

ORDINANCE NO. NS-XXX

ZONING ORDINANCE AMENDMENT NO. 2022-03 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA ANA AMENDING PORTIONS OF CHAPTER 41 (ZONING) OF THE SANTA ANA MUNICIPAL CODE RELATING TO FAMILY DAYCARE, REGIONAL PLANNED SIGN PROGRAM REGULATIONS, MESSAGE ESTABLISHMENTS, CONDITIONALLY-PERMITTED USES IN THE PROFESSIONAL ZONING DISTRICT, RETAIL USES IN INDUSTRIAL ZONES, TRASH BIN ENCLOSURES, URBAN LOT SPLIT AND TWO-UNIT DEVELOPMENT STANDARDS, NOXIOUS USES, DEFINITIONS FOR VARIOUS USES, ELECTRIC FENCES, AND PERMIT REQUIREMENTS FOR LIGHT PROCESSING FACILITIES

THE CITY COUNCIL OF THE CITY OF SANTA ANA HEREBY ORDAINS AS FOLLOWS:

Section 1. The City Council of the City of Santa Ana hereby finds, determines and declares as follows:

- A. Various sections within Chapter 41 (Zoning) of the Santa Ana Municipal Code (SAMC) have been revised periodically over the last several years to respond to changes in development and business practices, to adopt new permitting procedures, and to comply with changes to state and federal laws. In a continuing effort to establish high-quality development standards, create a user friendly environment for residents and the business community, and to commence the work of enacting the various policies and actions set forth in the General Plan, the Planning Division is proposing revisions to various sections of the Zoning Code.
- B. After a thorough analysis of the current code requirements in the city, staff identified a number of code amendments and additions that are necessary to ensure clear, uniform, and legally consistent regulations. The proposed changes and additions will enable the City to implement a regulatory framework that both protects the health, safety, and welfare of the city and limits undue strain on home owners, business operators and developers.
- C. Zoning Ordinance Amendment No. 2022-03 amends and adds various sections of Chapter 41; including Section 41-42.5 (Child care facilities), Section 41-44.6 (Counseling services), Section 41-47.5 (Daycare center), Section 41-54.5 (Electric fence), Section 41-59 (Family daycare facilities), Section 41-100 (Landscape), Section 41-121 (Medical office), Section 41-127.5 (Professional, business, and administrative office), Section 41-190.5 (Prohibited uses), Section 41-192.6 (Small and large family daycare accessory to residential uses), Section 41-199.4 (Noxious uses), Section 41-232 (Uses permitted in the R1 district), Section 41-247 (Uses permitted in the R2 district), Section 41-313 (Uses permitted in the P district),

Section 41-365 (Uses permitted in the C1 district), Section 41-365.5 (Uses subject to a conditional use permit in the C1 district), Section 41-375.1 (Uses permitted in the C1-MD district), Section 41-375.2 (Uses subject to a conditional use permit in the C1-MD district), Section 41-377.5 (Uses subject to a conditional use permit in the C2 district), Section 41-412.5 (Uses subject to a conditional use permit in the C4 district), Section 41-424 (Uses permitted in the C5 district), Section 41-424.5 (Uses subject to a conditional use permit in the C5 district), Section 41-472 (Uses permitted in the M1 district), Section 41-472.1 (Ancillary uses permitted in the M1 district), Section 41-472.5 (Uses subject to a conditional use permit in the M1 district), Section 41-521 (Uses permitted in the C-SM district), Section 41-522 (Uses subject to a conditional use permit in the C-SM district), Section 41-609 (Landscape), Section 41-610.5 (Wall and fence requirements in the industrial and commercial zones), Section 41-623 (Trash bin enclosures), Section 41-683 (Discontinuance of nonconforming building or use), Section 41-683.6 (Discontinuance of nonconforming noxious use), Section 41-885 (Regional planned sign program), Section 41-1251 (Permits required), Section 41-1309.1 (Change of use, exceptions), Section 41-1751 (Definitions), Section 41-1752 (Permitted zones and locations), Section 41-1753 (Permits and certificates—contents of application), Section 41-1754 (Development and operating standards), Section 41-2109 (Requirements), Section 41-2115 (Requirements), Table 3-2 (Permitted uses) of the Harbor Mixed Use Transit Corridor Specific Plan, definition of “Personal services—restricted”, Table 2A (Use Standards) of Section 41-2007 of the Transit Zoning Code, Definition of “Personal Services—restricted” and Section 41-2080 of the Transit Zoning Code, and Table 3 (Permitted Land Uses) of Section 4.1 of the Metro East Mixed-Use Overlay Zone.

- D. On December 12, 2022, the Planning Commission held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning Zoning Ordinance Amendment No. 2022-03.
- E. On February 21, 2023, the City Council held a duly-noticed public hearing and considered the staff report, recommendations by staff, and public testimony concerning Zoning Ordinance Amendment No. 2022-03.

Section 2. The City Council finds and determines that this ordinance is not subject to the California Environmental Quality Act (CEQA). Pursuant to CEQA and the CEQA Guidelines, the adoption of this Ordinance is exempt from CEQA review pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, as there is no possibility it will have a significant effect on the environment and it is not a "project", as defined in Section 15378 of the CEQA Guidelines. As a result, a Notice of Exemption, Environmental Review No. 2022-73, will be filed upon adoption of this ordinance.

Section 3. Section 41-42.5 (Child care facilities) of Chapter 41 of the SAMC is hereby amended to read as follows:

~~Sec. 41-42.5.—Child care facilities.~~

~~A child care facility is a place where persons under eighteen (18) years of age are supervised, educated, or left for care on less than a 24-hour basis.~~

Section 4. Section 41-44.6 (Counseling services) of Chapter 41 of the SAMC is hereby added to read as follows:

Sec. 41-44.6. - Counseling services.

A facility where personnel provide counseling services in individual or group sessions that focus specifically on mental development, recovery, rehabilitative vocational assistance, and employment preparation for the purposes of achieving independence, and/or integration in the workplace and community. For a practice providing counseling services specializing in substance abuse, this includes a facility that provides substance abuse counseling practiced by a licensed professional, on an outpatient basis, with or without the dispensing of medication onsite. "Counseling services" does not include "Medical office," which is separately defined.

Section 5. Section 41-47.5 (Daycare center) of Chapter 41 of the SAMC is hereby added to read as follows:

Sec. 41-47.5. - Daycare center.

"Daycare center" means a child daycare facility other than a family daycare facility, and includes infant centers, preschools, extended daycare facilities, and schoolage child care centers, and includes child care centers licensed pursuant to Section 1596.951 of the California Health and Safety Code.

Section 6. Section 41-54.5 (Electric fence) of Chapter 41 of the SAMC is hereby added to read as follows:

Sec. 41-54.5. - Electric fence.

"Electric Fence" and "Electrified Fence" shall mean any fence powered by an electrical energizer with characteristics outlined and defined in California Civil Code Section 835 used to protect and secure industrial property.

Section 7. Section 41-59 (Family daycare facilities) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-59. - ~~Reserved.~~ Family daycare facilities.

"Family daycare facility" means a facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away. For the purposes of this Chapter, there are Small Family Daycare facilities and Large Family Daycare facilities. Small Family Daycare facilities provide care to no more than 8 children. Large Family Daycare facilities provide care to no more than 14 children.

Section 8. Section 41-100 (Landscape) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-100. Landscape.

Landscape is any yard or other open space which is purposely designed to create an aesthetic environment composed of plant materials, synthetic turf, and/or other decorative elements such as fountains, ponds, sculptures, walls, fences, and planters.

Section 9. Section 41-121 (Reserved) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-121. - Medical office ~~Reserved~~.

A medical office is a facility providing consultation, diagnosis, therapeutic, preventive, surgical, or corrective personal treatment services by doctors or dentists, and their support staff, to support the healing of humans, wherein such medical doctors and dentists are licensed. These facilities can be at health centers, individual doctor or dentist offices, and exclude counseling services centers specializing in substance abuse, homeless support services, and medical research laboratories.

Section 10. Section 41-127.5 (Professional, business, and administrative office) of Chapter 41 of the SAMC is hereby added to read as follows:

Sec. 41-127.5. - Professional, business, and administrative office.

A professional, business, or administrative office is an establishment providing direct, "over-the-counter" services or business services to consumers or clients (e.g., insurance agencies, real estate offices, travel agencies, utility company offices, etc.) and office-type facilities occupied by businesses providing professional services and/or engaged in the production of intellectual property.

Section 11. Section 41-192.6 (Small and large family daycare accessory to residential uses) of Chapter 41 of the SAMC is hereby added to read as follows:

Sec. 41-192.6. - Small and large family daycare accessory to residential uses.

Small and large family daycare facilities as defined and regulated by Health and Safety Code Section 1597.30 through 1597.622, as modified from time to time, shall be permitted as an accessory use at any residential property, dwelling, or dwelling unit in the city where residential land uses are permitted in any zoning district, specific development zone, specific plan area, or overlay zoning district.

Section 12. Section 41-199.4 (Noxious uses) of Chapter 41 of the SAMC is hereby added to read as follows:

Sec. 41-199.4. - Noxious uses.

- (a) Any use other than eating establishments listed in Section 41-472 or 41-472.5 of this Chapter, regardless of the zoning district it is established or proposed to be established in that requires a permit from a regional, state, or federal agency to handle, store, emit or discharge regulated compounds, materials, chemicals, or substances that is located within 500 linear feet of a public park, school (K-12) as defined by Section 11362.768 of the Health and Safety Code, or property used or zoned for residential purposes requires a conditional use permit.
- (b) The 500 linear foot distance shall be measured from the outermost boundary of the subject property to the closest point of any public park, school, or property used or zoned for residential purposes.
- (c) The property owner or business operator of a business regulated by subsection (a) shall be responsible for notifying the City of any requirement to obtain a permit from a regional, state, or federal agency. Notification to the City must be made prior to obtaining any permit from a regional, state, or federal agency for the business activities listed in subsection (a).
- (d) A business regulated by this section shall be in compliance with all provisions established by this Code and all applicable federal, state, or local regulations and conditions established by regulating and permitting agencies.

Section 13. Section 41-232 (Uses permitted in the R1 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-232. - Uses permitted in the R1 district.

The following uses are permitted in the R1 district:

- (a) One (1) one-family dwelling with six (6) or fewer bedrooms.
- (b) Private greenhouses and horticultural collections for domestic noncommercial use, flower and vegetable gardens, fruit trees and any agricultural crop.
- (c) One (1) temporary real estate office devoted to the sale of real estate in the tract in which it is located, which use shall be for a period of time not to exceed one (1) year.
- (d) Accessory buildings and structures, except as otherwise provided in section 41-232.5.
- (e) ~~Child care facilities providing care to not more than fourteen (14) children, provided that if the number of children exceeds eight (8), a land use certificate must be first obtained pursuant to division 4 of article V of this chapter.~~ Reserved.
- (f) Adult day care facilities providing care to not more than six (6) adults.

