

ORDINANCE NUMBER O- 16681 (NEW SERIES)

ADOPTED ON JUN 30 1986

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS 101.0457, 101.0457.1, 101.0457.2, 101.0457.3, 101.0457.4, AND 101.0457.5, RELATING TO THE COMMUNITY PLAN IMPLEMENTATION 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 adding Sections 101.0457, 101.0457.1, 101.0457.2, 101.0457.3, 101.0457.4 and 101.0457.5, to read as follows:

SEC. 101.0457 COMMUNITY PLAN IMPLEMENTATION OVERLAY ZONE

The Community Plan Implementation Overlay Zone is hereby established.

SEC. 101.0457.1 PURPOSE AND INTENT

It is the purpose of the Community Plan Implementation Overlay Zone to provide supplemental development regulations to the underlying zone, to assure that development occurs in a manner consistent with adopted Community Plans and the guidelines, standards, and criteria contained therein which relate to the properties over which this zone is applied.

SEC. 101.0457.2

INITIATION AND APPLICATION

The application of the Community Plan Implementation Overlay Zone may be initiated by the Planning Commission, by the City Council, or by the owner of the property to which application of the Community Plan Implementation Overlay Zone is to be considered. The Community Plan Implementation Overlay Zone may be applied to property in any zoning district. The subject property must meet one of the following criteria:

A. The site is identified in the applicable community plan with specific standards, criteria or guidelines for the design of development or for development intensity and the site is identified as an area where specific implementing legislation is necessary; or

B. The site is identified in the applicable community plan as an area where development in conjunction with a Planned Development Permit is recommended and where the issues to be addressed through the permit process are identified.

The ordinance applying the Community Plan Implementation Overlay Zone to the subject property shall include a statement that indicates which one of the two criteria set forth above is met. Properties over which the Community Plan Implementation Overlay Zone is applied that meet criterion A above shall be considered "Type A" applications, and those properties that meet criterion B above shall be considered "Type B" applications.

SEC. 101.0457.3**PERMITTED USES**

Permitted uses shall be those permitted by the underlying zone subject to the regulations and restrictions of the underlying zone in addition to the regulations and restrictions of this overlay zone. Where the regulations of the underlying zone and this overlay zone conflict, the regulations of the Community Plan Implementation Overlay Zone shall prevail.

SEC. 101.0457.4**ACTIVITIES REGULATED**

Within a Community Plan Implementation Overlay Zone, no building, improvement or portion thereof shall be erected, constructed, converted, established, altered, enlarged, or demolished, nor shall any portion of any lot be excavated or graded nor shall native vegetation or mature trees with a caliper of eight inches or more be removed, nor shall landscaping be removed until a Community Plan Implementation permit is obtained in accordance with the procedure set forth herein.

Exemptions:

Where said building improvement is an interior building improvement within an existing building and the improvement does not involve a change in use or provide additional floor area, a Community Plan Implementation permit is not required. A Community Plan Implementation permit is not required for interior modifications or repairs, nor any exterior repairs or maintenance for which a building permit is not required. The granting of a Community Plan Implementation permit does not relieve the applicant of the responsibility for obtaining other applicable

permits from the City and other government agencies, including but not limited to a land development permit, if such a permit is required by the Municipal Code. A Community Plan Implementation Permit is not required for development which occurs in conjunction with a Planned Residential Development Permit, Planned Commercial Development Permit, or Planned Industrial Development Permit.

101.0457.5 ADMINISTRATIVE PROCEDURES

A. Permit Application

Application for a Community Plan Implementation Permit shall be made to the Planning Department in accordance with the procedures set forth below:

1. Application for a Community Plan Implementation Permit may be made by the record owner or owners of the property on which the development is proposed to be constructed.

The application shall be filed with the Planning Department upon forms provided by it and shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans and a legal description of the property involved and an explanation and description of the proposed use.

2. A deposit, as indicated on the current fee schedule maintained in the Planning Department, shall be paid when application for a Community Plan Implementation Overlay Zone Permit is made.

3. If required by the Planning Director, the application shall be accompanied by a tentative map which shall be filed with the Planning Department in accordance with procedures set forth in Chapter X, Article 2 of this Code.

4. The application shall be accompanied by plans as requested by the Planning Director to determine conformance with the regulations of the underlying zone and this overlay zone.

5. Notwithstanding any other provision hereof to the contrary, the Planning Director may:

a. Waive the permit requirements for an activity regulated under this overlay zone when it is determined that the proposed activity is necessary to avoid or abate a hazardous or unsafe condition; or

b. Waive the permit requirements for an activity regulated under this overlay zone if, due to the small size, location or other circumstances of the activity, the Planning Director finds that such application requirements are not necessary to assure implementation of the purpose and intent of this overlay zone.

