Plan and Zoning Ordinance; and

WHEREAS, on September 4, 2013, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application and continued this agenda item to September 18, 2013 because the Commission was unable to consider the request and public testimony due to time constraints; and

WHEREAS, on September 18, 2013, the Planning Commission of the City of San Clemente discussed the application and decided continue this agenda item to October 16, 2013 so staff could research some questions and provide a response; and

WHEREAS, on October 16, 2013, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties.

NOW, THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: The proposed ordinance amendments are not a “project” as defined in California Environmental Quality Act (CEQA) Guidelines Section 21065; therefore, they are not subject to CEQA and no further environmental review is required.

Section 2: With respect to Zoning Amendment 13-313, the Planning Commission hereby makes the following findings:

- A. The proposed amendments are internally consistent with those portions of the General Plan which are not being amended.
- B. The proposed amendments will not adversely affect the public health, safety, and welfare in that:
 - 1. The proposed amendments do not have a potential to direct physical change or a reasonably foreseeable indirect physical change in the environment, given the amendments are limited to correcting errors, ambiguities, and inconsistencies.
 - 2. The proposed amendments do not change development standards that can affect the scale, location, and design of development.

Section 3: The Planning Commission recommends the City Council adopt the draft ordinance, amending the Zoning Ordinance as shown on Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on October 16, 2013.

Chair

TO WIT:

I HEREBY CERTIFY that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on October 2, 2013 and carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

Zoning Amendments

EXHIBIT A

Section 1: Section 17.08.010 of the Municipal Code is hereby amended as follows:

Zone Title	Map Designation
A. Residential Zones.	
Residential Very Low (1 dwelling unit/20 gross acres or legal lot ¹)	RVL
Residential Low (4.5 dwelling units/gross acre; 7 dwelling units/net acre)	RL
Residential Medium Low (7 dwelling units/gross acre; 10 dwelling units/net acre)	RML
Residential Medium (15 dwelling units/gross acre; 24 dwelling units/net acre)	RM
Residential High (24 dwelling units/gross acre; 36 dwelling units/net acre)	RH
B. Commercial Zones.	
Neighborhood Commercial	NC 1, NC 2, NC 3
Community Commercial	CC 1, CC 2, CC 3
Regional Commercial	RC 2
Other Commercial*	C 1, C 2, C 3
C. Mixed-Use Zones.	
Downtown Mixed-Use Zone	MU 3
South El Camino Real Mixed-Use Zone	MU 5.1
D. Public Zones.	
Public and Parking	P
Civic Center	CVC
Institutional	INST
E. Open Space Zones.	
Public Parks and Publicly Owned Open Space	OS 1
Publicly Owned Open Space—Shoreline	OS S1
Privately Owned Open Space	OS 2
Privately Owned Open Space—Shoreline	OS S2
Privately Owned Open Space (Restricted by Easement)	OS 3
Golf Courses and Commercial Recreation	OSC
F. Specific Plan Areas.	

Forster Ranch Specific Plan	FRSP
Pier Bowl Specific Plan	PBSP
Rancho San Clemente Specific Plan	RSCSP
Talega Specific Plan	TSP
West Pico Corridor Specific Plan	WPCSP
G. Overlay Districts.	
Architectural	A
Affordable Housing	AH
Central Business	CB
Planned Residential District	PRD
Coastal Zone	CZ
Special Residential Overlays	RL-# (e.g. RL-10)
Inland Canyons	IC

* See 1991 Zoning Ordinance

Section 2: Section 17.12.065 “Withdrawal of inactive applications” is hereby added to the Municipal Code as follows:

The City Planner has the authority to withdraw applications that are inactive for 180 days or more due to inactivity. Applications are inactive when requested materials, funds, or other information necessary to proceed with the processing of an application is not submitted.

A. Withdrawal procedures. When an application is inactive for 90 days or more, a letter is sent via certified mail to inform applicants that they have 90 days to submit requested materials, funds or other information necessary to proceed with the processing of an application. If requested materials or funds are not received within the 90 days (a total of 180 calendar days since an application begins to be inactive), then the City Planner has the authority to:

1. withdraw the application; or
2. schedule for the designated decision making authority to consider the application as a consent item at the next available meeting. The City Planner may recommend for the decision making authority to deny the application without prejudice. The applicant would be notified of the meeting in advance.

B. Return of unused deposit account funds and materials. If an application is withdrawn, unused deposit account fees are refunded and materials are returned upon request.

Section 3: Section 17.16.050(C)(2) of the Municipal Code is hereby amended as follows:

Minor Site Plan Permits. A Minor Site Plan Permit is required for:

- a. Model home complexes and sales offices, per Section 17.28.300(F).
- b. Development adjacent to residentially zoned property, per Section 17.24.170(B).
- c. Additions or alterations to nonresidential and mixed-use buildings, per Table 17.16.050.

Section 4: Section 17.16.060(C) of the Municipal Code is hereby amended as follows:

Applicability. Conditional Use Permits are required as indicated by the use tables in Chapters 17.32, Residential Zones and Standards, through 17.48, Public Zones and Standards, in this Title. Conditional Use Permits are also required for the following requests:

Use/Modifications	As Provided for in:
Antennas, new, on City property	Section 17.28.070(C), Review Requirements
Chimneys which exceed the height limit of the zone in which they are located by more than two (2) feet	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Density bonus requests	Section 17.24.070(E), Review Procedures
Development standards, determination of, for development in the following zones: RVL Zone, Open Space Zones, Public Zone	Table 17.32.040, Residential Zone Development Standards; Table 17.44.030, Open-Space Zone Development Standards; Table 17.48.030, Public Zone Development Standards
Development standards, exceptions for commercial and mixed-use projects on lots 12,000 (twelve thousand) square feet and smaller in the MU3 zone	Section 17.40.050(C), Exceptions to the Development Standards for Lots of 12,000 Square Feet or Smaller, MU3
Elevator towers which exceed the height limits of the zone in which they are located by more than six (6) feet	Table 17.24.080(B), Maximum Encroachment into Setbacks and Height Limits

Fences, hedges, and walls exceeding six (6) feet in height for specific purposes	Section 17.24.090(D)(1)(b), Review Procedures
Flag poles and church steeples in residential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Flag poles, antennas (other than satellite antennas or antennas on City property), church steeples, cupolas, and monuments, and similar structures in nonresidential and mixed-use zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Storage tanks and similar structures in nonresidential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Grading requests not accompanying development requests	Section 17.28.130(B), Review Requirements
Historic Structures, exceptions to the minimum commercial floor area for mixed-use projects in the MU3 zone	Section 17.40.050(D), Exceptions to the Minimum Floor Area Requirements for the Commercial Portion of Mixed-use Projects for Buildings on the City's Designated Historic Structure List
Home occupations conducted outside enclosed structures	Section 17.28.160(B), Review Requirements
Nonconforming uses: change from prohibited use to a different prohibited use	Section 17.72.060(C)(3), Changes of Use.
Nonresidential uses allowed in the zone located on the same level as residential uses in the MU3 Zone	Section 17.40.030(A)(2)(a), Special Use Regulations for the Downtown Mixed Use (MU3) Zone
Outdoor dining areas	Private property: Section 17.16.205(C), Review Requirements; Public property: Section 17.28.206(C), Review Requirements

Parking modifications for: Bed and Breakfast Inns, Uses in and out of the Downtown Parking Study Area, Historic nonresidential and mixed-use structures, Historic structures in the RM and RH Zones, Relocation of historic structures, Hotels, Off-site parking for nonresidential uses, Outdoor dining, Public utilities, Shared parking	Section 17.28.090(D), Minimum Standards for Bed and Breakfast Inns in All Zones; Section 17.64.125, Waivers of parking requirements; Section 17.64.110, Off-Site Parking, Section 17.28.205(D)(6), Outdoor dining on private property; Section 17.28.206, Outdoor dining on public property; Section 17.28.240(C)(2)(d), Minor Utilities; Section 17.64.120, Shared Parking
Patio covers, detached, exceeding fifteen (15) feet in height and located within certain setback areas	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Public utilities, major, initiated by outside agencies	Section 17.28.240(B)(2)(a), Projects Initiated by Outside Agencies/Applicants
Residential uses on the street level, buildings on the City's Designated Historic Structure List	Section 17.40.030(A)(2)(c), Location of Residential Uses
Urban Private Storage in Mixed-Use Zones	Section 17.28.305, Urban Private Storage
Height exceptions for residential development on Lots 46 through 64 of Tract 4938 in the RL-11 special residential overlay zone	Appendix A, Subsection (K.4.B) in this Title

Section 5: Table 17.24.080(B) of the Municipal Code is hereby amended as follows:

Table 17.24.080B – Maximum Encroachments into Setbacks and Height Limits

Item	Front Encroachments Into Front Yard Setback Area	Side Encroachments Into Side Yard Setback Area	Rear Encroachments Into Rear Yard Setback Area	Maximum Projection Above Height Limit	Other Limitations
HVAC, Mechanical Equipment, Window Mounted Air Conditioners, Tankless Water Heaters	Not Permitted	0 ft. from property line	0 ft. from property line	Not Permitted	

Section 6: Section 17.24.110 of the Municipal Code is hereby amended as follows:

A. Purpose and Intent. One of San Clemente's defining characteristics is its varied topography. The City's building height regulations are intended to:

1. Preserve the natural topography by encouraging residential structures that follow the topography of the lots on which they are located and by discouraging significant grading or fill on infill lots. The calculation of height by individual roof element is intended to assist these objectives, by allowing roof elements to step up or down with the natural topography of the lot. The measurement of height from original grade is also intended to assist these objectives, by establishing height limits which are relative to the natural topography;
2. Accommodate the special difficulties of developing on sloped properties by allowing height to be averaged within roof elements;
3. Encourage developments with full roofs. The establishment of a height limit to plate line and a height limit to top of roof, in specific mixed-use and nonresidential zones where traditional architecture is required, is intended to assist with this objective; and
4. Discourage excessively massive structures. The establishment of a story limit in mixed-use and nonresidential zones is intended to assist with this objective. The exemption of subterranean portions of structures from counting toward the story limit is intended to assist this objective, as well.

B. General Regulations for the Measurement of Height. The following regulations for calculating height shall apply to all development within the City of San Clemente:

1. Measurement of Height From Original or Finished Grade.

- a. Developments With Mass Recontouring. In the case of subdivisions and/or land development where mass recontouring has been or will be permitted by the City, building height shall be measured from finished grade, subject to approval through the site plan permit process, as described in Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title. Please refer to Figure 17.24.110A for a map of those areas in the City which have had mass recontouring. This subsection does not include properties with significant grading which have received the approval of a

variance from height limits; please refer to the following paragraph b, for the method of measuring height on these properties.

- b. All Other Development. In the case of developments where mass recontouring has not been permitted, or where significant grading has been allowed but through the approval of a variance from the height limit, building height shall be measured from original grade.
 - c. In cases where it is ambiguous whether building height should be measured from finished or original grade, or where a determination of finished or original grade is difficult, the City Planner shall make such determination, subject to the appeal provisions in Section 17.12.140, Appeals of an Action, of this title.
2. Measurement of Height by Roof Element. The building height limits for a zone shall be applied to and measured for each roof element of a structure. No individual roof element may exceed the height limits for the zone.
 3. Measurement of Height to the Top of a Roof Element (TOR). Unless additional height limits are indicated in the development standard tables in Chapters 17.32, Residential Zones and Standards, through 17.48, Public Zones and Standards, of this title, the maximum height limit stated for a zone shall be a limit upon the "average height to the top of the roof element." The average height to the top of a roof element is calculated by:

Section 7: Section 17.32.030(B) and Table 17.32.030 of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.32.030, but are not identified as either permitted—"P"—or conditionally permitted—"MC or C"; and
2. Uses that have been excluded from Table 17.32.030, unless they are found by the City to be similar to permitted or conditionally permitted uses.
3. Uses where a blank cell appears within Table 17.32.030, Residential Zones Uses.

Table 17.32.030 - Residential Zone Uses

Use	RVL	RL	RML	RM	RH
1. Agricultural					
Animals, Commercial Grazing of Large Species ¹	C				
Apiaries (Bee Farming)	C				
Crop and Tree Farming	C				
Nurseries (Farming Only)	C				
2. Lodging					
Bed-and-Breakfast Inns: ²					
a. 5 or Fewer Guest Rooms	C	C	MC	MC	MC
b. 6 or More Guest Rooms	C	C	C	C	C
3. Public/Quasi-Public and Institutional					
Arboretums (Public/Private)	C				
Churches	C	C	C	C	C
Congregate Care Facility ³			C	C	C
Convalescent Care			C	C	C
Day Care Facilities, Children's: ⁴					
a. Small-Family Day Care Home ⁵	O	O	O	O	O
b. Large-Family Day Care Home	MC	MC	MC	MC	MC
c. Day Care Center			C	C	C
Parking Lots ⁶		C	C	C	C
Parks ⁷	O		O	O	O
Preserves (Archaeological, Botanical, Geological, Wildlife)	C	C	C	C	C
Public Utilities ⁸					
a. City-Initiated Project	O	O	O	O	O
b. Projects Initiated by Outside Agencies					
i. Major Utilities	C	C	C	C	C
ii. Minor Utilities	P	P	P	P	P
Recreational/Uses (Public/Private, Nonprofit)	C	C	C	C	C
Schools (Public/Private)	C	C	C	C	C
4. Residential Uses					
Accessory Uses (Pools, Detached Garages, Tool and					

Garden Sheds, Gazebos, Patio Covers, Barbecues) a. Stables	P C	P	P	P	P
Guesthouses	C	P			
Home Occupation Permits ⁹	P	P	P	P	P
Manufactured Homes ¹⁰	P	P	P	P	P
Mobile Homes ¹¹ a. Units b. Subdivisions and Parks ¹²	C C	C C	C C	C C	C C
Multifamily Dwellings: a. 4 Units or Fewer b. 5 Units or More			P C	P C	P C
Second Residential Units (Inland Side of I-5) ¹³	P	P			
Senior Housing Projects ¹⁴			C	C	C
Single-Family Dwellings	C	P	P	P	P
5. Unclassified Uses					
Accessory Buildings, Residential ¹⁵ Detached, Over 15 Feet in Height a. All Others b. Accessory Buildings, Nonresidential ¹⁶	C P C	C P C	C P C	C P C	C P C
Grading, ¹⁷ (Not Accompanying a Development Request): a. Emergency b. Major c. Minor	P C P	P C P	P C P	P C P	P C P

1. Refer to Section 17.28.060, Animals, Commercial Grazing and Raising of Large Species, of this title, for special provisions for the commercial grazing of large species
2. Refer to Section 17.28.090, Bed and Breakfast Inns, of this title, for special provisions for bed and breakfast inns
3. Refer to Section 17.28.110, Congregate Care Facilities, of this title for special provisions for congregate care facilities.
4. Refer to Section 17.28.100, Child Day Care Facilities, of this title for special provisions for day care facilities.
5. Small-family day care homes are permitted in single-family homes.
6. Refer to Section 17.28.220, Parking Lots, of this title for special provisions for single-use parking lots.
7. Refer to Section 17.28.230, Public Park Facilities, of this title for review requirements for parks.
8. Refer to Section 17.28.240, Public Utilities, of this title for review requirements for public utilities/buildings.
9. Refer to Section 17.28.160, Home Occupations, of this title for special provisions for Home Occupation Permits.

- 10. Manufactured homes are subject to the same requirements as individual mobile homes. Please refer to Section 17.28.190(D), Minimum Standards for Individual Mobilehomes, of this title, for standards to be used for manufactured homes.
- 11. Refer to Section 17.28.190, Mobilehomes, of this title for special provisions for mobile homes.
- 12. Refer also to Section 17.56.040, Planned Residential District Overlay, of this title, for special provisions for planned residential developments.
- 13. Refer to Section 17.28.270, Second Residential Units, of this title for special provisions for second residential units.
- 14. Refer to Section 17.28.280, Senior Housing Projects, of this title for special provisions for senior housing projects.
- 15. Refer to Section 17.24.040, Accessory Buildings, of this title for special provisions for accessory buildings.
- 16. Refer to Section 17.24.040, Accessory Buildings, of this title for special provisions for accessory buildings.
- 17. Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.

Section 8: Section 17.36.020(B) and Table 17.36.020 of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

- 1. Uses that are listed in Table 17.36.020, Commercial Zone Uses, but are not identified as either permitted—"P"—or conditionally permitted—"MC or C"; and
- 2. Uses that have been excluded from Table 17.36.020, Commercial Zone Uses, unless they are found by the City to be similar to permitted or conditionally permitted uses.
- 3. Uses where a blank cell appears within Table 17.36.020
- 4. The following uses are not permitted in any commercial zone:
 - a. Medical Marijuana Dispensaries.