Section 14. Section 41-247 (Uses permitted in the R-2 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-247. - Uses permitted to in the R-2 district.

The following uses are permitted in the R-2 district:

- (a) One-family dwellings.
- (b) Two-family dwellings.
- (c) Townhouses.
- (d) Private greenhouses and horticultural collections for domestic noncommercial use, flower and vegetable gardens, fruit trees and any agricultural crop.
- (e) One (1) temporary real estate office devoted to the sale of real estate in the tract in which it is located, which shall be used for a period of time not to exceed one (1) year.
- (f) Accessory structures.
- (g) ~~Child care facilities providing care to not more than fourteen (14) children, provided that if the number of children exceeds eight (8), a land use certificate must be first obtained pursuant to Division 4 of Article V of this chapter. Reserved.~~
- (h) Adult day care facilities providing care to not more than six (6) adults.

Section 15. Section 41-313 (Uses permitted in P district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-313. - Uses permitted in P district.

The following uses are permitted in the P district:

- (a) Professional, business, and administrative offices where no merchandise is sold.
- (b) Banks, savings and loan offices, credit unions, and mortgage and finance companies.
- (c) Travel agencies.
- (d) Medical and dental offices.
- (e) Art galleries, art and photography studios.
- (f) Museums and science centers.
- (g) Print and copy services.

- (h) Pharmacies, limited to the dispensing of goods and merchandise related to health care only, and excluding drive-through facilities.
- (i) ~~Child care facilities.~~ Daycare centers.
- (j) Non-freestanding commercial and service uses which do not exceed ten (10) per cent of the floor space of the building in which they are located and which are supportive of, compatible with, and integrated into the professional and business uses on the same property, excluding drive-through facilities, and commercial uses which are open at any time between the hours of 12:00 midnight and 5:00 a.m.
- (k) Freestanding restaurants, cafes, and eating establishments, excluding drive-through facilities and excluding any eating establishment specified in section 41-313.5.

Section 16. Section 41-313.5 (Uses subject to a conditional use permit in the P district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-313.5. Uses subject to a conditional use permit in the P district.

The following may be permitted in the P district, subject to the issuance of a conditional use permit:

- a. Convalescent hospitals, nursing homes, rest homes and extended care facilities.
- b. Hospitals.
- c. Trade and professional schools.
- d. Health clubs and gymnasiums.
- e. Recreational or entertainment uses if carried on in conjunction with any of the uses specified in clauses (e), (f) and (k) of section 41-313.
- f. Ambulance and emergency medical response services.
- g. Non-freestanding commercial and service uses which are open at any time between the hours of 12:00 midnight and 5:00 a.m., provided that such uses also meet the standards for commercial and service uses permitted under section 41-313, and further provided that such uses have less than twenty thousand (20,000) square feet of floor area.
- h. Eating establishments open at any time between the hours of 12:00 midnight and 5:00 a.m. and located within one hundred fifty (150) feet of residentially zoned or used property, measured from property line to property line.
- i. Banquet facilities, subject to development and operational standards set forth in section 41-199.1.
- j. Banquet facilities as an ancillary use, subject to development and operational standards set forth in section 41-199.1.
- k. Adult day care facilities.
- l. Clubs, fraternities and lodges.

- m. Bail bond uses, subject to development and operation standards set forth in section 41-323.
- n. Churches and accessory church buildings.
- o. Parking lots and parking structures subject to compliance with the requirements of Section 41-324.
- p. Medical offices operated by government, government-subsidized, not-for-profit, or philanthropic entities.

Section 17. Section 41-365 (Uses permitted in the C1 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-365. - Uses permitted in the C1 district.

The following uses are permitted in the C1 district:

- (a) Retail and service uses.
- (b) Professional, business, and administrative ~~and business~~ offices.
- (c) Automobile parking lots and parking structures.
- (d) Automobile sales, but excluding truck, trailer, tractor and boat sales.
- (e) Churches and accessory church buildings.
- (f) Mortuaries.
- (g) Theaters.
- (h) Hospitals, clinics, and sanitariums.
- (i) Animal hospitals and veterinaries.
- (j) Plant nurseries.
- (k) Gymnasiums.
- (l) Golf courses, both regulation and miniature, and driving ranges.
- (m) Public utility structures, including electric distribution and transmission substations.
- (n) Restaurants, cafes, and eating establishments, other than those specified in Section 41-365.5.
- (o) Schools and studios operated for commercial or public purposes.

- (p) ~~Childcare facilities.~~ Daycare centers.
- (q) Service stations.
- (r) Automobile servicing.
- (s) Tattoo and/or body art establishments, subject to the development and operational standards set forth in Section 41-199.3.
- (t) Medical offices.

Section 18. Section 41-365.5 (Uses subject to a conditional use permit in the C1 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-365.5. - Uses subject to a conditional use permit in the C1 district.

The following uses may be permitted in the C1 district subject to the issuance of a conditional use permit:

- a. Clubs.
- b. Outdoor and indoor recreational or entertainment uses other than those set forth in section 41-365.
- c. Hotels, motels, lodging houses, care homes, fraternity houses and sorority houses.
- d. Thrift shops, purchase and loan, pawn shops.
- e. Eating establishments with drive-through window service.
- f. Eating establishments open at any time between the hours of 12:00 a.m. and 5:00 a.m. and located within one hundred fifty (150) feet of residentially zoned or used property, measured from property line to property line.
- g. Laundromats, subject to the development and performance standards set forth in section 41-199.
- h. Retail markets having less than twenty thousand (20,000) square feet of floor area which are open at any time between the hours of 12:00 midnight and 5:00 a.m.
- i. Check cashing facilities, as defined by section 41-42.7.
- j. Banquet facilities, subject to development and operational standards set forth in section 41-199.1.
- k. Banquet facilities as an ancillary use, subject to development and operational standards set forth in section 41-199.1.
- l. Adult day care facilities.

m. Superstores.

n. Tattoo and/or body art establishments open at any time between the hours of 12:00 a.m. and 7:00 a.m., subject to the development and operational standards set forth in section 41-199.3.

o. Massage establishments, subject to development and operational standards set forth in Article XVII.I of this Chapter.

Section 19. Section 41-375.1 (Uses permitted in the C1-MD district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-375.1. - Uses permitted in the C1-MD district.

The following uses are permitted in the C1-MD district:

- (a) Retail and service uses, other than those specified in section 41-375.2.
- (b) Professional, business, and administrative ~~and business~~ offices where no merchandise is sold.
- (c) Medical ~~and dental~~ offices.
- (d) Theaters and cinemas.
- (e) Gymnasiums and health clubs.
- (f) Travel agencies, with no embarking or disembarking of passengers.
- (g) Art galleries and art and photography studios.
- (h) Museums and science centers.
- (i) Restaurants, cafes, and eating establishments other than those specified in section 41-375.2, excluding eating establishments with drive-thru window service.
- (j) ~~Child care facilities.~~ Daycare centers.

Section 20. Section 41-375.2 (Uses subject to a conditional use permit in the C1-MD district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-375.2. - Uses subject to a conditional permit in the C1-MD district.

The following uses may be permitted in the C1-MD district subject to the issuance of a conditional use permit:

- (a) Clubs.

- (b) Outdoor and indoor recreational or entertainment uses other than those set forth in section 41-375.1.
- (c) Hotels.
- (d) Eating establishments open at any time between the hours of 12:00 midnight and 5:00 a.m. and located within one hundred fifty (150) feet of residentially zoned or used property, measured from property line to property line.
- (e) Retail markets having less than twenty thousand (20,000) square feet of floor area which are open at any time between the hours of 12:00 midnight and 5:00 a.m.
- (f) Banquet facilities, subject to development and operational standards set forth in section 41-199.1.
- (g) Banquet facilities as an ancillary use, subject to development and operational standards set forth in section 41-199.1.
- (h) Massage establishments, subject to development and operational standards set forth in Article XVII.I of this Chapter.

Section 21. Section 41-377.5 (Uses subject to a conditional use permit in the C2 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-377.5. - Uses subject to a conditional use permit in the C2 district.

The following uses may be permitted in the C2 district subject to the issuance of a conditional use permit:

- (a) Any use which may be permitted subject to the issuance of a conditional use permit in the C1 district pursuant to section 41-365.5.
- (b) Open-air car washes.
- (c) Trailer parks and camps.
- (d) Thrift shops, food distribution centers, and counselling service establishments operated by nonprofit or government-subsidized organizations or by public agencies.
- (e) Indoor swap meets, bulk merchandise stores, and home improvement warehouse stores.
- (f) Superstores.
- (g) Massage establishments, subject to development and operational standards set forth in Article XVII.I of this Chapter.

Section 22. Section 41-412.5 (Uses subject to a conditional use permit in the C4 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-412.5. - Uses subject to a conditional use permit in the C4 district.

The following uses may be permitted in the C4 district subject to the issuance of a conditional use permit:

- (a) Hotels, motels, lodging houses, care homes, fraternity houses and sorority houses.
- (b) Indoor swap meets, bulk merchandise stores, and home improvement warehouse stores.
- (c) Eating establishments with drive-through window service.
- (d) Eating establishments open at any time between the hours of 12:00 a.m. and 5:00 a.m. and located within one hundred fifty (150) feet of residentially zoned or used property, measured from property line to property line.
- (e) Laundromats, subject to the development and performance standards set forth in section 41-199.
- (f) Retail markets having less than twenty thousand (20,000) square feet of floor area which are open at any time between the hours of 12:00 midnight and 5:00 a.m.
- (g) Check cashing facilities, as defined by section 41-42.7 of this Code.
- (h) Banquet facilities, subject to development and operational standards set forth in section 41-199.1.
- (i) Banquet facilities as an ancillary use, subject to development and operational standards set forth in section 41-199.1.
- (j) Adult day care facilities.
- (k) Superstores.
- (l) Massage establishments, subject to development and operational standards set forth in Article XVII.I of this Chapter.

Section 23. Section 41-424 (Uses permitted in the C5 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-424. Uses permitted in the C5 district.

The following uses are permitted in the C5 district:

- (a) Professional, business, and Administrative ~~and professional~~ offices.

- (b) Retail and service uses.
- (c) Automobile parking lots, but excluding the sale or storage of automobiles, trucks, trailers, boats, or tractors, whether new or used.
- (d) Churches, chapels, mortuaries, and theaters.
- (e) Government buildings.
- (f) Restaurants and cafes, other than those specified in Section 41-424.5.
- (g) Schools and studios operated for commercial or public purposes.
- (h) ~~Child care facilities.~~ Daycare centers.
- (i) The printing, publishing, and circulation of a newspaper, including plant and office.
- (j) Two-family dwellings not exceeding one (1) unit per three thousand (3,000) square feet of lot area, provided such units front on a secondary or local street.
- (k) Gymnasiums and health clubs.
- (l) Medical offices.

Section 24. Section 41-424.5 (Uses subject to a conditional use permit in the C5 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-424.5. - Uses subject to a conditional use permit in the C5 district.

