

ORDINANCE NO. CS-432

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA ADOPTING AMENDMENTS TO CARLSBAD MUNICIPAL CODE TITLE 15 (GRADING AND DRAINAGE ORDINANCE) AND TITLE 21 (ZONING ORDINANCE) TO COMPLETE VARIOUS MISCELLANEOUS CLEANUP AMENDMENTS TO THE CARLSBAD MUNICIPAL CODE. THE AMENDMENTS ALSO INCLUDE A LOCAL COASTAL PROGRAM AMENDMENT

CASE NAME: 2022 ZONING ORDINANCE CLEANUP

CASE NO: MCA2022-0004/ZCA2022-0002/LCPA 2022-0014

WHEREAS the City Planner has prepared amendments to the Carlsbad Municipal Code and Local Coastal Program (MCA 2022-0004/ZCA 2022-0002/LCPA 2022-0014)) pursuant to Chapter 21.52 of the Carlsbad Municipal Code, Section 30514 of the Public Resources Code, and Section 13551 of California Code of Regulations Title 14, Division 5.5; and

WHEREAS the Carlsbad Municipal Code Title 21 (Zoning Ordinance) and Section 15.16 of Title 15 (Grading and Drainage Ordinance) are part of the Carlsbad Local Coastal Program Implementation Plan, and therefore, amendments to Title 21 and Section 15.16 also constitute amendments to the Local Coastal Program; and

WHEREAS, pursuant to California Coastal Commission Regulations, a six-week public review period for the Local Coastal Program Amendment began May 20, 2022 and ending on July 1, 2022; and

WHEREAS, on June 10, 2022, the Airport Land Use Commission reviewed and found that the proposed amendments are consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, on June 15, 2022, the Planning Commission held a duly noticed public hearing as prescribed by law to consider ZCA 2022-0002/LCPA 2022-0014; and

WHEREAS the Planning Commission adopted Planning Commission Resolution No. 7452 recommending to the City Council that ZCA 2022-0002/LCPA 2022-0014 be approved; and

WHEREAS the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider MCA2022-0004/ZCA 2022-0002/LCPA 2022-0014; and

WHEREAS at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to MCA2022-0004/ZCA 2022-0002/LCPA 2022-0014; and

NOW, THEREFORE, the City Council of the City of Carlsbad, California, ordains as follows:

1. The above recitations are true and correct.
2. The findings of the Planning Commission in Planning Commission Resolution No. 7452 shall also constitute the findings of the City Council.
3. That Section 15.16.060 of the Carlsbad Municipal Code is amended as shown below:

15.16.060 Work exempt from grading permit.

- A. A grading permit shall not be required for the following:
 1. Cemetery graves.
 2. Refuse disposal sites controlled by other regulations.
 3. Excavations for wells, tunnels, utilities, or swimming pools/spas.
 4. Exploratory excavations under the direction of soil engineers or engineering geologists.
 5. Clearing and grubbing of vegetation done for the purpose of routine landscape maintenance, the removal of dead or diseased trees or shrubs or the removal of vegetation done upon order of the fire marshal to eliminate a potential fire hazard or for the abatement of weeds.
 6. Clearing and grubbing of vegetation done preparatory to agricultural operations on land which has been used for agricultural purposes within the previous five years.
 7. Grading on a site where the city engineer finds that the following conditions exist:
 - a. The amount of soil material moved does not exceed 200 cubic yards (excluding excavation for basements, foundations and footings);
 - b. No fill material is placed on an existing slope steeper than five units horizontal to one vertical;
 - c. No cut or fill material exceeds four feet in vertical depth at its deepest point, measured from the existing ground surface.
 8. Grading in an isolated, self-contained area.
 9. Grading associated with stem wall construction.
 10. Retaining walls with a maximum height of 6 feet and the soil material moved does not to exceed 200 cubic yards.

4. That Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of a new section as shown below:

21.04.140.6 Employee housing, small.

Pursuant to Cal. Health and Safety Code § 17008, employee housing, small means any portion of any housing accommodation, or property upon which a housing accommodation is located, maintained in connection with any work or place where work is being performed, whether or not rent is involved, where such housing provides accommodations for six or fewer persons.