B. Determination by the Planning Director

Upon receipt of an application for a Community Plan Implementation Permit, the Planning Director shall determine whether a ministerial review or a discretionary review of the project is required. The determination of the Planning Director shall be final. If the ordinance applying the Community Plan

Implementation Overlay Zone to the property states that criterion A of Section 101.0457.2 is met, (Type A application) then the Planning Director's review shall be ministerial, except when a variance from the requirements of the underlying zone is requested. If the ordinance applying the Community Plan Implementation Overlay Zone to the property states that criterion B of Section 101.0457.2 is met (Type B application), then the Planning Director's review shall be discretionary. Any proposed project which does not conform with all the regulations of the underlying zone shall require discretionary review by the Planning Director.

C. Decision of the Planning Director with Ministerial Review (Type A Application)

1. If the Planning Director determines that the application is complete and conforms with all of the regulations of the underlying zone, and that the proposed project conforms with the guidelines, standards, or criteria for design and development intensity as identified for the site in the applicable community plan, the Planning Director shall grant a Community Plan Implementation Permit.

2. The decision of the Planning Director shall be final.

D. Decision of the Planning Director with Discretionary Review (Type B Application)

1. If the Planning Director determines that the application is complete the Planning Director shall consider the application for a Community Plan Implementation Permit at a public hearing.

2. The Planning Director shall not approve any discretionary Community Plan Implementation Permit unless the proposed development was publicly noticed in accordance with the provisions of Section 101.0220.

3. The Planning Director shall, by resolution, grant a discretionary Community Plan Implementation Permit if it is found from the evidence presented that all of the following facts exist:

a. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan or the Community Plan;

b. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area, and will not adversely affect other property in the vicinity; and

c. The proposed use will comply with the relevant regulations in the Municipal Code.

4. In granting a discretionary Community Plan Implementation Permit, the Planning Director may impose such conditions as are necessary to protect the public health, safety and general welfare in accordance with the purpose and intent of the underlying zoning regulations and the issues identified in the applicable community plan. Therefore, any regulations of the underlying zone in which the property is situated may be increased or decreased in accordance with the provisions of paragraph G., Deviation from Regulations of the

Underlying Zone, and the standards, criteria, or guidelines of the community plan.

5. In granting or denying a discretionary Permit, the Planning Director shall make a written finding which shall specify facts relied upon by the Planning Director in rendering the decision and in attaching conditions and safeguards, and shall fully set forth wherein the facts and circumstances fulfill or fail to fulfill the requirements set forth herein.

6. A copy of the permit and the written findings of fact shall be filed with the City Clerk, the Planning Director, the Zoning Administrator and the Director of Building Inspection, and shall be mailed to the applicant and to the appropriate Community Planning Committee.

7. The decision of the Planning Director to approve or deny a discretionary Community Plan Implementation Permit may be appealed as set forth in paragraphs E. and F. below.

E. An appeal from any decision of the Planning Director regarding a discretionary Community Plan Implementation Permit must be filed with the Planning Department within ten days of that decision. The appeal shall be filed in accordance with Section 101.0230, noticed in accordance with the provisions of Section 101.0220, and considered at a public hearing.

F. The decision of the Planning Commission shall be final on the tenth day following their action unless a request to be heard on appeal is filed in the office of the City Clerk. The appeal shall be filed and heard in accordance with the provisions of Section 101.0240.

G. Deviations from Regulations of the Underlying Zone

Deviations from the requirements of this section may be granted by the Planning Director as follows:

1. The Planning Director, or the Planning Commission or City Council on appeal, may grant a deviation only when it shall appear from the applicant's statement or from the evidence presented at the public hearing that all the following facts exist:

a. Because of special circumstances applicable to the property, including but not limited to size, shape, topography, location or surroundings, the strict application of the requirements deprives such property of privileges enjoyed by other property in the vicinity under identical zone classification.

b. Any deviation granted will assure that the adjustment thereby authorized does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which property is situated because of the conditions imposed.

c. The granting of the deviation does not adversely affect the Progress Guide and General Plan for The City of San Diego, or any adopted community or precise plan of the City, or the adopted plan of any other appropriate governmental agency.

2. No deviation from the requirements that utilities be located underground shall be granted except as provided in Chapter X, Article 2, of this Code.

H. Failure to Utilize Community Plan Implementation Permit or Failure to Conform to or Comply with Conditions

1. Any Community Plan Implementation Permit granted by the City as herein provided shall be conditioned upon the privileges granted being utilized within 36 months after the effective date thereof, except as otherwise provided within a phasing program contained in: (a) a development agreement entered into between the City and owners of land located within the Community Plan Implementation district, (b) a specific plan applicable to the subject property, or (c) as otherwise provided by resolution approved by the City Council upon recommendation of the Planning Commission. Failure to utilize such Permit within such period will automatically void the same, unless an extension of time has been granted by the Planning Director as set forth in paragraph I. herein, Construction must actually be commenced within the stated period and be diligently pursued to completion.

2. During the 36-month period referred to in paragraph H.1. the property subject to the Community Plan Implementation Permit granted by the Planning Director, or by the Planning Commission on appeal, or by the City Council on appeal, shall not be used for any purpose or use other than that authorized by the Permit.

3. The Planning Director shall determine whether the conditions and requirements of the Permit have been met by the permittee. If the conditions and requirements of the permit have not been met, the Planning Director may conduct a revocation hearing.