The following uses may be permitted in the C5 district subject to the issuance of a conditional use permit:

- (a) Hotels, motels, lodging houses, care homes, fraternity houses, and sorority houses.
- (b) Dwelling units when erected above the ground floor of a commercial structure when the ground floor is devoted exclusively to nonresidential uses.
- (c) Hospitals.
- (d) Public utility structures, including electric distribution and transmission substations.
- (e) Eating establishments with drive-through or walk-up window service.
- (f) Service stations and automobile servicing.

- (g) Car wash establishments, provided they are wholly enclosed.
- (h) Laundries.
- (i) Indoor swap meets, bulk merchandise stores, and home improvement warehouse stores.
- (j) Eating establishments open at any time between the hours of 12:00 a.m. and 5:00 a.m. and located within one hundred fifty (150) feet of residentially zoned or used property, measured from property line to property line.
- (k) Laundromats, subject to the development and performance standards set forth in section 41-199.
- (l) Retail markets having less than twenty thousand (20,000) square feet of floor area which are open at any time between the hours of 12:00 midnight and 5:00 a.m.
- (m) Banquet facilities, subject to development and operational standards set forth in section 41-199.1.
- (n) Banquet facilities as an ancillary use, subject to development and operational standards set forth in section 41-199.1.
- (o) Adult day care facilities.
- (p) Superstores.
- (q) Massage establishments, subject to development and operational standards set forth in Article XVII.I of this Chapter.

Section 25. Section 41-472 (Uses permitted in the M1 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-472. - Uses permitted in the M1 district.

The following uses are permitted in the M1 district:

- (a) The compounding, processing, or treatment of raw or previously treated materials into a finished or semi-finished product, excluding those uses specified in section 41-489.5.
- (b) The manufacture of products from raw or previously treated materials, excluding those uses specified in section 41-489.5.
- (c) The assembly of products from raw or previously treated materials, excluding those uses specified in section 41-489.5.
- (d) The packaging or distribution of previously prepared products or materials, excluding those uses specified in section 41-489.5.

- (e) Wholesale establishments where the primary trade is business to business sale of products, supplies, and equipment.
- (f) Storage of previously prepared goods, products or materials for eventual distribution or sales where the goods, products or materials are the property of the owner or operator of the building or structure.
- (g) Machine shop or other metal working shops.
- (h) Warehousing.
- (i) Impound yards (storage only) with no office or dispatching operations.
- (j) Laundry and dry cleaning establishments in conjunction with plant operation for such establishment on the premises.
- (k) Eating establishments not specified in section 41-472.5.
- (l) Research laboratories that do not generate hazardous waste materials.
- (m) Service stations with no more than two thousand (2,000) square feet of the gross floor area devoted to non-automotive related product sales.
- (n) Truck, boat and heavy equipment sales, rental, and service.
- (o) Movie, photography, musical or video production studios.
- (p) Bulk products sales (twenty-five (25) cubic feet or greater) when such products are the primary sales activity.
- (q) Public utility structures.
- (r) Blueprinting, photoengraving, screen printing and other reproduction processes.
- (s) Wholesale nursery and plant storage.
- (t) Contractor's yard.
- (u) Automotive repair and service, including body and fender repair, painting, and engine replacement.
- (v) Home improvement warehouse store.
- (w) Sales of industrial products, supplies and equipment used for final product manufacture.
- (x) Lumberyard, including mill and sash work if conducted entirely within an enclosed building.

(y) Recycling facilities not in excess of forty-five thousand (45,000) gross square feet and in compliance with section 41-1253 of this Code including:

(1) Small collection facilities.

(2) Large collection facilities.

(z) Adult entertainment businesses, subject to compliance with the requirements of article XVII of this chapter.

(aa) Storage and distribution of hazardous materials.

(bb) Passenger transportation services.

(cc) Retail uses located on properties that front an arterial street, as defined in the City's circulation element.

Section 26. Section 41-472.1 (Ancillary uses permitted in the M1 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-472.1 - Ancillary uses permitted in the M1 district.

The following uses are permitted when ancillary to any use permitted by section 41-472 or to any use permitted subject to a conditional use permit:

(1) Administrative office use occupying up to thirty (30) per cent of the gross floor area;

(2) Product sales or service uses occupying up to five (5) per cent of the gross floor area;

(3) ~~Child care facilities~~Daycare centers occupying up to thirty (30) per cent of the gross floor area; provided, however, that no combination of uses permitted by this section shall exceed thirty (30) per cent of the gross floor area.

(4) The outside storage of Class I and Class II liquids (as defined in the fire code of the City of Santa Ana) in above-ground fixed storage tanks when properly screened pursuant to section 41-622 of the Code, as it may be amended from time to time. As used herein, "tank" means a vessel containing more than sixty (60) gallons.

(5) Enclosed storage where the goods, materials or supplies stored are the property of the owner or operator of the building or structure occupying up to thirty (30) per cent.

Section 27. Section 41-472.5 (Uses subject to a conditional use permit in the M1 district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-472.5. - Uses subject to a conditional use permit in the M1 district.

The following uses may be permitted in the M1 district subject to the issuance of a conditional use permit:

- (a) Principal industrial uses if occupying less than seventy (70) per cent of the gross floor area with the remainder of the floor area allocated to office use only, except as permitted in Section 41-472 (cc).
- (b) Storage of new or used buildings or houses.
- (c) ~~Child care facilities~~ Daycare centers other than as permitted by section 41-472.1.
- (d) Trade schools which provide instruction which requires the operation of heavy equipment or machinery normally associated with manufacturing operations such as woodworking or machine shops.
- (e) Kennels for the temporary care and lodging of dogs and other domesticated household animals.
- (f) Eating establishments permitted in section 41-472 which operate between 12:00 and 5:00 a.m. and which are within one hundred fifty (150) feet of a residential use.
- (g) Eating establishments with drive-through window service.
- (h) Petroleum and gas storage.
- (i) Freight, bus and truck terminal.
- (j) Industrial medical clinics which offer medical services by referral only and do not offer overnight stays.
- (k) Administrative office use ancillary to a permitted industrial use occupying more than thirty (30) per cent of the gross floor area.
- (l) Light processing facilities and heavy processing facilities.
- (m) Car wash facility.
- (n) Banquet facilities as an ancillary use to a restaurant or eating establishment, subject to development and operational standards set forth in section 41-199.1.
- (o) Commercial storage not within five hundred (500) feet of an arterial street (as defined in the city's circulation element) or freeway or within one thousand (1,000) feet of a freeway intersection.
- (p) Mini-warehouse uses; provided that no conditional use permit shall be granted unless a written finding is made that the parcel on which the use is proposed is

not within five hundred (500) feet of an arterial street (as defined in the city's circulation element) or freeway, or within one thousand (1,000) feet of a freeway intersection.

- (q) Recreational vehicle, vehicle and/or boat storage yard; provided that no conditional use permit shall be granted unless a written finding is made that the parcel on which the use is proposed is: not within five hundred (500) feet of an arterial street (as defined in the city's circulation element) or freeway, or within one thousand (1,000) feet of a freeway intersection.
- (r) Data center uses; provided that no conditional use permit shall be granted unless a written finding is made that the parcel on which the use is proposed is: not within five hundred (500) feet of an arterial street (as defined in the city's circulation element) or freeway, or within one thousand (1,000) feet of a freeway intersection.
- (s) Indoor sport facility, subject to development and operational standards set forth in section 41-482.

Section 28. Section 41-521 (Uses permitted in the C-SM district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-521. - Uses permitted in the C-SM district.

The following uses are permitted in the C-SM district:

- (a) Retail and service uses.
- (b) Professional, business, and administrative, ~~and business~~ offices.
- (c) Public parking lots and parking structures.
- (d) Animal hospitals and veterinarians.
- (e) Gymnasiums, health clubs, and martial arts studios.
- (f) Public utility structures, including electric distribution and transmission substations.
- (g) Restaurants, cafes, coffeehouses, and eating establishments, other than those provided in section 41-522, excluding the establishment of drive through service facilities.
- (h) Schools and studios operated for commercial or public purposes.
- (i) ~~Child care facilities.~~ Daycare centers.
- (j) Art galleries, museums and exhibit halls.

- (k) Plant nurseries.
- (l) Theaters.
- (m) Furniture stores.
- (n) Youth amusement rides ancillary to grocery, general merchandise and department retail store uses.
- (o) Medical offices.

Section 29. Section 41-522 (Uses subject to a conditional use permit in the C-SM district) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-522. - Uses subject to a conditional use permit in the C-SM district.

The following uses may be permitted in the C-SM district subject to the issuance of a conditional use permit:

- a. Clubs, lodges and fraternal organizations.
- b. Outdoor and indoor recreational or entertainment uses including night clubs, other than those set forth in section 41-521.
- c. Hotels, motels, lodging houses, care homes, fraternity houses and sorority houses.
- d. Thrift and resale stores, antique shops and collectable stores, excluding pawn shops and auction houses.
- e. Eating establishments open at any time between the hours of 12:00 midnight and 5:00 a.m. and located within one hundred fifty (150) feet of residentially zoned or used property, measured from property line to property line.
- f. Laundromats.
- g. Ancillary outdoor dining facilities located in the front yard area.
- h. Banquet facilities, subject to development and operational standards set forth in section 41-199.1.
- i. Banquet facilities as an ancillary use, subject to development and operational standards set forth in section 41-199.1.
- j. Automobile repair and automobile servicing.
- k. Retail markets having less than twenty thousand (20,000) square feet of floor area which are open at any time between the hours of 12:00 midnight and 5:00 a.m.

I. Churches and accessory church buildings.

m. Massage establishments, subject to development and operational standards set forth in Article XVII.I of this Chapter.

Section 30. Section 41-609 (Landscape) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-609. - Landscape.

Where a landscape, as defined in section 41-100, is required by the provisions of this chapter, said landscape shall comply with the landscape guidelines and permitting requirements established by the Director of the Planning and Building Agency, which may be amended from time to time, and be continuously maintained by proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, replacement of plants and decorative materials when necessary, and the regular watering of plants.

Section 31. Section 41-610.5 (Wall and fence requirements in the industrial and commercial zones) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-610.5. - Wall and fence requirements in the industrial and commercial zones.

- (a) In the industrial and commercial zones, walls and fences shall not exceed ten (10) feet in height, and shall not exceed four (4) feet in height where the wall or fence extends into the required front yard or any required landscaped area.
- (b) On any lot in a C1, C2, C4, or C5 district, a concrete block wall not less than five (5) feet in height shall be erected along any property line contiguous to any residentially zoned property, except that such wall shall not exceed the height limitations prescribed in subsection (a) of this section. This requirement may be waived by the planning commission upon a finding that the abutting property is in a period of transition to nonresidential use, or that, due to special circumstances, the wall would not promote the public health, safety, or welfare.
- (c) Barbed wire is not permitted as part of a wall or fence except as follows:
 - (1) In the M1, M2 and LM districts: barbed wire is permitted subject only to the restrictions set forth hereinafter.
 - (2) In the C1, C2, C4 and CM districts: barbed wire is permitted only in a rear yard or side yard which is not viewable from a public street and is subject to the restrictions set forth hereinafter.
 - (3) Barbed wire may not be used above the height limitations set forth in subsection (a) of this section.
 - (4) Barbed wire may not be used as part of any wall or fence which is adjacent to property used for residential purposes or to property which is used as a school, church, park, or youth center.