Table 17.36.020 - Commercial Zone Uses

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
1. Commercial Uses				
Antiques (Retail Sales)	P	P		P
Art Galleries	P	P		P

Bakery Goods/Sales (No Wholesale Distributors)	P	P		P
Barber Shops	P	P		P
Bicycle Shops	P	P		P
Bookstores	P	P		P
Carpet Sales	MC	P		P
Ceramics (Retail Sales)	MC	P		P
Cleaners and Laundromats (No Linen Service)	P	P		P
Clothing (Retail Sales)	P	P		P
Confectionery Stores (Small Scale Production with Retail Sales)	P	P		P
Convenience Stores ¹	C	C		P
Drug Stores/Pharmacies	P	P		
Electronics (Retail Sales and Repair)	P	P		P
Fabric Stores	P	P		
Florist (Retail Sales)	P	P		P
Floor Covering	MC	P		
Furniture Stores (Retail Sales)	MC	P		P
Glass/Mirror Sales	MC	P		P
Grocery/Food Stores (Not Convenience Stores)	P	P		
Gunsmith/Gun Shops		C		
Hardware Stores	P	P		
Home Appliance Stores (Retail Sales and Repair)	MC	P		
Ice Cream Parlors (Retail Sales with Small Production)	P	P		P
Interior Decorating Stores	MC	P		P
Janitorial Supplies		P		
Jewelry Stores	P	P		P
Lawnmower Sales/Service	MC	P		
Liquor Sales				
a. Hard Alcohol	C	C		C

b. Beer and Wine (Off-Site Consumption Only)	MC	MC		MC
Locksmith Shops	MC	P		
Mail-Order Stores	MC	P		P
Medical/X-ray Equipment (Sales Only)		P		
Medical Marijuana Dispensaries				
Music Sales	P	P		P
Newsstands (On Private Property)	P	P		P
Nurseries (Indoor Garden Retail Sales)	MC	P		P
Nurseries (Outdoor Garden Retail Sales)		C		
Office Equipment/Supplies	C	P		
Paint/Wallpaper Sales	MC	P		
Patio/Outdoor Furniture Sales	MC	P		P
Pawn Shops		C		
Pet Shops	MC	MC		
Pet Supply Stores	MC	P		
Photographic Equipment Sales	MC	P		P
Pottery (With Small Production Retail Sales)	P, MC	P		P
Shoe Stores (Retail Sales and Repair)	P	P		P
Specialty Food Stores	P	P		P
Sporting Goods (Retail Sales)	MC	P		P
Stationery Stores	P	P		P
Surfboard (Custom Manufacturing)		C		
Swimming Pool Accessory Shops	MC	P		
Tailors/Dressmakers	P	P		

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 3	CC 2	RC 2	CRC-4
2. Hospital Uses					
Ambulance Services			C	C	
Ancillary Uses (Minor) to Hospital, such as Laboratories, Florists, Parking Lots ²			P	P	
Hospitals			C	C	

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
3. Lodging					
Bed and Breakfast Inns: ³					
a. 5 or Fewer Guest Rooms		P	P		C
b. 6 to 10 Guest Rooms		MC	MC		C
c. Over 10 Guest Rooms		C	C		C
Hotel and Ancillary Uses		C	C		C
Motels			C		C
Timeshares		C	C		C

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
4. Professional Offices, Financial Institutions and Related Uses				
Banks/Financial Institutions		P	P	
a. With Drive-Thru Facilities		C	C	

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Employment Agencies		P	P		

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Newspaper Publication and Office		P		P (2nd Floor and Above Only)
Offices, Medical	P	P	P	
Offices, Professional	P	P		P (2nd Floor and Above Only)
Offices, Veterinary/Animal Hospitals:	MC	P		
Secretarial Services	P	P		

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Telemarketing		P	P		

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Travel Agencies	MC	P		P

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
5. Public/Quasi Public and Institutional Uses				
Churches	C	C		
Club/Social Organizations	C	C		

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Congregate Care Facility ⁴		C	C	C	
Convalescent Home		C	C	C	

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Day Care Facilities ⁵				
a. Small Day Care Home ⁶	O	O	O	
b. Large Day Care Home	MC	MC	MC	
c. Day Care Center	C	C	C	
Group Instruction/Group Counseling	MC	C		
Libraries	P	P		
Parking Lots ⁶	MC	MC		C
Parking Structures	C	C		C
Parks ⁷	O	O	O	C
Public Utilities: ⁸				
a. City-Initiated Projects	O	O	O	C
b. Projects Initiated by Outside Agencies:				
i. Major Utilities	C	C	C	C
ii. Minor Utilities	P	P	P	C
School (Public and Private)	C	C		C
Transportation Facilities		C		C

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
6. Residential Uses					
Affordable Housing Project ⁹			NC 2 and NC 3 only		
Senior Housing Project ¹⁰		C	C		

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
7. Restaurants and bars				
Bars, cocktail lounges (with or without dancing and/or	C	C		C

entertainment)				
Restaurants:				
a. With drive-through ¹¹		C		
b. With no on-site consumption of liquor, no dancing, no entertainment	P	P		P
c. With on-site sale of beer and wine:				
i. Indoors	MC	MC		MC
ii. Outdoors with up to 16 seats or 4 tables	MC	MC		C
iii. Outdoors with more than 16 seats and/or 4 tables	MC	MC		C
d. With on-site sale of hard alcohol: ^{12,13}				
i. Indoors	C	C		C
ii. Outdoors with up to 16 outdoor seats or 4 tables	MC/C	MC/C		MC
iii. Outdoors with more than 16 outdoor seats and/or 4 tables	C	C		C
e. With dancing and/or entertainment that has:				
i. No amplified sound	MC	MC		MC
ii. Amplified sound	C	C		C

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
8. Unclassified Uses				
Accessory Buildings	C	C	C	C
Alcoholic Beverage Sales Concurrent With Motor Vehicle Fuel-Convenience Stores Sales ¹⁴	C	C		
Amusement Centers ¹⁵	C	C		C
Animal Grooming	MC	P		

Bowling Alleys		C		C
Drive-Thru Facilities, When in Conjunction with a Use Permitted or Conditionally Permitted in the Zone		C		
Grading ¹⁶ , (Not Accompanying a Development Request)				
a. Emergency	P	P	P	P
b. Major	C	C	C	C
c. Minor	P	P	P	P
Health/Fitness/Sports Clubs and Facilities	C	C		C
Internet Access Studio/Internet Café	P	P		P
a. With 5 or more computers available to the public (excluding school, library and other similar public uses) ¹⁷	C	C		C
Massage ¹⁸	P	P	P	P
Mortuaries		C		
Pool Halls ¹⁹		C		C
Recycling Facilities ²⁰				
a. Reverse Vending Machines	P	P		
b. Small Collection	C	P		
c. Large Collection		C		
Theaters		C		C
Wine Tasting (Only as an Accessory Use to establishments selling wine or wine-related products as a primary use)	MC	MC		MC

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
9. Vehicle-Related Repair, Sales and Service²¹				
Car Washes ²¹		C		

Service/Gas Station ²²	C	C		
Vehicle Dealerships (Sales, Leasing, Rental, New and Used): ²³				
a. Auto Dealerships w/Fewer than 10 Cars		MC		
b. All Other Vehicle Dealerships		C		
Vehicle Parts/Accessories Sales		MC		
Vehicle Repair/Service, Minor ²⁴		C		

1. Refer to Section 17.28.120, Convenience Stores/Retail Establishments Selling Convenience Items, of this title, for special provisions for convenience stores.
2. Refer to Section 17.28.220, Parking Lots, of this title, for special provisions for single-use parking lots.
3. Refer to Section 17.28.090, Bed and Breakfast Inns, of this title, for special provisions for bed and breakfast inns.
4. Refer to Section 17.28.110 Congregate Care Facilities of this title for special provisions for congregate care facilities.
5. Refer to Section 17.28.100, Child Day Care Facilities, this title, for special provisions for day care facilities.
6. Small-family day care homes are permitted in single-family homes. A Minor Conditional Use Permit is required to allow small-family day care homes in other residential dwellings. Small-family day care homes only shall operate in buildings that were lawfully constructed.
7. Refer to Section 17.28.220, Parking Lots, of this title, for special provisions for parking lots.
8. Refer to Section 17.28.230, Public Park Facilities, of this title for review requirements for parks.
9. Refer to Section 17.28.240, Public Utilities, of this title, for special provisions for public utilities.
10. Refer to Section 17.56.090, Affordable Housing Overlay Zone, for projects in Commercial and Mixed-Use Zones, of this title, for special provisions for Affordable Housing Projects.
11. Refer to Section 17.28.280, Senior Housing Projects, of this title, for special provisions for senior housing projects.
12. Refer to Section 17.28.260, Restaurants, Drive-In, Drive-Through, of this title, for special provisions for drive-in/drive-thru restaurants.
13. When a restaurant has an approved CUP for the service of alcohol indoors and a CUP is required for the service of alcohol outdoors, then the applicant may request an amendment to the existing CUP to extend service outdoors. When a restaurant has an approved CUP for the service of alcohol indoors and an MCUP is required for the service of alcohol outdoors, an MCUP is the only application necessary (an amendment to the existing CUP shall not be necessary).
14. If a CUP has been previously approved for service of hard alcohol indoors, then that service may be extended outdoors for outdoor facilities with no more than 16 seats or four tables with the approval of an MCUP. If no CUP has been approved for service of hard alcohol indoors, then any service of hard alcohol outdoors requires a CUP.
15. Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.
16. Refer to Section 17.28.050, Amusement Centers, of this title, for special provisions for arcades/amusement centers.

17. Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.
18. The provisions for amusement centers shall apply to Internet Access Studios/Internet Cafés. Please refer to Section 17.28.050, Amusement Centers, for special provisions for amusement centers.
19. Massage is subject to Section 5.28 of the City of San Clemente Municipal Code.
20. The provisions for amusement centers shall apply to pool halls. Please refer to Section 17.28.050, Amusement Centers, for special provisions for amusement centers.
21. Refer to Section 17.28.250, Recycling Facilities, of this title, for special provisions for recycling facilities.
22. Refer to Section 17.28.330, Vehicle Service and Repair-Related Facilities, for provisions for all vehicle service and repair-related facilities.
23. Refer to Section 17.28.290, Service Stations, of this title, for special provisions for service/gas stations.
24. Refer to Section 17.28.310, Vehicle Dealerships, of this title, for special provisions for vehicle dealerships. The sales, leasing, and/or rental of new and/or used vehicles which meet any of the following criteria shall be prohibited within the commercial zones described in this chapter:
 25. Over-sized vehicles as defined in Section 17.88.030, Definitions, Vehicle, Over-Sized, of this title;
 26. Boats with trailers exceeding 40 feet in length, 20 feet in height (not including masts), or 15 feet in width; or Motor trucks as defined in the California Vehicle Code, excluding pick-up trucks, as defined in the same code.
27. Refer to Section 17.28.320, Vehicle Repair Facilities, of this title, for special provisions for vehicle repair facilities.

Section 9: Section 17.40.030(B) and Table 17.40.030 of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.40.030, but are not identified as either permitted—"P"—or conditionally permitted—"MC or C", or "O"; and
2. Uses that have been excluded from Table 17.40.030, unless they are found by the City to be similar to permitted or conditionally permitted uses.
3. Uses where a blank cell appears within Table 17.40.030
4. The following uses are not permitted in any mixed-use zone:
 - a. Medical Marijuana Dispensaries.

Table 17.40.030 - Mixed-Use Zone Uses

Use	MU 3	MU 3-CB	MU 5.1
1. Commercial Uses			
Antiques	P	P	P
Art Galleries	P	P	P
Bakery Goods/Sales (No Wholesale Distributors)	P	P	P
Barber Shops	P	P	P
Bicycle Shops	P	P	P
Bookstores	P	P	P
Ceramics (Retail Sales)	P	P	P
Cleaners and Laundromats (No Linen Service)	P	P	P
Clothing Stores	P	P	P
Confectionery Stores (Small Scale Production with Retail Sales)	P	P	P
Convenience Stores ¹	C	C	
Drugstores/Pharmacies	P	P	P
Electronics (Retail Sales and Repair)	P	P	P
Fabric Stores	P	P	P
Floor Covering Stores	P	P	P
Florists (Retail Sales)	P	P	P
Furniture Stores (Retail Sales)	P	P	P
Grocery/Food Stores (Not Convenience Stores)	P	P	P
Gunsmith/Gun Shops	C	C	C
Hair Salons	P	P	P
Hardware Stores	P	P	P
Home Appliance Stores (Retail Sales and Repair)	P	P	P
Ice Cream Parlors (Retail Sales with Small Production)	P	P	P

Interior Decorating Stores	P	P	P
Jewelry Stores	P	P	P
Liquor Sales:			
a. Hard Alcohol	C	C	C
b. Beer and Wine (Off-Site Consumption Only)	MC	MC	MC
Locksmith Shops	P	P	P
Mail-Order Stores	P	P	P
Medical/X-Ray Equipment (Sales Only)			P
Medical Marijuana Dispensaries			
Music Sales	P	P	P
Newsstands (On Private Property)	P	P	P
Nurseries (Indoor Garden Retail Sales)	P	P	P
Nurseries (Outdoor Garden Retail Sales)	C	C	C
Office Equipment/Supplies	P	P	P
Paint/Wallpaper Sales	P	P	P
Patio/Outdoor Furniture Sales	P	P	P
Pawn Shops	C	C	C
Pet Shops	MC	MC	MC
Pet Supply Stores	P	P	P
Photographic Equipment Sales	P	P	P
Pottery (Retail Sales with Small Production)	P	P	P
Shoe Stores (Retail Sales and Repair)	P	P	P
Specialty Food Stores	P	P	P
Sporting Goods (Retail Sales)	P	P	P
Stationery Stores	P	P	P
Swimming Pool Accessory Shops	P	P	P

Tailors/Dressmakers	P	P	P
2. Lodging			
Bed and Breakfast Inns: ²			
a. 5 or Fewer Guest Rooms	P	MC/ Ped	P
b. 6 to 10 Guest Rooms	MC	MC/ Ped	MC
c. Over 10 Guest Rooms	C	C	C
Hotel and Ancillary Uses	C	C	C
Motels			C
Timeshares	C	C	C
3. Professional Offices, Financial Institutions and Related Uses			
Ambulance Services (Office Only)	P	MC/ Ped	P
Banks/Financial Institutions	P	P	P
Special Consideration, ATM's			C
Employment Agencies	P	MC/ Ped	P
Offices, Medical:			
a. Optometrists with Retail Space	P	P	P
b. Optometrists without Retail Space	P	MC/Ped	P
c. Other Offices	P	MC/ Ped	P
Offices, Professional and/or General:			
a. Realtors	P	P	P
b. Other Offices	P	MC/ Ped	P
Offices, Veterinary/Animal Hospitals	C	C	C
Secretarial Services	P	MC/ Ped	P
Telemarketing Services	P	MC/ Ped	P
Travel Agencies	P	P	P
4. Public/Quasi Public and Institutional Uses			
Churches	C	C	C
Clubs/Social Organizations	C	C	C
Congregate Care Facilities ³	C	C	C
Convalescent Homes			C

Day Care Facilities: ⁴ a. Small Day Care Homes ⁵ b. Large Day Care Homes c. Day Care Centers	O MC C	O MC C	O MC C
Group Instruction/Group Counseling	P	MC/ Ped	P
Libraries	P	P	P
Parking Lots ⁶	MC	MC	MC
Parking Structures	C	C	C
Parks ⁷	O	O	O
Public Utilities ⁸ a. City-Initiated Projects b. Projects Initiated by Outside Agencies: i. Major Utilities ii. Minor Utilities	O C P	O C P	O C P
Schools, Public and Private 1—12 Individuals Greater than 12 Individuals	MC C	MC C	MC C
Transportation Facilities	C	C	C
5. Residential Uses	Residential uses in the MU3 zone are limited to the floors above street level. In the AH Overlay, dwellings that are part of an affordable housing project are permitted to be located at the street level. Exceptions may be granted for historic structures. Refer to Section 17.40.030(A)(2) (c), Location of Residential Uses, of this title.		Refer to Section 17.40.050(A), Residential Use Restrictions for MU5.1, of this title
Affordable Housing Projects ⁹	P		P
Manufactured Homes ¹⁰			MC
Mobile Homes: ¹¹ a. Units b. Subdivisions and Parks ¹²			C C
Residential Units	C	C	C
Senior Housing Projects ¹³	C	C	C
6. Restaurants and bars			
Bars, cocktail lounges (with or without dancing and/or	C	C	C

entertainment)			
Restaurants			
a. With drive-through ¹⁴			C
b. With no on-site consumption of liquor, no dancing, no entertainment	P	P	P
c. With on-site sale of beer and wine:			
i. Indoors	MC	MC	MC
ii. Outdoors with up to 16 outdoor seats or 4 tables	MC	MC	MC
iii. Outdoors with more than 16 outdoor seats and/or 4 tables	C	C	C
d. With on-site sale of hard alcohol: ^{15, 16}			
i. Indoors	C	C	C
ii. Outdoors with up to 16 outdoor seats or 4 tables	MC/C	MC/C	MC/C
iii. Outdoors with ore than outdoor 16 seats and/or 4 tables	C	C	C
e. With dancing and/or entertainment that has:			
i. No amplified sound	MC	MC	MC
ii. Amplified sound	C	C	C
7. Unclassified Uses			
Accessory Buildings, Residential ¹⁷			
a. Detached, Over 15 Feet in Height			C
b. All Others			P
Accessory Buildings, Nonresidential ¹⁸	C	C	C
Alcohol Beverage Sales Concurrent with Motor Vehicle Fuel-Convenience Store			C

Sales ¹⁹			
Amusement Centers ²⁰	C	C	C
Animal Grooming Shops			MC
Bowling Alleys			C
Drive-Thru Facilities, When in Conjunction with a Use Permitted or Conditionally Permitted in this Zone			C
Grading ²¹ , Not Accompanying a Development Request:			
a. Emergency	P	P	P
b. Major	C	C	C
c. Minor	P	P	P
Health/Fitness/Sports Clubs and Facilities	C	C	C
Internet Access	P	P	P
Studio/Internet Café			
a. With 5 or more computers available to the public (excluding school, library and similar public uses) ²²	C	C	C
Massage ²³	P	P	P
Mortuaries			C
Pool Halls ²⁴	C	C	C
Recycling Facilities. ²⁵	MC	MC	MC
Reverse Vending Machines			
Theaters	C	C	C
Urban Private Storage ²⁶	C	C	
Wine Tasting (Only as an Accessory Use to establishments selling wine or wine related products as a primary use)	MC	MC	MC
8. Vehicle-Related Repair, Sales and Service²⁷			
Car Washes			C
Vehicle Parts/Accessories Sales			MC

