

ORDINANCE NUMBER O- 21528 (NEW SERIES)DATE OF FINAL PASSAGE SEP 21 2022

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0402 AND 126.0404; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTION 129.0710; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTION 143.0302; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 10 BY AMENDING SECTION 143.1025; AMENDING CHAPTER 14, ARTICLE 3 BY ADDING NEW DIVISION 14, SECTIONS 143.1401, 143.1403, 143.1405, 143.1410, AND 143.1415, ALL RELATING TO CLIMATE ACTION PLAN CONSISTENCY REGULATIONS.

WHEREAS, on December 15, 2015, by San Diego Resolution R-310176, the City Council certified the Climate Action Plan Final Environmental Impact Report No. 416603/SCH No. 2015021053, and by San Diego Resolution R-310175, adopted the Climate Action Plan; and

WHEREAS, on July 12, 2016, by San Diego Resolution R-310596, the City Council adopted an amendment to the Climate Action Plan to add a Climate Action Plan Consistency Checklist (CAP Consistency Checklist) to ensure that future development projects that rely on the greenhouse gas (GHG) emissions analysis in the Climate Action Plan are consistent with the assumptions of the Climate Action Plan; and

WHEREAS, the United Nations Intergovernmental Panel on Climate Change reports that more aggressive actions are needed to slow the effects of the ever present and worsening climate crisis; and

WHEREAS, the City is committed to the goal of achieving net zero GHG emissions by 2035 to respond with urgency to the climate crisis; and

WHEREAS, the City has developed the Climate Action Plan Update Package (CAP Update) to update the City's Climate Action Plan adopted in 2015; and

WHEREAS, City staff estimate that the CAP Update will result in GHG emissions reductions of 63.3 percent below the baseline by 2030 and net zero emissions by 2035; and

WHEREAS, the CAP Update includes six equity-focused strategies to reduce and avoid GHG emissions: Strategy 1: Decarbonization of the Built Environment; Strategy 2: Access to Clean & Renewable Energy; Strategy 3: Mobility & Land Use; Strategy 4: Circular Economy & Clean Communities; Strategy 5: Resilient Infrastructure and Healthy Ecosystems; and Strategy 6: Emerging Climate Actions; and

WHEREAS, the CAP Update quantifies GHG emissions, both existing and projected over a specified period of time, resulting from activities within the City; and

WHEREAS, based on substantial evidence, City staff has created a CAP Update that establishes a level of GHG emissions below which the contribution to GHG emissions from activities covered by the CAP Update are not cumulatively considerable; and

WHEREAS, the CAP Update identifies and analyzes the GHG emissions resulting from specific actions or categories anticipated within the City; and

WHEREAS, City staff have included in the CAP Update specific measures and performance standards based on substantial evidence they have reviewed that demonstrates the City will collectively achieve the specified GHG emissions level if implemented on a project-by-project basis; and

WHEREAS, the CAP Update establishes a mechanism to monitor the City's progress toward achieving the specified GHG emissions level and will be amended if the specified GHG emissions levels are not achieved; and

WHEREAS, the CAP Update will be adopted in a public process following environmental review; and

WHEREAS, the CAP Update serves as a Qualified GHG Reduction Plan for purposes of tiering under the California Environmental Quality Act (CEQA) as set forth in CEQA Guidelines section 15183.5; and

WHEREAS, this Ordinance amends the Land Development Code of the San Diego Municipal Code to add Climate Action Plan Consistency Regulations (CAP Consistency Regulations) as part of the implementation measures for the CAP Update; and

WHEREAS, the CAP Consistency Regulations will replace the CAP Consistency Checklist adopted in 2016 as the list of measures that can be implemented on a project-by-project basis to ensure that new development is consistent with the CAP Update; and

WHEREAS, the CAP Consistency Regulations apply to specified ministerial and discretionary projects to ensure that projects comply with the goals and objectives of the CAP Update; and

WHEREAS, the CAP Consistency Regulations ensure that future projects relying on the GHG analysis in the CAP Update are consistent with the assumptions set forth in the CAP Update, and specify measures that City staff have determined, based on substantial evidence, will if implemented on a project-by-project basis, collectively achieve the specified GHG emissions reductions targets identified in the CAP Update, as represented by City staff in the CAP Consistency Regulations Technical Support Documentation included in the Report to the City Council No. ^{Document} 00-21528; NOW, THEREFORE,

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

Section 1. That Chapter 12, Article 6, Division 4 of the San Diego Municipal Code is amended by amending sections 126.0402 and 126.0404, to read as follows:

Chapter 12

Article 6: Development Permits

Division 4: Neighborhood Development Permit Procedures

§126.0402 When a Neighborhood Development Permit is Required

(a) through (r) [No change in text.]