(d) Electric fences shall only be permitted in the M1 and M2 districts subject to the issuance of a minor exception pursuant to Article V of this Chapter and shall meet the requirements set forth in California Civil Code Section 835 and below:

- (1) Electric fences shall only be permitted on properties abutting a railroad right-of-way.
- (2) Electric fences shall be located at least one hundred and fifty (150) linear feet from a property used for residential or public park use, or any property zoned for such a use, or schools (K-12) as defined by Section 11362.768 of the Health and Safety Code.
- (3) Electric fences are only permitted in a rear or side yard which is not viewable from a public street.
- (4) No electric fence shall be permitted, installed, or used unless it is completely surrounded and screened by a nonelectric wall that is at least six (6) feet in height. In no case shall the electric fence encroach into any required setback area.
- (5) Electric fences may exceed the height of the surrounding nonelectric wall by up to 18 inches.
- (6) Any portion of the electric fence extending beyond the height of the surrounding nonelectric screen wall shall be angled away from the property line at a 45-degree upward slope.
- (7) Electric fences shall be set back from existing walls and fences in a manner so as to prevent accumulation of debris and to prevent unsafe conditions from forming in any resulting gap from the setback required by this subsection.
- (8) In no case shall an electric fence exceed the maximum fence height established in subsection (a).
- (9) Electric fences shall be installed to be as minimally intrusive as possible.
- (10) No electric fence shall be energized during advertised business hours.
- (11) Electric fences shall be identified by prominently placed warning signs that are legible from both sides of the fence. At minimum, the warning signs shall meet all of the following criteria:
 - (A) The warning signs are placed at each gate and access point, and at intervals along the fence not exceeding thirty (30) feet.
 - (B) The warning signs are adjacent to any other signs relating to chemical, radiological, or biological hazards.

(C) The warning signs are marked with written warning or a commonly recognized symbol for shock, a written warning or a commonly recognized symbol to warn people with pacemakers, and a written or commonly recognized symbol about the danger of touching the fence in wet conditions.

(12) Electric fences equipped with monitored alarm systems may require an alarm use permit.

(13) Accessibility to emergency personnel and first responders must be maintained through the use of a knox box or other access feature as determined by the Orange County Fire Authority and the Santa Ana Police Department.

(14) The applicant and property owner shall enter into an agreement holding the City of Santa Ana harmless from all legal actions that may arise due to the operation of the electrified fence. The agreement shall be recorded with the property and shall release the City of Santa Ana from all liability whatsoever.

Section 32. Section 41-623 (Trash bin enclosures) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-623. - Trash bin enclosures.

(a) An enclosure for the storage of discarded material containers that are serviced by the city's solid waste collection contractor is required. ~~One (1) trash bin enclosure shall be provided for each commercial or industrial establishment and for each residential building development consisting of three (3) or more dwelling units; except that for commercial or industrial establishments sharing vehicular access and parking in an integrated development, one (1) a shared trash bin enclosure may be provided for each group of four (4) or less such establishments, provided that any such shared trash bin enclosure shall be maintained as freely accessible to all establishments originally assigned to share in its use. Enclosures shall be adequate in capacity, number, and distribution to serve the uses on-site.~~

(b) Persons applying for a permit from the city for new construction and building additions and alterations shall comply with the requirement that enclosures have adequate space for the city's three-collection container recycling program. Permit applicants for the project types described below must, as a condition of the city's permit approval, comply with the following enclosure requirements and comply with the enclosure design guidelines pursuant to subsections (c) and (d).

(1) New commercial construction, or additions resulting in an increase of 30 percent or more of the floor area shall provide readily accessible recycling areas identified for the storage and collection of grey container, blue container, and green container or brown container materials, consistent with the three-container collection program offered by the city pursuant to Chapter 16, Article II of this code, and shall comply with provision of adequate space for recycling

for commercial premises pursuant to section 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended.

- (2) New multifamily construction with more than three (3) units shall provide readily accessible recycling areas identified for the storage and collection of grey container, blue container, and green container or brown container materials, consistent with the three-container collection program offered by the city pursuant to Chapter 16, Article II of this code, and shall comply with provision of adequate space for recycling for multifamily premises pursuant to sections 4.410.2 of the California Green Building Standards Code, 24 CCR, Part 11 as amended.
- (c**b**) All trash and utility areas shall be screened from public streets and alleys and adjacent properties. Trash and utility areas shall be physically integrated into the project and shall include an off-street loading area of three hundred (300) square feet with no single dimension less than ten (10) feet.
- (d**e**) The director of ~~community development~~ planning and building shall issue standards for the construction of trash bin enclosures required by this section, and maintain such standards on file in the department of planning. All trash bin enclosures required by this section shall be constructed and maintained in accordance with such standards.
- (e) Ongoing Waste Enclosure Use and Maintenance. At a minimum, the following best management practices shall be adhered to:
- (1) The enclosure shall only be used for storage of solid waste, recycling, organic waste and used fats, oils, and grease, as defined in Section 39-50 of this code. Storage of hazardous waste or any other items inside the enclosure is strictly prohibited.
- (2) All solid waste and used fats, oils, and grease, as defined in Section 39-50 of this code, shall always be contained within appropriate water-tight, covered containers including secondary containment. A supply of spill response materials designed to absorb leaking fluids and/or cooking oil/grease spills shall be kept near the enclosure.
- (3) Locks can be used for enclosures to avoid contamination and illegal dumping.
- (4) Overfilling solid waste, recycling and/or organics containers is prohibited. Solid waste shall not protrude above the top rim of the container and shall allow for the lid(s) to close fully. Establishments that have more than three (3) instances of overflowing containers within six (6) months may have their service level increased pursuant to Chapter 16, Article II of this code.
- (5) Solid waste enclosures shall be maintained in good working condition and in the condition that they were approved. Maintenance and cleaning of the solid waste enclosure is the day-to-day responsibility of the occupant or owner of the premises.

(6) Washing out the solid waste enclosure or waste receptacles to the storm drain system, street, or gutter is prohibited. Wash water shall be directed towards a landscaped area or collected and discharged to the sanitary sewer only. Improper methods of wash water disposal shall be subject to violations of the City's Water Quality Ordinance.

Section 33. Section 41-683 (Discontinuance of nonconforming building or use) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-683. - Discontinuance of nonconforming building or use.

Except as provided in section 41-683.5 and 41-683.6, if a nonconforming use is discontinued, or if a nonconforming building is vacant, unused or unoccupied for a period of twelve (12) consecutive months, any subsequent use must conform in every respect to the provisions of this chapter, and a nonconforming building may not thereafter be used or occupied until it conforms in every respect to the provisions of this chapter.

Section 34. Section 41-683.6 (Discontinuance of nonconforming noxious use) of Chapter 41 of the SAMC is hereby added to read as follows:

Sec. 41.683.6. - Discontinuance of nonconforming noxious use.

- (a) If a nonconforming use of a building regulated by Section 41-199.4 requires a new certificate of occupancy for any reason other than a change in business name with no change in owner of the business, legal nonconforming status shall be lost and any subsequent use must conform in every respect to the provisions of this chapter.
- (b) If a nonconforming use of a building regulated by Section 41-199.4 is in violation of any applicable federal, state, or local regulation for a period of sixty (60) consecutive days, receives three noncompliant notices from a federal, state, or local regulatory agency in a one (1) year period, or is in violation for a total of ninety (90) days in a one (1) year period, legal nonconforming status shall be lost and any subsequent use of the building shall conform in every respect to the provisions of this chapter.

Section 35. Section 41-885 (Regional planned sign program) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-885. - Regional planned sign program.

a) Definitions:

1. Regional commercial center - A large commercial complex containing a variety of stores, restaurants and other businesses housed in a series of connected and/or adjacent buildings within an integrated campus that shares common areas and parking facilities, and which fronts onto one or

more freeways. Said center must be located on a site of no less than fifteen (15) acres.

2. Regional automobile dealership - An automobile dealership licensed by the state that sells new or used automobiles or other motor vehicles in conjunction with new automobiles to the general public on an integrated site which fronts onto one or more freeways or is on a site which is located within three hundred (300) feet of the point where a freeway exit centerline intersects with a city street.
 3. Regional attraction - A large cultural or educational establishment such as a museum or zoo, or other establishment that blends education, entertainment, and/or amusement, and which fronts onto one or more freeways. Said attraction must be located on a site of no less than five (5) acres.
 4. Regional institution - An institution providing higher education such as a college or university with minimum school year average enrollment of at least 1,000 students; a healthcare institution such as a medical office building complex or hospital on a site of no less than five (5) acres; or any other facility determined by the Executive Director of the Planning and Building Agency to provide an educational, community assembly that is not commercial in nature, or medical use to the community.
- b) Eligibility for a regional planned sign program:
1. The sign program is proposed for a site that is a regional commercial center, regional automobile dealership, ~~or regional attraction,~~ or a regional institution.
 2. ~~The site does not abut property zoned or used for residential uses.~~
- c) Signage and other on-premise advertising must meet the provisions of the sign code meant to protect the health, safety, and welfare of residents and workers in the immediate vicinity; signage shall be limited to only advertising on-site business activities. All signage must comply with the provisions of sections 41-860 and 41-861 of this chapter except as noted within those sections pursuant to approval of a regional planned sign program described in this section.
- d) The provisions of this section shall be applied in conjunction with chapter 41, article XI, "On-Premise Signs" of this Code, provided however, in the event of a conflict between the provisions within this section and the remainder of the City of Santa Ana Sign Ordinance as outlined in chapter 41, article XI, "On-Premise Signs," the provisions of this section shall prevail.
- e) Electronic message displays may be permitted in regional planned sign programs subject to the following conditions:

1. Any electronic message displays may not be located within 300 feet of property zoned or used for residential purposes, as measured from the face of the electronic message display to the nearest property line of the residential property. The display(s) shall comply with the following requirements:
 - A. Be oriented in a way that:
 - i. Minimizes visual and light-emitting intrusion onto properties zoned or used for residential purposes; and,
 - ii. Maximizes visibility from adjacent or nearby freeway corridors.
 - B. Produce a maximum 0.3 foot-candles over ambient light levels.
 - C. Include a means of ensuring additional flexibility in reducing light levels upon request by the city.
 - D. Provide a means of limiting excessive light or glare.
 - E. Have automatic dimming capabilities.
2. The sign copy shall comply with the following requirements:
 - A. Where screen transitions are used, such transitions shall not give the appearance of moving text or images, and should use smooth effects, such as fades, rather than abrupt transitions. The sign copy shall not use flashing, intermittent or moving lights or produce the optical illusion of movement.
 - B. Each sign copy shall be displayed for a minimum of eight (8) seconds.
3. No electronic message display shall be located on a ground sign within fifty (50) feet of a traffic signal or sign, or placed in a location that would not maintain safe conditions for motorists, pedestrians, or cyclists as determined by the public works agency.
4. The property owner shall comply with Santa Ana Municipal Code section 41-638.2, establishing standards for graffiti abatement.
5. The property owner shall provide the city and the public a designated phone number and email address for emergencies or complaints that will be accessible 24 hours a day, seven days per week.
6. In addition to their on-premise advertising and identification purposes, the signs must make available a minimum amount of display time to be used for public service announcements or warning signs as requested and provided by the city of Santa Ana. Such minimum time will be established as a condition of approval for the regional planned sign program.

