

ORDINANCE NO. 1016

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING THE DEL MAR MUNICIPAL CODE (ZONING CODE) CHAPTER 30.22 CENTRAL COMMERCIAL (CC) ZONE REGULATIONS AND CHAPTER 30.31 PUBLIC FACILITIES (PF) ZONE AS ADOPTED BY PROSPECTIVE ORDINANCE NO. 1006; AND AMENDING THE CITY'S CERTIFIED LOCAL COASTAL PROGRAM (LCP) BY AMENDING THE LCP "LAND USE DESIGNATIONS/ALLOWED USES" LIST IN THE LCP LAND USE PLAN; AND AMENDING THE LCP "ZONING USE DESIGNATIONS/ALLOWED USES" LIST IN THE LCP IMPLEMENTATION PLAN; ALL RELATING TO AMENDMENTS REQUIRED BY THE CALIFORNIA COASTAL COMMISSION AS A CONDITION OF APPROVAL FOR THE CITY TO OBTAIN FINAL CERTIFICATION OF THE ORDINANCES NEEDED FOR IMPLEMENTATION OF THE 6TH CYCLE HOUSING ELEMENT PROGRAMS 1C (CC ZONE) AND 1H (PF ZONE)

WHEREAS, the City's certified 6th Cycle Housing Element includes commitments identified in Program 1C (Central Commercial), Program 1H (Public Facilities), and Program 6B (Fair Housing) to increase local housing capacity by amending the City's Community Plan (General Plan), Del Mar Municipal Code (DMMC), and Local Coastal Program (LCP); and

WHEREAS, in a noticed public hearing on February 21, 2024, the Planning Commission recommended the City Council approve the CEQA determination and adopt amendments to the Central Commercial (CC) Zone and Public Facilities (PF) Zone land use designations and regulations in the Del Mar Community Plan, DMMC, and LCP with the stipulation that new project development will apply the maximum height of the certified LCP based on the local topography which slopes downward from east to west, the protection of existing public scenic views, and the need to maintain the existing pedestrian scale in accordance with the Del Mar Community Plan and certified LCP; and

WHEREAS, on April 1, 2024, the City Council approved the CEQA determination and adopted amendments to the Del Mar Community Plan to implement the City's 6th Cycle Housing Element commitments identified in Program 1C (Central Commercial), Program 1H (Public Facilities), and Program 6B (Fair Housing); and

WHEREAS, on April 15, 2024, the City Council adopted Ordinance No. 1006 with companion amendments required by Housing Element Programs 1C, 1H, and 6B amending the Del Mar Municipal Code and Local Coastal Program (LCP) for the Central Commercial (CC) Zone and Public Facilities (PF) Zone; and

WHEREAS, City staff engaged in extensive public outreach to encourage public participation in formulating these adopted regulations, which included articles posted on

the City's website, multiple announcements made in the City's weekly updates, and multiple announcements made during public meetings including the Planning Commission and City Council meetings; and

WHEREAS, the whole of the City of Del Mar is located entirely within the "Coastal Zone" boundary and is therefore subject to full compliance with the California Coastal Act; and

WHEREAS, in order to effectively implement applicable State housing laws, the City must harmonize the Coastal Act and the City's LCP policies and regulations with the State housing laws to ensure protection of sensitive coastal resources, protection of public coastal view sheds, provide coastal parking to ensure public access, and protect the public health and safety of residents and visitors; and

WHEREAS, on February 6, 2025, the California Coastal Commission voted to conditionally certify the City's CC/PF Ordinance/LCPA with modifications imposed as a condition of approval; and

WHEREAS, on March 21, 2025, the notice of City Council public hearing was published in the Coast News and mailed notices were sent to all interested parties; and

WHEREAS, the required CCC modifications have been incorporated herein; and

WHEREAS, adoption of this Ordinance (allowing 20 dwelling units per acre density in the Central Commercial and Public Facilities Zones, subject to specific criteria and development context specific factors) allows the City to obtain final certification approval from the California Coastal Commission and to complete its implementation of the 6th Cycle Housing Element commitments, allowing the City to maintain compliance with State law and avoid decertification of its Housing Element.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Del Mar, California, based on substantial evidence in the whole of the administrative record, hereby finds and declares the following:

1. The foregoing Findings and with the incorporation of the above stated Recitals are true and correct and are integrated into this action.
2. The Del Mar Community Plan land use designations for Central Commercial and Public Facilities adopted by Resolution on April 1, 2024, and the amendments to the Local Coastal Program and Zoning Code (Del Mar Municipal Code Title 30) in prospective Ordinance No. 1006 adopted April 15, 2024, and this Ordinance are consistent with State law requirements (California Government Code Section 65860 et seq) that requires that land use and zoning designations be consistent as applied to site development.