(s) A Neighborhood Development Permit is required for *development* that deviates from the Climate Action Plan Consistency Regulations as described in Section 143.1403(c).

§126.0404 Findings for a Neighborhood Development Permit Approval

A Neighborhood Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0404(a) and the supplemental *findings* in Section 126.0404(b) through (h) that are applicable to the proposed *development* as specified in this section.

These *findings* are not required for affordable housing that is provided pursuant to Chapter 14, Article 3, Division 7, unless the *development* will exceed the allowed incentives or the *development* deviates from the Climate Action Plan Consistency Regulations as described in Section 143.1403(c).

(a) through (g) [No change in text.]

(h) Supplemental Findings – Deviation from the Climate Action Plan Consistency Regulations

A Neighborhood Development Permit required in accordance with Section 143.1403(c) because a deviation from the Climate Action Plan Consistency Regulations may be approved or conditionally approved only

if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0404(a):

- (1) The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land not of the *applicant's* making; and
- (2) The *development* includes project features or other mitigating measures, to the extent feasible, that reduce greenhouse gas emissions and support and enhance alternative forms of transit in a manner comparable to compliance with the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14.

Section 2. That Chapter 12, Article 9, division 7 of the City of San Municipal Code is amended by amending section 129.0710, to read as follows:

Chapter 12

Article 9: Construction Permits

Division 7: Public Right-of-Way Permits

§129.0710 How to Apply for a Public Right-of-Way Permit

An application for a Public Right-of-Way Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Public Right-of-Way Permits are listed in the Land Development Manual. A *development permit* is required prior to issuance of a Public Right-of-Way Permit for the following:

- (a) through (c) [No change in text.]

(d) Notwithstanding Sections 129.0710(a)-(c), a *development permit* is not required prior to issuance of a Public Right-of-Way Permit for *placemaking*, improvements required in accordance with the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14, or a recreational amenity in the *public right-of-way* subject to the following regulations. For purposes of Section 129.0710, a recreational amenity is defined as any improvement that provides recreational value to residents or visitors and that enhances the pedestrian or bicycle travel experience.

(1) through (3) [No change in text.]

(4) The term of the Public Right-of-Way Permit shall not exceed five years with the exception of *placemaking*, recreational amenities and improvements provided in accordance with the Climate Action Plan Consistency Regulations. The term shall not be limited in accordance with Municipal Code section 129.0750 and shall not be eligible for an extension of time pursuant to Municipal Code section 129.0751. *Placemaking*, recreational amenities, and improvements provided in accordance with the Climate Action Plan Consistency Regulations shall be removed in accordance with the Encroachment Maintenance and Removal Agreement required in Section 129.0715.

(5) through (8) [No change in text.]

(9) The *placemaking* or recreational amenity project and improvements provided in accordance with the Climate Action Plan Consistency Regulations shall allow for safe and efficient visibility and circulation for motor vehicle users and other users of the *public right-of way*, including bicyclists and pedestrians, and shall not impede the safe use of parking spaces or travel lanes in the *public right-of-way*, as determined by the City Engineer.

(10) [No change in text.]

Section 3. That Chapter 14, Article 3, Division 3 of the San Diego Municipal Code is amended by amending section 143.0302, to read as follows:

Chapter 14

Article 3: Supplemental Development Regulations

Division 3: Supplemental Neighborhood Development Permit and Site Development Permit Regulations

§143.0302 When Supplemental Neighborhood Development Permit and Site Development Permit Regulations Apply

This Division applies to any *development* proposal for which a Neighborhood Development Permit or Site Development Permit is required as described in Sections 126.0402 and 126.0502, in accordance with Table 143-03A.

Legend for Table 143-03A

[No change in text.]

Table 143-03A

**Supplemental Neighborhood Development Permit or Site Development Permit Regulations
Applicability**

Type of <i>Development</i> Proposal	Applicable Sections	Required <i>Development</i> Permit/Decision Process
Affordable housing, in-fill projects, and sustainable buildings projects as described in Section 143.0915 where a Site Development Permit or Planned Development Permit would otherwise be required. through Clairemont Mesa Height Limit Overlay Zone	[No change in text.]	[No change in text.]
<i>Development</i> requesting a deviation from the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14.	143.0303, 143.0305, 143.0375	NDP/Process Two

Section 4. That Chapter 14, Article 3, Division 10 of the City of San Municipal Code is amended by amending section 143.1025, to read as follows:

Chapter 14

Article 3: Supplemental Development Regulations

Division 10: Complete Communities Housing Solutions Regulations

§143.1025 Supplemental Development Regulations

Development utilizing the regulations in this Division must comply with the following Supplemental Development Regulations and may not utilize the waivers provided in Section 143.1010(h) to deviate from the requirements in Section 143.1025.

(a) through (e) [No change in text.]

(f) Climate Action Plan (CAP) Consistency Requirements. To ensure consistency with the City's CAP, all *development* shall comply with the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14.

Section 5. That Chapter 14, Article 3 of the San Diego Municipal Code is amended by adding new Division 14, sections 143.1401, 143.1403, 143.1405, 143.1410, and 143.1415, to read as follows:

Chapter 14

Article 3: Supplemental Development Regulations

Division 14: Climate Action Plan Consistency Regulations

§143.1401 Purpose of the Climate Action Plan Consistency Regulations

It is the purpose and intent of these regulations to implement the City's Climate Action Plan (CAP) by applying regulations that reduce greenhouse gas emissions from *development* specified in this Division. Compliance with these regulations is also intended to demonstrate a *development's* compliance with the City's CAP.

§143.1403 Application of the Climate Action Plan Consistency Regulations

- (a) This Division applies to the following:
- (1) *Development* that results in three or more total *dwelling units* on all *premises* in the *development*;
 - (2) Non-residential *development* that adds more than 1,000 square feet and results in 5,000 square feet or more of total *gross floor area*,

excluding unoccupied spaces such as mechanical equipment and storage areas; and

- (3) Parking facilities as a *primary use*.
- (b) *Development* that has received an incentive or waiver under a local opt-in bonus or incentive program not required by State law may not utilize the incentive or waiver to reduce or waive any of the requirements of this Division.
- (c) *Development* that deviates from the regulations of this Division may be approved with a Process Two Neighborhood Development Permit in accordance with Sections 126.0402(s) and 126.0403, provided that the *findings* in Section 126.0404(a) and the supplemental *findings* in Section 126.0404(h) are made.

§143.1405 Definitions

The following definitions apply to this Division:

- (a) *Furnishings Zone* has the same meaning that it has in the 2017 Street Design Manual of the Land Development Manual. It is the zone that provides the buffer between the active pedestrian area, the Throughway Zone, and street traffic, and accommodates street trees, landscaping, street furniture, utility poles, parking meters, fire hydrants, bicycle racks, and similar improvements.
- (b) *Throughway Zone* has the same meaning that it has in the 2017 Street Design Manual of the Land Development Manual. It is the zone that is

intended for pedestrian travel only and should be entirely clear of obstacles.

§143.1410 Mobility and Land Use Regulations

The following regulations support alternative mobility options, such as walking and biking, that reduce vehicle dependency and associated greenhouse gas emissions.

(a) Pedestrian enhancements that reduce heat island effects shall be provided as follows:

(1) *Development on a premises that contains a street yard or abuts a public right-of-way with a Furnishings Zone, at least 50 percent of the Throughway Zone shall be shaded as specified below.*

(A) If the abutting *public right-of-way* contains a Furnishings Zone, shading shall be provided by street trees.

(B) If the abutting *public right-of-way* does not contain a Furnishings Zone, shading may be provided by a combination of trees and shade structures placed in the *street yard*.

(C) The shade coverage of a tree shall be determined by the expected canopy at 10-year maturity. The tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City's Street Tree Selection Guide.

- (D) Trees shall be irrigated and maintained consistent with Section 142.0403.
 - (E) The number of street trees provided shall not be less than what is required by the Landscape Regulations in Chapter 14, Article 2, Division 4.
- (2) *Development on a premises that does not contain a street yard and does not abut a public right-of-way with a Furnishings Zone, the applicant shall do one of the following:*
- (A) Plant the number of trees required by Section 143.1410(a)(1) at an off-site location within one mile of the *development* and enter into an agreement with the owner of the off-site location that ensures the indefinite maintenance of the trees; or
 - (B) Pay an Urban Tree Canopy Fee to be deposited into the Climate Resiliency Fund consistent with adopted City Council Resolution.
- (b) *Development on a premises with 250 linear feet or more of street frontage shall provide and privately maintain at least one of the following publicly accessible pedestrian amenities for every 250 linear feet of street frontage to the satisfaction of the Development Services Department:*
- (1) One trash receptacle and one recycling container;

- (2) Seating comprised of movable seats, fixed individual seats, benches with or without backs, or design feature seating, such as seat walls, ledges, or seating steps;
 - (3) Pedestrian-scale lighting that illuminates the adjacent sidewalk;
 - (4) Public artwork;
 - (5) Community wayfinding *signs*; or
 - (6) Enhancement of a bus stop or public transit waiting station within 1,000 feet of the *premises*.
- (c) At least 50 percent of all residential and non-residential bicycle parking spaces required in accordance with Chapter 14, Article 2, Division 5 shall be supplied with individual outlets for electric charging at each bicycle parking space.

§143.1415 Resilient Infrastructure and Healthy Ecosystems Regulations

The following regulations support carbon sequestration as well as enhancement of air quality and the urban tree canopy.

- (a) Two trees shall be provided on the *premises* for every 5,000 square feet of *lot* area, with a minimum of one tree per *premises*.
 - (1) If planting of a new tree is required to comply with this Section, the tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City's Street Tree Selection Guide.
 - (2) Where possible, trees must be planted in native soil. Where native soil planting is prohibited by site conditions, required trees may be

provided in built-in or permanently affixed planters and pots on structural podiums. Planters and pots for trees shall have a minimum inside dimension of 48 inches.

- (3) For a *premises* located within a base zone that does not require open space to accommodate the planting of on-site trees in compliance with this Section, the *applicant* shall do one of the following, except that all trees required by the Landscape Regulations in Chapter 14, Article 2, Division 4 must be provided on-site:
 - (A) Plant the number of trees required by Section 143.1415(a) at an off-site location within one mile of the *development* and enter into an agreement with the owner of the off-site location that ensures the indefinite maintenance of the trees; or
 - (B) Pay an Urban Tree Canopy Fee to be deposited into the Climate Resiliency Fund consistent with adopted City Council Resolution.
- (4) Trees shall be irrigated and maintained consistent with Section 142.0403.
- (5) The number of trees provided shall not be less than what is required by the Landscape Regulations in Chapter 14, Article 2, Division 4.

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

Section 7. That prior to becoming effective, this Ordinance shall be submitted to the San Diego County Regional Airport Authority acting as the Airport Land Use Commission (ALUC) for a consistency determination.

That if the ALUC finds this Ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport, Marine Corps Air Station Miramar, Gillespie Field, Montgomery Field, and Brown Field Airport (collectively, Airports), this Ordinance shall take effect and be in force on the thirtieth day from and after the finding of consistency, or on the thirtieth day from and after its final passage, whichever is later, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

That if the ALUC determines that this Ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCPs for the Airports, the Ordinance shall be submitted to the Council for reconsideration.

That if the ALUC determines that this Ordinance is conditionally consistent with the ALUCPs for the Airports, but that consistency is subject to proposed modifications, with the ALUCPs for the Airports, the Ordinance shall be submitted to the Council for reconsideration.

That if the ALUC determines that this Ordinance is conditionally consistent with the ALUCPs for the Airports, but that consistency is subject to proposed modifications, the Council

may amend this Ordinance to accept the proposed modifications, and this Ordinance as amended shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this Ordinance as amended inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

That a proposed decision by the Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings shall be forwarded to the ALUC, the California Department of Transportation, Division of Aeronautics, and the airport operators for the Airports. The Council shall hold a second hearing not less than 45 days from the date the proposed decision and findings were provided, at which hearing any comments submitted by the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote.

That if the Council makes a final decision to overrule a determination of inconsistency, this Ordinance shall take effect and be in force on the thirtieth day from and after that final decision, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

Section 8. Development subject to project-level environmental review pursuant to the California Environmental Quality Act for which an environmental document was available for

public review prior to July 1, 2022, provided that any such environmental document is approved no later than December 31, 2023, shall be exempt from compliance with this Ordinance.

Building permits issued pursuant to Process One Substantial Conformance Review for such development shall also be exempt from compliance with this Ordinance.

Section 9. Development for which an amendment is sought to existing discretionary approvals resulting in equivalent or fewer Vehicle Miles Traveled than the existing discretionary approvals shall be exempt from compliance with this Ordinance.

Section 10. That no permits shall be issued for development that is inconsistent with the provisions of this Ordinance unless a deemed complete application for such permits is submitted to the City prior to the date on which the applicable provisions of this Ordinance become effective.

Section 11. That upon becoming effective, this Ordinance shall replace and repeal the CAP Consistency Checklist adopted on July 12, 2016, by San Diego Resolution R-310596, as the list of measures that can be implemented on a project-by-project basis to ensure that new development is consistent with the CAP Update.

Section 12. That San Diego Ordinance O-21477 has been recently considered by the Council which amends San Diego Municipal Code sections also amended by this Ordinance; therefore, the City Clerk, with the written approval and concurrence of the City Attorney, is authorized to reconcile the numbering of sections and placement of text within this section upon

the final passage of the Ordinances, without further action by the City Council, pursuant to San Diego Charter section 275.

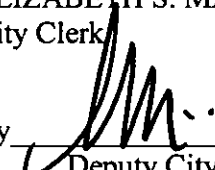
APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Lindsey H. Sebastian
Lindsey H. Sebastian
Deputy City Attorney

LHS:nja
02/04/22
Or. Dept: Planning Department
Doc. No.: 2881649_2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of SEP 13 2022.

ELIZABETH S. MALAND
City Clerk

By 
Deputy City Clerk

Approved: 9/20/22
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(NOTE: The date of final passage is September 21, 2022, which represents the day this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0402 AND 126.0404; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTION 129.0710; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTION 143.0302; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 10 BY AMENDING SECTION 143.1025; AMENDING CHAPTER 14, ARTICLE 3 BY ADDING NEW DIVISION 14, SECTIONS 143.1401, 143.1403, 143.1405, 143.1410, AND 143.1415, ALL RELATING TO CLIMATE ACTION PLAN CONSISTENCY REGULATIONS.

Chapter 12

Article 6: Development Permits

Division 4: Neighborhood Development Permit Procedures

§126.0402 When a Neighborhood Development Permit is Required

(a) through (r) [No change in text.]

(s) A Neighborhood Development Permit is required for *development* that deviates from the Climate Action Plan Consistency Regulations as described in Section 143.1403(c).

§126.0404 Findings for a Neighborhood Development Permit Approval

A Neighborhood Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section

126.0404(a) and the supplemental *findings* in Section 126.0404(b) through ~~(g)~~(h) that are applicable to the proposed *development* as specified in this section.

These *findings* are not required for affordable housing that is provided pursuant to Chapter 14, Article 3, Division 7, unless the *development* will exceed the allowed incentives or the *development* deviates from the Climate Action Plan Consistency Regulations as described in Section 143.1403(c).

(a) through (g) [No change in text.]

(h) Supplemental Findings – Deviation from the Climate Action Plan Consistency Regulations

A Neighborhood Development Permit required in accordance with Section 143.1403(c) because a deviation from the Climate Action Plan Consistency Regulations may be approved or conditionally approved only if the decision maker makes the following supplemental *findings* in addition to the *findings* in Section 126.0404(a):

- (1) The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land not of the applicant's making; and
- (2) The *development* includes project features or other mitigating measures, to the extent feasible, that reduce greenhouse gas emissions and support and enhance alternative forms of transit in a manner comparable to compliance with the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14.

Chapter 12

Article 9: Construction Permits

Division 7: Public Right-of-Way Permits

§129.0710 How to Apply for a Public Right-of-Way Permit

An application for a Public Right-of-Way Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Public Right-of-Way Permits are listed in the Land Development Manual. A *development permit* is required prior to issuance of a Public Right-of-Way Permit for the following:

(a) through (c) [No change in text.]

(d) Notwithstanding Sections 129.0710(a)-(c), a *development permit* is not required prior to issuance of a Public Right-of-Way Permit for placemaking, improvements required in accordance with the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14, or a recreational amenity in the *public right-of-way* subject to the following regulations. For purposes of Section 129.0710, a recreational amenity is defined as any improvement that provides recreational value to residents or visitors and that enhances the pedestrian or bicycle travel experience.

(1) through (3) [No change in text.]

(4) The term of the Public Right-of-Way Permit shall not exceed five years with the exception of *placemaking*, and recreational amenities and improvements provided in accordance with the

Climate Action Plan Consistency Regulations. The term shall not be limited in accordance with Municipal Code section 129.0750 and shall not be eligible for an extension of time pursuant to Municipal Code section 129.0751. *Placemaking*, ~~and recreational amenities, and improvements provided in accordance with the~~ Climate Action Plan Consistency Regulations shall be removed in accordance with the Encroachment Maintenance and Removal Agreement required in Section 129.0715.

(5) through (8) [No change in text.]

(9) The *placemaking* or recreational amenity project and improvements provided in accordance with the Climate Action Plan Consistency Regulations shall allow for safe and efficient visibility and circulation for motor vehicle users and other users of the *public right-of-way*, including bicyclists and pedestrians, and shall not impede the safe use of parking spaces or travel lanes in the *public right-of-way*, as determined by the City Engineer.

(10) [No change in text.]

Chapter 14

Article 3: Supplemental Development Regulations

Division 3: Supplemental Neighborhood Development Permit and Site Development Permit Regulations

§143.0302 When Supplemental Neighborhood Development Permit and Site Development Permit Regulations Apply

This Division applies to any *development* proposal for which a Neighborhood Development Permit or Site Development Permit is required as described in Sections 126.0402 and 126.0502, in accordance with Table 143-03A.

Legend for Table 143-03A

[No change in text.]

Table 143-03A

Supplemental Neighborhood Development Permit or Site Development Permit Regulations Applicability

Type of <i>Development</i> Proposal	Applicable Sections	Required <i>Development</i> Permit/Decision Process
Affordable housing, in-fill projects, and sustainable buildings projects as described in Section 143.0915 where a Site Development Permit or Planned Development Permit would otherwise be required. through Clairemont Mesa Height Limit Overlay Zone	[No change in text.]	[No change in text.]
<u>Development requesting a deviation from the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14.</u>	<u>143.0303, 143.0305, 143.0375</u>	<u>NDP/Process Two</u>

Chapter 14

Article 3: Supplemental Development Regulations

Division 10: Complete Communities Housing Solutions Regulations

§143.1025 Supplemental Development Regulations

Development utilizing the regulations in this Division must comply with the following Supplemental Development Regulations and may not utilize the waivers provided in Section 143.1010(h) to deviate from the requirements in Section 143.1025.

(a) through (e) [No change in text.]

(f) Climate Action Plan (CAP) Consistency ~~Checklist~~ Requirements. To ensure consistency with the City's CAP, all *development* shall comply with ~~each of the measures identified in Step 2 of the CAP Consistency Checklist~~ the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14.

Chapter 14

Article 3: Supplemental Development Regulations

Division 14: Climate Action Plan Consistency Regulations

§143.1401 Purpose of the Climate Action Plan Consistency Regulations

It is the purpose and intent of these regulations to implement the City's Climate Action Plan (CAP) by applying regulations that reduce greenhouse gas emissions from *development* specified in this Division. Compliance with these regulations is also intended to demonstrate a *development's* compliance with the City's CAP.

§143.1403 **Application of the Climate Action Plan Consistency Regulations**

- (a) This Division applies to the following:
- (1) Development that results in three or more total dwelling units on all premises in the development;
 - (2) Non-residential development that adds more than 1,000 square feet and results in 5,000 square feet or more of total gross floor area, excluding unoccupied spaces such as mechanical equipment and storage areas; and
 - (3) Parking facilities as a primary use.
- (b) Development that has received an incentive or waiver under a local opt-in bonus or incentive program not required by State law may not utilize the incentive or waiver to reduce or waive any of the requirements of this Division.
- (c) Development that deviates from the regulations of this Division may be approved with a Process Two Neighborhood Development Permit in accordance with Sections 126.0402(s) and 126.0403, provided that the findings in Section 126.0404(a) and the supplemental findings in Section 126.0404(h) are made.

§143.1405 **Definitions**

The following definitions apply to this Division:

- (a) Furnishings Zone has the same meaning that it has in the 2017 Street Design Manual of the Land Development Manual. It is the zone that provides the buffer between the active pedestrian area, the Throughway

Zone, and street traffic, and accommodates street trees, landscaping, street furniture, utility poles, parking meters, fire hydrants, bicycle racks, and similar improvements.