7. The sign shall comply with any and all federal, state and local laws, regulations and permitting requirements.
- f) A regional planned sign program may be submitted by an applicant representing or owning the project site or may be required for a development project when the Planning Director or his or her designee determines that such a sign program is necessary because of special project characteristics.
 - g) Applications for regional planned sign programs shall be accompanied by photo simulations of all proposed signage showing daytime and nighttime conditions in addition to standard forms, exhibits, and other materials requested by staff as required for a complete submittal.
 - h) Every application under this chapter for a regional planned sign program or appeal to the city council shall be accompanied by a filing fee. No application shall be accepted for filing without the required fee, except that all governmental agencies are exempted from the fee requirement. The city council shall from time to time by resolution adopt a schedule of fees to be charged, a copy of which shall be maintained in the office of the planning department.
 - i) An application to permit a regional planned sign program must be approved by the Planning Commission and be reviewed subject to compliance with the following sections of the Santa Ana Municipal Code:
 1. 41-633, requiring forms, descriptions, notification of surrounding property owners, and signature(s) from recorded property owner(s), as applicable;
 2. 41-635 through 41-637, scheduling for public hearing, providing notice of hearing, and continuances;
 3. 41-642, reviewing the decision of the planning commission by the city council;
 4. 41-645 and 41-646, processing appeals;
 5. 41-647 and 41-647.5, utilizing such permits and violations of such permits;
 6. 41-649, modifying such permits; and
 7. 41-651, revoking of such permits.
 - j) In granting or denying a regional planned sign program, the planning commission shall make the following findings of fact and may impose conditions, restrictions or limitations as the commission may determine to be necessary to meet the general purpose and intent of this chapter and to ensure that the public health, safety and welfare are being maintained. Findings shall be made and conditions may be imposed to confirm that:

1. The scale and intensity of the proposed signage is consistent and harmonious with surrounding land uses and does not create conditions that could contribute to visual or physical blight, intrusion, or similar incompatibilities.
2. The location of the proposed signage will not contribute towards a hazardous environment for pedestrians, cyclists, or motorists on city streets or freeways.
3. The proposed signage is compatible with the scale, intensity, and site development characteristics on which it is proposed. Scale, intensity, and site development characteristics may be determined by:
 - A. Height of existing or proposed buildings on-site;
 - B. Quantity of freestanding buildings, facades, and street frontages;
 - C. Scale of buildings as they relate to pedestrian and vehicular access, surrounding land uses, and transportation corridors;
 - D. Visibility from streets, highways, pedestrian areas, rail corridors, bikeways, other transportation routes, parks, and other public spaces;
 - E. Architecture, color(s), material(s), illumination, and other site characteristics; and nature of business activities conducted on-site; and,
 - F. Visibility from any property used or zoned for residential purposes.

- k) Appeals from decisions of the planning commission, extensions, time limits, and modifications to such regional planned sign programs must be conducted in a manner in accordance with chapter 41, article v, division 1 of the Santa Ana Municipal Code.

Section 36. Section 41-1251 (Permits required) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-1251. - Permits required.

- (a) No person shall cause or permit the placement, construction, or operation of any small collection facility which is not located on property within a commercial zoning district and designated as a convenience zone where such uses are permitted by this section and which has not been issued either a land use certificate or a conditional use permit as required by this section and has produced documentation verifying certification by the State of California Department of Conservation. Applicants must also provide written proof of possession of State of California Workman's Compensation coverage and be in possession of a current Weighmaster's License.
- (b) Small collection facilities may be permitted on any property which is zoned and used for commercial and designated as a convenience zone or on property within an industrial zoning district. Light processing facilities and heavy ~~Heavy~~ processing

facilities are permitted only in the M1 and M2 zoning districts with the approval of a conditional use permit.

- (c) A land use certificate shall be issued for any small collection facility which complies with the applicable standards set forth in this article.

Section 37. Section 41-1309.1 (Change of use, exceptions) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-1309.1. - Change of use, exceptions.

Upon the change of use of an existing building, lot, or a portion of a building or lot, additional parking and loading spaces shall be provided for the new use as required by this chapter over and above the number of parking and loading spaces required by this chapter for the prior use only, with the following exceptions:

- (1) Change of use in a historic district or registered historic property. Any change of use permitted in a historic resource shall not be required to provide additional parking to that legally required prior to the change of use.
- (2) Change of use in a space under two thousand five hundred (2,500) square feet. The occupancy of any tenant space of less than two thousand five hundred (2,500) square feet in all zones, may be interchanged among the below land uses without the need to provide additional parking beyond that currently provided on-site or in covenanted off-site spaces. The prior use must have been established with a valid business license and certificate of occupancy. Required parking shall be determined by the last occupancy that did not use this subsection in a space under two thousand five hundred (2,500) square feet in all zones. Parking will be determined by section 41-1300.
 - Professional, business, and administrative offices
 - Service uses
 - Medical ~~and dental~~ offices
 - Restaurants/eating establishments
 - Retail and service activities
 - Live/work spaces
 - Banks and financial institutions
 - Gymnasiums and studios operated for commercial or public purposes
- (3) Change in use from industrial to retail as permitted in section 41-472 of this code shall not be required to provide additional parking spaces beyond that provided

on-site or in covenanted off-site spaces when the retail component of the use is equal to or less than 50 percent of the gross square footage of the tenant space.

Section 38. Section 41-1751 (Definitions) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-1751. Definitions.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter:

- (a) "California Massage Therapy Council" or "CMTC" means the state-organized, non-profit organization created to regulate the massage industry as set forth in Chapter 10.5 of Division 2 of the California Business and Professions Code (commencing with Section 4600, as amended).
- (b) "Chair massage service" means where a patron receives a massage while fully clothed in a public or semipublic area. The areas massaged are the head, neck, back, arms, and feet only.
- (c) "Employee" includes every owner, partner, operator, manager, supervisor and worker, whether part-time, full-time, or temporary, whether paid or not, who renders services of any nature or is otherwise employed in the operation of a massage establishment. For purposes of this chapter, the term employee shall also include massage technicians who provide massage services as independent contractors to a massage establishment.
- (d) "Manager" means the owner or operator of the massage establishment, or any person(s) designated by the owner or operator to act as the representative and agent of the owner or operator in managing daily operations. Evidence of management may include, but is not limited to, evidence that the individual has power to direct or hire and dismiss employees, control hours of operation, create policy or rules, or purchase supplies.
- (e) "Massage" means any scientific manipulation of soft tissue, or method of applying pressure on, or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus or appliances, or with or without supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powder, creams, ointments, or other similar preparations commonly used in this practice.
- (f) "Massage certificate" means a certificate issued by the CMTC pursuant to Section 4604 of the Business and Professions Code (Chapter 10.5 commencing with section 4600, as amended).
- (g) "Massage establishment" means any establishment having a fixed place of business where any individual, firm, association, partnership, corporation, or

combination of individuals, engages in, conducts, carries on or permits to be engaged in, conducted or carried on, massages, baths, or health treatments involving massage or baths as regular functions.

- (h) Massage establishment, ancillary” means a massage establishment that is operated as an ancillary use in conjunction with an approved health club, athletic club, gym, or hotel or in conjunction with a medical office. For the purpose of this definition, an ancillary use shall mean a use that is not more than twenty-five (25) percent of the floor area of the related health or athletic activities of the primary use.
- (ig) "Massage technician" means any massage practitioner, masseuse, massage therapist or any person who administers or in any way assists in administering any form of massage, bath, or health treatment involving massages or baths as the principal functions to another person for any consideration whatsoever. A massage technician may be an employee or independent contractor.

Section 39. Section 41-1752 (Permitted zones and locations) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-1752. - Permitted zones and locations.

~~No massage establishment may be located within the city unless it meets the following zoning and location criteria:~~

- (a) A chair massage service may be located in commercial zoning districts where retail and service uses are permitted.
- (b) An ancillary massage establishment may only be located in zoning districts that permit health clubs, athletic clubs, gyms, hotels, or where medical services are permitted.
- (c) Massage establishments may be located within the following zoning districts subject to the issuance of a conditional use permit:
 - (1) Massage establishments may be permitted on parcels in the C1, C1-MD, C2, C4, C5, or CSM zoning districts.
 - (2) Massage establishments may be permitted on a parcel within any Specific Plan or Specific Development zoning district in which massage establishments ~~retail service uses~~ are defined and permitted.
 - (3) ~~No m~~Massage establishments ~~is~~ are not permitted in any other zoning district.

Section 40. Section 41-1753 (Permits and certificates-contents of application) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-1753. - Permits and certificates-contents of application.

No massage establishment may be operated or established in the city without first obtaining the following:

~~(1) Approved certificate of occupancy.~~

~~(2) A city issued business license.~~

~~(3) Approved massage establishment permit issued by the chief of police, as set forth in section 22-2 of this Code.~~

(a) No chair massage service or ancillary massage establishment may be operated or established in the city without first obtaining the following:

(1) Approved certificate of occupancy.

(2) A city issued business license.

(3) Approved massage establishment permit issued by the chief of police, as set forth in Section 22-2 of this Code.

(b) No massage establishment may be operated or established in the city without first obtaining the following:

(1) Approved conditional use permit.

(2) Approved certificate of occupancy.

(3) A city issued business license.

(4) Approved massage establishment permit issued by the chief of police, as set forth in section 22-2 of this Code.

Section 41. Section 41-1754 (Development and operating standards) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-1754. Development and operating standards.

(a) The following development and operating standards shall be applied to the operation of any chair massage, ancillary massage establishment, or massage establishment:

- (1) The owner must advise the city, in writing, at the time of the application for a permit of the business hours and, thereafter, of any changes in such hours. No person shall operate a chair massage, ancillary massage establishment, or massage establishment or administer a massage in any ~~massage~~ establishment between the hours of 10:00 p.m. and 8:00 a.m. A massage begun any time before 10:00 p.m., must nevertheless terminate at 10:00 p.m. All customers, patrons and visitors shall be excluded from the chair massage, ancillary massage establishment or massage establishment during these hours and be advised of these hours.