3. The CC Zone applies to the majority of land within the City's Village Center, which is a pedestrian-oriented downtown that runs along Camino del Mar between 9th Street and 15th Street. This area is Del Mar's principal commercial, visitor-serving, small-scale, pedestrian oriented downtown, which includes scenic blue water ocean views. The existing regulations limit building height to twenty-six (26) feet above grade and a maximum of fourteen (14) feet above the curb elevation on the west side of Camino del Mar. The applicable Community Plan and LCP policies reflect the community vision to maintain the unique, small-town character and strong community identity through building design and height limits, which preserve ocean views and promote an open space small-town atmosphere.
4. Within the CC Zone, there is one developed multi-tenant commercial property known as "Stratford Square" that is located at 1438 Camino del Mar in the Historic Preservation Overlay Zone. The property is a fully occupied commercial property that is small in size at 0.21 acres (9,375 sf). While the property may become eligible to process a Density Bonus project per State DBL as a result of the density increase to 20 dwelling units per acre, any proposed development would be required to be consistent with State and Federal law, including provisions for protection of historic resources and ensure protection of public health and safety.
5. The PF zone applies to ten public facilities, all of which are City-owned with the exception of the Del Mar Library (County-owned) and U.S. Post Office (Federally-owned). A Sites Analysis identified housing development potential for nine public facilities in the PF Zone including: the vacant 10th Street and 28th Street lots in the City's 6th Cycle Housing Element, the Del Mar Civic Center, Del Mar Library, United States Post Office, and four water towers (Pine Needles, Crest, 11th Street, and Zuni). Shores Park was explicitly excluded as a potential site for housing in the certified 6th Cycle Housing Element.
6. Within the PF Zone, there is one vacant property at 28th Street that is located within the floodplain identified by the Federal Emergency Management Agency (FEMA) as subject to periodic inundation due to flooding as identified by best available science, are being exacerbated by climate change and sea level rise (existing and projected). Applicable federal, state, and local regulations ensure that new development in the floodplain will be appropriately sited and constructed so as to avoid flood hazards to those who will occupy the development; and to avoid damage or hazards to the surrounding area. On a citywide basis, the City is addressing projected flood conditions to minimize flood risk through adaptation mitigation measures. These measures are consistent with the adopted City of Del Mar Sea Level Rise Adaptation Plan (Environmental Science Associates October 2018). Currently, the City has an existing system of shoreline protection along the shoreline in the North Beach neighborhood, which has been maintained in accordance with the Beach Preservation Initiative and the Beach Overlay Zone policies and regulations in the City's certified Local Coastal Program. In addition, the City has a Sand Compatibility Opportunistic Use Program in place to facilitate sediment management and maintenance of a wide beach and is in process of

preparing a conceptual plan for a living levee, vegetated berm system, to provide flood adaptation along the banks of the San Dieguito River in accordance with the City's adopted Sea Level Rise Adaptation Plan and the Coastal Act. All new development, including the City-owned vacant 28th Street parcel, must demonstrate how the proposed development will implement adaptation measures to minimize flood damage and avoid flood hazards in accordance with the City's certified LCP and the California Coastal Act Chapter 3, Article 6, Section 30253(a) (Cal. Pub. Res. Code Section 30253(a)). These protections will be further enhanced through the requirement for disclosure of applicable overlay zones (i.e., location of the City-owned 28th Street vacant lot in the Floodplain Overlay Zone).

