

50  
✓/21

ORDINANCE NUMBER O- 20065 (NEW SERIES)

DATE OF FINAL PASSAGE JUL 06 2011

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 131.0422; BY AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5, SECTION 131.0522; BY AMENDING CHAPTER 14, ARTICLE 1, DIVISION 2, SECTION 141.0203; BY AMENDING CHAPTER 15, ARTICLE 1, DIVISION 4, SECTION 151.0401; AND BY AMENDING CHAPTER 15, ARTICLE 5, DIVISION 2, SECTION 155.0238 ALL RELATING TO COMMUNITY GARDEN PERMITS.

WHEREAS, on January 14, 2011, the City Council voted 8-0 to initiate the zoning action for the amendments to the Planned District Ordinances consistent with section 151.0202(a) of the Municipal Code; and

WHEREAS, community gardens are identified in the San Diego Municipal Code as a separately regulated use, which are those uses that without use-specific regulation have the potential to impact surrounding properties; and

WHEREAS, the San Diego Municipal Code includes those use-specific regulations, that when implemented, reduce impacts enough to permit the use as a limited use (by-right) or with an approved discretionary permit; and

WHEREAS, the current separately regulated use regulations for community gardens generally address requirements to fence and secure the garden, prohibit onsite sales, provide water access and drainage, locate facilities and limit hours of operation; and

WHEREAS, the Land Use & Housing Committee has held three hearings on the issue of community gardens: January 21, 2009, March 3, 2010 and February 1, 2011; and in general the

hearings focused on the approval process, the associated costs, and the length of time to process a community garden project; and

WHEREAS, the proposed amendments to the community gardens regulations will permit community gardens in all commercial and residential zones as a limited use with sales of unprocessed, non-value-added products grown onsite permitted in only commercial and industrial zones; NOW, THEREFORE,

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

Section 1. That Chapter 13, Article 1, Division 4 of the San Diego Municipal Code is amended by amending section 131.0422 to read as follows:

**§131.0422 Use Regulations Table for Residential Zones**

The uses allowed in the residential zones are shown in the Table 131-04B.

**Legend for Table 131-04B**

[No change in text.]

**Table 131-04B  
Use Regulations Table of Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																						
	1st & 2nd >>	RE-			RS-										RX-		RT-							
	3rd >>	1-			1-										1-		1-							
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4
<b>Open Space [No change in text.]</b>																								
<b>Agriculture</b>																								
<b>Agricultural Processing through Raising, Maintaining &amp; Keeping of Animals [No change in text.]</b>																								
<b>Separately Regulated Agriculture Uses</b>																								
Agricultural Equipment Repair Shops	-																							
Commercial Stables	-																							
Community Gardens	L																							
Equestrian Show & Exhibition Facilities	-																							

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																						
	1st & 2nd >>	RE-		RS-										RX-		RT-								
	3rd >>	1-		1-										1-		1-								
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3	4
Open Air Markets for the Sale of Agriculture-Related Products & Flowers	-	-																						
<b>Residential through Separately Regulated Signs Uses, Theater Marquees</b> [No change in text.]																								

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones												
	1st & 2nd >>	RM-												
	3rd >>	1-			2-			3-			4-		5-	
	4th >>	1	2	3	4	5	6	7	8	9	10	11	12	
<b>Open Space</b> [No change in text.]														
<b>Agriculture</b>														
<b>Agricultural Processing through Raising, Maintaining &amp; Keeping of Animals</b> [No change in text.]														
<b>Separately Regulated Agriculture Uses</b>														
Agricultural Equipment Repair Shops	-	-	-	-	-	-	-	-	-	-	-	-		
Commercial Stables	-	-	-	-	-	-	-	-	-	-	-	-		
Community Gardens	L	L	L	L	L	L	L	L	L	L	L	L		
Equestrian Show & Exhibition Facilities	-	-	-	-	-	-	-	-	-	-	-	-		
Open Air Markets for the Sale of Agriculture- Related Products & Flowers	-	-	-	-	-	-	-	-	-	-	-	-		
<b>Residential through Separately Regulated Signs Uses, Theater Marquees</b> [No change in text.]														