- (2) All exterior signs identifying the premises as a chair massage, ancillary massage establishment, or massage establishment shall comply with the sign requirements of the city.
- (3) Each operator and/or on-duty responsible employee shall display the massage establishment permit in a conspicuous public place in the lobby of the ~~massage establishment~~business.
- (4) The hours of operation must be posted in the front window and clearly visible from the outside.
- (5) The operator and/or on-duty responsible employee must also post, on a daily basis in a conspicuous public place in the lobby, the name of the operator and/or on-duty responsible employee as well as all on-duty massage technicians.
- (6) "No loitering" signs shall be posted at the front and rear of the business. No outside waiting or seating area is permitted in accordance with section 602 of the Penal Code.
- (7) Employees shall be at least eighteen (18) years of age. There shall be a minimum of one (1) employee managing the business~~massage establishment~~ during all working hours. During each employee's working hours, the employee shall wear a city issued badge identifying the business and the employee's full name.
- (8) Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code, and the maximum occupancy load shall be posted at the main entrance.
- (9) Window areas shall not be covered or made opaque in any way. All windows and entrances must be unobstructed at all times.
- (10) Lighting levels on the premises within sixty (60) feet of the use and in all required parking areas shall be maintained at a minimum one (1) foot-candle of light.
- (11) No exterior pay phones shall be permitted.
- (12) Rear exits are prohibited unless required by either the building code or the fire code. When required, rear exit doors shall be kept in a locked closed position and shall have panic hardware.
- (13) No person shall be employed or permitted to act as a massage technician who is not in possession of a valid, un-revoked massage certificate and a photo identification card prepared and issued by the city as required in chapter 22 of this Code.

- (14) It shall be unlawful for any person to perform any massage upon a member of the general public while on the premises of a school of massage.
- (15) Residing in a chair massage, ancillary massage establishment, or massage establishment is prohibited. No person or persons shall be allowed to live, reside or dwell inside the business massage establishment at any time. No food of any kind shall be prepared for sale or sold in the establishment.
- (16) No interior doors may be locked during operating hours.

Section 42. Section 41-2109 (Requirements) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-2109. - Requirements.

An urban lot split must satisfy each of the following requirements:

(a) *Map Act Compliance.*

- (1) The urban lot split must conform to all applicable objective requirements of the Subdivision Map Act (Gov. Code section 66410 et. seq., "SMA") and implementing requirements in this Code, except as otherwise expressly provided in this division.
- (2) If an urban lot split violates any part of the SMA, the city's subdivision regulations, including this division, or any other legal requirement:
 - (A) The buyer or grantee of a lot that is created by the urban lot split has all the remedies available under the SMA, including, but not limited to, an action for damages or to void the deed, sale, or contract.
 - (B) The city has all the remedies available to it under the SMA, including, but not limited to, the following:
 - (i) An action to enjoin any attempt to sell, lease, or finance the property.
 - (ii) An action for other legal, equitable, or summary remedy, such as declaratory and injunctive relief.
 - (iii) Criminal prosecution, punishable by imprisonment in county jail or state prison for up to one (1) year, by a fine of up to ten thousand dollars (\$10,000.00), or both; or a misdemeanor.
 - (iv) Record a notice of violation.
 - (v) Withhold any or all future permits and approvals.

- (3) Notwithstanding section 66411.1 of the SMA, no dedication of rights-of-way or construction of offsite improvements is required for an urban lot split.
- (b) *Zone*. The lot to be split is in a zoning district that allows single-family residences.
- (c) *Lot Location*.
 - (1) The lot to be split is not located on a site that is any of the following:
 - (A) Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.
 - (B) A wetland.
 - (C) Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.
 - (D) A hazardous waste site that has not been cleared for residential use.
 - (E) Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
 - (F) Within a 100-year flood hazard area, unless the site has either:
 - (i) Been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction; or
 - (ii) Meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
 - (G) Within a regulatory floodway, unless all development on the site has received a no-rise certification.
 - (H) Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
 - (I) Habitat for protected species.
 - (J) Land under conservation easement.
 - (2) The applicant must provide evidence that the requirements of Government Code section 65913.4(a)(6)(B)-(K) are satisfied.

(d) *Not Historic.* The lot to be split must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance or resolution as a city or county landmark or as a historic property or district.

(e) *No Prior Urban Lot Split.*

(1) The lot to be split was not established through a prior urban lot split.

(2) The lot to be split is not adjacent to any lot that was established through a prior urban lot split by the owner of the lot to be split or by any person acting in concert with the owner.

(f) *No Impact on Protected Housing.*

(1) The urban lot split must not require or include the demolition or alteration of any of the following types of housing:

(A) Housing that is income-restricted for households of moderate, low, or very low income.

(B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.

(C) Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code sections 7060-7060.7) at any time in the fifteen (15) years prior to submission of the urban lot split application.

(D) Housing that has been occupied by a tenant in the last three (3) years.

(2) As part of the urban lot split application, the applicant and the owner of a property must provide a sworn statement by affidavit representing and warranting that subsection (f)(1) above is satisfied.

(A) The sworn statement must state the following:

(i) No housing that is income-restricted for households of moderate, low, or very low income will be demolished or altered.

(ii) No housing that is subject to any form of rent or price control will be demolished or altered.

(iii) No housing that has been withdrawn from rental or lease under the Ellis Act at any time in the last fifteen (15) years will be demolished or altered.

- (iv) No housing that has been occupied by a tenant in the last three (3) years will be demolished or altered.

(B) The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including, but not limited to, surveying owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

(g) *Lot Size.*

- (1) The lot to be split must be at least two thousand four hundred (2,400) square feet.
- (2) The resulting lots must each be at least one thousand two hundred (1,200) square feet.
- (3) Each of the resulting lots must be between forty (40) percent and sixty (60) percent of the original lot area.

(h) *Easements.*

- (1) The owner must enter into an easement agreement with each public-service provider to establish easements that are sufficient for the provision of public services and facilities to each of the resulting lots.
- (2) Each easement must be shown on the tentative parcel map.
- (3) Copies of the unrecorded easement agreements must be submitted with the application. The easement agreements must be recorded against the property before the final map may be approved, in accordance with section 41-2108(b).
- (4) If an easement is recorded and the project is not completed, making the easement moot, the property owner may request, and the city will provide, a notice of termination of the easement, which the owner may record.

(i) *Lot Access.*

- (1) Each resulting lot must adjoin a public street right-of-way that meets the established standards for its designated street classification as specified in the Mobility Element of the General Plan.
- (2) Each resulting lot must have frontage on the public street right-of-way of at least twelve and one-half (12.5) feet.
- (3) Vehicle access easement serving a maximum of two (2) units shall be a minimum of twelve (12) feet in width and shall have a minimum length of twenty (20) feet.

(j) *Unit Standards.*

- (1) *Quantity.* No more than two (2) dwelling units of any kind may be built on a lot that results from an urban lot split. For purposes of this paragraph, "unit" means any dwelling unit, including, but not limited to, a primary dwelling unit, a unit created under this article, an ADU, or a JADU.

(2) *Unit Size.*

- (A) The total floor area of each primary dwelling that is developed on a resulting lot must be:

- (i) Less than or equal to eight hundred (800); and
- (ii) More than five hundred (500) square feet.

- (B) A primary dwelling that was legally established prior to the urban lot split and that is larger than eight hundred (800) square feet is limited to the lawful floor area at the time of the urban lot split. It may not be expanded.

- (C) A primary dwelling that was legally established prior to the urban lot split and that is smaller than eight hundred (800) square feet may be expanded to eight hundred (800) square feet after the urban lot split.

(3) *Height Restrictions.*

- (A) On a resulting lot that is smaller than two thousand (2,000) square feet, no new primary dwelling unit may exceed two (2) stories or twenty-two (22) feet in height, measured from finished grade to peak of the structure. Any portion of a new primary dwelling that exceeds one (1) story must be stepped back by an additional five (5) feet from the ground floor; no balcony deck or other portion of the second story may project into the setback.

- (B) No rooftop deck is permitted on any new or remodeled dwelling or structure on a lot resulting from an urban lot split.

- (4) *Lot Coverage.* The maximum building coverage of net lot area shall be thirty-five (35) percent. If new structures are proposed to be one-story and be deed restricted to be maintained as one-story structures in perpetuity, a fifty (50) percent lot coverage is allowed. This lot coverage standard is only enforced to the extent that it does not prevent two (2) primary dwelling units on the lot at eight hundred (800) square feet each.

- (5) *Open Space.* Private open space shall be provided for each unit at a minimum of one hundred (100) square feet in the form of a private covered patio or deck. The minimum dimensions of such space shall be eight (8) feet in each direction. This open space standard is only enforced to the extent

that it does not prevent two (2) primary dwelling units on the lot at eight hundred (800) square feet each.

(6) *Setbacks.*

(A) *Generally.* All setbacks must conform to those objective setbacks that are imposed through the underlying zone.

(B) *Exceptions.* Notwithstanding subsection j(6)(A) above:

(i) *Existing Structures.* No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.

(ii) *Eight hundred (800) sf; four-foot side and rear.* The setbacks imposed by the underlying zone must yield to the degree necessary to avoid physically precluding the construction of up to two (2) units on the lot or either of the two (2) units from being at least eight hundred (800) square feet in floor area; but in no event may any structure be less than four (4) feet from a side or rear property line.

(C) *Front Setback Area.* Notwithstanding any other part of this Code, dwellings that are constructed after an urban lot split must be at least ~~twenty-five~~ (2025) feet from the front property lines. The front setback areas must:

(i) Be kept free from all structures greater than three (3) feet high;

(ii) Be at least fifty (50) percent landscaped with drought-tolerant plants, with vegetation and irrigation plans approved by a licensed landscape architect; and

(iii) Allow for vehicular and fire-safety access to the front structure.

(7) *Parking.* Each new primary dwelling unit that is built on a lot after an urban lot split must have at least one (1) off-street parking space per unit unless one (1) of the following applies:

(A) The lot is located within one-half ($\frac{1}{2}$) mile walking distance of either:

(i) A corridor with fixed route bus service with service intervals no longer than fifteen (15) minutes during peak commute hours; or

(ii) A site that contains:

(ia) An existing rail or bus rapid transit station; or

- (ib) The intersection of two (2) or more major bus routes with a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.

- (B) The site is located within one (1) block of a car-share vehicle location. A car-share vehicle shall mean a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization and provides hourly or daily service.

(8) *Architecture.*

- (A) If there is a legal primary dwelling on the lot that was established before the urban lot split, any new primary dwelling unit must match the existing primary dwelling unit in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
- (B) If there is no legal primary dwelling on the lot before the urban lot split, and if two (2) primary dwellings are developed on the lot, the dwellings must match each other in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
- (C) All new structures and conversions of existing accessory structures shall meet objective standards of Division 3 of this article.
- (D) If a dwelling is constructed on a lot after an urban lot split and any portion of the dwelling is less than three (3) feet from a property line that is not a public right-of-way line, then all windows and doors in that portion must either be (for windows) clerestory with the bottom of the glass at least six (6) feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.