7. There are no identified environmentally sensitive coastal resources or environmentally sensitive habitat areas that are located within the CC Zone or PF Zone. Protection of these natural habitats and environmentally sensitive resources is a cornerstone of the Coastal Act found in the California Coastal Act Chapter 3, Article 6, Section 30240 (Cal. Pub. Res. Code Section 30240). State Density Bonus law specifically provides that coastal resource protections found in the California Coastal Act are not to be superseded or its effects lessened.
8. Within the CC Zone and PF Zone and surrounding neighborhoods there are public scenic view corridors to coastal resources that are protected under the California Coastal Act. Consistent with the Coastal Act Chapter 3, Article 6, Section 30251, these scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas. (See: Cal. Pub. Res. Code Sec. 30251). New development in highly scenic areas such as those designated in the California Coastline preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting. (See: cal. Pub. Res. Code Section 30251).
9. In order to protect coastal resources and public access, State DBL does not supersede or lessen the effect of the California Coastal Act. (Cal. Gov. Code. Sec. 65915(m)). Density Bonus project development may not obstruct the public scenic and visual qualities of the City's coastal areas. To be consistent with the mandates of the California Coastal Act, building restricted easements are enforced and certain height restrictions, including the existing certified height limit of 26 feet above grade and a maximum of 14 feet above the curb elevation on the west side of Camino del Mar, may be enforced on Density Bonus project development to ensure protection of public scenic coastal vistas.
10. Application of the existing height in the certified LCP for the CC Zone will implement the Del Mar Community Plan and certified LCP Land Use Plan policies to maintain pedestrian scale and preserve public scenic views that exist throughout the CC Zone due to the topography which slopes from the hill above to the east of the CC Zone down toward the south beach shoreline located west of the CC Zone.

NOW THEREFORE, BE IT FURTHER RESOLVED, that the City Council of the City of Del Mar hereby ordains as follows:

SECTION ONE: That DMMC Section 30.22.031 for the CC Zone shall be amended to read as follows:

30.22.031 Allowance for Multi-Dwelling Unit Residential Use

- A. Multiple dwelling unit residential use (0-20 dwelling units per acre) is an allowed use in the CC zone for mixed use projects that include an affordable housing component for lower income households. The minimum amount of affordable housing units included in a project must be calculated in accordance with Chapter 24.21 and provided on site. Any fractional unit obligation shall be rounded up.
- B. Proposed multiple dwelling unit development shall maintain a pedestrian-oriented, predominately retail village character, with attractive walkways and courts which encourage social interaction.
- C. Project design shall maintain public scenic views and public access protections consistent with the certified Local Coastal Program.

SECTION TWO: That DMMC Section 30.31.020 (PF Zone Allowed Uses) shall be amended as follows:

30.31.020 Allowable Uses

The following uses are allowable in the PF Zone:

- A. Public schools.
- B. Private schools that are open to the public and whose primary function is providing educational programs for pre-school students and students in grades K through 12.
- C. City, county, state and federal buildings and uses, including:
 - Administrative offices
 - Fire and police stations
 - Public works buildings
 - Public meeting rooms or chambers
 - Libraries
 - Postal offices
 - Public parking facilities
 - Public parks and playgrounds
- D. Utility structures, such as: Pump stations and water tanks

- E. With the exception of the Shores Park site (APNs 300-200-01, 300-200-02, 300-200-22, 300-200-23), multiple dwelling unit residential (at a density of 0-20 dwelling units per acre or the maximum number of dwelling unit specified for the parcel in the certified Housing Element, whichever is greater) that includes affordable housing for lower income households shall be an allowed use in the PF zone. State law defines a lower income household as people or families whose gross income does not exceed 80 percent of Area Median Income (AMI) and includes low income, very low income, and extremely low-income households.
1. Proposed multiple dwelling unit residential development shall comply with the maximum height and setbacks specified in Section 30.31.070 and with the maximum floor area and lot coverage applicable to adjacent properties with a common boundary in accordance with the certified Local Coastal Program.
 2. Project design shall maintain public scenic views and public access protections consistent with the certified Local Coastal Program.
 3. Prior to issuance of a Coastal Development Permit for the 28th Street parcel, located within the special flood hazard area identified on the most recent FEMA Flood Insurance Rate Map (FIRM), the project shall demonstrate compliance with the following conditions of approval:
 - a. Development shall be located and designed, including elevation and flood proofing, to minimize flood damage and flood hazards, including with consideration of sea level rise.
 - b. Development shall comply with the certified Local Coastal Program.
 - c. Owners and successors in interest of any development on the 28th Street parcel shall notify dwelling unit occupants of all overlay zones applicable to the property.