5. That Section 21.04.145 of the Carlsbad Municipal Code is amended as shown below:

21.04.145 Family.

“Family” means one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit. Residents and operators of a residential care facility or employee housing serving six or fewer persons shall be considered a family for purposes of any zoning regulation relating to residential use of such facilities.

6. That Section 21.04.147 of the Carlsbad Municipal Code is amended as shown below:

21.04.147 Family day care home, large.

“Large family day care home” means a dwelling which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home as defined by Section 1596.78 of the California Health and Safety Code and permitted by the licensing agency.

7. That Section 21.04.148 of the Carlsbad Municipal Code is amended as shown below:

21.04.148 Family day care home, small.

“Small family day care home” means a dwelling which provides family day care for eight or fewer children, including children under the age of ten years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and permitted by the licensing agency.

8. That Section 21.04.281 of the Carlsbad Municipal Code is amended as shown below:

21.04.281 Nonconforming residential use.

“Nonconforming residential use” means a residential use which was lawfully established and maintained, but which exceeds the maximum density range of the underlying general plan land use designation.

9. That Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of a new section as shown below:

21.04.291.1 Personal services.

“Personal Services” means uses that include but are not limited to dry cleaners, beauty and barber shops, day spas, cosmetic services, nail salons, shoe/garment repair, massage therapy, etc.

10. That Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of a new section as shown below:

21.04.305.5 Small wireless facilities.

Small wireless facilities (SWF), consistent with FCC regulations in 47 C.F.R. §§ 1.6002(l), are wireless communication facilities that meet each of the following conditions:

- A. The facilities—
 - 1. Are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
 - 2. Are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - 3. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- B. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 1.1320(d)), is no more than three cubic feet in volume;
- C. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- D. The facilities do not require antenna structure registration under 47 CFR Part 17;
- E. The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- F. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).

- 11. The permitted use tables in each of the following sections are amended by the addition of the new use listing as shown below:

- 21.08.020 Permitted uses, Table A.
- 21.09.020 Permitted uses, Table A.
- 21.10.020 Permitted uses, Table A.
- 21.12.020 Permitted uses, Table A.
- 21.16.020 Permitted uses, Table A.
- 21.18.020 Permitted uses, Table B.
- 21.20.010 Permitted uses, Table A.
- 21.22.020 Permitted uses, Table A.
- 21.24.020 Permitted uses, Table A.
- 21.37.020 Permitted uses, Table A.

Use	P	CUP	Acc
Employee housing (serving six or fewer persons)	X		

12. That Section 21.10.050 of the Carlsbad Municipal Code is amended as shown below:

21.10.050 Building height.

In the R-1 zone no building shall exceed a height of thirty feet and two stories if a minimum roof pitch of 3:12 is provided or twenty-four feet and two stories if less than a 3:12 roof pitch is provided for lots under twenty thousand square feet. Single-family residences on lots with a lot area of twenty thousand square feet or greater and within a R-1 zone and specifying a -20 or greater area zoning symbol shall not exceed thirty-five feet and three stories with a minimum roof pitch of 3:12 provided, or twenty-nine feet and three stories if less than a 3:12 roof pitch is provided.

13. That the following sections of the Carlsbad Municipal Code are amended as shown below:

21.08.060 Placement of buildings

21.10.080 Placement of buildings

21.12.060 Placement of buildings

21.16.060 Placement of buildings

A. Placement of buildings on any lot shall conform to the following, except as otherwise permitted for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:

1. Interior Lots.

- a. No building shall occupy any portion of a required yard;
- b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;
- c. All accessory structures shall comply with the following development standards:
 - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
 - ii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
 - iii. Buildings shall not exceed one story,
 - iv. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
- d. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
- e. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

- i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
 - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
 - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
 - iv. The additional development standards listed above (subsections (A)(1)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
 - f. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
2. Corner Lots and Reversed Corner Lots.
 - a. No building shall occupy any portion of a required yard;
 - b. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;
 - c. All accessory structures shall comply with the following development standards:
 - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
 - ii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
 - iii. Buildings shall not exceed one story,
 - iv. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
 - d. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
 - e. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
 - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
 - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, a street side yard setback of five feet and an alley setback of five feet,
 - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,