(9) *Landscaping.*

- (A) The project shall be designed meeting all the landscaping standards of the Santa Ana Municipal Code set forth in section 41-240.
- (B) Evergreen landscape screening must be planted and maintained between each dwelling and adjacent lots (but not rights-of-way) as follows:
 - (i) At least one 15-gallon size plant shall be provided for every five (5) linear feet of exterior wall. Alternatively, at least one (1) 24-inch box size plant shall be provided for every ten (10) linear feet of exterior wall.

(ii) Plant specimens must be at least six (6) feet tall when installed. As an alternative, a solid fence of at least six (6) feet in height may be installed.

(iii) All landscaping must be drought-tolerant.

(iv) All landscaping must be from the city's approved plant list.

(10) *Nonconforming Conditions.* An urban lot split may be approved without requiring a legal nonconforming zoning condition to be corrected.

(11) *Utilities.*

(A) Each primary dwelling unit on the lot must have its own direct utility connection to the utility service provider.

(B) Notwithstanding subsection j(11)(A) above, a primary dwelling unit may have a direct utility connection to an onsite wastewater treatment system in accordance with this paragraph and the city's code. Each primary dwelling unit on the lot that is or that is proposed to be connected to an onsite wastewater treatment system must first have a percolation test completed within the last five (5) years or, if the percolation test has been recertified, within the last ten (10) years.

(C) All utilities must be underground.

(12) *Building and Safety.* All structures built on the lot must comply with all current local building standards. An urban lot split is a change of use.

(k) *Separate Conveyance.*

(1) *Within a resulting lot.*

(A) Primary dwelling units on a lot that is created by an urban lot split may not be owned or conveyed separately from each other.

(B) Condominium airspace divisions and common interest developments are not permitted on a lot that is created by an urban lot split.

(C) All fee interest in a lot and all dwellings on the lot must be held equally and undivided by all individual property owners.

(D) No timeshare, as defined by state law or this Code, is permitted. This includes any co-ownership arrangement that gives an owner the right to exclusive use of the property for a defined period or periods of time.

(2) *Between resulting lots.* Separate conveyance of the resulting lots is permitted. If dwellings or other structures (such as garages) on different lots are adjacent or attached to each other, the urban lot split boundary may

separate them for conveyance purposes if the structures meet building code safety standards and are sufficient to allow separate conveyance. If any attached structures span or will span the new lot line, the owner must record appropriate CC&Rs, easements, or other documentation that is necessary to allocate rights and responsibility between the owners of the two (2) lots.

(l) *Regulation of Uses.*

- (1) *Residential-only.* No non-residential use is permitted on any lot created by urban lot split.
- (2) *No short-term vacation rentals (STRs).* No dwelling unit on a lot that is created by an urban lot split may be rented for a period of less than thirty (30) days.
- (3) *Owner Occupancy.* The applicant for an urban lot split must sign an affidavit stating that the applicant intends to occupy one (1) of the dwelling units on one (1) of the resulting lots as the applicant's principal residence for a minimum of three (3) years after the urban lot split is approved.

(m) *Notice of Construction.*

- (1) At least thirty (30) business days before starting any construction of a structure on a lot created by an urban lot split, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:
 - (A) Notice that construction has been authorized;
 - (B) The anticipated start and end dates for construction;
 - (C) The hours of construction;
 - (D) Contact information for the project manager (for construction-related complaints); and
 - (E) Contact information for the Building & Safety Department.
- (2) This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this section. This notice requirement is purely to promote neighborhood awareness and expectation.

(n) *Deed Restriction.* The owner must record a deed restriction on each lot that results from the urban lot split, on a form approved by the city, that does each of the following:

- (1) Expressly prohibits any rental of any dwelling on the property for a period of less than thirty (30) days.
- (2) Expressly prohibits any non-residential use of the lots created by the urban lot split.
- (3) Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
- (4) Expressly requires that ~~any net new at least one (1) new~~ unit created as a result of the provisions of this Division be deed restricted for affordable housing at the following levels: ~~either very low, low or moderate income levels.~~
 - (A) Rental products shall be made affordable to very low or low income households.
 - (B) For-sale products shall be made affordable to moderate income households.
- (5) States that:
 - (A) The lot is formed by an urban lot split and is therefore subject to the city's urban lot-split regulations, including all applicable limits on dwelling size and development.
 - (B) Development on the lot is limited to development of residential units under Divisions 2 and 3 of this article, except as required by State law.

Section 43. Section 41-2115 (Requirements) of Chapter 41 of the SAMC is hereby amended to read as follows:

Sec. 41-2115. - Requirements.

A two-unit project must satisfy each of the following requirements:

- (a) *Map Act Compliance.* The lot must have been legally subdivided.
- (b) *Zone.* The lot is in a single-family residential zone.
- (c) *Lot Location.*

- (1) The lot is not located on a site that is any of the following:
 - (A) Prime farmland, farmland of statewide importance, or land that is zoned or designated for agricultural protection or preservation by the voters.
 - (B) A wetland.

- (C) Within a very high fire hazard severity zone, unless the site complies with all fire-hazard mitigation measures required by existing building standards.
- (D) A hazardous waste site that has not been cleared for residential use.
- (E) Within a delineated earthquake fault zone, unless all development on the site complies with applicable seismic protection building code standards.
- (F) Within a 100-year flood hazard area, unless the site has either:
 - (i) Been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local jurisdiction; or
 - (ii) Meets Federal Emergency Management Agency requirements necessary to meet minimum flood plain management criteria of the National Flood Insurance Program.
- (G) Within a regulatory floodway, unless all development on the site has received a no-rise certification.
- (H) Land identified for conservation in an adopted natural community conservation plan, habitat conservation plan, or other adopted natural resource protection plan.
- (I) Habitat for protected species.
- (J) Land under conservation easement.
- (2) The applicant must provide evidence that the requirements of Government Code section 65913.4(a)(6)(B)-(K) are satisfied.
- (d) *Not Historic*. The lot must not be a historic property or within a historic district that is included on the State Historic Resources Inventory. Nor may the lot be or be within a site that is designated by ordinance or resolution as a city or county landmark or as a historic property or district, or a structure of merit. A structure of merit is defined as meeting one or more of the following:
 - (1) It is associated with events that have made a significant contribution in our past.
 - (2) It is associated with the lives of persons significant in our past.
 - (3) It embodies the distinctive characteristics of a type, period, architectural style or method of construction, or represents the work of a master, or

possesses high artistic or historic value, or represents a significant and distinguishable collection whose individual components may lack distinction.

- (4) It yields, or may be likely to yield, information important in prehistory or history.
- (5) Its unique location or singular physical characteristic represents an established and familiar visual feature of a neighborhood.

(e) *No Impact on Protected Housing.*

- (1) The two-unit project must not require or include the demolition or alteration of any of the following types of housing:
 - (A) Housing that is income-restricted for households of moderate, low, or very low income.
 - (B) Housing that is subject to any form of rent or price control through a public entity's valid exercise of its policy power.
 - (C) Housing, or a lot that used to have housing, that has been withdrawn from rental or lease under the Ellis Act (Gov. Code sections 7060-7060.7) at any time in the fifteen (15) years prior to submission of the urban lot split application.
 - (D) Housing that has been occupied by a tenant in the last three (3) years.
- (2) As part of the two-unit project application, the applicant and the owner of a property must provide a sworn statement by affidavit representing and warranting that subsection (e)(1) above is satisfied.
 - (A) The sworn statement must state the following:
 - (i) No housing that is income-restricted for households of moderate, low, or very low income will be demolished or altered.
 - (ii) No housing that is subject to any form of rent or price control will be demolished or altered.
 - (iii) No housing that has been withdrawn from rental or lease under the Ellis Act at any time in the last fifteen (15) years will be demolished or altered.
 - (iv) No housing that has been occupied by a tenant in the last three (3) years will be demolished or altered.

- (B) The city may conduct its own inquiries and investigation to ascertain the veracity of the sworn statement, including, but not limited to, surveying owners of nearby properties; and the city may require additional evidence of the applicant and owner as necessary to determine compliance with this requirement.

(f) *Unit Standards.*

(1) *Quantity.*

- (A) No more than two (2) dwelling units of any kind may be built on a lot that results from an urban lot split. For purposes of this paragraph, "unit" means any dwelling unit, including, but not limited to, a primary dwelling unit, a unit created under this article, an ADU, or a JADU.
- (B) A lot that is not created by an urban lot split may have a two-unit project under this section, plus any ADU or JADU that must be allowed under state law and the city's ADU ordinance.

(2) *Unit Size.*

- (A) The total floor area of each primary dwelling built that is developed under this section must be:
 - (i) Less than or equal to eight hundred (800); and
 - (ii) More than five hundred (500) square feet.
- (B) A primary dwelling that was legally established on the lot prior to the two-unit project and that is larger than eight hundred (800) square feet is limited to the lawful floor area at the time of the two-unit project. The unit may not be expanded.
- (C) A primary dwelling that was legally established prior to the two-unit project and that is smaller than eight hundred (800) square feet may be expanded to eight hundred (800) square feet after or as part of the two-unit project.

(3) *Height Restrictions.*

- (A) On a lot that is smaller than two thousand (2,000) square feet, no new primary dwelling unit may exceed two (2) stories or twenty-two (22) feet in height, measured from grade to peak of the structure. Any portion of a new primary dwelling that exceeds one (1) story must be stepped back by an additional five (5) feet from the ground floor; no balcony deck or other portion of the second story may project into the setback.
- (B) No rooftop deck is permitted on any new or remodeled dwelling or structure on a lot with a two-unit project.