SECTION THREE: That the City's certified Local Coastal Program Land Use Plan Chapter II Land Use Development policies for the Village Center District shall be amended as follows:

C. LAND USE DEVELOPMENT GOALS AND POLICIES - BY DISTRICT

9. Village Center District

This area is designated primarily as Central Commercial (CC) and is Del Mar's principal commercial, visitor serving and professional area. The Village Center is a pedestrian-oriented downtown that is intended to group housing, retail services, and commercial services with facilities for civic and community activities. It extends along both sides of Camino del Mar, beginning at 9th Street and reaching north to 15th Street. The District

contains the site of the U.S. Post Office, City Hall, and City of Del Mar's branch of the County of San Diego Library designated as PF (Public Facilities) on the Land Use Map.

Multiple specific plan areas are also included in the Village District. The Specific Plan for the Del Mar Hotel, (HSP west side of Camino del Mar at 15th Street) generally limits the uses on the site to a hotel, timeshare and short term rental units and associated retail uses. The Specific Plan for the Del Mar Plaza, (PSP east side of Camino del Mar at 15th Street) generally limits the uses on site to restaurant and retail uses with a small percentage allowed for office use. The 941 Camino del Mar Specific Plan (941SP east side of Camino del Mar at 10th Street) generally limits the uses to a combination of restaurant, retail, short term rental, and residential uses. Each of the Specific Plan areas devotes a portion of the property to public and quasi-public use. Each of these specific plans were voter approved and require a recorded Development Agreement between the City and the developer/property owner. Where a particular conflict arises between the provisions of a valid and recorded Development Agreement and any policies of this Land Use Plan that have been subsequently adopted, the former shall continue to be binding and shall supersede the subsequently adopted policies of this Land Use Plan. Subsequent development agreements or amendments to existing Development Agreements shall be consistent with the Land Use Plan in effect at the time.

The CC (Central Commercial) designation encompasses the majority of land within the Village District. The CC designation allows for a variety of commercial uses aimed at serving the needs of both residents and visitors to the area. Due to the City's popularity as a visitor-destination point, the majority of the property in the CC Zone has been developed with uses that serve both residents and visitors. The Central Commercial area allows pedestrian-oriented retail activities, commercial services and a limited number of offices; and multiple dwelling unit residential (0-20 dwelling units per acre) in non-street fronting building spaces (except as permitted by DMMC Section 30.22.033) that includes affordable housing for lower income households and is designed consistent with the policy intent to retain a pedestrian-oriented downtown and compliance with the certified Local Coastal Program. State law defines a lower income household as people or families whose gross income does not exceed 80 percent of Area Median Income (AMI) and includes low income, very low income, and extremely low-income households.

In order to facilitate the demand for more goods and services, the following policies have been developed to better utilize the commercially designated land in the Village Center District.

- a. In the Village Center District, large single purpose businesses, and businesses catering to an automotive public (drive-through banks, drive through food stands, etc.) shall be discouraged.
- b. In the Village Center District, building designs which incorporate a unique and small-town character shall be encouraged and building designs which are based on a corporate identity or logo shall be discouraged.

- c. In the Village Center District, retail enterprises whose primary purposes are to satisfy the needs of the community and enhance the quality and convenience of life in Del Mar shall be encouraged.
- d. In the Central Commercial portion of the Village Center District, retail uses shall be encouraged over office uses for floor area located at the street level of structures fronting Camino del Mar. Residential uses shall not be permitted in street-fronting building spaces (except as permitted by DMMC Section 30.22.033).
- e. While some office space is desirable, it shall be concentrated in the southern portion of the Village Center District.
- f. In addition to a variety of commercial businesses, the Village Center District should have a Community Center, complete with Council Chambers, City Hall, Library and Communications Center; attractive walkways, and a variety of open spaces such as courts and landscaped areas.
- g. Pedestrian-oriented streetscape which promotes social interaction, pedestrian use and a strong community identity shall be encouraged in the Village Center District.
- h. In the Village Center District, structures shall be in keeping with the pedestrian scale and village character of the community.
- i. In the Village Center District, structures shall be of an architectural style which retains a low scale intensity of development, utilizes designs which preserve ocean views, and promotes an open space small-town atmosphere.