- iv. The additional development standards listed above (subsections (A)(2)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
- f. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

14. That Table A of Section 21.18.020 is amended by the addition of a new use listing for "Personal services..." as shown below, and by the deletion of the use listing for "Services, provided directly to consumers...":

Use	P	CUP	Acc
Personal services (defined: section 21.04.291.1)		1	

15. That Table A of Section 21.26.010 is amended to read as follows:

Use	P	CUP	Acc
Accountants	X		
Adult and/or senior daycare and/or recreation facility (private/non-private)		1	
Alcoholic treatment centers		2	
Amusement parks		3	
Arcades—coin-operated (subject to Section 21.42.140(B)(15); defined: Section 21.04.091)		1	
Athletic clubs, gymnasiums, health clubs, and physical conditioning businesses	X		
Attorneys	X		
Banks and other financial institutions without drive-thru facilities	X		
Bakeries	X		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)		2	
Book or stationery stores	X		
Child day care centers, subject to the provisions of Chapter 21.83 of this title	X		
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Clubs—nonprofit, business, civic, professional, etc. (defined: Section 21.04.090)		1	
Columbariums, crematories, and mausoleums (not within a cemetery)		2	
Delicatessen (defined: Section 21.04.106)	X		
Doctors, dentists, optometrists, chiropractors and others practicing the healing arts for human beings, and related uses such as oculists, pharmacies (prescription only), biochemical laboratories and x-ray laboratories	X		
Dressmaking or millinery shops	X		
Drive-thru facility (not restaurants)		1	
Drugstores	X		
Dry goods or notion stores	X		
Educational facilities, other (defined: Section 21.04.137)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	

Use	P	CUP	Acc
Engineers, architects and planners	X		
Fairgrounds		3	
Farmworker housing complex, small (subject to Section <u>21.10.125</u> ; defined: Section <u>21.04.148.4</u>)		1	
Florist shops	X		
Fortunetellers, as defined in Section <u>5.50.010</u>	X		
Gas stations (subject to Section <u>21.42.140(B)(65)</u>)		2	
Greenhouses > 2,000 square feet (subject to Section <u>21.42.140(B)(70)</u>)		1	
Grocery or fruit stores	X		
Hardware stores	X		
Hospitals (defined: Section <u>21.04.170</u>)		2	
Hospitals (mental) (defined: Section <u>21.04.175</u>)		2	
Hotels and motels (subject to Section <u>21.42.140(B)(80)</u>)		3	
Institutions of a philanthropic or eleemosynary nature, except correctional or mental	X		
Jewelry stores	X		
Laundries or clothes cleaning agencies	X		
Liquor store (subject to Section <u>21.42.140(B)(85)</u> ; defined: Section <u>21.04.203</u>)		2	
Meat markets	X		
Mobile buildings (subject to Section <u>21.42.140(B)(90)</u> ; defined: Section <u>21.04.265</u>)		1	
Outdoor dining (incidental) (subject to Section <u>21.26.013</u> ; defined: Section <u>21.04.290.1</u>)			X
Packing/sorting sheds > 600 square feet (subject to Section <u>21.42.140(B)(70)</u>)		1	
Paint stores	X		
Parking facilities (primary use) (i.e., day use, short-term, nonstorage)		1	
Pawnshops (subject to Section <u>21.42.140(B)(105)</u>)		3	
Personal services (defined: section <u>21.04.291.1</u>)	X		
Pet supply shops	X		
Pool halls, billiards parlors (subject to Section <u>21.42.140(B)(110)</u> ; defined: Section <u>21.04.292</u>)		2	
Private clubs, fraternities, sororities and lodges, excepting those the chief activity of which is a service customarily carried on as a business	X		
Public meeting halls, exhibit halls, and museums		2	
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section <u>21.04.297</u>)		2	
Racetracks		3	
Radio/television/microwave/broadcast station/tower		2	
Realtors	X		
Recreation facilities		1	
Recycling collection facilities, large (subject to Chapter <u>21.105</u> of this title; defined: Section <u>21.105.015</u>)		2	
Recycling collection facilities, small (subject to Chapter <u>21.105</u> of this title; defined: Section <u>21.105.015</u>)		1	
Religious reading room (separate from church)		1	
Residential uses (subject to Section <u>21.26.015</u> of this title)	X		
Restaurants (bona fide public eating establishment) (defined: Section <u>21.04.056</u>)	X		
Restaurants (excluding drive-thru restaurants), tea rooms or cafes (excluding dancing or entertainment and on-sale liquor)	X		