- (4) *Demo Cap.* The two-unit project may not involve the demolition of more than twenty-five (25) percent of the existing exterior walls of an existing dwelling unless the site has not been occupied by a tenant in the last three (3) years.
- (5) *Lot Coverage.* The maximum building coverage of net lot area shall be thirty-five (35) percent. If new structures are proposed to be one-story and be deed restricted to be maintained as one-story structures in perpetuity, a fifty (50) percent lot coverage is allowed. This lot coverage standard is only enforced to the extent that it does not prevent two (2) primary dwelling units on the lot at eight hundred (800) square feet each.
- (6) *Open Space.* Private open space shall be provided for each unit at a minimum of one hundred (100) square feet in the form of a private covered patio or deck. The minimum dimensions of such space shall be eight (8) feet in each direction. This open space standard is only enforced to the extent that it does not prevent two (2) primary dwelling units on the lot at eight hundred (800) square feet each.
- (7) *Setbacks.*
 - (A) *Generally.* All setbacks must conform to those objective setbacks that are imposed through the underlying zone.
 - (B) *Exceptions.* Notwithstanding subsection (f)(7)(A) above:
 - (i) *Existing Structures.* No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.
 - (ii) *Eight hundred (800) sf; four-foot side and rear.* The setbacks imposed by the underlying zone must yield to the degree necessary to avoid physically precluding the construction of up to two (2) units on the lot or either of the two (2) units from being at least eight hundred (800) square feet in floor area; but in no event may any structure be less than four (4) feet from a side or rear property line.
 - (C) *Front Setback Area.* Notwithstanding any other part of this Code, dwellings that are constructed under this section must be at least twenty (20) feet from the front property lines. The front setback area must:
 - (i) Be kept free from all structures greater than three (3) feet high;
 - (ii) Be at least fifty (50) percent landscaped with drought-tolerant plants, with vegetation and irrigation plans approved by a licensed landscape architect; and

- (iii) Allow for vehicular and fire-safety access to the front structure.
 - (D) *Interior Side Yard and Rear Yard Setbacks.* Dwelling units must provide a minimum of four-foot interior side yard and rear yard setbacks for the property line.
 - (E) *Corner Lot Setbacks for side yards abutting a street.* Dwellings that are constructed pursuant to Divisions 2 and 3 of this article must provide setbacks at least ten (10) feet from the side yard abutting the street.
 - (F) *Existing Structures.* No setback is required for an existing legally established structure or for a new structure that is constructed in the same location and to the same dimensions as an existing legally established structure.
- (8) *Parking.* Each new primary dwelling unit must have at least one (1) off-street parking space per unit unless one (1) of the following applies:
- (A) The lot is located within one-half ($\frac{1}{2}$) mile walking distance of either:
 - (i) A corridor with fixed route bus service with service intervals no longer than fifteen (15) minutes during peak commute hours; or
 - (ii) A site that contains:
 - (ia) An existing rail or bus rapid transit station; or
 - (ib) The intersection of two (2) or more major bus routes with a frequency of service interval of fifteen (15) minutes or less during the morning and afternoon peak commute periods.
 - (B) The site is located within one (1) block of a car-share vehicle location. A car-share vehicle shall mean a motor vehicle that is operated as part of a regional fleet by a public or private car sharing company or organization and provides hourly or daily service.
- (9) *Architecture.*
- (A) If there is a legal primary dwelling on the lot that was established before the two-unit project, any new primary dwelling unit must match the existing primary dwelling unit in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.
 - (B) If there is no legal primary dwelling on the lot before the two-unit project, and if two (2) primary dwellings are developed on the lot, the dwellings

must match each other in exterior materials, color, and dominant roof pitch. The dominant roof slope is the slope shared by the largest portion of the roof.

- (C) New roofing and siding materials that are shiny, mirror-like, or of a glossy metallic finish are prohibited.
- (D) All exterior lighting must be limited to down-lights.
- (E) No window or door of a dwelling that is constructed on the lot may have a direct line of sight to an adjoining residential property. Fencing, landscaping, or privacy glass may be used to provide screening and prevent a direct line of sight.
- (F) If any portion of a dwelling is less than thirty (30) feet from a property line that is not a public right-of-way line, then all windows and doors in that portion must either be (for windows) clerestory with the bottom of the glass at least six (6) feet above the finished floor, or (for windows and for doors) utilize frosted or obscure glass.
- (G) New skylights shall have flat glass panes. "Bubble" or dome type skylights are prohibited.
- (H) The roof pitch/slope and roof style (e.g. hip, gable, mansard) of the proposed unit addition shall be the same as the primary dwelling.
- (I) If a garage is converted to new unit, the garage door opening shall be replaced with exterior wall coverings, or residential window and doors, to match the existing exterior garage wall covering and detailing.
- (J) Additions or new construction shall comply with the following:
 - (i) On a site already developed with an existing residential unit, the new unit shall be designed and constructed to match the existing paint color and exterior building materials, including but the limited to siding, windows, doors, roofing, light fixtures, hardware, and railings.
 - (ii) If residential development is propped on a lot where not residential units currently exist, the units shall be constructed using the same architectural style, exterior building materials, colors and finishes.
 - (iii) The size of the common indoor living areas of a dwelling unit, such as the living room, dining room, kitchen, family room, etc. must be equal to, or greater than, the square footage of bedrooms provided.

- (iv) Direct exterior access from a first-floor bedroom to the exterior of the dwelling unit shall be through a sliding door or double French door.
- (v) Upper story unenclosed landings, decks, and balconies greater than twenty (20) square feet that face or overlook an adjoining property, shall be located a minimum of fifteen (15) feet from the interior lot lines.
- (vi) Water heaters (excluding tank less water heaters) and laundry facilities (washer and dryer) may not be located on the exterior of a dwelling unit.
- (vii) Upper story unenclosed landings, decks, and balconies, that do not face or overlook an adjoining property due to orientation or topography, may be located at the located at the minimum as allowed by the underlying zone interior setback line if an architectural screening element such as enclosing walls, trellises, awning, or perimeter planters with a five-foot minimum height is incorporated into the unenclosed landing, deck, or balcony.
- (viii) Upper story windows located within fifteen (15) feet of an interior lot line and face or overlook an adjoining property shall be installed a minimum of forty-two (42) inches above finish floor.

(10) *Landscaping.* Evergreen landscape screening must be planted and maintained between each dwelling and adjacent lots (but not rights-of-way) as follows:

- (A) At least one (1) 15-gallon size plant shall be provided for every five (5) linear feet of exterior wall. Alternatively, at least one (1) 24-inch box size plant shall be provided for every ten (10) linear feet of exterior wall.
- (B) Plant specimens must be at least six (6) feet tall when installed. As an alternative, a solid fence of at least six (6) feet in height may be installed.
- (C) All landscaping must be drought-tolerant.
- (D) All landscaping must be from the city's approved plant list.

(11) *Nonconforming Conditions.* A two-unit project may only be approved if all nonconforming zoning conditions are corrected.

(12) *Utilities.*

(A) Each primary dwelling unit on the lot must have its own direct utility connection to the utility service provider.

(B) Notwithstanding paragraph subsection (f)(12)(A) above, a primary dwelling unit may have a direct utility connection to an onsite wastewater treatment system in accordance with this paragraph and the city's code. Each primary dwelling unit on the lot that is or that is proposed to be connected to an onsite wastewater treatment system must first have a percolation test completed within the last five (5) years or, if the percolation test has been recertified, within the last ten (10) years.

(C) All utilities must be underground.

(13) *Building and Safety*. All structures built on the lot must comply with all current local building standards. A project under this section is a change of use and subjects the whole of the lot, and all structures, to the city's current code.

(g) *Separate Conveyance*.

(1) Primary dwelling units on the lot may not be owned or conveyed separately from each other.

(2) Condominium airspace divisions and common interest developments are not permitted within the lot.

(3) All fee interest in the lot and all the dwellings must be held equally and undivided by all individual property owners.

(A) No timeshare, as defined by state law or this Code, is permitted. This includes any co-ownership arrangement that gives an owner the right to exclusive use of the property for a defined period or periods of time.

(h) *Regulation of Uses*.

(1) *Residential-only*. No non-residential use is permitted on the lot.

(2) *No short term rentals (STRs)*. No dwelling unit on the lot may be rented for a period of less than thirty (30) days.

(3) *Owner Occupancy*. Unless the lot was formed by an urban lot split, the individual property owners of a lot with a two-unit project must occupy one (1) of the dwellings on the lot as the owners' principal residence and legal domicile.

(i) *Notice of Construction*.

- (1) At least thirty (30) business days before starting any construction of a two-unit project, the property owner must give written notice to all the owners of record of each of the adjacent residential parcels, which notice must include the following information:
 - (A) Notice that construction has been authorized.
 - (B) The anticipated start and end dates for construction.
 - (C) The hours of construction.
 - (D) Contact information for the project manager (for construction-related complaints).
 - (E) Contact information for the Building and Safety Department.
 - (2) This notice requirement does not confer a right on the noticed persons or on anyone else to comment on the project before permits are issued. Approval is ministerial. Under state law, the City has no discretion in approving or denying a particular project under this article. This notice requirement is purely to promote neighborhood awareness and expectation.
- (j) *Deed Restriction.* The owner must record a deed restriction, on a form approved by the city, that does each of the following:
- (1) Expressly prohibits any rental of any dwelling on the property for a period of less than thirty (30) days.
 - (2) Expressly prohibits any non-residential use of the lot.
 - (3) Expressly prohibits any separate conveyance of a primary dwelling on the property, any separate fee interest, and any common interest development within the lot.
 - (4) If the lot does not undergo an urban lot split: Expressly requires the individual property owners to live in one (1) of the dwelling units on the lot as the owners' primary residence and legal domicile.
 - (5) Expressly requires that any net new~~at least one (1) new~~ unit created be deed restricted for affordable housing at the following levels: ~~either very low, low or moderate income levels.~~
 - (A) Rental products shall be made affordable to very low or low income households.
 - (B) For-sale products shall be made affordable to moderate income households.

- (6) Limits development of the lot to residential units that comply with the requirements of this section, except as required by state law.

Section 44. Table 3-2 (Permitted Uses) of the Harbor Mixed Use Transit Corridor Specific Plan (Specific Plan No. 2) is hereby amended as per Exhibit A of this Ordinance to delete reference to “Child day care - more than 8 and up to 14 children” in its entirety.

Section 45. The definition of “Personal services – restricted” as appearing in the Harbor Mixed Use Transit Corridor Specific Plan (Specific Plan No. 2) “Definitions” section is hereby amended as per Exhibit A of this Ordinance to clarify the use, the section referenced in the SAMC, and applicable standards.

Section 46. Table 2A (Use Standards) of Section 41-2007 of the Transit Zoning Code (Specific Development No. 84) is hereby amended as per Exhibit B of this Ordinance to delete reference to “Child day care - more than 8 and up to 14 children” in its entirety.

Section 47. The definition of “Personal Services – restricted” as appearing in Section 41-2080 of the Transit Zoning Code (Specific Development No. 84) is hereby amended as per Exhibit B of this Ordinance to clarify the use, section referenced in the SAMC, and applicable standards.

Section 48. Table 3 (Permitted Land Uses) of Section 4.1 of the Metro East Mixed-Use Overlay Zone is hereby amended as per Exhibit C of this Ordinance to replace all references to “Child care facilities” with “Daycare centers,” and to expressly permit and require a conditional use permit for massage establishments in two districts within the plan area.

Section 49. Table 3 (Permitted Land Uses) of Section 4.1 of the Metro East Mixed-Use Overlay Zone is hereby amended as per Exhibit C of this Ordinance to include a reference to “Massage establishments” and to permit them subject to a conditional use permit in the Village Center and Active Urban districts of the overlay.

Section 50. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Santa Ana hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 51. This ordinance shall become effective thirty (30) days after its adoption.

Section 52. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____, 2023.

Mayor

APPROVED AS TO FORM
Sonia R. Carvalho, City Attorney

By: John M. Funk
John M. Funk
Chief Assistant City Attorney

AYES: Councilmembers: _____
NOES: Councilmembers: _____
ABSTAIN: Councilmembers: _____
NOT PRESENT: Councilmembers: _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, _____, Clerk of the Council, do hereby attest to and certify that the attached Ordinance No. NS-_____ to be the original ordinance adopted by the City Council of the City of Santa Ana on _____, and that said ordinance was published in accordance with the Charter of the City of Santa Ana.

Date: _____

Clerk of the Council
City of Santa Ana