Footnotes for Table 131-04B [No change in text.]

Section 2. That Chapter 13, Article 1, Division 5 of the San Diego Municipal Code is amended by amending section 131.0522 to read as follows:

**§131.0522 Use Regulations Table of Commercial Zones**

The uses allowed in the commercial zones are shown in Table 131-05B.

**Legend for Table 131-05B**

[No change in text.]

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

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	CN <sup>(1)</sup>			CR-		CO-		CV-		CP-
	3rd >>	1-			1-	2-	1-	1-	1-	1-	
	4th >>	1	2	3	1	1	1	2	1	2	1
<b>Open Space [No change in text.]</b>											
<b>Agriculture</b>											
<b>Agricultural Processing through Raising, Maintaining &amp; Keeping of Animals [No change in text.]</b>											
<b>Separately Regulated Agriculture Uses</b>											
Agricultural Equipment Repair Shops		-			P	P	-	-	-	-	-
Commercial Stables		-			-	-	-	-	L	-	-
Community Gardens		L			L	L	L	L	L	L	L
Equestrian Show & Exhibition Facilities		-			-	-	-	-	C	-	-
Open Air Markets for the Sale of Agriculture-related Products & Flowers		-			-	-	-	-	-	-	-
<b>Residential through Separately Regulated Signs Uses, Theater Marquees [No change in text.]</b>											

Use Categories/Subcategories  [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																
	1st & 2nd >>	CC-																
	3rd >>	1-			2-			3-			4-			5-				
	4th >>	1	2	3	1	2	3	4	5	1	2	4	5	1	2	3	4	5
<b>Open Space [No change in text.]</b>																		
<b>Agriculture</b>																		
<b>Agricultural Processing through Raising, Maintaining &amp; Keeping of Animals [No change in text.]</b>																		
<b>Separately Regulated Agriculture Uses</b>																		
Agricultural Equipment Repair Shops		P	P	-					P					P				
Commercial Stables		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Community Gardens		L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L	L
Equestrian Show & Exhibition Facilities		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Open Air Markets for the Sale of Agriculture-Related Products & Flowers		-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>Residential through Separately Regulated Signs Uses, Theater Marquees [No change in text.]</b>																		

Footnotes for Table 131-05B [No change in text.]

Section 3. That Chapter 14, Article 1, Division 2 of the San Diego Municipal Code is amended by amending section 141.0203 to read as follows:

**§141.0203 Community Gardens**

Community gardens are *premises* that are used for crop cultivation by individuals or collectively, and may be divided into multiple plots. Community gardens are permitted as a limited use in the zones indicated with an “L” and may be permitted with a Neighborhood Use Permit in the zones indicated with an “N” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) On-site sales are permitted as follows:
  - (1) On-site sales are permitted only in commercial and industrial zones.
  - (2) Where on-site sales are permitted, sales are subject to the following:
    - (A) Onsite sales are limited to the sale of unprocessed, non value-added products grown on site; and
    - (B) All sales must be conducted in compliance with laws regulating onsite sales of products grown in the community garden.
- (b) The site shall be designed and maintained to effectively handle all drainage onsite.
- (c) A minimum 4-foot-wide, clearly marked entrance path shall be provided from the *public right-of-way* to the garden.

- (d) A permanent *sign*, including, but not limited to, the name and contact information of the party responsible for the garden shall be posted at the primary entry path adjacent to the *public right-of-way*. The *sign* shall comply with the requirements of Section 142.1250(c).
- (e) Refuse storage areas shall be provided and *screened* to enclose all refuse generated from the garden. Refuse areas shall be located as close as practicable to the center of the property. Refuse shall be removed from the site at least once a week.
- (f) Storage areas for tools, fertilizers, equipment, and other material shall be enclosed and located as close as practicable to the center of the property.
- (g) Best practice standards shall be used for the following garden operations:
  - (1) Composting
    - (A) Composting may be performed onsite
    - (B) Composting materials shall only be those materials:
      - (i) generated onsite, or
      - (ii) contributed by active members of the community garden
    - (C) Composting areas shall be located as close as practicable to the center of the property
  - (2) Water use
    - (A) Irrigation water rates shall apply to community gardens
    - (B) Community gardens shall include the following water conserving techniques:

- (i) mulch shall be applied to exposed soils in planting areas;
  - (ii) soil amendments shall include water retaining matter;
  - (iii) water shall be applied only to the base of plants; and
  - (iv) all hoses shall be equipped with a trigger nozzle
- (C) Watering of plants shall comply with the watering schedule in Section 67.3803
- (3) Community gardens shall comply with the MHPA Land Use Adjacency Guidelines of the Land Development Manual Biology Guidelines.
- (h) Hours of operation shall be limited to the hours between sunrise and sunset as set forth by the National Oceanic and Atmosphere Administration for the San Diego area.

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

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

- (a) [No change in text.]
- (b) Limited Uses
  - (1) [No change in text.]
  - (2) The following uses are permitted in the planned districts subject to the regulations for limited uses in the Land Development Code

section specified for each use and the location restrictions specified for each use.

- (A) [No change in text.]
- (B) Community gardens in residential and commercial zones, subject to Land Development Code Section 141.0203
- (C) Garage and yard sales in residential zones, subject to Land Development Code Section 141.0305
- (D) Home occupations in residential zones, subject to Land Development Code Section 141.0308
- (E) Large family day care homes in zones where residential use is permitted, except in agricultural zoned areas of the Coastal Overlay Zone that contain the 100-year floodplain, subject to Land Development Code Section 141.0606
- (F) Recycling facilities as follows:
  - (i) through (v) [No change in text.]
  - (c) through (f) [No change in text.]

Section 5. That Chapter 15, Article 5, Division 2 of the San Diego Municipal Code is amended by amending section 155.0238 to read as follows:

**§155.0238 Use Regulations Table of CU Zones**

The uses allowed in the CU zones are shown in Table 155-02C:

**Legend for Table 155-02C**

[No change in text.]



**Table 155-02C  
Use Regulations Table for CU Zones**

Use Categories/ Subcategories [See Land Development Code Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones									
	1st & 2nd >>	CU-									
	3rd >>	1- <sup>(1)</sup>		2-			3-				
	4th >>	1	2	3	4	5	3 <sup>(2)(12)</sup>	6	7	8	
<b>Open Space [No change in text.]</b>											
<b>Agriculture</b>											
<b>Agricultural Processing through Raising, Maintaining &amp; Keeping of Animals [No change in text.]</b>											
<b>Separately Regulated Agriculture Uses</b>											
Agricultural Equipment Repair Shops	-	P			P						
Commercial Stables	-	-			-						
Community Gardens	L	L			L						
Equestrian Show & Exhibition Facilities	-	-			-						
Open Air Markets for the Sale of Agriculture-Related Products & Flowers	-	-			-						
<b>Residential through Separately Regulated Signs Uses, Theater Marquees [No change in text.]</b>											

Footnotes to Table 155-02C [No change in text.]

Section 6. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 7. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the

California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

APPROVED: JAN I. GOLDSMITH, City Attorney

By Shannon M. Thomas  
Shannon M. Thomas  
Deputy City Attorney

SMT:als  
5/17/2011  
6/02/2011 COR.  
06/10/2011 REV.  
Or.Dept:DSD  
PL#2011-06200

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of ~~JUN 21 2011~~.

ELIZABETH S. MALAND  
City Clerk

[Signature]  
By \_\_\_\_\_  
Deputy City Clerk

Approved: 7.6.11  
(date)

[Signature]  
JERRY SANDERS, Mayor

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

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