1. Refer to Section 17.28.120, Convenience Stores/Retail Establishments Selling Convenience Items, of this title.
2. Refer to Section 17.28.090, Bed and Breakfast, of this title.
3. Refer to Section 17.28.110, Congregate Care Facilities, of this title.
4. Refer to Section 17.28.100, Child Day Care Facilities, of this title.
5. Small-family day care homes are permitted in single-family homes. A Minor Conditional Use Permit is required to allow small-family day care homes in other residential dwellings. Small-family day care homes only shall operate in buildings that were lawfully constructed.
6. Refer to Section 17.28.220, Parking Lots, of this title.
7. Refer to Section 17.28230, Public Park Facilities, of this title.
8. Refer to Section 17.28.240, Public Utilities, of this title.
9. Refer to Section 17.56.090 Affordable Housing Overlay District in Commercial and Mixed-Use Zones, of this title, for special provisions for Affordable Housing Projects.
10. Manufactured homes are subject to the same requirements as individual mobile homes. Please refer to Section 17.28.190(D), Minimum Standards for Individual Mobile Homes, of this title.
11. Refer to Section 17.28.190, Mobile Homes, of this title.
12. Refer to Section 17.36.040, Planned Residential District Overlay, of this title.
13. Refer to Section 17.28.280, Senior Housing Projects, of this title.
14. Refer to Section 17.28.260, Drive-Throughs.
15. When a restaurant has an approved CUP for the service of alcohol indoors and a CUP is required for the service of alcohol outdoors, then the applicant may request an amendment to the existing CUP to extend service outdoors.
16. When a restaurant has an approved CUP for the service of alcohol indoors and an MCUP is required for the service of alcohol outdoors, an MCUP is the only application necessary (an amendment to the existing CUP shall not be necessary).
17. If a CUP has been previously approved for service of hard alcohol indoors, then that service may be extended outdoors for outdoor facilities with no more than 16 seats or four tables with the approval of an MCUP. If no CUP has been approved for service of hard alcohol indoors, then any service of hard alcohol outdoors requires a CUP.
18. Refer to Section 17.24.040, Accessory Buildings, of this title.
19. Refer to Section 17.24.040, Accessory Buildings, of this title.
20. Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.
21. Refer to Section 17.28.050, Amusement Centers, of this title.
22. Refer to Section 17.28.130, Grading, of this title.
23. The provisions for amusement centers shall apply to Internet Access Studios/Internet Cafés. Refer to Section 17.28.050, Amusement Centers, of this title.
24. Massage is subject to Section 5.28 of the City of San Clemente Municipal Code.
25. The provisions for amusement centers shall apply to pool halls. Refer to Section 1728.050, Amusement Centers, of this title.
26. Refer to Section 17.28.250, Recycling Facilities, of this title.
27. Refer to Section 17.28.305, Urban Private Storage, of this title.
28. Refer to Section 17.28.330, Vehicle Service and Repair-Related Facilities, of this title.

Section 10: Section 17.44.020 and Table 17.44.020 of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.44.020, but are not identified as either permitted—"P"—or conditionally permitted—"MC or C"; and
2. Uses that have been excluded from Table 17.44.020, unless they are found by the City to be similar to permitted or conditionally permitted uses.
3. Uses where a blank cell appears within Table 17.44.020

Table 17.44.020 - Open-Space Zone Uses

Use	OS/ 1	OS/ S1	OS 2/ OS 3	OS/ S2	OSC
1. Agricultural Uses					
Animals, Commercial Grazing of Large Species ¹			C		
Apiaries (Bee Raising)			C		
Crop and Tree Farming			C		
Nurseries, Farming Only			C		
2. Commercial Uses					
Business Concessions in Conjunction with Approved Recreational Uses	MC	MC	MC	MC	MC
Clubhouses (Private) in Conjunction with Recreational Uses			C	C	C
Private or Rental Cabanas w/o Kitchens (Not Suitable for Dwelling; Serving Only as Temporary Shelters and Dressing Rooms)				C	
Recreational Rental Concessions in Conjunction with Previously Approved Recreational Uses	C	C	C	C	C
Tourist Information Offices	C	C			

3. Public/Quasi-Public and Institutional Uses					
Amphitheaters, Open Air (Not Including Drive-Ins)	C				
Arboretums, Public or Private	C		C		
Aquariums	C	C			
Athletic Fields	C		C		
Boardwalks		C		C	
Community Recreation Center (Public)	C	C			
Dance Pavilions (Open Air, Public)	C				

Use	OS/ 1	OS/ S1	OS 2/ OS 3	OS/ S2	OSC
Golf Courses (Public/Private) and Ancillary Facilities Such as Clubhouses, Restaurants and Bars			C		P ²
Golf Driving Ranges: Free-Standing In Association with Golf Courses			C		C

Use	OS/ 1	OS/ S1	OS 2/ OS 3	OS/ S2	OSC
Observatories or Planetariums	C				
Open Space (Undeveloped)	P	P	P	P	P
Parking Lots in Conjunction with Recreational Uses ³	C	C			
Parks ⁴	O	O	O	O	O
Preserves: (Archeological, Botanical, Geological, Historical, Wildlife):					
a. No Physical Change	P	P	P	P	P
b. With Physical Change	C	C	C	C	C
Public Beaches		P		P	
Public Piers, Revetments,		C			

Break-Waters, Groins, Harbor Channels, Sea Walls, Cliff Retaining Walls					
Public Safety Facilities (Including Police, Fire and Marine Safety)	MC	MC	MC	MC	MC
Public Utilities: ⁵					
a. City-Initiated Project	O	O	O	O	O
b. Projects Initiated by Outside Agencies					
i. Major	C	C	C	C	C
ii. Minor	P	P	P	P	P
Railroad Facilities:					
a. Establishment of New Tracks and Appurtenant Railroad Facilities		C		C	
b. Maintenance of Tracks and Appurtenant Railroad Facilities		P		P	
Riding Academies/Public Stables for Boarding Horses on Site (Minimum 5+ Acres)	C				
Trails: (Riding, Hiking, Bicycle, No Motorized Vehicles)	C	C	C	C	C

Use	OS/ 1	OS/ S1	OS 2	OS 3	OS/ S2	OSC
4. Residential Uses						
Caretaker's Unit and Related Offices			C			C
5. Unclassified Uses						
Accessory Buildings	C	C	C	C	C	C
Baseball Batting/Pitching Ranges (Outdoor)		C	C			C

Use	OS/ 1	OS/ S1	OS 2/ OS 3	OS/ S2	OSC
Grading ⁶ , (Not Accompanying a Development Request)					

a. Emergency	P	P	P	P	P
b. Major	C	C	C	C	C
c. Minor	P	P	P	P	P
Shooting Ranges, Outdoor	C				

1. Refer to Section 17.28.060, Animals, Commercial Grazing and Raising of Large Species, of this title, for special provisions for the commercial grazing of large species.
2. New golf courses in the OSC zone require approval of a Site Plan Permit, in accordance with Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title.
3. Refer to Section 17.28.220, Parking Lots, of this title, for special provisions for single-use parking lots.
4. Please refer to Section 17.28.230, Public Park Facilities, of this title, for other review requirements for public park facilities. Passive and active facilities require different types of review.
5. Refer to Section 17.28.240, Public Utilities, of this title, for special provisions for public utilities.
6. Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.

Section 11: Section 17.48.020(B) of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.48.020, Public Zone Uses, but are not identified as either permitted—"P"—or conditionally permitted—"MC or C"; and
2. Uses that have been excluded from Table 17.48.020, Public Zone Uses, unless they are found by the City to be similar to permitted or conditionally permitted uses.
3. Uses where a blank cell appears within Table 17.48.020, Public Zone Uses.

Section 12: Table 17.64.050 of the Municipal Code is hereby amended as follows:

Table 17.64.050 – Number of Parking Spaces Required

Use	Number of Parking Spaces Required
1. Commercial Uses	
Convenience Stores or Mini-Markets	Please refer to Section 17.28.120, Convenience Stores.
General Retail Stores	In MU 3: 1 per 400 square feet. Elsewhere: 1 per 300 square feet
Beauty Shops or Barbershops	1 per 200 square feet

Furniture and Appliance Stores	2 spaces plus 1 space per 500 square feet
Laundromats	1 per 4 washing machines
Massage	1 per 200 square feet
Retail Nursery/Garden Shop	1 space for each 300 sq. ft. of indoor display area; 1 space for each 800 sq. ft. of outdoor display area.
2. Hospital Uses	
Convalescent Home	1 per 4 patient beds
Hospitals	2 per patient bed
3. Industrial Uses	
Manufacturing	1 per 500 sq. ft.
Research and Development	1 per 500 sq. ft.
Warehousing/Storage	1 per 2,000 sq. ft.
4. Lodging	
Bed and Breakfast Inns	Please refer to Section 17.28.090, Bed and Breakfast Inns.
Hotels and Motels	Please refer to Section 17.28.170, Hotels and Motels.
Timeshares	1.2 per unit
5. Professional Offices, Financial Institutions and Related Uses	
Banking Institutions	1 per 300 sq. ft.
Offices, General and Professional	In MU 3: 1 per 350 sq. ft. Elsewhere: 1 per 300 sq. ft.
Offices, Medical	1 per 200 sq. ft.
6. Public/Quasi-Public Uses	
Group Counseling/Group Instruction	1 space per employee; 1 space per 2 students, maximum capacity
Churches	1 per 4 seats, based on seating capacity and/or occupancy signs posted by the Orange County Fire Authority
Public Assembly	1 per 4 seats, based on seating capacity and/or occupancy signs posted by the Orange County Fire Authority
Day Care Facilities	1 for each 2 employees; 1 for each 5 children. Minimum of 3 spaces
Educational Facilities Elementary/Junior High	1 per staff, 1 per 10 students

High School	1 per 3 students
Community College/University	1 per 2 students
Business/Professional/Trade	1 per staff; 1 per 2 students
Driving Range	1.25 spaces for each tee
Golf Course	6 spaces per hole, plus parking required for incidental uses (such as restaurant, pro-shop, etc.)
7. Residential Uses	
Congregate Care Facility	Please refer to Section 17.28.110, Congregate Care
Single Dwelling Unit on a Single Lot	2 per dwelling unit
Guesthouses	1 per guesthouse
Second Residential Units	Please refer to Section 17.28.270, Second Residential Units.
	All required parking for single-family dwelling units shall be covered. Exceptions to covered parking requirements may be granted pursuant to Section 17.40.050(C)(f), Miscellaneous Parking Requirements for Existing Development being converted to a Mixed-use Project, of this title.
Two Dwelling Units on a Single Lot (Except for Single-family Homes with Second Residential Units)	<p>2 per dwelling unit. 50% of the spaces must be covered. Each dwelling unit shall be assigned at least 1 covered parking space. Exceptions to covered parking requirements may be granted pursuant to Section 17.40.050(C)(f), Miscellaneous Parking Requirements for Existing Development being converted to a Mixed-use Project, of this title.</p> <ol style="list-style-type: none"> 1. Large Two-unit Projects: Two-unit projects which have a cumulative bedroom count which exceeds 7 and/or a project net floor area which exceeds 5400 square feet shall provide 1 additional parking space for the project. 2. Tandem Parking on Narrow Lots: Lots less than 50 feet wide measured 50 feet back from the front property line, may have tandem parking. Please refer to Section 17.64.090, Tandem Parking—Residential Uses, for special development standards required when tandem parking is employed. This exception shall not be applied to mixed-use projects containing residential and nonresidential uses.

Three or More Dwelling Units on a Single Lot

1. The Total Parking Required for a Project: The total number of parking spaces required for a project shall comply with all of the following:
 - a. The total number of parking spaces required for a project shall be the sum of the parking required for the dwelling units (subsection (2)) and the parking required for guests (subsection (3));
 - b. The total number of parking spaces required for a project shall not be less than two spaces per unit;
 - c. Fractional calculations shall be rounded off as provided for in subsection (4), below

2. Parking Requirements for Dwelling Units: The number of parking spaces required for each dwelling unit shall be determined using the following 2 methods of calculating parking. The method resulting in the greater number of spaces being required for a unit shall be used for that unit:
 - a. Method 1—Number of Bedrooms in a Dwelling Unit:
 - 0-1 Bedroom: 1.5 spaces
 - 2 Bedrooms: 2.0 spaces
 - 3 Bedrooms: 2.5 spaces
 - Over 3 Bdrms.: 3.0 spaces

 - b. Method 2—Net Floor Area of a Dwelling Unit:
 - To 900 sq. ft.: 1.5 spaces
 - To 1,800 sq. ft.: 2.0 spaces
 - To 2,700 sq. ft.: 2.5 spaces
 - Over 2,700 sq. ft.: 3.0 spaces

 - c. Covered Spaces: 50 percent of the total number of parking spaces required for the dwelling units shall be covered, with no less than one covered assigned parking space being provided for each dwelling unit.

	<ol style="list-style-type: none"> 3. Guest Parking: The number of guest parking spaces provided for a project shall be .333 spaces per dwelling unit. 4. Rounding Off: Fractional numbers shall be rounded off once the dwelling unit and guest parking requirements have been added together. The following rules regarding rounding shall apply: <ol style="list-style-type: none"> a. Fewer than 5 Units: If the total number of required parking spaces is a fractional number of .45 or greater, that number shall be rounded up to the next whole number; if the total number of required parking spaces is a fractional number less than .45, that number shall be rounded down to the next whole number. b. Five or Greater Units: If the total number of required parking spaces is a fractional number, the total number shall be rounded up to the nearest whole number.
Senior Housing Projects	Please refer to Section 17.28.280, Senior Housing
Mobilehome Parks	Please refer to Section 17.28.190, Mobilehomes
8. Restaurants	
Bars, Cocktail Lounges	1 per 4 seats, based on seating capacity or occupancy signs posted by the Orange County Fire Department.
Restaurants	<p>In MU3 zoning district: 1 per 5 indoor seats. Elsewhere: 1 per 4 indoor seats. Required parking based on seating capacity or occupancy signs posted by the Orange County Fire Department, except in the following cases:</p> <ol style="list-style-type: none"> 1. Single destination restaurants over 3,000 square feet: 1 per 120 square feet of interior space. 2. Drive-thru/take-out/fast food restaurants: 1 per 35 square feet of public seating area, plus 1 per 200 square feet of all other gross floor area, with 1 lane for each drive-up window with stacking spaces for 6 vehicles.

9. Unclassified Uses	
Bowling Alleys	2 per alley, plus parking for incidental uses (restaurant, pro-shop, etc.)
Health Club/Fitness Facilities	1 per 150 sq. ft.
Theater	1 per 4 seats, based on seating capacity as shown by capacity signs posted by the Orange County Fire Authority
Tennis/Racquetball Courts	3 spaces per court, plus parking required for incidental uses
10. Vehicle-Related Repair, Sales and Service	
Car Wash:	
a. Full Service (Includes Gas)	1 per every 3 employees on the maximum shift plus 600 square feet of operations parking area for each 20 feet of conveyor length
b. Self Service	1 per stall plus 1 space queuing lane in front of each stall
Oil Change, Lube and Tune Shops	1 per service bay, plus 1 for each employee, plus 2 space queuing lanes for each bay, with a minimum of 5 spaces.
Service/Gas Stations	Please refer to Section 17.28.290, Service Stations.
Vehicle Dealerships	Please refer to Section 17.28.310, Vehicle Dealerships.
Vehicle Repair/Service	Please refer to Section 17.28.320, Vehicle Repair Facilities.

Section 13: Section 17.64.060 of the Municipal Code is hereby amended as follows:

According to requirements in this section and the City Engineering Division’s technical standards, parking design standards are as follows, except as otherwise provided for in Section 17.64.125, Waivers of Parking Requirements, or Section 17.64.070, Disabled Accessible Parking Spaces

A. Parking Space Size.

1. Garages or carports that contain four or fewer parking spaces. Parking spaces shall be a minimum of 9 feet wide and minimum length of 19 feet in residential garages or carports that contain four or fewer parking spaces and do not include

circulation elements such as driveway aisles, but consists primarily of parking spaces.

2. Other garages. Please refer to the City of San Clemente Engineering Division's Technical Standards for parking space size requirements for all other parking spaces.

Section 14: Definition "Day Care Facility, Child" in Section 17.88.030 of the Municipal Code is hereby amended as follows:

Day Care Facility, Child. "Child Day Care Facility" means a State-licensed facility which provides nonmedical care to children under 18 years of age in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Day care facilities include Day Care Centers, Large-family Day Care Homes, and Small-family Day Care Homes, as follows:

1. **Day Care Center, Child.** "Child day care center" means a Day Care Facility other than a Large-family Day Care Home and Small-family Day Care Home, including infant centers, preschools, extended day care facilities, and schoolage child care centers.
2. **Day Care Home, Large-Family.** "Large-Family Day Care Home" means a home that provides care, protection, and supervision 14 or fewer children at any one time, as defined and regulated in Health and Safety Code Section 1597.465 et seq. Large-Family Day Care Homes can care for up to three infants when a facility cares for more than 12 children.
3. **Day Care Home, Small-Family.** "Small-Family Day Care Home" means a home that provides care, protection, and supervision of eight or fewer children, as defined and regulated in Health and Safety Code Section 1597.44 et seq. Small-Family Day Care Homes can care for up to two infants when a facility cares for more than six children.