[No change to #10]

SECTION FOUR: That the City's certified Local Coastal Program Land Use Plan Map "Land Use Designations/Allowed Uses" descriptions for the CC Zone and the PF Zone be amended as follows:

LAND USE DESIGNATIONS/ALLOWED USES

[No change to R1-40 through CVPP]

CC - Retailing of goods and dispensing of services, (exclusive of drive-through). Shops, Delis, Restaurants, Cafes, florists, Hardware, Offices, Financial institutions, Pharmacies, Gasoline service stations*, Bars*, Cocktail lounges*, Theatres*, Vet clinics*, Hotels/Motels*, and multiple dwelling unit residential (0-20 dwelling units per acre) in non-street fronting building spaces (except as permitted by DMMC Section 30.22.033) that includes affordable housing for lower income households. State law defines a lower

income household as people or families whose gross income does not exceed 80 percent of Area Median Income (AMI) and includes low income, very low income, and extremely low-income households.

[No change to BC through PSP]

SECTION FIVE: That the City's certified Local Coastal Program Zoning Map "Zoning Use Designations/Allowed Uses" descriptions for the CC Zone and the PF Zone be amended as follows:

ZONING USE DESIGNATIONS/ALLOWED USES

[No change to R1-40 through CVPP]

CC - Retailing of goods and dispensing of services, (exclusive of drive-through). Shops, Delis, Restaurants, Cafes, Florists, Hardware, Offices, Financial institutions, Pharmacies, Gasoline service stations*, Bars*, Cocktail lounges*, Theatres*, Vet clinics*, Hotels/Motels*, and multiple dwelling unit residential (0-20 dwelling units per acre) in non-street fronting building spaces (except as permitted by DMMC Section 30.22.033) that includes affordable housing for lower income households. State law defines a lower income household as people or families whose gross income does not exceed 80 percent of Area Median Income (AMI) and includes low income, very low income, and extremely low-income households.

[No change to BC through PP]

PF - Public schools; City, County, State and Federal buildings; Utility structures; and with the exception of the Shores Park site (APNs 300-200-01, 300-200-02, 300-200-22, 300-200-23), multiple dwelling unit residential (at a density of 0-20 dwelling units per acre or the maximum number of dwelling unit specified for the parcel in the certified Housing Element, whichever is greater) that includes affordable housing for lower income households. State law defines a lower income household as people or families whose gross income does not exceed 80 percent of Area Median Income (AMI) and includes low income, very low income, and extremely low-income households.

[No change to 941 SP through PSP]

SECTION SIX:

Pursuant to the California Environmental Quality Act (CEQA), the proposed actions have been the subject of prior environmental analysis in the 6th Cycle Housing Element Update Final Program Environmental Impact Report (SCH No. 2020029064) certified by the City Council on October 5, 2020 (Resolution 2020-52), which analyzed and disclosed anticipated impacts of future housing development. Refer to the Final 6th Cycle PEIR: www.delmar.ca.us/DocumentCenter/View/7171/Final-PEIR-91020

No new or substantially greater impacts would result. As such, pursuant to CEQA Guidelines Sections 15162, and based on the review of the entire record, including without limitation, the Final PEIR referenced above, the proposed action does not require a subsequent EIR or further environmental review.

SECTION SEVEN:

Pursuant to the certified 6th Cycle Housing Element, these amendments were adopted prior to April 2024 to implement Housing Element Program 1C (Central Commercial Zone), Program 1H (Public Facilities Zone), and Program 6B (Affirmatively Furthering Fair Housing) to ensure the City's certified Housing Element continues to be maintained in compliance with State law. HCD indicated in its May 31, 2023, Housing Element certification letter that the City must continue the timely and effective implementation of all Housing Element programs to maintain its status of having a certified Housing Element, and that HCD has the authority to revoke the City's Housing Element compliance if the City's actions do not comply with State law or the Housing programs are not timely implemented. The Coastal Commission conditionally certified the Ordinance/LCPA on February 6, 2025. The City scheduled the introduction hearing for the amending ordinance to occur on the first available date for the associated public hearing of the City Council.

SECTION EIGHT:

This Ordinance was introduced by the City Council on April 7, 2025.

SECTION NINE:

The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION TEN:

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION ELEVEN:

Upon adoption, the Ordinance will be submitted to the California Coastal Commission for final certification of the Local Coastal Program Amendment. The Ordinance will take effect and be in force on the date that the Coastal Commission takes action to unconditionally certify the Local Coastal Program Amendment.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at the Regular Meeting held this 21st day of April, 2025.

Terry Gaasterland, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No. 1016, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 21st day of April, 2025, by the following vote:

AYES: Mayor Gaasterland, Deputy Mayor Martinez, Councilmembers Quirk and Spelich
NOES: None
RECUSE: None
ABSENT: None
ABSTAIN: None

Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar