

(O-86-72)

ORDINANCE NUMBER O-16556 (NEW SERIES)

ADOPTED ON DEC 16 1985

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 101.0445, 101.0446, 101.0447, 101.0448, 101.0449 AND 101.0450, AND BY ADDING SECTION 101.0445 RELATING TO THE AIRPORT APPROACH OVERLAY ZONE.

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

Section 1. That Chapter X, Article 1, Division 4 of the San Diego Municipal Code be and the same is hereby amended by repealing Section 101.0445, AIRPORT APPROACH ZONE; Section 101.0446, AIRPORT APPROACH, TURNING ZONES ESTABLISHED; Section 101.0447, AIRPORT APPROACH ZONE - HEIGHT OF BUILDINGS; Section 101.0448, AIRPORT TURNING ZONE - HEIGHT OF BUILDINGS; Section 101.0449, AIRPORT INSTRUMENT APPROACH ZONE, and Section 101.0450, AIRPLANE FLIGHT TRAINING ZONES.

Section 2. That Chapter X, Article 1, of the San Diego Municipal Code be and the same is hereby amended by adding Section 101.0445, entitled "AIRPORT APPROACH OVERLAY ZONE," to read as follows:

SEC. 101.0445 AIRPORT APPROACH OVERLAY ZONE

A. PURPOSE AND INTENT

The purpose of this zone is to establish a procedure designed to ensure that before a building permit is issued within the overlay zone that:

1. The provisions of the Federal Aviation Act of 1958, implemented through the Federal Aviation Administration (FAA), obstruction evaluation programs are satisfied;

2. Whenever applicable, the provisions of California Public Utilities Code Section 21659, as administered by the California Department of Transportation (CALTRANS), are satisfied; and

3. The Port of San Diego, as the operator of the San Diego International Airport, is provided the opportunity to participate in the evaluation process conducted by the FAA and CALTRANS.

B. APPLICATION OF THE AIRPORT APPROACH OVERLAY ZONE

After a public hearing conducted pursuant to Chapter X, Article 1, Division 2 of the San Diego Municipal Code, and upon finding that the public health, safety, general welfare and sound zoning practice will be served thereby, the Airport Approach Overlay Zone shall be applied to all property located within the boundaries as described and shown on Map No. C-707, filed in the office of the City Clerk as Document No. 00-16556.

C. PERMITTED BUILDINGS, STRUCTURES AND USES

Buildings, structures and uses shall be those permitted by the underlying zone, any approved discretionary permit, any overlay zone which may be on the property, and shall be subject to the provisions of this overlay zone.

Buildings, structures or uses not exceeding 30 feet in height shall be exempt from the procedures of this overlay zone, except that area located west of Interstate 5, north of Ivy Street, and south of Nutmeg Street, where no buildings, structures, or uses shall be exempt. Height shall be measured at the preexisting grade within five feet of the building or structure. Nothing herein shall apply to interior modifications of existing structures which do not increase the height of the existing structure.

D. NOTIFICATION REQUIREMENTS

Within an Airport Approach Overlay Zone, the owner or developer of any proposed structure, subject to the provisions of this section, shall file notice of the proposed construction concurrently with the FAA and the Port of San Diego.

E. BUILDING PERMIT PROCESSING PROCEDURES

Within an Airport Approach Overlay Zone, no building permit shall be issued for a building, improvement or portion thereof to be erected, constructed, converted, established, altered, enlarged or moved to the site until the following are received by the Building Inspection Department:

1. An acknowledgment from the FAA stating that the proposal does not require notice to the FAA; or
  2. A letter from the Air Traffic Division of the Western Pacific Regional Office of the FAA stating that the proposed construction has been determined not to be a hazard to air navigation and such determination has become final;
- and

3. An acknowledgment from the Port of San Diego stating that it is aware of the proposed construction; and

4. A letter from the Port of San Diego stating that it concurs with the determination made by the Regional Office of the FAA. If the letter stating concurrence is not received within 40 days from the issuance date of the mailing of the FAA's determination, the Building Inspection Department will assume concurrence, and may issue the building permit.

5. If a letter is received from the Port of San Diego stating that it does not concur with the Regional Office's determination and has filed an appeal from the Western Pacific Regional Office's decision, a building permit shall not be issued until a letter of determination is received from the Air Traffic Administrator of the FAA National Headquarters stating that the proposed construction does not constitute a hazard to air navigation, such determination has become final, and 60 days have elapsed from the date on which said determination became final.

6. If the letter of determination from either the Regional Office of the National Headquarters of the FAA states that the proposed construction will constitute a hazard to safe and efficient use of airspace, a permit from CALTRANS is required to be obtained by the property owner in accordance with Section 21659 of the California Public Utilities Code before a building permit may be issued. The Building Inspection Department shall notify the Port of San Diego of the hazard determination.

7. If CALTRANS issues a permit for a proposed construction which is determined to be a hazard by either the Regional Office or the National Headquarters of the FAA, before building permit issuance, the City Council shall conduct a noticed public hearing in accordance with Section 101.0220 of the San Diego Municipal Code.

F. CITY COUNCIL HEARING PROCEDURE

1. In reviewing the construction proposal application for the building permit, the City Council shall consider the following:

a. Aeronautical studies conducted by the FAA which determine the effect of the proposal upon the operation of air navigation facilities and the safe and efficient utilization of the navigable airspace.

b. Quantified analyses conducted by the Port of San Diego which provide technical and economic statistics of the effect the proposed construction will have on existing airport operations.

c. The public health, safety and general welfare of the residents and property lying within the City of San Diego.

d. Public testimony from all interested persons.

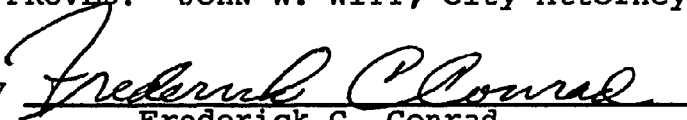
2. At the conclusion of the public hearing, the City Council shall either approve the issuance of the building permit at that time, or 120 days following the conclusion of

the public hearing or any continuance of the public hearing, provided the City Council finds, based on the information provided, that the delayed issuance is in the public interest.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By



Frederick C. Conrad  
Chief Deputy City Attorney

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10/16/85  
Or.Dept:Plan.  
O-86-72  
Form=o.code

DEC 16 1985

Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_  
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> VACANT

AUTHENTICATED BY:

ED STRUIKSMA  
Deputy Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By Ellen Board, Deputy.

(Seal)

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 NOV 26 1985, and on DEC 16 1985.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By Ellen Board, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Ordinance Number 0-16556 Adopted DEC 16 1985

CERTIFICATE OF PUBLICATION

THE CITY OF SAN DIEGO  
OFFICE OF THE CITY CLERK  
202 "C" STREET  
12TH FLOOR  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION  
4, OF THE SAN DIEGO MUNICIPAL CODE



I, Gerald F. Blair, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

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is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

December 30, 1985

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 30th day of Dec., 1985

Gerald F. Blair  
(Signature)

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