I. Extension of Time to a Community Plan Implementation Permit

1. The Planning Director may, by resolution, grant a single extension of time up to 36 months beyond the time limit contained in a currently valid Community Plan Implementation Permit. To initiate a request for an extension of time, the property owner or owners shall file a written application with the Planning Director in the office of the Planning Department, prior to the expiration of the Community Plan Implementation Permit. A public hearing on the extension of time shall be required only if the original permit was granted following a public hearing. The Planning Director may grant the extension of time if it is found from the evidence submitted that there has been no material change of circumstances since the permit was originally granted. A change to the adopted Community Plan or underlying zone shall be considered a material change of circumstances.

2. The decision of the Planning Director may be appealed as provided in paragraphs E. and F. herein only if the original Community Plan Implementation Permit was granted following a public hearing.

J. Cancellation of a Community Plan Implementation Permit

A valid Community Plan Implementation Permit granted by the Planning Director, or by the Planning Commission on appeal, or by the City Council on appeal, may be cancelled at any time during the 36-month period referred to in paragraph H. herein. Cancellation may be initiated by the owner of the property

covered by the permit by means of a communication directed to the Planning Director in the office of the Planning Department. The permit becomes void 120 days after receipt of the communication in the office of the Planning Department.

K. Combined Proceedings

All proceedings with regard to a tentative map submitted with an application for a Community Plan Implementation Permit shall be reviewed by the Subdivision Board concurrently with the proceedings for the permit.

L. Tentative Map to Show Reservation for Open Space

If the applicable Community Plan indicates that a portion of the property is to be reserved as an open space easement or non-buildable area easement, then the tentative map submitted with the application for a Community Plan Implementation Permit shall show land reserved as an open space easement or non-buildable area easement.

If areas are reserved in accordance with the above provisions, approval of the tentative map shall be conditioned upon The City of San Diego being granted an easement in a form acceptable to the City, limiting the future use of such areas and preserving them as open spaces or non-buildable areas.

M. Final Map - Conditions to Approval - Amended Map

If the recording of a subdivision map has been imposed as a condition of a community plan implementation permit, building permits shall not be issued for any construction within the proposed community plan implementation district, unless a final approved map has been recorded or a waiver of such recordation

has been granted by the Planning Director, Planning Commission or City Council. A final map which deviates from the conditions imposed by the permit issued for the development shall not be approved.

A final map which provides for open space shall not be approved unless the special requirements of paragraph L. above have been fulfilled and the provisions of Chapter X, Article 2 of this Code, which are consistent with the provisions of this section have been satisfied.

N. Certificate of Occupancy

A certificate of occupancy shall not be issued for any structure in a Community Plan Implementation Overlay district until all improvements required by the permit have been completed to the satisfaction of the City Engineer and the Department of Building Inspection or a phasing plan has been approved by the Planning Director.

Section 2. 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
Frederick C. Conrad
Chief Deputy City Attorney

FCC:cc:630
05/12/86
06/25/86 Rev. 1
Or.Dept:Plan.
O-86-200
Form=0.none

Passed and adopted by the Council of The City of San Diego on JUN 30 1986
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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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.

(Seal)

By Ellen Bovard, 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

JUN 17 1986

JUN 30 1986

~~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.

(Seal)

By Ellen Bovard, Deputy.

00841

Office of the City Clerk, San Diego, California

Ordinance Number 0-16681 Adopted JUN 30 1986

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CITY CLERK'S OFFICE
1986 JUN 25 PM 3:03
SAN DIEGO, CALIF.

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CERTIFICATE OF PUBLICATION

JUL 18 4 47 PM '86

CITY OF SAN DIEGO
202 C STREET
SAN DIEGO, CA 92101

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

NO.

**ORDINANCE NUMBER O-16681 (NEW SERIES)
ADOPTED ON JUNE 30, 1986**

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS 101.0457, 101.0457.1, 101.0457.2, 101.0457.3, 101.0457.4, AND 101.0457.5, RELATING TO THE COMMUNITY PLAN IMPLEMENTATION OVERLAY ZONE.

The ordinance creates the Community Plan Implementation Overlay Zone and provides for its application to areas of the City of San Diego which qualify according to the provisions of the ordinance following noticed public hearings before the Planning Commission and City Council. The ordinance establishes procedures to be utilized in the administration of the zone and the issuance of permits. Applications for permits are to be considered by the Planning Director. Those applications designated as ministerial are final upon action by the Planning Director. Those applications designated as discretionary are subject to appeal to the Planning Commission and City Council following action by the Planning Director.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on June 17, 1986.

Passed and adopted by the Council of The City of San Diego on June 30, 1986.

AUTHENTICATED BY: ED STRUKSMA,
Deputy Mayor of The City of San Diego, California.
CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.

(SEAL)
By ELLEN BOVARD, Deputy,
Pub. July 14

54737

I, Thomas D. Kelleher, 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

ORDINANCE NUMBER O-16681

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:

July 14

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

Dated at San Diego, California this 14 day of July, 1986

Thomas D. Kelleher

(Signature)

00813

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