Use	P	CUP	Acc
Satellite television antennae (subject to Section <u>21.53.130</u> — <u>21.53.150</u> ; defined: Section <u>21.04.302</u>)			X
Shoe, clothing or wearing apparel stores	X		
Signs (subject to Chapter <u>21.41</u>)			X
Stadiums		3	
Tattoo parlors (subject to Section <u>21.42.140(B)(140)</u>)		3	
Theaters (motion picture or live) — Indoor		2	
Theaters, stages, amphitheaters — Outdoor		3	
Thrift shops (subject to Section <u>21.42.140(B)(150)</u>)		1	
Transit passenger terminals (bus and train)		2	
Veterinary clinic/animal hospital (small animals) (defined: Section <u>21.04.378</u>)		1	
Welfare and charitable service (private or semi-private) with no permanent residential uses (i.e., Goodwill, Red Cross, Traveler’s Aid)		1	
Windmills (exceeding height limit of zone) (subject to Section <u>21.42.140(B)(160)</u>)		2	
Wireless communication facilities (subject to Section <u>21.42.140(B)(165)</u> ; defined: Section <u>21.04.379</u>)		1 / 2	
Youth organizations (e.g., Boy Scouts, Girl Scouts, Boys and Girls Clubs, YMCA, YWCA, except lodgings)		1	

Note:

1. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

16. That Table A of Section 21.28.010 is amended by the addition of a new use listing for “Personal services...” as shown below:

Use	P	CUP	Acc
Personal services (defined: section 21.04.291.1)	X		

17. That Table A of Section 21.29.030 is amended by the addition of a new use listing for “Personal services...” as shown below, and by the deletion of the use listing for “Services (personal), limited to...”:

Use	P	CUP	Acc
Personal services (defined: section 21.04.291.1)	X		

18. That Table A of Section 21.31.020 is amended by the addition of a new use listing for “Personal services...” as shown below, and by the deletion of the use listing for “Services, provided directly to consumers ...”:

Use	P	CUP	Acc
Personal services (defined: section 21.04.291.1)	X		

19. That subsection A.1 of Section 21.31.060 is amended as shown below:

1. Required eating areas for employees (subject to Section 21.31.080(K));

20. That Section 21.37.090 is amended as shown below:

21.37.090 Design criteria.

A. The following design criteria shall apply to all mobile home parks to the extent permitted according to California Health and Safety Code §18200, et seq. and §18665 et seq., respectively:

1. The overall plan shall be comprehensive, embracing land, buildings for common use or park service and maintenance, landscaping and their interrelationships, and shall conform to adopted plans for all governmental agencies for the area in which the proposed development is located;
2. The plan shall provide for adequate circulation, off-street parking, open recreational areas and other pertinent amenities. Buildings, structures and facilities for common use in the park or for service and maintenance of the park shall be well integrated, oriented and related to the topographic and natural landscape features of the site;
3. The proposed development shall be compatible with existing and planned land use and with circulation patterns on adjoining properties. It shall not constitute a disruptive element to the neighborhood or community; and
4. Common areas and recreational facilities shall be located so as to be readily accessible to the occupants of the dwelling units and shall be well related to any common open spaces provided.

21. That Section 21.37.100 is amended as shown below:

21.37.100 Development standards.

A. A mobile home park shall comply with the following development standards and any applicable standards under state law:

1. A mobile home park shall be not less than five acres for a condominium or planned unit development park and fifteen acres for a rental park;
2. Parking shall be provided subject to the provisions of Chapter 21.44 of this title;
3. Mobile home park streets shall be provided in such a pattern as to provide convenient traffic circulation within the mobile home park. Such streets shall be built to the following standards:
 - a. No roadway shall be less than thirty-four feet in width,
 - b. There shall be concrete curbs on each side of the streets,
 - c. The mobile home park streets shall be paved according to standards established by the city engineer,
 - d. Mobile home park streets shall be lighted in accordance with the standards established by the city engineer;

4. The city council may permit decentralization of the recreational facilities in accordance with principles of good planning;
 5. Common trash-bin enclosures shall be provided. They shall be of masonry construction and compatible with the mobile home park;
 6. Service buildings and facilities shall be strategically located throughout the park for convenient access from mobile homes. No service building shall be closer than twenty feet to any property adjacent to the mobile home park;
 7. Mobile home parks shall be enclosed by solid masonry fences, six feet in height, subject to city planner approval, along dedicated street frontages; and
 8. All new mobile homes shall bear a valid insignia of approval issued by the State Department of Housing and Community Development.
22. That within Table A of Section 21.44.020, the number of off-street parking spaces for the Residential Care Facility use is amended as follows:

Use		Number of Off-Street Parking Spaces
Residential Uses	Residential Care Facilities	Two spaces per unit, provided as either: <ul style="list-style-type: none"> • A two-car garage (minimum interior 20 feet x 20 feet); or • Two separate one-car garages (minimum interior 12 feet x 20 feet each);

23. That Section 21.42.110 of the Carlsbad Municipal Code is amended as shown below:

21.42.110 Expiration, extensions and amendments.

- A. Expiration of Permit if Not Exercised. The expiration period for an approved minor conditional use permit or conditional use permit shall be as specified in Section 21.58.030 of this title.
- B. Extension of Permit if Not Exercised. The expiration period for an approved minor conditional use permit or conditional use permit may be extended pursuant to Section 21.58.040 of this title.
- C. Expiration of Permit. Such rights and privileges granted under a minor conditional use permit or conditional use permit shall also expire at such time as the city planner/planning commission/city council may designate in the approval of the minor conditional use permit or conditional use permit.
- D. All existing conditional use permits, which include an expiration date and a requirement to extend the permit, may be hereby approved administratively by the city planner in perpetuity without the requirement to extend the conditional use permit.
- E. An approved minor conditional use permit or conditional use permit may be amended pursuant to the provisions of Section 21.54.125 of this title.

24. That Table F of Section 21.45.090 is amended as shown below:

Table F
Residential Additions and Accessory Uses to One-Family Dwellings and Twin-Homes on Small Lots

Addition/Accessory Use	Minimum Front Yard Setback	Minimum Side and Rear Yard Setbacks
Attached/detached patio covers ⁽²⁾	10 feet to posts (2-foot overhang permitted)	5 feet to posts (2-foot overhang permitted)
Non-habitable detached accessory buildings/structures (e.g., garages, workshops, decks over 30 inches in height) ^{(1),(2),(3)}	20 feet	5 feet
Habitable detached accessory buildings (i.e. guest houses and accessory dwelling units) ^{(2), (3), (4)}	Same setbacks as required for the primary dwelling	
Additions to dwelling (attached)	Same setbacks as required for the dwelling	

Notes:

- (1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.
- (2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.
- (3) Must be architecturally compatible with the existing structure.
- (4) Except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.

25. That Chapter 21.53 of the Carlsbad Municipal Code is amended by the addition of a new section as shown below:

21.53.260 Small wireless facilities (SWF).

Small wireless facilities shall comply with City Council Policy Statement No. 64. An application for an SWF located on public or private property may be processed as a building permit, and an application for an SWF located within the public right-of-way of roads may be processed as a right-of-way permit pursuant to Title 11 of the Carlsbad Municipal Code.

26. That subsection (b) of Section 21.53.230 of the Carlsbad Municipal Code is amended as shown below:

(b) Undevelopable Lands.

- (1) The following lands are undevelopable and shall be excluded from density calculation:
 - (A) Beaches;
 - (B) Permanent bodies of water;
 - (C) Floodways;
 - (D) Natural slopes with an inclination of greater than 40% except as permitted pursuant to Section 21.95.140.B of this code;
 - (E) Significant wetlands;
 - (F) Significant riparian or woodland habitats;

- (G) Land subject to major power transmission easements;
- (H) Railroad track beds;
- (2) The following lands are undevelopable but may be included in density calculation, unless such lands meet any of the criteria listed Section 21.53.230(b)(1).
 - (A) Land upon which other significant environmental features as determined by the environmental review process for a project are located;
 - (B) Hardlined habitat preserve areas as identified in the Carlsbad Habitat Management Plan.

27. That subsection C of Section 21.54.125 is amended as follows:

- C. If an approved development permit was issued pursuant to the provisions of Section 21.54.040 of this title, any amendment to said permit shall be acted on by the decision-making authority that approved the original permit, except that if the city council approved the original permit, the planning commission shall have the authority to act upon the amendment.

28. That subsection F of Section 21.83.020 of the Carlsbad Municipal Code is amended as shown below:

- F. "Family day care home" means a dwelling which regularly provides nonmedical care, protection, and supervision of fourteen or fewer children, in the provider's own home, for periods of less than twenty-four hours per day, while the parents or guardians are away. The actual number of children permitted in a family day care home is based on age composition as determined by the permitting agency. Family day care homes include either of the following:
 - 1. "Large family day care home," means a dwelling which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and as permitted by the licensing agency;
 - 2. "Small family day care home," means a dwelling which provides family day care for eight or fewer children, including children under the age of ten years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and as permitted by the licensing agency.

29. That Section 21.83.040 of the Carlsbad Municipal Code is amended as shown below:

21.83.040 Use chart.

The following use chart indicates the zones where small and large family day care homes and child day care centers are permitted, subject to the requirements of this chapter.

"P" indicates that the use is permitted in the zone.

"MCUP" indicates that the use is permitted subject to approval of a minor conditional use permit (process one) processed in accordance with Chapter 21.42 of this title.

“CUP” indicates that the use is permitted subject to approval of a conditional use permit (process two) processed in accordance with Chapter 21.42 of this title.

“X” indicates that the use is prohibited in the zone.

Zoning	Small Family Day Care Home (8 or fewer children)	Large Family Day Care Home (14 or fewer children)	Child Day Care Center
R-A, R-E, E-A	P	P	X
R-1	P	P	X
R-2	P	P	X
R-3, RD-M, R-P	P	P	MCUP(1)(2)
R-T, R-W, RMHP	P	P	X
O	X	X	MCUP(1)(2)
H-O	X	X	P(1)
C-F	X	X	MCUP(1)(2)
C-1, C-2, C-L	X	X	P(1)
P-M, C-M	X	X	CUP(4)
M, P-U, O-S, L-C, T-C, C-T	X	X	X
V-B, P-C	(3)	(3)	(1)(2)(3)

Notes:

- (1) Permitted subject to the provisions of Section 21.83.080 of this chapter.
- (2) Child day care centers are allowed as a permitted use (no conditional use permit or minor conditional use permit required) within existing buildings on developed church or school sites, subject to the provisions of Section 21.83.080 of this chapter.
- (3) Permitted subject to the standards of the controlling document (Village and Barrio master plan or designated master plan).
- (4) Permitted subject to the provisions of Sections 21.83.060 and 21.83.080 of this chapter.

30. That Section 21.83.050 is amended as shown below:

21.83.050 Requirements for large family day care homes.

- A. The applicant shall obtain all licenses and permits required by state law for operation of the facility and shall keep all state licenses or permits valid and current.
- B. Development Standards.
 1. The facility shall comply with all zoning standards otherwise applicable to other residences, however, the use of a dwelling for the purposes of this section shall not constitute a change of occupancy for purposes of Title 18 of this code.
 2. The facility shall comply with all standards relating to fire and life safety applicable to residences established by the state fire marshal contained in Title 24 of the California Code of Regulations as amended from time to time.
 3. An outdoor play area which satisfies the requirements of the state, community care licensing division shall be provided in the rear yard and shall be enclosed by a natural barrier, wall, solid fence, or other solid structure a minimum of five feet in height. The provider shall ensure that outdoor play times do not begin until after nine a.m. and end before five p.m. The provider shall stagger the number of children playing outdoors at any one time to reduce noise impacts on surrounding residences.

4. All outdoor play areas shall be adequately separated from vehicular circulation and parking areas by a strong fence such as chain link, wood or masonry.
5. Required garages shall be prohibited for use as a family day care home and shall be utilized for parking two of the applicant's onsite vehicles during the daily operation of the day care home rather than parking the vehicles on the street or in the driveway.
6. The applicant shall designate the onsite driveway as the official drop-off and pick-up area for children and shall notify parents of this requirement. Said driveway shall remain free and clear of parked cars.
7. The applicant shall require that employees park in locations which will not inconvenience nearby residents. To disrupt the neighborhood as little as possible, best efforts shall be made by the applicant to require employees to park as close as possible to the family day care home.

31. That subsection E.1.b of Section 21.210.070 is amended as shown below:

b. HMP Permit.

- i. An application for a HMP permit may be approved, conditionally approved or denied by the planning commission or city council, as specified in Section 21.54.040 of this title.
- ii. The decision on a HMP permit shall be based upon the decision-making authority's review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
- iii. The decision-making authority shall hear the matter and may approve or conditionally approve the HMP permit if all of the findings of fact in subsection F of this section are found to exist.

32. That the following list of sections are amended by the substitution of the 1994 General Plan Land Use designation titles with the updated titles from the 2015 General Plan as shown in the table below:

21.08.010 Intent and purpose
21.10.010 Intent and purpose.
21.12.010 Intent and purpose.
21.16.010 Intent and purpose.
21.18.010 Intent and purpose.
21.22.010 Intent and purpose.
21.24.010 Intent and purpose.
21.29.010 Intent and purpose.
21.43.020 Definitions.

1994 General Plan Land Use Designation Titles	2015 General Plan Land Use Designation Titles
Residential Low Density (RL)	R-1.5 (Residential 0-1.5 du/ac)
Residential Low-Medium Density (RLM)	R-4 (Residential 0-4 du/ac)
Residential Medium Density (R-M)	R-8 (Residential 4-8 du/ac)
Residential Medium-High Density (RMH)	R-15 (Residential 8-15 du/ac)
Residential High Density (RH)	R-23 (Residential 15-23 du/ac)
Travel/Recreational Commercial (T-R)	Visitor Commercial (V-C)

33. That the following list of sections are amended by the substitution of the 1994 General Plan Land Use designation labels with updated labels from the 2015 General Plan as shown in the table below:

- 21.08.070 Minimum lot area.
- 21.10.090 Minimum lot area.
- 21.18.020 Permitted uses.
- 21.24.020 Permitted uses.
- 21.24.100 Lot area.
- 21.45.040 Permitted zones and uses.
- 21.45.060 General development standards.
- 21.45.070 Development standards for one-family dwellings and twin-homes on small lots.
- 21.45.080 Development standards for condominium projects.
- 21.90.045 Growth management residential control point established.

1994 General Plan Land Use Designation Title Symbols	2015 General Plan Land Use Designation Title Symbols
RL	R-1.5
RLM	R-4
R-M	R-8
RMH	R-15
RH	R-23
T-R	V-C

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUSTIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES INSIDE THE COASTAL ZONE:

This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2022-0014, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 13th day of September, 2022, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 27th day of September, 2022, by the following vote, to wit:

- AYES: Hall, Blackburn, Bhat-Patel, Acosta, Norby.
NAYS: None.
ABSENT: None.

APPROVED AS TO FORM AND LEGALITY:

Cindie K. McMahon
CINDIE McMAHON, CITY ATTORNEY

Matt Hall
MATT HALL, Mayor

KM
for FAVIOLA MEDINA, City Clerk Services Manager
(SEAL)