Section 15: Definition "Historical Resources" in Section 17.88.030 of the Municipal Code is hereby amended as follows:

"Historical Resources" means all properties (historic, archaeological, landscapes, traditional, etc.) eligible or potentially eligible for the National Register of Historic Places, as well as those that may be significant pursuant to state and local laws and registration programs such as the California Register of Historical Resources or the City of San

Clemente Historic Resources Inventory. For the purpose of this title, the following definitions shall apply:

1. **"Adjacent property"** means any property that is located within 100 yards of property which has been designated as historically significant, and which is determined by the Planning Commission to have an actual or potential visual impact on the historically significant property.
2. **"Historical district"** means an area or distinct section containing structures which have a special character, historical interest or aesthetic value or which represents the Spanish Heritage architectural style typical to the history of the City.
3. **"Historically significant property"** means any site, building or structure of particular historic, architectural or cultural significance to the City as determined by the Planning Commission. Such site may be identified with historic personages or with important events in the main currents of national, State or local history, or may embody the distinguishing characteristics of an architectural specimen, inherently valuable for a study of a period, style, method of construction, or may be a notable work of a master builder, designer or architect whose individual genius influenced his age.
4. **"Landmark"** means a building, site, structure, object, or improvement, manmade or natural, with special character or special historical, cultural, architectural, archeological, social, or aesthetic value inherent to the heritage of the City of San Clemente, the State of California, and/or the United States.
5. **"Demolition of Historic Structures"** means an act that destroys in whole or in part a designated historic resource.

Section 16: Definition "Lot coverage" in Section 17.88.030 of the Municipal Code is hereby amended as follows:

"Lot coverage" means the percent of the lot area that may be covered by all buildings or roofed structures. This includes garages, accessory buildings, balconies, covered patios, decks, covered entryways, and any similar structures that reduce the amount of lot area open to the sky.

Section 17: A supplemental reference is hereby added to Section 17.88.030 as follows:

In cases where a term is not defined below, the City Planner has authority to use Merriam-Webster Dictionary or other similar reference to define the meaning of terms, and to interpret terms that may influence decisions.

Section 18: Definition “Original Grade” is hereby added to Section 17.88.030 of the Municipal Code as follows:

“Original grade” means the grade of a property that existed before the ground was disturbed or development occurred

Section 19: Definition “Height, Average Building” is hereby added to Section 17.88.030 of the Municipal Code as follows:

“**Average Building Height**” means the methodology used to calculate maximum height limit based on averaging the height of each corner of the roof element compared to finished grade. Please refer to section 17.24.110 for the method of determining average building height.

Section 20: Definition “Height, Building” in section 17.88.030 of the Municipal Code is hereby amended as follows:

Please refer to Section 17.24.110 for the method of determining building height.

Section 21: Definition “Covered parking” is hereby added to Section 17.88.030 as follows:

“**Covered parking**” means a parking stall(s) within a garage, carport, or completely under the overhanging portion of a building.

Section 22: Category “Sidewalk Waiver Appeal” is hereby added to Table 17.12.100 of the Municipal Code as follows:

Table 17.12.100 - Public Hearing Requirements

Application (required by this Title unless stated otherwise)	Required Radius	Number of Sets	
		Stamped, Labeled Envelopes¹	Mailing List
Architectural/Cultural Heritage Permit	300 feet	1	1
Conditional Use Permit	300 feet	1	1
Development Agreements	300 feet	2	1
General Plan Amendment	300 feet	2	1
Minor Architectural/Cultural Heritage Permit	300 feet	1	1
Minor Conditional Use Permit	300 feet	1	1
Minor Exception Permit	300 feet	1	1
Minor Site Plan Permit	300 feet	1	1
Sidewalk Waiver Appeal (see Municipal Code Chapter 12.08)	300 feet	1	1
Site Plan Permit	300 feet	1	1
Specific Plan Amendment	300 feet	2	1
Variance	300 feet	1	1
Zoning Amendment	300 feet	2	1

Section 1: Section 17.08.010 of the Municipal Code is hereby amended as follows:

Zone Title	Map Designation
A. Residential Zones.	
Residential Very Low (1 dwelling unit/20 gross acres or legal lot ¹)	RVL
Residential Low (4.5 dwelling units/gross acre; 7 dwelling units/net acre)	RL
Residential Medium Low (7 dwelling units/gross acre; 10 dwelling units/net acre)	RML
Residential Medium (15 dwelling units/gross acre; 24 dwelling units/net acre)	RM
Residential High (24 dwelling units/gross acre; 36 dwelling units/net acre)	RH
B. Commercial Zones.	
Neighborhood Commercial	NC 1, NC 2, NC 3
Community Commercial	CC 1, CC 2, CC 3
Regional Commercial	RC 2
<u>Other Commercial*</u>	<u>C 1, C 2, C 3</u>
C. Mixed-Use Zones.	
Downtown Mixed-Use Zone	MU 3
South El Camino Real Mixed-Use Zone	MU 5.1
D. Public Zones.	
Public and Parking	P
Civic Center	CVC
Institutional	INST
E. Open Space Zones.	
Public Parks and Publicly Owned Open Space	OS 1
Publicly Owned Open Space—Shoreline	OS S1
Privately Owned Open Space	OS 2
Privately Owned Open Space—Shoreline	OS S2
Privately Owned Open Space (Restricted by Easement)	OS 3
Golf Courses and Commercial Recreation	OSC
F. Specific Plan <u>Areas.</u> and Study Area Zones.	

Future Specific Plan	SP
Forster Ranch Specific Plan	FRSP
Pier Bowl Specific Plan	PBSP
Rancho San Clemente Specific Plan	RSCSP
Talega Specific Plan	TSP
West Pico Corridor Specific Plan	WPCSP
North Beach Study Area	NBSA
G. Overlay Districts.	
Architectural	A
<u>Affordable Housing</u>	<u>AH</u>
Central Business	CB
Planned Residential District	PRD
Coastal Zone	CZ
Special Residential Overlays	<u>RL-# (e.g. RL-10)</u>
Inland Canyons	IC

* See 1991 Zoning Ordinance

Section 2: Section 17.12.065 “Withdrawal of inactive applications” is hereby added to the Municipal Code as follows:

The City Planner has the authority to withdraw applications that are inactive for 180 days or more due to inactivity. Applications are inactive when requested materials, funds, or other information necessary to proceed with the processing of an application is not submitted.

A. Withdrawal procedures. When an application is inactive for 90 days or more, a letter is sent via certified mail to inform applicants that they have 90 days to submit requested materials, funds or other information necessary to proceed with the processing of an application. If requested materials or funds are not received within the 90 days (a total of 180 calendar days since an application begins to be inactive), then the City Planner has the authority to:

1. withdraw the application; or
2. schedule for the designated decision making authority to consider the application as a consent item at the next available meeting. The City Planner may recommend for the decision making authority to deny the application without prejudice. The applicant would be notified of the meeting in advance.

B. Return of unused deposit account funds and materials. If an application is withdrawn, unused deposit account fees are refunded and materials are returned upon request.

Section 3: Section 17.16.050(C)(2) of the Municipal Code is hereby amended as follows:

Minor Site Plan Permits. A Minor Site Plan Permit is required for:

- a. Model home complexes and sales offices, per as provided for in Section 17.28.300(F), ~~Model Home Complex and Sales Office, of this title.~~
- b. Development adjacent to ~~R~~residentially zoned property, ~~development adjacent to, per as provided for in~~ Section 17.24.170(B), ~~Building Setback from Adjacent Residentially-Zoned Property, of this title.~~
- c. Additions or alterations to nonresidential and mixed-use buildings, per as indicated in Table 17.16.050, ~~Additions or Alterations Requiring Site Plan Permits or Minor Site Plan Permits.~~

Section 4: Section 17.16.060(C) of the Municipal Code is hereby amended as follows:

Applicability. Conditional Use Permits are required as indicated by the use tables in Chapters 17.32, Residential Zones and Standards, through 17.48, Public Zones and Standards, in this Title. Conditional Use Permits are also required for the following requests:

Use/Modifications	As Provided for in:
Amusement centers	Section 17.28.050, Amusement Centers
Antennas, new, on City property	Section 17.28.070(C), Review Requirements
Chimneys which exceed the height limit of the zone in which they are located by more than two (2) feet	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Density bonus requests	Section 17.24.070(E), Review Procedures
Development standards, determination of, for development in the following zones: RVL Zone, Open Space Zones, Public Zone	Table 17.32.040, Residential Zone Development Standards; Table 17.44.030, Open-Space Zone Development Standards; Table 17.48.030, Public Zone Development Standards

Development standards, exceptions for commercial and mixed-use projects on lots 12,000 (twelve thousand) square feet and smaller in the MU3 zone	Section 17.40.050(C), Exceptions to the Development Standards for Lots of 12,000 Square Feet or Smaller, MU3
Elevator towers which exceed the height limits of the zone in which they are located by more than six (6) feet	Table 17.24.080(B), Maximum Encroachment into Setbacks and Height Limits
Fences, hedges, and walls exceeding six (6) feet in height for specific purposes	Section 17.24.090(D)(1)(b), Review Procedures
Flag poles and church steeples in residential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Flag poles, antennas (other than satellite antennas or antennas on City property), church steeples, cupolas, and monuments, and similar structures in nonresidential and mixed-use zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Storage tanks and similar structures in nonresidential zones that exceed the height limits of the zone where they are located	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Grading requests not accompanying development requests	Section 17.28.130(B), Review Requirements
Historic Structures, exceptions to the minimum commercial floor area for mixed-use projects in the MU3 zone	Section 17.40.050(D), Exceptions to the Minimum Floor Area Requirements for the Commercial Portion of Mixed-use Projects for Buildings on the City's Designated Historic Structure List
Home occupations conducted outside enclosed structures	Section 17.28.160(B), Review Requirements
Nonconforming uses: change from prohibited use to a different prohibited use	Section 17.72.060(C)(3), Changes of Use.
Nonresidential uses allowed in the zone located on the same level as residential uses in the MU3 Zone	Section 17.40.030(A)(2)(a), Special Use Regulations for the Downtown Mixed Use (MU3) Zone
Outdoor dining areas	Private property: Section 17.16.205(C), Review Requirements; Public property: Section 17.28.206(C), Review Requirements

Parking modifications for: Bed and Breakfast Inns, Uses in and out of the Downtown Parking Study Area, Historic nonresidential and mixed-use structures, Historic structures in the RM and RH Zones, Relocation of historic structures, Hotels, Off-site parking for nonresidential uses, Outdoor dining, Public utilities, Shared parking	Section 17.28.090(D), Minimum Standards for Bed and Breakfast Inns in All Zones; Section 17.64.125, Waivers of parking requirements; Section 17.64.110, Off-Site Parking, Section 17.28.205(D)(6), Outdoor dining on private property; Section 17.28.206, Outdoor dining on public property; Section 17.28.240(C)(2)(d), Minor Utilities; Section 17.64.120, Shared Parking
Patio covers, detached, exceeding fifteen (15) feet in height and located within certain setback areas	Table 17.24.080(B), Maximum Encroachments into Setbacks and Height Limits
Public utilities, major, initiated by outside agencies	Section 17.28.240(B)(2)(a), Projects Initiated by Outside Agencies/Applicants
Residential uses on the street level, buildings on the City's Designated Historic Structure List	Section 17.40.030(A)(2)(c), Location of Residential Uses
Urban Private Storage in Mixed-Use Zones	Section 17.28.305, Urban Private Storage
Height exceptions for residential development on Lots 46 through 64 of Tract 4938 in the RL-11 special residential overlay zone	Appendix A, Subsection (K.4.B) in this Title

Section 5: Table 17.24.080(B) of the Municipal Code is hereby amended as follows:

Table 17.24.080B – Maximum Encroachments into Setbacks and Height Limits

Item	Front Encroachments Into Front Yard Setback Area	Side Encroachments Into Side Yard Setback Area	Rear Encroachments Into Rear Yard Setback Area	Maximum Projection Above Height Limit	Other Limitations
HVAC, Mechanical Equipment, Window Mounted Air Conditioners, Tankless Water Heaters	Not Permitted	0 ft. from property line	0 ft. from property line	Not Permitted	

Section 6: Section 17.24.110 of the Municipal Code is hereby amended as follows:

A. Purpose and Intent. One of San Clemente's defining characteristics is its varied topography. The City's building height regulations are intended to:

1. Preserve the natural topography by encouraging residential structures that follow the topography of the lots on which they are located and by discouraging significant grading or fill on infill lots. The calculation of height by individual roof element is intended to assist these objectives, by allowing roof elements to step up or down with the natural topography of the lot. The measurement of height from original grade is also intended to assist these objectives, by establishing height limits which are relative to the natural topography;
2. Accommodate the special difficulties of developing on sloped properties by allowing height to be averaged within roof elements;
3. Encourage developments with full roofs. The establishment of a height limit to plate line and a height limit to top of roof, in specific mixed-use and nonresidential zones where traditional architecture is required, is intended to assist with this objective; and
4. Discourage excessively massive structures. The establishment of a story limit in mixed-use and nonresidential zones is intended to assist with this objective. The exemption of subterranean portions of structures from counting toward the story limit is intended to assist this objective, as well.

B. General Regulations for the Measurement of Height. The following regulations for calculating height shall apply to all development within the City of San Clemente:

1. Measurement of Height From Original or Finished Grade.
 - a. Developments With Mass Recontouring. In the case of subdivisions and/or land development where mass recontouring has been or will be permitted by the City, building height shall be measured from finished grade, subject to approval through the site plan permit process, as described in Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title. Please refer to Figure 17.24.110A for a map of those areas in the City which have had mass recontouring. This subsection does not include properties with significant grading which have received the approval of a

variance from height limits; please refer to the following paragraph b, for the method of measuring height on these properties.

- b. All Other Development. In the case of developments where mass recontouring has not been permitted, or where significant grading has been allowed but through the approval of a variance from the height limit, building height shall be measured from original grade.
 - c. In cases where it is ambiguous whether building height should be measured from finished or original grade, or where a determination of finished or original grade is difficult, the City Planner shall make such determination, subject to the appeal provisions in Section 17.12.140, Appeals of an Action, of this title.
2. Measurement of Height by Roof Element. The building height limits for a zone shall be applied to and measured for each roof element of a structure. No individual roof element may exceed the height limits for the zone.
 3. Measurement of Height to the Top of a Roof Element (TOR). Unless additional height limits are indicated in the development standard tables in Chapters 17.32, Residential Zones and Standards, through 17.48, Public Zones and Standards, of this title, the maximum height limit ~~S~~stated for a zone shall be a limit upon the "average height to the top of the roof element." The average height to the top of a roof element is calculated by:

Section 7: Section 17.32.030(B) and Table 17.32.030 of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.32.030, but are not identified as either permitted—"P"—or conditionally permitted—"MC or C"; and
2. Uses that have been excluded from Table 17.32.030, unless they are found by the City to be similar to permitted or conditionally permitted uses.
3. Uses where a blank cell ~~the symbol "NP"~~ appears within Table 17.32.030, Residential Zones Uses.

Table 17.32.030 - Residential Zone Uses

Use	RVL	RL	RML	RM	RH
1. Agricultural					
Animals, Commercial Grazing of Large Species ¹	C	NP	NP	NP	NP
Apiaries (Bee Farming)	C	NP	NP	NP	NP
Crop and Tree Farming	C	NP	NP	NP	NP
Nurseries (Farming Only)	C	NP	NP	NP	NP
2. Lodging					
Bed-and-Breakfast Inns: ²					
a. 5 or Fewer Guest Rooms	C	C	MC	MC	MC
b. 6 or More Guest Rooms	C	C	C	C	C
3. Public/Quasi-Public and Institutional					
Arboretums (Public/Private)	C	NP	NP	NP	NP
Churches	C	C	C	C	C
Congregate Care Facility ³	NP	NP	C	C	C
Convalescent Care	NP	NP	C	C	C
Day Care Facilities, Children's: ⁴					
a. Small-Family Day Care Home ⁵	P/MCO	P/MCO	P/MCO	P/MCO	P/MCO
b. Large-Family Day Care Home	GMC	MC	MC	MC	MC
c. Day Care Center	NP	NP	C	C	C
Parking Lots ⁶	NP	C	C	C	C
Parks ⁷	O	NP	O	O	O
Preserves (Archaeological, Botanical, Geological, Wildlife)	C	C	C	C	C
Public Utilities ⁸					
a. City-Initiated Project	O	O	O	O	O
b. Projects Initiated by Outside Agencies					
i. Major Utilities	C	C	C	C	C
ii. Minor Utilities	P	P	P	P	P
Recreational/Uses (Public/Private, Nonprofit)	C	C	C	C	C
Schools (Public/Private)	C	C	C	C	C
4. Residential Uses					

Accessory Uses (Pools, Detached Garages, Tool and Garden Sheds, Gazebos, Patio Covers, Barbecues)	P	P	P	P	P
a. Stables	C	NP	NP	NP	NP
Guesthouses	C	P	NP	NP	NP
Home Occupation Permits ⁹	P	P	P	P	P
Manufactured Homes ¹⁰	P	P	P	P	P
Mobile Homes ¹¹					
a. Units	C	C	C	C	C
b. Subdivisions and Parks ¹²	C	C	C	C	C
Multifamily Dwellings:					
a. 4 Units or Fewer	NP	NP	P	P	P
b. 5 Units or More	NP	NP	C	C	C
Second Residential Units (Inland Side of I-5) ¹³	P	P	NP	NP	NP
Senior Housing Projects ¹⁴	NP	NP	C	C	C
Single-Family Dwellings	C	P	P	P	P
5. Unclassified Uses					
Accessory Buildings, Residential ¹⁵					
Detached, Over 15 Feet in Height	C	C	C	C	C
a. All Others	P	P	P	P	P
b. Accessory Buildings, Nonresidential ¹⁶	C	C	C	C	C
Grading, ¹⁷ (Not Accompanying a Development Request):					
a. Emergency	P	P	P	P	P
b. Major	C	C	C	C	C
c. Minor	P	P	P	P	P

1. Refer to Section 17.28.060, Animals, Commercial Grazing and Raising of Large Species, of this title, for special provisions for the commercial grazing of large species
2. Refer to Section 17.28.090, Bed and Breakfast Inns, of this title, for special provisions for bed and breakfast inns
3. Refer to Section 17.28.110, Congregate Care Facilities, of this title for special provisions for congregate care facilities.
4. Refer to Section 17.28.100, Child Day Care Facilities, of this title for special provisions for day care facilities.
5. Small-family day care homes are permitted in~~in legal nonconforming or conforming~~ single-family homes ~~only are permitted. All other small-family day care homes require a Minor Conditional Use Permit.~~
6. Refer to Section 17.28.220, Parking Lots, of this title for special provisions for single-use parking lots.
7. Refer to Section 17.28.230, Public Park Facilities, of this title for review requirements for parks.
8. Refer to Section 17.28.240, Public Utilities, of this title for review requirements for public utilities/buildings.

9. Refer to Section 17.28.160, Home Occupations, of this title for special provisions for Home Occupation Permits.
10. Manufactured homes are subject to the same requirements as individual mobile homes. Please refer to Section 17.28.190(D), Minimum Standards for Individual Mobilehomes, of this title, for standards to be used for manufactured homes.
11. Refer to Section 17.28.190, Mobilehomes, of this title for special provisions for mobile homes.
12. Refer also to Section 17.56.040, Planned Residential District Overlay, of this title, for special provisions for planned residential developments.
13. Refer to Section 17.28.270, Second Residential Units, of this title for special provisions for second residential units.
14. Refer to Section 17.28.280, Senior Housing Projects, of this title for special provisions for senior housing projects.
15. Refer to Section 17.24.040, Accessory Buildings, of this title for special provisions for accessory buildings.
16. Refer to Section 17.24.040, Accessory Buildings, of this title for special provisions for accessory buildings.
17. Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.

Section 8: Section 17.36.020(B) and Table 17.36.020 of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.36.020, Commercial Zone Uses, but are not identified as either permitted—“P”—or conditionally permitted—“MC or C”; and
2. Uses that have been excluded from Table 17.36.020, Commercial Zone Uses, unless they are found by the City to be similar to permitted or conditionally permitted uses.
3. Uses where a blank cell the symbol “NP” appears within Table 17.36.020
4. The following uses are not permitted in any commercial zone:
 - a. Medical Marijuana Dispensaries.

Table 17.36.020 - Commercial Zone Uses

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
1. Commercial Uses				

Antiques (Retail Sales)	P	P	NP	P
Art Galleries	P	P	NP	P
Bakery Goods/Sales (No Wholesale Distributors)	P	P	NP	P
Barber Shops	P	P	NP	P
Bicycle Shops	P	P	NP	P
Bookstores	P	P	NP	P
Carpet Sales	MC	P	NP	P
Ceramics (Retail Sales)	MC	P	NP	P
Cleaners and Laundromats (No Linen Service)	P	P	NP	P
Clothing (Retail Sales)	P	P	NP	P
Confectionery Stores (Small Scale Production with Retail Sales)	P	P	NP	P
Convenience Stores ¹	C	C	NP	P
Drug Stores/Pharmacies	P	P	NP	NP
Electronics (Retail Sales and Repair)	P	P	NP	P
Fabric Stores	P	P	NP	NP
Florist (Retail Sales)	P	P	NP	P
Floor Covering	MC	P	NP	NP
Furniture Stores (Retail Sales)	MC	P	NP	P
Glass/Mirror Sales	MC	P	NP	P
Grocery/Food Stores (Not Convenience Stores)	P	P	NP	NP
Gunsmith/Gun Shops	NP	C	NP	NP
Hardware Stores	P	P	NP	NP
Home Appliance Stores (Retail Sales and Repair)	MC	P	NP	NP
Ice Cream Parlors (Retail Sales with Small Production)	P	P	NP	P
Interior Decorating Stores	MC	P	NP	P
Janitorial Supplies	NP	P	NP	NP
Jewelry Stores	P	P	NP	P
Lawnmower Sales/Service	MC	P	NP	NP

Liquor Sales				
a. Hard Alcohol	C	C	NP	C
b. Beer and Wine (Off-Site Consumption Only)	MC	MC	NP	MC
Locksmith Shops	MC	P	NP	NP
Mail-Order Stores	MC	P	NP	P
Medical/X-ray Equipment (Sales Only)	NP	P	NP	NP
Medical Marijuana Dispensaries	NP	NP	NP	NP
Music Sales	P	P	NP	P
Newsstands (On Private Property)	P	P	NP	P
Nurseries (Indoor Garden Retail Sales)	MC	P	NP	P
Nurseries (Outdoor Garden Retail Sales)	NP	C	NP	NP
Office Equipment/Supplies	C	P	NP	NP
Paint/Wallpaper Sales	MC	P	NP	NP
Patio/Outdoor Furniture Sales	MC	P	NP	P
Pawn Shops	NP	C	NP	NP
Pet Shops	MC	MC	NP	NP
Pet Supply Stores	MC	P	NP	NP
Photographic Equipment Sales	MC	P	NP	P
Pottery (With Small Production Retail Sales)	P, MC	P	NP	P
Shoe Stores (Retail Sales and Repair)	P	P	NP	P
Specialty Food Stores	P	P	NP	P
Sporting Goods (Retail Sales)	MC	P	NP	P
Stationery Stores	P	P	NP	P
Surfboard (Custom Manufacturing)	NP	C	NP	NP
Swimming Pool Accessory Shops	MC	P	NP	NP
Tailors/Dressmakers	P	P	NP	NP

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 3	CC 2	RC 2	CRC-4
2. Hospital Uses					
Ambulance Services	NP	NP	C	C	NP
Ancillary Uses (Minor) to Hospital, such as Laboratories, Florists, Parking Lots ²	NP	NP	P	P	NP
Hospitals	NP	NP	C	C	NP

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
3. Lodging					
Bed and Breakfast Inns: ³					
<u>a.</u> 5 or Fewer Guest Rooms	NP	P	P	NP	C
<u>b.</u> 6 to 10 Guest Rooms	NP	MC	MC	NP	C
<u>c.</u> Over 10 Guest Rooms	NP	C	C	NP	C
Hotel and Ancillary Uses	NP	C	C	NP	C
Motels	NP	NP	C	NP	C
Timeshares	NP	C	C	NP	C

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
4. Professional Offices, Financial Institutions and Related Uses				
Banks/Financial Institutions	P	P	NP	NP
<u>a.</u> With Drive-Thru Facilities	C	C	NP	NP

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Employment Agencies	NP	P	P	NP	NP

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Newspaper Publication and Office	NP	P	NP	P (2nd Floor and Above Only)
Offices, Medical	P	P	P	NP
Offices, Professional	P	P	NP	P (2nd Floor and Above Only)
Offices, Veterinary/Animal Hospitals:	MC	P	NP	NP
Secretarial Services	P	P	NP	NP

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Telemarketing	NP	P	P	NP	NP

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Travel Agencies	MC	P	NP	P

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
5. Public/Quasi Public and Institutional Uses				
Churches	C	C	NP	NP
Club/Social Organizations	C	C	NP	NP

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Congregate Care Facility ⁴	NP	C	C	C	NP

Convalescent Home	NP	C	C	C	NP
-------------------	----	---	---	---	----

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
Day Care Facilities ⁵				
a. Small Day Care Home ⁶	P/MCO	P/MCO	P/MCO	NP
b. Large Day Care Home	MC	MC	MC	NP
c. Day Care Center	C	C	C	NP
Group Instruction/Group Counseling	MC	C	NP	NP
Libraries	P	P	NP	NP
Parking Lots ⁶	MC	MC	NP	C
Parking Structures	C	C	NP	C
Parks ⁷	O	O	O	C
Public Utilities: ⁸				
a. City-Initiated Projects	O	O	O	C
b. Projects Initiated by Outside Agencies:				
i. Major Utilities	C	C	C	C
ii. Minor Utilities	P	P	P	C
School (Public and Private)	C	C		C
Transportation Facilities	NP	C	NP	C

Use	NC 1.1	NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
6. Residential Uses					
Affordable Housing Project ⁹	NP	NP	NC 2 and NC 3 only	NP	NP
Senior Housing Project ¹⁰	NP	C	C	NP	NP

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
7. Restaurants and bars				

Bars, cocktail lounges (with or without dancing and/or entertainment)	C	C	NP	C
Restaurants:				
a. With drive-through ¹¹	NP	C	NP	NP
b. With no on-site consumption of liquor, no dancing, no entertainment	P	P	NP	P
c. With on-site sale of beer and wine:				
1.i. Indoors	MC	MC	NP	MC
2.ii. Outdoors with up to 16 seats or 4 tables	MC	MC	NP	C
3.iii. Outdoors with more than 16 seats and/or 4 tables	MC	MC	NP	C
d. With on-site sale of hard alcohol: ^{12,13}				
1.i. Indoors	C	C	NP	C
2.ii. Outdoors with up to 16 outdoor seats or 4 tables	MC/C	MC/C	NP	MC
3.iii. Outdoors with more than 16 outdoor seats and/or 4 tables	C	C	NP	C
e. With dancing and/or entertainment that has:				
1.i. No amplified sound	MC	MC	NP	MC
2.ii. Amplified sound	C	C	NP	C

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
8. Unclassified Uses				
Accessory Buildings	C	C	C	C
Alcoholic Beverage Sales Concurrent With Motor Vehicle Fuel-Convenience Stores Sales ¹⁴	C	C	NP	NP

Amusement Centers ¹⁵	C	C	NP	C
Animal Grooming	MC	P	NP	NP
Bowling Alleys	NP	C	NP	C
Drive-Thru Facilities, When in Conjunction with a Use Permitted or Conditionally Permitted in the Zone	NP	C	NP	NP
Grading ¹⁶ , (Not Accompanying a Development Request)				
a. Emergency	P	P	P	P
b. Major	C	C	C	C
c. Minor	P	P	P	P
Health/Fitness/Sports Clubs and Facilities	C	C	NP	C
Internet Access Studio/Internet Café	P	P	NP	P
a. With 5 or more computers available to the public (excluding school, library and other similar public uses) ¹⁷	C	C	NP	C
Massage ¹⁸	P	P	P	P
Mortuaries	NP	C	NP	NP
Pool Halls ¹⁹	NP	C	NP	C
Recycling Facilities ²⁰				
a. Reverse Vending Machines	P	P	NP	NP
b. Small Collection	C	P	NP	NP
c. Large Collection	NP	C	NP	NP
Theaters	NP	C	NP	C
Wine Tasting (Only as an Accessory Use to establishments selling wine or wine-related products as a primary use)	MC	MC	NP	MC

Use	NC 1.1, NC 1.2	NC 2, NC 3, CC 1, CC 2, CC 3	RC 2	CRC-4
------------	-----------------------	-------------------------------------	-------------	--------------

9. Vehicle-Related Repair, Sales and Service²¹				
Car Washes ²¹	NP	C	NP	NP
Service/Gas Station ²²	C	C	NP	NP
Vehicle Dealerships (Sales, Leasing, Rental, New and Used). ²³				NP
a. Auto Dealerships w/Fewer than 10 Cars	NP	MC	NP	
b. All Other Vehicle Dealerships	NP	C	NP	
Vehicle Parts/Accessories Sales	NP	MC	NP	NP
Vehicle Repair/Service, Minor ²⁴	NP	C	NP	NP

Footnotes:

1. Refer to Section 17.28.120, Convenience Stores/Retail Establishments Selling Convenience Items, of this title, for special provisions for convenience stores.
2. Refer to Section 17.28.220, Parking Lots, of this title, for special provisions for single-use parking lots.
3. Refer to Section 17.28.090, Bed and Breakfast Inns, of this title, for special provisions for bed and breakfast inns.
4. Refer to Section 17.28.110 Congregate Care Facilities of this title for special provisions for congregate care facilities.
5. Refer to Section 17.28.100, Child Day Care Facilities, this title, for special provisions for day care facilities.
6. Small-family day care homes are permitted in single-family homes. A Minor Conditional Use Permit is required to allow small-family day care homes in other residential dwellings. Small-family day care homes only shall operate in buildings that were lawfully constructed.
- ~~5.7.~~ Refer to Section 17.28.220, Parking Lots, of this title, for special provisions for parking lots.
- ~~6.8.~~ Refer to Section 17.28.230, Public Park Facilities, of this title for review requirements for parks.
- ~~7.9.~~ Refer to Section 17.28.240, Public Utilities, of this title, for special provisions for public utilities.
- ~~8.10.~~ Refer to Section 17.56.090, Affordable Housing Overlay Zone, for projects in Commercial and Mixed-Use Zones, of this title, for special provisions for Affordable Housing Projects.
- ~~9.11.~~ Refer to Section 17.28.280, Senior Housing Projects, of this title, for special provisions for senior housing projects.
- ~~10.12.~~ Refer to Section 17.28.260, Restaurants, Drive-In, Drive-Through, of this title, for special provisions for drive-in/drive-thru restaurants.
- ~~11.13.~~ When a restaurant has an approved CUP for the service of alcohol indoors and a CUP is required for the service of alcohol outdoors, then the applicant may request an amendment to the existing CUP to extend service outdoors. When a restaurant has an approved CUP for the service of alcohol indoors and an MCUP is required for the service of alcohol outdoors, an MCUP is the only application necessary (an amendment to the existing CUP shall not be necessary).
- ~~12.14.~~ If a CUP has been previously approved for service of hard alcohol indoors, then that service may be extended outdoors for outdoor facilities with no more than 16 seats or four tables with the approval

of an MCUP. If no CUP has been approved for service of hard alcohol indoors, then any service of hard alcohol outdoors requires a CUP.

- | ~~13.15.~~ Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.
- | ~~14.16.~~ Refer to Section 17.28.050, Amusement Centers, of this title, for special provisions for arcades/amusement centers.
- | ~~15.17.~~ Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.
- | ~~16.18.~~ The provisions for amusement centers shall apply to Internet Access Studios/Internet Cafés. Please refer to Section 17.28.050, Amusement Centers, for special provisions for amusement centers.
- | ~~17.19.~~ Massage is subject to Section 5.28 of the City of San Clemente Municipal Code.
- | ~~18.20.~~ The provisions for amusement centers shall apply to pool halls. Please refer to Section 17.28.050, Amusement Centers, for special provisions for amusement centers.
- | ~~19.21.~~ Refer to Section 17.28.250, Recycling Facilities, of this title, for special provisions for recycling facilities.
- | ~~20.22.~~ Refer to Section 17.28.330, Vehicle Service and Repair-Related Facilities, for provisions for all vehicle service and repair-related facilities.
- | ~~21.23.~~ Refer to Section 17.28.290, Service Stations, of this title, for special provisions for service/gas stations.
- | ~~22.24.~~ Refer to Section 17.28.310, Vehicle Dealerships, of this title, for special provisions for vehicle dealerships. The sales, leasing, and/or rental of new and/or used vehicles which meet any of the following criteria shall be prohibited within the commercial zones described in this chapter:
 - | ~~23.25.~~ Over-sized vehicles as defined in Section 17.88.030, Definitions, Vehicle, Over-Sized, of this title;
 - | ~~24.26.~~ Boats with trailers exceeding 40 feet in length, 20 feet in height (not including masts), or 15 feet in width; or Motor trucks as defined in the California Vehicle Code, excluding pick-up trucks, as defined in the same code.
- | ~~25.27.~~ Refer to Section 17.28.320, Vehicle Repair Facilities, of this title, for special provisions for vehicle repair facilities.

Section 9: Section 17.40.030(B) and Table 17.40.030 of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.40.030, but are not identified as either permitted—“P”—or conditionally permitted—“MC or C”, or “O”; and
2. Uses that have been excluded from Table 17.40.030, unless they are found by the City to be similar to permitted or conditionally permitted uses.
- | 3. Uses where a blank cell ~~the symbol “NP”~~ appears within Table 17.40.030
4. The following uses are not permitted in any mixed-use zone:

a. Medical Marijuana Dispensaries.