- (b) Throughway Zone has the same meaning that it has in the 2017 Street Design Manual of the Land Development Manual. It is the zone that is intended for pedestrian travel only and should be entirely clear of obstacles.

§143.1410 Mobility and Land Use Regulations

The following regulations support alternative mobility options, such as walking and biking, that reduce vehicle dependency and associated greenhouse gas emissions.

- (a) Pedestrian enhancements that reduce heat island effects shall be provided as follows:

(1) Development on a premises that contains a street yard or abuts a public right-of-way with a Furnishings Zone, at least 50 percent of the Throughway Zone shall be shaded as specified below.

(A) If the abutting public right-of-way contains a Furnishings Zone, shading shall be provided by street trees.

(B) If the abutting public right-of-way does not contain a Furnishings Zone, shading may be provided by a combination of trees and shade structures placed in the street yard.

- (C) The shade coverage of a tree shall be determined by the expected canopy at 10-year maturity. The tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City's Street Tree Selection Guide.
 - (D) Trees shall be irrigated and maintained consistent with Section 142.0403.
 - (E) The number of street trees provided shall not be less than what is required by the Landscape Regulations in Chapter 14, Article 2, Division 4.
- (2) Development on a premises that does not contain a street yard and does not abut a public right-of-way with a Furnishings Zone, the applicant shall do one of the following:
- (A) Plant the number of trees required by Section 143.1410(a)(1) at an off-site location within one mile of the development and enter into an agreement with the owner of the off-site location that ensures the indefinite maintenance of the trees; or
 - (B) Pay an Urban Tree Canopy Fee to be deposited into the Climate Resiliency Fund consistent with adopted City Council Resolution.
- (b) Development on a premises with 250 linear feet or more of street frontage shall provide and privately maintain at least one of the following publicly

accessible pedestrian amenities for every 250 linear feet of street frontage to the satisfaction of the Development Services Department:

- (1) One trash receptacle and one recycling container;
- (2) Seating comprised of movable seats, fixed individual seats, benches with or without backs, or design feature seating, such as seat walls, ledges, or seating steps;
- (3) Pedestrian-scale lighting that illuminates the adjacent sidewalk;
- (4) Public artwork;
- (5) Community wayfinding signs; or
- (6) Enhancement of a bus stop or public transit waiting station within 1,000 feet of the premises.

- (c) At least 50 percent of all residential and non-residential bicycle parking spaces required in accordance with Chapter 14, Article 2, Division 5 shall be supplied with individual outlets for electric charging at each bicycle parking space.

§143.1415 Resilient Infrastructure and Healthy Ecosystems Regulations

The following regulations support carbon sequestration as well as enhancement of air quality and the urban tree canopy.

- (a) Two trees shall be provided on the premises for every 5,000 square feet of lot area, with a minimum of one tree per premises.
- (1) If planting of a new tree is required to comply with this Section, the tree shall be selected in accordance with the Landscape

Standards of the Land Development Manual and the City's Street Tree Selection Guide.

- (2) Where possible, trees must be planted in native soil. Where native soil planting is prohibited by site conditions, required trees may be provided in built-in or permanently affixed planters and pots on structural podiums. Planters and pots for trees shall have a minimum inside dimension of 48 inches.
- (3) For a premises located within a base zone that does not require open space to accommodate the planting of on-site trees in compliance with this Section, the applicant shall do one of the following, except that all trees required by the Landscape Regulations in Chapter 14, Article 2, Division 4 must be provided on-site:
- (A) Plant the number of trees required by Section 143.1415(a) at an off-site location within one mile of the development and enter into an agreement with the owner of the off-site location that ensures the indefinite maintenance of the trees; or
- (B) Pay an Urban Tree Canopy Fee to be deposited into the Climate Resiliency Fund consistent with adopted City Council Resolution.
- (4) Trees shall be irrigated and maintained consistent with Section 142.0403.

- (5) The number of trees provided shall not be less than what is required by the Landscape Regulations in Chapter 14, Article 2, Division 4.

LHS:nja
05/23/2022
Or. Dept: Planning Department
Doc. No.: 2988511

Passed by the Council of The City of San Diego on SEP 13 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage SEP 21 2022.

AUTHENTICATED BY: TODD GLORIA
Mayor of The City of San Diego, California.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on AUG 02 2022, and on SEP 21 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal) ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21528