Table 17.40.030 - Mixed-Use Zone Uses

Use	MU 3	MU 3-CB	MU 5.1
1. Commercial Uses			
Antiques	P	P	P
Art Galleries	P	P	P
Bakery Goods/Sales (No Wholesale Distributors)	P	P	P
Barber Shops	P	P	P
Bicycle Shops	P	P	P
Bookstores	P	P	P
Ceramics (Retail Sales)	P	P	P
Cleaners and Laundromats (No Linen Service)	P	P	P
Clothing Stores	P	P	P
Confectionery Stores (Small Scale Production with Retail Sales)	P	P	P
Convenience Stores ¹	C	C	NP
Drugstores/Pharmacies	P	P	P
Electronics (Retail Sales and Repair)	P	P	P
Fabric Stores	P	P	P
Floor Covering Stores	P	P	P
Florists (Retail Sales)	P	P	P
Furniture Stores (Retail Sales)	P	P	P
Grocery/Food Stores (Not Convenience Stores)	P	P	P
Gunsmith/Gun Shops	C	C	C
Hair Salons	P	P	P
Hardware Stores	P	P	P

Home Appliance Stores (Retail Sales and Repair)	P	P	P
Ice Cream Parlors (Retail Sales with Small Production)	P	P	P
Interior Decorating Stores	P	P	P
Jewelry Stores	P	P	P
Liquor Sales:			
a. Hard Alcohol	C	C	C
b. Beer and Wine (Off-Site Consumption Only)	MC	MC	MC
Locksmith Shops	P	P	P
Mail-Order Stores	P	P	P
Medical/X-Ray Equipment (Sales Only)	NP	NP	P
Medical Marijuana Dispensaries	NP	NP	NP
Music Sales	P	P	P
Newsstands (On Private Property)	P	P	P
Nurseries (Indoor Garden Retail Sales)	P	P	P
Nurseries (Outdoor Garden Retail Sales)	C	C	C
Office Equipment/Supplies	P	P	P
Paint/Wallpaper Sales	P	P	P
Patio/Outdoor Furniture Sales	P	P	P
Pawn Shops	C	C	C
Pet Shops	MC	MC	MC
Pet Supply Stores	P	P	P
Photographic Equipment Sales	P	P	P
Pottery (Retail Sales with Small Production)	P	P	P
Shoe Stores (Retail Sales and Repair)	P	P	P
Specialty Food Stores	P	P	P
Sporting Goods (Retail Sales)	P	P	P

Stationery Stores	P	P	P
Swimming Pool Accessory Shops	P	P	P
Tailors/Dressmakers	P	P	P
2. Lodging			
Bed and Breakfast Inns: ²			
a. 5 or Fewer Guest Rooms	P	MC/ Ped	P
b. 6 to 10 Guest Rooms	MC	MC/ Ped	MC
c. Over 10 Guest Rooms	C	C	C
Hotel and Ancillary Uses	C	C	C
Motels	NP	NP	C
Timeshares	C	C	C
3. Professional Offices, Financial Institutions and Related Uses			
Ambulance Services (Office Only)	P	MC/ Ped	P
Banks/Financial Institutions	P	P	P
Special Consideration, ATM's	NP	NP	C
Employment Agencies	P	MC/ Ped	P
Offices, Medical:			
a. Optometrists with Retail Space	P	P	P
b. Optometrists without Retail Space	P	MC/Ped	P
c. Other Offices	P	MC/ Ped	P
Offices, Professional and/or General:			
a. Realtors	P	P	P
b. Other Offices	P	MC/ Ped	P
Offices, Veterinary/Animal Hospitals	C	C	C
Secretarial Services	P	MC/ Ped	P
Telemarketing Services	P	MC/ Ped	P
Travel Agencies	P	P	P
4. Public/Quasi Public and Institutional Uses			
Churches	C	C	C

Clubs/Social Organizations	C	C	C
Congregate Care Facilities ³	C	C	C
Convalescent Homes	NP	NP	C
Day Care Facilities: ⁴			
a. Small Day Care Homes ⁵	P/MCO	P/MCO	P/MCO
b. Large Day Care Homes	MC	MC	MC
c. Day Care Centers	C	C	C
Group Instruction/Group Counseling	P	MC/ Ped	P
Libraries	P	P	P
Parking Lots ⁶	MC	MC	MC
Parking Structures	C	C	C
Parks ⁷	O	O	O
Public Utilities ⁸			
a. City-Initiated Projects	O	O	O
b. Projects Initiated by Outside Agencies:			
i. Major Utilities	C	C	C
ii. Minor Utilities	P	P	P
Schools, Public and Private	MC	MC	MC
1—12 Individuals			
Greater than 12 Individuals	C	C	C
Transportation Facilities	C	C	C
5. Residential Uses	Residential uses in the MU3 zone are limited to the floors above street level. In the AH Overlay, dwellings that are part of an affordable housing project are permitted to be located at the street level. Exceptions may be granted for historic structures. Refer to Section 17.40.030(A)(2) (c), Location of Residential Uses, of this title.		Refer to Section 17.40.050(A), Residential Use Restrictions for MU5.1, of this title
Affordable Housing Projects ⁹	P	NP	P
Manufactured Homes ¹⁰	NP	NP	MC
Mobile Homes: ¹¹			
a. Units	NP	NP	C
b. Subdivisions and Parks ¹²	NP	NP	C
Residential Units	C	C	C
Senior Housing Projects ¹³	C	C	C

6. Restaurants and bars			
Bars, cocktail lounges (with or without dancing and/or entertainment)	C	C	C
Restaurants			
a. With drive-through ¹⁴	NP	NP	C
b. With no on-site consumption of liquor, no dancing, no entertainment	P	P	P
c. With on-site sale of beer and wine:			
1.i. Indoors	MC	MC	MC
2.ii. Outdoors with up to 16 outdoor seats or 4 tables	MC	MC	MC
3.iii. Outdoors with more than 16 outdoor seats and/or 4 tables	C	C	C
d. With on-site sale of hard alcohol: ^{15, 16}			
1.i. Indoors	C	C	C
2.ii. Outdoors with up to 16 outdoor seats or 4 tables	MC/C	MC/C	MC/C
3.iii. Outdoors with ore than outdoor 16 seats and/or 4 tables	C	C	C
e. With dancing and/or entertainment that has:			
1.i. No amplified sound	MC	MC	MC
2.ii. Amplified sound	C	C	C
7. Unclassified Uses			
Accessory Buildings, Residential ¹⁷			
a. Detached, Over 15 Feet in Height	NP	NP	C
b. All Others	NP	NP	P
Accessory Buildings, Nonresidential ¹⁸	C	C	C

Alcohol Beverage Sales Concurrent with Motor Vehicle Fuel-Convenience Store Sales ¹⁹	NP	NP	C
Amusement Centers ²⁰	C	C	C
Animal Grooming Shops	NP	NP	MC
Bowling Alleys	NP	NP	C
Drive-Thru Facilities, When in Conjunction with a Use Permitted or Conditionally Permitted in this Zone	NP	NP	C
Grading ²¹ , Not Accompanying a Development Request:			
a. Emergency	P	P	P
b. Major	C	C	C
c. Minor	P	P	P
Health/Fitness/Sports Clubs and Facilities	C	C	C
Internet Access Studio/Internet Café	P	P	P
a. With 5 or more computers available to the public (excluding school, library and similar public uses) ²²	C	C	C
Massage ²³	P	P	P
Mortuaries	NP	NP	C
Pool Halls ²⁴	C	C	C
Recycling Facilities: ²⁵ Reverse Vending Machines	MC	MC	MC
Theaters	C	C	C
Urban Private Storage ²⁶	C	C	NP
Wine Tasting (Only as an Accessory Use to establishments selling wine or wine related products as a primary use)	MC	MC	MC
8. Vehicle-Related Repair, Sales and Service²⁷			
Car Washes	NP	NP	C

Vehicle Parts/Accessories Sales	NP	NP	MC
---------------------------------	----	----	----

1. Refer to Section 17.28.120, Convenience Stores/Retail Establishments Selling Convenience Items, of this title.
2. Refer to Section 17.28.090, Bed and Breakfast, of this title.
3. Refer to Section 17.28.110, Congregate Care Facilities, of this title.
4. Refer to Section 17.28.100, Child Day Care Facilities, of this title.
5. Small-family day care homes are permitted in single-family homes. A Minor Conditional Use Permit is required to allow small-family day care homes in other residential dwellings. Small-family day care homes only shall operate in buildings that were lawfully constructed.
- ~~5. Small day care homes in legal nonconforming or conforming single-family homes permitted. All other small family day care homes require a Minor Conditional Use Permit~~
6. Refer to Section 17.28.220, Parking Lots, of this title.
7. Refer to Section 17.28230, Public Park Facilities, of this title.
8. Refer to Section 17.28.240, Public Utilities, of this title.
9. Refer to Section 17.56.090 Affordable Housing Overlay District in Commercial and Mixed-Use Zones, of this title, for special provisions for Affordable Housing Projects.
10. Manufactured homes are subject to the same requirements as individual mobile homes. Please refer to Section 17.28.190(D), Minimum Standards for Individual Mobile Homes, of this title.
11. Refer to Section 17.28.190, Mobile Homes, of this title.
12. Refer to Section 17.36.040, Planned Residential District Overlay, of this title.
13. Refer to Section 17.28.280, Senior Housing Projects, of this title.
14. Refer to Section 17.28.260, Drive-Throughs.
15. When a restaurant has an approved CUP for the service of alcohol indoors and a CUP is required for the service of alcohol outdoors, then the applicant may request an amendment to the existing CUP to extend service outdoors.
16. When a restaurant has an approved CUP for the service of alcohol indoors and an MCUP is required for the service of alcohol outdoors, an MCUP is the only application necessary (an amendment to the existing CUP shall not be necessary).
17. If a CUP has been previously approved for service of hard alcohol indoors, then that service may be extended outdoors for outdoor facilities with no more than 16 seats or four tables with the approval of an MCUP. If no CUP has been approved for service of hard alcohol indoors, then any service of hard alcohol outdoors requires a CUP.
18. Refer to Section 17.24.040, Accessory Buildings, of this title.
19. Refer to Section 17.24.040, Accessory Buildings, of this title.
20. Refer to Section 17.28.040, Alcoholic beverages and motor vehicle fuel, concurrent sale of, of this title, for special provisions for concurrent sales of motor fuel and alcoholic beverages.
21. Refer to Section 17.28.050, Amusement Centers, of this title.
22. Refer to Section 17.28.130, Grading, of this title.
23. The provisions for amusement centers shall apply to Internet Access Studios/Internet Cafés. Refer to Section 17.28.050, Amusement Centers, of this title.
24. Massage is subject to Section 5.28 of the City of San Clemente Municipal Code.
25. The provisions for amusement centers shall apply to pool halls. Refer to Section 1728.050, Amusement Centers, of this title.
26. Refer to Section 17.28.250, Recycling Facilities, of this title.
27. Refer to Section 17.28.305, Urban Private Storage, of this title.
28. Refer to Section 17.28.330, Vehicle Service and Repair-Related Facilities, of this title.

Section 10: Section 17.44.020 and Table 17.44.020 of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.44.020, but are not identified as either permitted—“P”—or conditionally permitted—“MC or C”; and
2. Uses that have been excluded from Table 17.44.020, unless they are found by the City to be similar to permitted or conditionally permitted uses.
3. Uses where a blank cell ~~the symbol “NP”~~ appears within Table 17.44.020

Table 17.44.020 - Open-Space Zone Uses

Use	OS/ 1	OS/ S1	OS 2/ OS 3	OS/ S2	OSC
1. Agricultural Uses					
Animals, Commercial Grazing of Large Species ¹	NP	NP	C	NP	NP
Apiaries (Bee Raising)	NP	NP	C	NP	NP
Crop and Tree Farming	NP	NP	C	NP	NP
Nurseries, Farming Only	NP	NP	C	NP	NP
2. Commercial Uses					
Business Concessions in Conjunction with Approved Recreational Uses	MC	MC	MC	MC	MC
Clubhouses (Private) in Conjunction with Recreational Uses	NP	NP	C	C	C
Private or Rental Cabanas w/o Kitchens (Not Suitable for Dwelling; Serving Only as Temporary Shelters and Dressing Rooms)	NP	NP	NP	C	NP
Recreational Rental Concessions in Conjunction with Previously Approved Recreational Uses	C	C	C	C	C

Tourist Information Offices	C	C	NP	NP	NP
3. Public/Quasi-Public and Institutional Uses					
Amphitheaters, Open Air (Not Including Drive-Ins)	C	NP	NP	NP	NP
Arboretums, Public or Private	C	NP	C	NP	NP
Aquariums	C	C	NP	NP	NP
Athletic Fields	C	NP	C	NP	NP
Boardwalks	NP	C	NP	C	NP
Community Recreation Center (Public)	C	C	NP	NP	NP
Dance Pavilions (Open Air, Public)	C	NP	NP	NP	NP

Use	OS/ 1	OS/ S1	OS 2/ OS 3	OS/ S2	OSC
Golf Courses (Public/Private) and Ancillary Facilities Such as Clubhouses, Restaurants and Bars	NP	NP	C	NP	P ²
Golf Driving Ranges: Free-Standing In Association with Golf Courses	NP	NP	C	NP	C

Use	OS/ 1	OS/ S1	OS 2/ OS 3	OS/ S2	OSC
Observatories or Planetariums	C	NP	NP	NP	NP
Open Space (Undeveloped)	P	P	P	P	P
Parking Lots in Conjunction with Recreational Uses ³	C	C	NP	NP	NP
Parks ⁴	O	O	O	O	O
Preserves: (Archeological, Botanical, Geological, Historical, Wildlife):					
<u>a.</u> No Physical Change	P	P	P	P	P
<u>b.</u> With Physical Change	C	C	C	C	C

Public Beaches	NP	P	NP	P	NP
Public Piers, Revetments, Break-Waters, Groins, Harbor Channels, Sea Walls, Cliff Retaining Walls	NP	C	NP	NP	NP
Public Safety Facilities (Including Police, Fire and Marine Safety)	MC	MC	MC	MC	MC
Public Utilities: ⁵					
a. City-Initiated Project	O	O	O	O	O
b. Projects Initiated by Outside Agencies					
i. Major	C	C	C	C	C
ii. Minor	P	P	P	P	P
Railroad Facilities:					
a. Establishment of New Tracks and Appurtenant Railroad Facilities	NP	C	NP	C	NP
b. Maintenance of Tracks and Appurtenant Railroad Facilities	NP	P	NP	P	NP
Riding Academies/Public Stables for Boarding Horses on Site (Minimum 5+ Acres)	C	NP	NP	NP	NP
Trails: (Riding, Hiking, Bicycle, No Motorized Vehicles)	C	C	C	C	C

Use	OS/ 1	OS/ S1	OS 2	OS 3	OS/ S2	OSC
4. Residential Uses						
Caretaker's Unit and Related Offices	NP	NP	C	NP	NP	C
5. Unclassified Uses						
Accessory Buildings	C	C	C	C	C	C
Baseball Batting/Pitching Ranges (Outdoor)	NP	C	C	NP	NP	C

Use	OS/ 1	OS/ S1	OS 2/ OS 3	OS/ S2	OSC
-----	-------	--------	---------------	--------	-----

Grading ⁶ , (Not Accompanying a Development Request)					
a. Emergency	P	P	P	P	P
b. Major	C	C	C	C	C
c. Minor	P	P	P	P	P
Shooting Ranges, Outdoor	C	NP	NP	NP	NP

1. Refer to Section 17.28.060, Animals, Commercial Grazing and Raising of Large Species, of this title, for special provisions for the commercial grazing of large species.
2. New golf courses in the OSC zone require approval of a Site Plan Permit, in accordance with Section 17.16.050, Site Plan Permits and Minor Site Plan Permits, of this title.
3. Refer to Section 17.28.220, Parking Lots, of this title, for special provisions for single-use parking lots.
4. Please refer to Section 17.28.230, Public Park Facilities, of this title, for other review requirements for public park facilities. Passive and active facilities require different types of review.
5. Refer to Section 17.28.240, Public Utilities, of this title, for special provisions for public utilities.
6. Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.

Section 11: Section 17.48.020(B) of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.48.020, Public Zone Uses, but are not identified as either permitted—"P"—or conditionally permitted—"MC or C"; and
2. Uses that have been excluded from Table 17.48.020, Public Zone Uses, unless they are found by the City to be similar to permitted or conditionally permitted uses.
3. Uses where a blank cell ~~the symbol "NP"~~ appears within Table 17.48.020, Public Zone Uses.

Section 12: Table 17.64.050 of the Municipal Code is hereby amended as follows:

Table 17.64.050 – Number of Parking Spaces Required

Use	Number of Parking Spaces Required
1. Commercial Uses	
Convenience Stores or Mini-Markets	Please refer to Section 17.28.120, Convenience Stores.

General Retail Stores	In MU 3: 1 per 400 square feet. Elsewhere: 1 per 300 square feet
Beauty Shops or Barbershops	1 per 200 square feet
Furniture and Appliance Stores	2 spaces plus 1 space per 500 square feet
Laundromats	1 per 4 washing machines
Massage	1 per 200 square feet
<u>Retail</u> Nursery/Garden Shop, Retail	1 space for each 300 sq. ft. of indoor display area; 1 space for each 800 sq. ft. of outdoor display area.
2. Hospital Uses	
Convalescent Home	1 per 4 patient beds
Hospitals	2 per patient bed
3. Industrial Uses	
Manufacturing	1 per 500 sq. ft.
Research and Development	1 per 500 sq. ft.
Warehousing/Storage	1 per 2,000 sq. ft.
4. Lodging	
Bed and Breakfast Inns	Please refer to Section 17.28.090, Bed and Breakfast Inns.
Hotels and Motels	Please refer to Section 17.28.170, Hotels and Motels.
Timeshares	1.2 per unit
5. Professional Offices, Financial Institutions and Related Uses	
Banking Institutions	1 per 300 sq. ft.
Offices, General and Professional	In MU 3: 1 per 350 sq. ft. Elsewhere: 1 per 300 sq. ft.
Offices, Medical	1 per 200 sq. ft.
6. Public/Quasi-Public Uses	
Art/Dance Studio <u>Group Counseling/Group Instruction</u>	1 space per employee; 1 space per 2 students, maximum capacity
Churches	1 per 4 seats, based on seating capacity and/or occupancy signs posted by the Orange County Fire Authority
Public Assembly	1 per 4 seats, based on seating capacity and/or occupancy signs posted by the Orange County Fire Authority
Day Care Facilities	1 for each 2 employees; 1 for each 5 children.

	Minimum of 3 spaces
Educational Facilities	
Elementary/Junior High	1 per staff, 1 per 10 students
High School	1 per 3 students
Community College/University	1 per 2 students
Business/Professional/Trade	1 per staff; 1 per 2 students
Driving Range	1.25 spaces for each tee
Golf Course	6 spaces per hole, plus parking required for incidental uses (such as restaurant, pro-shop, etc.)
Retail Nursery/Garden Shop	1 space for each 300-sq. ft. of indoor display area; 1 space for each 800-sq. ft. of outdoor display area
7. Residential Uses	
Congregate Care Facility	Please refer to Section 17.28.110, Congregate Care
Single Dwelling Unit on a Single Lot	2 per dwelling unit
Guesthouses	1 per guesthouse
Second Residential Units	Please refer to Section 17.28.270, Second Residential Units.
	All required parking for single-family dwelling units shall be covered. Exceptions to covered parking requirements may be granted pursuant to Section 17.40.050(C)(f), Miscellaneous Parking Requirements for Existing Development being converted to a Mixed-use Project, of this title.
Two Dwelling Units on a Single Lot (Except for Single-family Homes with Second Residential Units)	<p>2 per dwelling unit. 50% of the spaces must be covered. Each dwelling unit shall be assigned at least 1 covered parking space. Exceptions to covered parking requirements may be granted pursuant to Section 17.40.050(C)(f), Miscellaneous Parking Requirements for Existing Development being converted to a Mixed-use Project, of this title.</p> <p><u>1.</u> Large Two-unit Projects: Two-unit projects which have a cumulative bedroom count which exceeds 7 and/or a project net floor area which exceeds 5400 square feet shall provide 1 additional parking space for the project.</p> <p><u>2.</u> Tandem Parking on Narrow Lots: Lots less than 50 feet wide measured 50 feet back from</p>

	<p>the front property line, may have tandem parking. Please refer to Section 17.64.090, Tandem Parking—Residential Uses, for special development standards required when tandem parking is employed. This exception shall not be applied to mixed-use projects containing residential and nonresidential uses.</p>
<p>Three or More Dwelling Units on a Single Lot</p>	<ol style="list-style-type: none"> 1. The Total Parking Required for a Project: The total number of parking spaces required for a project shall comply with all of the following: <ol style="list-style-type: none"> a. The total number of parking spaces required for a project shall be the sum of the parking required for the dwelling units (subsection (2)) and the parking required for guests (subsection (3)); b. The total number of parking spaces required for a project shall not be less than two spaces per unit; c. Fractional calculations shall be rounded off as provided for in subsection (4), below 2. Parking Requirements for Dwelling Units: The number of parking spaces required for each dwelling unit shall be determined using the following 2 methods of calculating parking. The method resulting in the greater number of spaces being required for a unit shall be used for that unit: <ol style="list-style-type: none"> a. Method 1—Number of Bedrooms in a Dwelling Unit: <ul style="list-style-type: none"> 0-1 Bedroom: 1.5 spaces 2 Bedrooms: 2.0 spaces 3 Bedrooms: 2.5 spaces Over 3 Bdrms.: 3.0 spaces b. Method 2—Net Floor Area of a Dwelling Unit: <ul style="list-style-type: none"> To 900 sq. ft.: 1.5 spaces To 1,800 sq. ft.: 2.0 spaces To 2,700 sq. ft.: 2.5 spaces Over 2,700 sq. ft.: 3.0 spaces

	<p>c. Covered Spaces: 50 percent of the total number of parking spaces required for the dwelling units shall be covered, with no less than one covered assigned parking space being provided for each dwelling unit.</p> <p>3. Guest Parking: The number of guest parking spaces provided for a project shall be .333 spaces per dwelling unit.</p> <p>4. Rounding Off: Fractional numbers shall be rounded off once the dwelling unit and guest parking requirements have been added together. The following rules regarding rounding shall apply:</p> <p>a. Fewer than 5 Units: If the total number of required parking spaces is a fractional number of .45 or greater, that number shall be rounded up to the next whole number; if the total number of required parking spaces is a fractional number less than .45, that number shall be rounded down to the next whole number.</p> <p>b. Five or Greater Units: If the total number of required parking spaces is a fractional number, the total number shall be rounded up to the nearest whole number.</p>
Senior Housing Projects	Please refer to Section 17.28.280, Senior Housing
Mobilehome Parks	Please refer to Section 17.28.190, Mobilehomes
8. Restaurants	
Bars, Cocktail Lounges	1 per 4 seats, based on seating capacity or occupancy signs posted by the Orange County Fire Department.
Restaurants	In MU3 <u>zoning district</u> : 1 per 5 indoor seats, based on seating capacity or occupancy signs posted by the Orange County Fire Department, except in the following cases: Elsewhere: 1 per 4 indoor seats. based <u>Required parking based</u> on seating capacity or occupancy signs posted by the Orange County Fire Department, except in the following cases:

	<ol style="list-style-type: none"> 1. Single destination restaurants over 3,000 square feet: 1 per 120 square feet of interior space. 2. Drive-thru/take-out/fast food restaurants: 1 per 35 square feet of public seating area, plus 1 per 200 square feet of all other gross floor area, with 1 lane for each drive-up window with stacking spaces for 6 vehicles.
9. Unclassified Uses	
Bowling Alleys	2 per alley, plus parking for incidental uses (restaurant, pro-shop, etc.)
Health Club/Fitness Facilities	1 per 150 sq. ft.
With Instruction (Such as Aerobics, Jazzercise)	1 per 125 sq. ft.
Theater	1 per 4 seats, based on seating capacity as shown by capacity signs posted by the Orange County Fire Authority
Tennis/Racquetball Courts	3 spaces per court, plus parking required for incidental uses
10. Vehicle-Related Repair, Sales and Service	
Car Wash:	
<u>a.</u> Full Service (Includes Gas)	1 per every 3 employees on the maximum shift plus 600 square feet of operations parking area for each 20 feet of conveyor length
<u>b.</u> Self Service	1 per stall plus 1 space queuing lane in front of each stall
Oil Change, Lube and Tune Shops	1 per service bay, plus 1 for each employee, plus 2 space queuing lanes for each bay, with a minimum of 5 spaces.
Service/Gas Stations	Please refer to Section 17.28.290, Service Stations.
Vehicle Dealerships	Please refer to Section 17.28.310, Vehicle Dealerships.
Vehicle Repair/Service	Please refer to Section 17.28.320, Vehicle Repair Facilities.

Section 13: Section 17.64.060 of the Municipal Code is hereby amended as follows:

According to requirements in this section and the City Engineering Division's technical standards, parking design standards are as follows, e Except as otherwise provided for in Section 17.64.125, Waivers of Parking Requirements, or Section 17.64.070, Disabled Accessible Parking Spaces, ~~required parking spaces and areas shall be designed as specified by this section and the City Engineering Division's technical standards.~~

A. Parking Space Size.

~~Parking spaces with a minimum width of nine feet and a minimum length of 19 feet shall be required in residential garages meeting both of the following criteria:~~

- ~~1. The individual garage contains four or fewer parking spaces;~~
- ~~2. The individual garage does not include circulation elements such as driveway aisles, but consists primarily of parking spaces.~~

1. Garages or carports that contain four or fewer parking spaces. Parking spaces shall be a minimum of 9 feet wide and minimum length of 19 feet in residential garages or carports that contain four or fewer parking spaces and do not include circulation elements such as driveway aisles, but consists primarily of parking spaces.

2. Other garages. Please refer to the City of San Clemente Engineering Division's Technical Standards for parking space size requirements for all other parking spaces.

Section 14: Definition "Day Care Facility, Child" in Section 17.88.030 of the Municipal Code is hereby amended as follows:

Day Care Facility, Child. "Child ~~day~~ Day care ~~Care facility~~ Facility" means a State-licensed facility which provides nonmedical care to children under 18 years of age in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. ~~Child day care facilities includes child day care centers and family day care homes, as defined below:~~ Day care facilities include Day Care Centers, Large-family Day Care Homes, and Small-family Day Care Homes, as follows:

1. **Day Care Center, Child.** "Child day care center" ~~means a facility which provides nonmedical care to children under 18 years of age in need of personal services, supervision or assistance essential for sustaining the activities of daily living or for~~

~~the protection of the individual on less than a 24-hour basis. Day care center means any child care facility other than a family day care home and includes infant centers, preschools, and extended day care facilities.~~ means a Day Care Facility other than a Large-family Day Care Home and Small-family Day Care Home, including infant centers, preschools, extended day care facilities, and schoolage child care centers.

2. **Day Care Home, Large-Family.** ~~"Large-family Family day Day care Care homeHome"~~ Home" means ~~a child day care facility in~~ a home ~~which that~~ provides ~~family day care, protection, and supervision~~ ~~to seven to 12~~ 14 or fewer children at any one time, ~~including children under the age of 10 years who reside at the home,~~ as defined and regulated in Health and Safety Code Section ~~1597.40, et seq.~~ 1597.465 et seq. Large-Family Day Care Homes can care for up to three infants when a facility cares for more than 12 children.

3. **Day Care Home, Small-Family.** ~~"Small-family day care home"~~ means ~~a child day care facility in a home which that~~ provides ~~family day care to six~~ eight or fewer children, ~~including children under the age of 10 years who reside at the home, as defined in Health and Safety Code Section 1597.40, et seq.~~ "Small-Family Day Care Home" means a home that provides care, protection, and supervision of eight or fewer children, as defined and regulated in Health and Safety Code Section 1597.44 et seq. Small-Family Day Care Homes can care for up to two infants when a facility cares for more than six children.

Section 15: Definition “Historical Resources” in Section 17.88.030 of the Municipal Code is hereby amended as follows:

“Historical Resources”: means all properties (historic, archaeological, landscapes, traditional, etc.) eligible or potentially eligible for the National Register of Historic Places, as well as those that may be significant pursuant to state and local laws and registration programs such as the California Register of Historical Resources or the City of San Clemente Historic Resources Inventory. For the purpose of this title, the following definitions shall apply:

1. **"Adjacent property"** means any property that is located within 100 yards of property which has been designated as historically significant, and which is determined by the Planning Commission to have an actual or potential visual impact on the historically significant property.
2. **"Historical district"** means an area or distinct section containing structures which have a special character, historical interest or aesthetic value or which represents the Spanish Heritage architectural style typical to the history of the City.

3. **"Historically significant property"** means any site, building or structure of particular historic, architectural or cultural significance to the City as determined by the Planning Commission. Such site may be identified with historic personages or with important events in the main currents of national, State or local history, or may embody the distinguishing characteristics of an architectural specimen, inherently valuable for a study of a period, style, method of construction, or may be a notable work of a master builder, designer or architect whose individual genius influenced his age.
4. **"Landmark"** means a building, site, structure, object, or improvement, manmade or natural, with special character or special historical, cultural, architectural, archeological, social, or aesthetic value inherent to the heritage of the City of San Clemente, the State of California, and/or the United States.
5. **"Demolition of Historic Structures"** means an act that destroys in whole or in part a designated historic resource.

Section 16: Definition “Lot coverage” in Section 17.88.030 of the Municipal Code is hereby amended as follows:

"Lot coverage" means the percent of the lot area that may be covered by all buildings or roofed structures. This includes garages, ~~all~~ accessory buildings ~~or structures~~, balconies, covered patios, decks, covered entryways, and any similar structures that reduce the amount of lot area open to the sky.

Section 17: A supplemental reference is hereby added to Section 17.88.030 as follows:

In cases where a term is not defined below, the City Planner has authority to use Merriam-Webster Dictionary or other similar reference to define the meaning of terms, and to interpret terms that may influence decisions.

Section 18: Definition “Original Grade” is hereby added to Section 17.88.030 of the Municipal Code as follows:

“Original grade” means the grade of a property that existed before the ground was disturbed or development occurred

Section 19: Definition “Height, Average Building” is hereby added to Section 17.88.030 of the Municipal Code as follows:

“Average Building Height” means the methodology used to calculate maximum height limit based on averaging the height of each corner of the roof element compared to finished grade. Please refer to section 17.24.110 for the method of determining average building height.

Section 20: Definition “Height, Building” in section 17.88.030 of the Municipal Code is hereby amended as follows:

Please refer to Section 17.24.110, ~~“Height Limitations”~~, for the method ~~for~~^{of} determining building height.

Section 21: Definition “Covered parking” is hereby added to Section 17.88.030 as follows:

“Covered parking” means a parking stall(s) within a garage, carport, or completely under the overhanging portion of a building.

Section 22: Category “Sidewalk Waiver Appeals” is hereby added to Table 17.12.100 of the Municipal Code as follows:

Table 17.12.100 - Public Hearing Requirements

Application <u>(required by this Title unless stated otherwise)</u>	Required Radius	Number of Sets	
		Stamped, Labeled Envelopes ¹	Mailing List
Architectural/Cultural Heritage Permit	300 feet	1	1
Conditional Use Permit	300 feet	1	1
Development Agreements	300 feet	2	1
General Plan Amendment	300 feet	2	1
Minor Architectural/Cultural Heritage Permit	300 feet	1	1
Minor Conditional Use Permit	300 feet	1	1
Minor Exception Permit	300 feet	1	1
Minor Site Plan Permit	300 feet	1	1

Sidewalk Waiver Appeal (see Municipal Code Chapter 12.08)	300 feet	1	1
Site Plan Permit	300 feet	1	1
Specific Plan Amendment	300 feet	2	1
Variance	300 feet	1	1
Zoning Amendment	300 feet	2	1



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: September 18, 2013

PLANNER: Evan Jedynak, Planning Intern
Christopher Wright, Associate Planner

SUBJECT: Zoning Amendment 13-313, Zoning Ordinance Clean-Up and Streamlining Items, a request to consider City initiated amendments to correct Zoning Ordinance errors and inconsistencies and streamline processes.

SUMMARY

This is a City-initiated request to clean-up and streamline several rules and procedures in the Zoning Ordinance. Specifically, the Planning Commission is asked to forward a recommendation to the City Council on the adoption of amendments that:

1. Correct erroneous text and/or formatting problems.
2. Clarify ambiguous language.
3. Remove unnecessary and/or obsolete text.
4. Provide new and updated definitions to clarify existing standards.
5. Eliminate Home Occupation Permits for the establishment of home-based businesses.
6. Allow the City to withdraw projects that have been deemed incomplete or inactive longer than 180 days due to applicant delays.

BACKGROUND

The City Council approved a 2013 budget to begin work on the Zoning Ordinance update. The Zoning Ordinance must be updated to reflect policies and programs in the new General Plan. In addition, the Zoning Ordinance should be updated to be more clear, consistent, and easy to use. The Zoning Ordinance is being updated in phases so the new General Plan can be implemented as soon as possible. Three phases of amendments are currently proposed: 1) "clean-up" amendments to correct errors, ambiguities and redundancies 2) amendments to "streamline" procedures and improve ineffective standards; and 3) update Zoning Ordinance sections to reflect new General Plan policies and programs. The City Council adopted several Phase 1 "clean-up" amendments on November 8, 2012.

Noticing

On September 4, 2013, the Planning Commission continued the Zoning Amendment to this meeting due to time constraints. Prior to the September 4, 2013 meeting, public

notices were distributed and posted per City and State requirements. Staff received comments from one person with general concerns about home-based businesses (Attachment 4). No other public comments have been received about this item to-date.

ANALYSIS

Phase 1 “Clean-Up” Amendments

Phase 1 amendments fix errors, remove redundant text, clarify text, and clean-up other items so the Zoning Ordinance is more clear, consistent, and easy to use. Several code sections would be amended throughout the Zoning Ordinance. Among the proposed changes, there are several amendments that add definitions, reformat land use tables, remove excessive language, and generally make the Code more user friendly. Because Phase 1 amendments are limited to minor “clean-up” items, a description of each amendment is not provided in this report. Refer to Attachment 1 for a description and refer to Attachment 3 to see amendments in “track changes” format.

Phase 2 “Streamline” Amendments

Phase 2 amendments are to streamline procedures and reform ineffective standards with the goal of improving customer service. Below is a description of the two amendments:

Elimination of Home Occupation Permits

The proposed ordinance removes references and procedures for Home Occupation Permits. Zoning Ordinance Section 17.16.140(C) requires the approval of a Home Occupation Permit to establish a home-based business. Business licenses are already required to establish home-based businesses so Home Occupation Permits are redundant and not necessary. The licensing process has been effective in allowing staff to make sure applications meet zoning requirements.

Withdrawal of inactive applications

The City Planner would be given new authority to withdraw applications due to prolonged inactivity. Currently, there are not procedures for closing inactive projects. As a result, the City Attorney has advised staff that applications must remain open unless an applicant submits a written request to withdraw their project. In effect, staff must keep project files in an accessible location and make repeated attempts to contact an applicant to get information or funds. This takes staff time away from processing active projects, and can therefore limit the City’s ability to provide good customer service. By closing inactive applications, staff could focus on active projects with applicants that are making an effort to get through the review process. Currently, there are 15 applications that have been inactive for six months or longer. The majority of the inactive application have had six months to two years of inactivity. The oldest inactive application has had nine years of inactivity.

The draft ordinance adds procedures in Chapter 17.12 for the closure of applications that are inactive for 180 days or more. As proposed, staff would send an applicant a letter via certified mail if an application has been inactive for 90 days or more. The letter would inform applicants that they have 90 days to submit requested materials, funds, or other information necessary to proceed with the processing of an application. If requested materials or funds are not received within the 90 days (a total of 180 days since the application began to be inactive), then the City Planner would have two options:

1. withdraw the application; or
2. schedule for the designated decision making authority to consider the application as a consent item at the next available meeting. The City Planner would recommend for the decision making authority to deny the application without prejudice. The applicant would be notified of the meeting in advance.

In either instance, if an application is withdrawn, unused deposit account fees would be refunded and notification materials would be returned to the applicant. Similar provisions are used by other cities.

GENERAL PLAN CONSISTENCY

The proposed amendments are consistent with adopted policies outlined in the City of San Clemente General Plan because:

1. The proposed amendments correct errors, ambiguities, inconsistencies, and streamlines processes.
2. The proposed amendments do not change land use designations, allowed land uses, or zone boundaries.
3. The proposed amendments will make it easier to use and understand the Zoning Ordinance, which, in turn will help implement the General Plan.

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

The proposed ordinance is not a “project” as defined in California Environmental Quality Act (CEQA) Guidelines Section 21065; therefore, they are not subject to CEQA and no further environmental review is required. The basis for this CEQA determination is explained in the draft resolution (Attachment 2).

CALIFORNIA COASTAL COMMISSION REVIEW

The proposed ordinance amendments are not subject to Coastal Commission review because they do not change or affect land use policies in the Coastal Element of the General Plan.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

The Commission may, based on findings:

1. Concur with staff and recommend approval of the proposed amendments.

This is the recommended action. It would result in the project moving forward for City Council action. Adoption of Resolution No. 13-034 would be a recommendation to the City Council to approve the changes in their entirety, as staff has recommended.

2. Add, modify or delete provisions of the proposed amendments.

For example, the Planning Commission could decide to modify one or more of the recommended changes or corrections or add additional language to clarify ambiguities. If extensive changes are made, staff may need time to evaluate whether edits are consistent with the General Plan and to determine if environmental review is required to comply with the California Environmental Quality Act (CEQA). If staff needs time, it is advised that the Planning Commission table this agenda item to a date uncertain.

3. Recommend denial of the proposed amendments.

This action would result in the Commission's recommendation being forward for review and consideration by the City Council. The Commission should cite reasons or findings for its recommended denial.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve the Draft Resolution PC13-034, recommending City Council approval of Zoning Ordinance amendments shown in Attachment 2, Exhibit A.

Attachments:

- 1. ~~Summary of the proposed amendments~~
- 2. ~~Draft Resolution No. 13-034~~
~~Exhibit A Zoning Amendments~~
- 3. ~~Zoning Amendments in tracked changes~~
- 4. ~~Public comments~~

ATTACHMENT 5

These minutes will be considered for approval at the Planning Commission meeting of 10-02-13.

**MINUTES OF THE REGULAR MEETING
OF THE CITY OF SAN CLEMENTE
PLANNING COMMISSION
September 18, 2013 @ 7:00 p.m.
City Council Chambers
100 Avenida Presidio
San Clemente, CA 92672**

1. CALL TO ORDER

Chair Darden called the Regular Meeting of the Planning Commission of the City of San Clemente to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Ward led the Pledge of Allegiance.

3. ROLL CALL

Commissioners Present: Wayne Eggleston, Michael Kaupp, Jim Ruehlin and Kathleen Ward; Chair pro tem Barton Crandell, Vice Chair Donald Brown and Chair Julia Darden

Commissioners Absent: None

Staff Present: Jim Pechous, City Planner
Jeff Hook, Principal Planner
Christopher Wright, Associate Planner
Adam Atamian, Assistant Planner
Ajit Thind, Assistant City Attorney
Eileen White, Recording Secretary

B. Zoning Amendment 13-313, Zoning Ordinance Clean-Up and Streamlining Items (Wright) (continued from 09-04-13)

The City has initiated amendments to the Zoning Ordinance that would "clean up" items and streamline rules and procedures. The City Council and staff have placed a high priority on customer service, and a primary customer service goal is to create a Zoning Ordinance that is clear, easy to use and that streamlines review processes. The amendments are proposed to meet this goal. The clean-up amendments would: 1) correct erroneous text and/or formatting problems, 2) clarify ambiguous language, 3) remove unnecessary and/or obsolete text, and 4) provide new and updated definitions to clarify existing standards. The first streamlining amendment would remove Home Occupation Permits from the Zoning

Ordinance because they are unnecessary. Business licenses are already required for home-based businesses. The second streamlining amendment would create a provision that allows the City to administratively withdraw, or to recommend for denial, a project that has been deemed incomplete or inactive for longer than 180 days due to applicant delays.

Christopher Wright, Associate Planner, narrated a PowerPoint Presentation entitled, "Zoning Amendment 13-313, dated September 18, 2013." Staff recommended approval of the Zoning Amendments as proposed.

Mr. Wright displayed the application form that must be completed to allow a home based business. He explained applicants must provide contact information, initial that they understand and agree to comply with home occupation rules, and provide a description of their business. Mr. Wright explained that at one time the City required two forms to be completed for a home based business: 1) a business license application and 2) Home Occupation Permit application. A prior City Planner decided this was redundant. The business license and Home Occupation Permit applications were merged into one. This is the application Mr. Wright showed to the Commission and he noted that if the proposed zoning amendments are approved, planning staff would still have to approve a business license in order to allow a home based business. The proposed amendments would "memorialize" the existing review process. Mr. Wright noted that the ordinance would not remove home occupation requirements but would delete references to Home Occupation Permits and procedures because a business license is already required and provides a process for reviewing home based businesses. Mr. Wright explained that this review process has been adequate for planning to make sure business descriptions are consistent with zoning rules and to document how applicants agree to meet the code.

Commissioners asked several questions to clarify how the proposed amendments would change the Zoning Ordinance and allow staff to enforce zoning requirements for home based businesses. Mr. Wright explained that the proposed amendments would remove Home Occupation Permit procedures in the Zoning Code and staff would use the business license process to review home based businesses. Mr. Wright emphasized that home occupation requirements would be kept in place, such as limits on noise, traffic, employees, etc. Mr. Wright clarified that the intent of the zoning amendments is to make it so the Zoning Code reflects the existing process that has been used to review applications.

Commissioner Brown noted that the proposed ordinance would remove procedures in the Zoning Ordinance and he thought staff should make sure good procedures and enforcement tools are in other parts of the Municipal Code before they are removed from the Zoning Ordinance.

Commissioners asked Mr. Wright if the business license application would stay the same and questioned if planning staff must approve application edits.

Mr. Wright stated that the existing application would be used but minor edits would be made so there is no mention of Home Occupation Permits.

Mr. Pechous explained that the planning staff would be consulted on changes to the form.

Commissioner Eggleston established from Jim Pechous, City Planner, that staff does not follow up with site visits upon issuance of business licenses that meet code. Code Enforcement staff are sent out in response to any complaints that may be lodged against the subject business. The City requires corrective action if the business owner is not performing as required by code.

Jim Pechous, City Planner, agreed to research and bring back information regarding business license procedures as well as data indicating how many complaints are received concerning home based businesses.

Mr. Wright explained that the proposed amendment establishes a process to close inactive applications. Mr. Wright noted that this would improve customer service by allowing staff to focus on applications that are in good standing and applicants that are committed to working with staff to get through the review process quickly.

Commissioner Ruehlin asked for clarification on the proposed language that says deposit account funds would be refunded "upon request." Commissioner Ruehlin asked what would happen if an applicant did not request a refund.

Ajit Thind, Assistant City Attorney, agreed to research and report back regarding procedures followed concerning the return of funds on inactive applications.

Commissioner Ward asked several questions regarding the day care definition changes and noted that there appears to be overlap between a small day care home and large day care home. A large care home can have 7 to 14 children and a small day care home can have less than 8 children, which means a day care home with 7 children could be a large day care home and small day care home. Commissioner Ward asked staff to clarify this.

Mr. Wright suggested for this item to be continued so staff can research state law with the Assistant City Attorney. Staff would make any

necessary changes to reflect state law and retain City oversight of day cares as much as possible.

Commissioner Eggleston suggested for staff to address vacation rental parking in the Zoning Ordinance update. Commission Darden also suggested for staff to consider parking for residences being used as wedding facilities.

Chair Darden opened the public hearing.

Gail Burke, resident, questioned whether complaints about violations committed by home based businesses were adequately addressed by Code Enforcement personnel. She had to address safety and other concerns in order to be granted a building permit to build a deck at her home. Code Enforcement personnel called her to control the dust generated by her deck project. In contrast, she has called to complain many times about the dust generated by a home based business across the street from her home to no avail. In addition, she questioned whether signage guidelines were being followed when cars/vehicles with multiple signs attached were allowed to be parked on the street.

The Commissioners acknowledged a multipage letter from Ms. Burke detailing many examples of abuse by home based businesses.

Chair Darden closed the public hearing.

The Commissioners considered approving certain sections of the Zoning Amendment and continuing other sections while awaiting additional information from staff. They concluded it would be preferable to present it for City Council consideration in its entirety and elected to continue the entire Amendment to the October 16, 2013, meeting.

IT WAS MOVED BY COMMISSIONER KAUPP, SECONDED BY VICE CHAIR BROWN, AND UNANIMOUSLY CARRIED TO CONTINUE ZONING AMENDMENT 13-313, ZONING ORDINANCE CLEAN-UP AND STREAMLINING ITEMS TO THE REGULAR PLANNING COMMISSION MEETING OF OCTOBER 16, 2013.

[ITEM CONTINUED. PLANNING COMMISSION DECISION PENDING.]

1597.44.

A small family day care home may provide care for more than six and up to eight children, without an additional adult attendant, if all of the following conditions are met:

- (a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.
- (b) No more than two infants are cared for during any time when more than six children are cared for.
- (c) The licensee notifies each parent that the facility is caring for two additional schoolage children and that there may be up to seven or eight children in the home at one time.
- (d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

(Amended by Stats. 2003, Ch. 744, Sec. 1. Effective January 1, 2004.)

1597.45.

All of the following shall apply to small family day care homes:

- (a) The use of single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances.
- (b) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home.
- (c) Use of a single-family dwelling for purposes of a small family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law) or for purposes of local building codes.
- (d) A small family day care home shall not be subject to Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2, except that a small family day care home shall contain a fire extinguisher and smoke detector device that meet standards established by the State Fire Marshal.

(Amended by Stats. 1989, Ch. 70, Sec. 3. Effective June 29, 1989.)

1597.46.

All of the following shall apply to large family day care homes:

- (a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:
 - (1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, or if there is no zoning administrator by the person or persons designated by the planning agency to grant these permits, upon the certification without a hearing.

(3) Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the use permits, shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning the following factors: spacing and concentration, traffic control, parking, and noise control relating to those homes, and complies with subdivision (e) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible.

Fees charged for review shall not exceed the costs of the review and permit process. An applicant may request a verification of fees, and the city, county, or city and county shall provide the applicant with a written breakdown within 45 days of the request. Beginning July 1, 2007, the application form for large family day care home permits shall include a statement of the applicant's right to request the written fee verification. Not less than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle the use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100-foot radius of the exterior boundaries of the proposed large family day care home. A hearing on the application for a permit issued pursuant to this paragraph shall not be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any, of the appeal.

(b) In connection with any action taken pursuant to paragraph (2) or (3) of subdivision (a), a city, county, or city and county shall do all of the following:

(1) Upon the request of an applicant, provide a list of the permits and fees that are required by the city, county, or city and county, including information about other permits that may be required by other departments in the city, county, or city and county, or by other public agencies. The city, county, or city and county shall, upon request of any applicant, also provide information about the anticipated length of time for reviewing and processing the permit application.

(2) Upon the request of an applicant, provide information on the breakdown of any individual fees charged in connection with the issuance of the permit.

(3) If a deposit is required to cover the cost of the permit, provide information to the applicant about the estimated final cost to the applicant of the permit, and procedures for receiving a refund from the portion of the deposit not used.

(c) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(e) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Code of Regulations. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(f) The State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement this section.

(Amended by Stats. 2007, Ch. 130, Sec. 159. Effective January 1, 2008.)

1597.465.

A large family day care home may provide care for more than 12 children and up to and including 14 children, if all of the following conditions are met:

- (a) At least one child is enrolled in and attending kindergarten or elementary school and a second child is at least six years of age.
- (b) No more than three infants are cared for during any time when more than 12 children are being cared for.
- (c) The licensee notifies a parent that the facility is caring for two additional schoolage children and that there may be up to 13 or 14 children in the home at one time.
- (d) The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

(Amended by Stats. 2003, Ch. 744, Sec. 2. Effective January 1, 2004.)

Section 7: Section 17.32.030(B) and Table 17.32.030 of the Municipal Code is hereby amended as follows:

B. Prohibited Uses. The following uses are prohibited:

1. Uses that are listed in Table 17.32.030, but are not identified as either permitted—"P"—or conditionally permitted—"MC or C"; and
2. Uses that have been excluded from Table 17.32.030, unless they are found by the City to be similar to permitted or conditionally permitted uses.
3. Uses where a blank cell ~~the symbol "NP"~~ appears within Table 17.32.030, Residential Zones Uses.

Table 17.32.030 - Residential Zone Uses

Use	RVL	RL	RML	RM	RH
1. Agricultural					
Animals, Commercial Grazing of Large Species ¹	C	NP	NP	NP	NP
Apiaries (Bee Farming)	C	NP	NP	NP	NP
Crop and Tree Farming	C	NP	NP	NP	NP
Nurseries (Farming Only)	C	NP	NP	NP	NP
2. Lodging					
Bed-and-Breakfast Inns: ²					
a. 5 or Fewer Guest Rooms	C	C	MC	MC	MC
b. 6 or More Guest Rooms	C	C	C	C	C
3. Public/Quasi-Public and Institutional					
Arboretums (Public/Private)	C	NP	NP	NP	NP
Churches	C	C	C	C	C
Congregate Care Facility ³	NP	NP	C	C	C
Convalescent Care	NP	NP	C	C	C
Day Care Facilities, Children's: ⁴					
a. Small-Family Day Care Home ⁵	<u>P/MCO</u>	<u>P/MCO</u>	<u>P/MCO</u>	<u>P/MCO</u>	<u>P/MCO</u>
b. Large-Family Day Care Home	<u>GMC</u>	MC	MC	MC	MC
c. Day Care Center	NP	NP	C	C	C

Parking Lots ⁶	NP	C	C	C	C
Parks ⁷	O	NP	O	O	O
Preserves (Archaeological, Botanical, Geological, Wildlife)	C	C	C	C	C
Public Utilities ⁸					
a. City-Initiated Project	O	O	O	O	O
b. Projects Initiated by Outside Agencies					
i. Major Utilities	C	C	C	C	C
ii. Minor Utilities	P	P	P	P	P
Recreational/Uses (Public/Private, Nonprofit)	C	C	C	C	C
Schools (Public/Private)	C	C	C	C	C
4. Residential Uses					
Accessory Uses (Pools, Detached Garages, Tool and Garden Sheds, Gazebos, Patio Covers, Barbecues)	P	P	P	P	P
a. Stables	C	NP	NP	NP	NP
Guesthouses	C	P	NP	NP	NP
Home Occupation Permits ⁹	P	P	P	P	P
Manufactured Homes ¹⁰	P	P	P	P	P
Mobile Homes ¹¹					
a. Units	C	C	C	C	C
b. Subdivisions and Parks ¹²	C	C	C	C	C
Multifamily Dwellings:					
a. 4 Units or Fewer	NP	NP	P	P	P
b. 5 Units or More	NP	NP	C	C	C
Second Residential Units (Inland Side of I-5) ¹³	P	P	NP	NP	NP
Senior Housing Projects ¹⁴	NP	NP	C	C	C
Single-Family Dwellings	C	P	P	P	P
5. Unclassified Uses					
Accessory Buildings, Residential ¹⁵					
Detached, Over 15 Feet in Height	C	C	C	C	C
a. All Others	P	P	P	P	P
b. Accessory Buildings, Nonresidential ¹⁶	C	C	C	C	C
Grading, ¹⁷ (Not Accompanying a Development Request):					
a. Emergency	P	P	P	P	P

<u>b.</u> Major	C	C	C	C	C
<u>c.</u> Minor	P	P	P	P	P

1. Refer to Section 17.28.060, Animals, Commercial Grazing and Raising of Large Species, of this title, for special provisions for the commercial grazing of large species
2. Refer to Section 17.28.090, Bed and Breakfast Inns, of this title, for special provisions for bed and breakfast inns
3. Refer to Section 17.28.110, Congregate Care Facilities, of this title for special provisions for congregate care facilities.
4. Refer to Section 17.28.100, Child Day Care Facilities, of this title for special provisions for day care facilities.
5. Small-family day care homes are permitted in~~in legal nonconforming or conforming~~ single-family homes ~~only are permitted. All other small-family day care homes require~~ a Minor Conditional Use Permit ~~is required to allow small-family day care homes in multi-family residential dwellings.~~
6. Refer to Section 17.28.220, Parking Lots, of this title for special provisions for single-use parking lots.
7. Refer to Section 17.28.230, Public Park Facilities, of this title for review requirements for parks.
8. Refer to Section 17.28.240, Public Utilities, of this title for review requirements for public utilities/buildings.
9. Refer to Section 17.28.160, Home Occupations, of this title for special provisions for Home Occupation Permits.
10. Manufactured homes are subject to the same requirements as individual mobile homes. Please refer to Section 17.28.190(D), Minimum Standards for Individual Mobilehomes, of this title, for standards to be used for manufactured homes.
11. Refer to Section 17.28.190, Mobilehomes, of this title for special provisions for mobile homes.
12. Refer also to Section 17.56.040, Planned Residential District Overlay, of this title, for special provisions for planned residential developments.
13. Refer to Section 17.28.270, Second Residential Units, of this title for special provisions for second residential units.
14. Refer to Section 17.28.280, Senior Housing Projects, of this title for special provisions for senior housing projects.
15. Refer to Section 17.24.040, Accessory Buildings, of this title for special provisions for accessory buildings.
16. Refer to Section 17.24.040, Accessory Buildings, of this title for special provisions for accessory buildings.
17. Refer to Section 17.28.130, Grading, of this title, for special provisions for grading requests that are not accompanying development requests.