

(O-89-197)

ORDINANCE NUMBER O- 17285 (NEW SERIES)

ADOPTED ON MAY 1 1989

A PROCEDURAL ORDINANCE AMENDING CHAPTER X,
ARTICLE 1, DIVISION 2, OF THE SAN DIEGO
MUNICIPAL CODE BY ADDING SECTION 101.0260
RELATING TO INTERIM DEVELOPMENT CONTROL.

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

Section 1. That Chapter X, Article 1, Division 2, of the San Diego Municipal Code be and the same is hereby amended by adding Section 101.0260, to read as follows:

SEC. 101.0260 INTERIM DEVELOPMENT CONTROL

A. PURPOSE

1. The City of San Diego, California, pursuant to Article XI of the California Constitution and the City Charter of The City of San Diego, may adopt and enforce all ordinances and regulations with respect to municipal affairs, including the authority to adopt and enforce general and specific plans, zoning and subdivision regulations, and other land use control measures to protect and promote the public health, safety and welfare of its citizens.

2. The City is charged with the responsibility of planning for the future growth and development of the City.

3. The growth in population and housing units since 1979 has exceeded the City's ability to provide public facilities concurrent with residential growth and has led to facility deficiencies, reductions in levels of service, reductions in environmental quality, loss of open land, traffic congestion, and other land use, public facility, and environmental problems.

4. Controls are necessary for the purpose of protecting the public interest, preventing development which will exacerbate public facility and service problems and preventing the rate of development from exceeding an orderly and phased buildout consistent with applicable community plans and/or regional forecasts, which development would prejudice the integrity and objectives of the Progress Guide and General Plan.

5. Such controls when implemented shall be the minimum necessary to accomplish the objectives herein stated and shall permit development consistent with orderly and phased buildout of public facilities and services necessary to accommodate such development.

B. AFFECTED AREA

This ordinance may be applied City-wide or to any subarea of the City including, but not limited to, any community plan area(s) or any area as defined in the Progress Guide and General Plan.

C. SCOPE OF THE REGULATIONS

The specific provisions of this ordinance shall apply only to residential development.

D. REGULATIONS FOR DEVELOPMENT

The following categories for residential development are deemed exempt:

1. Low income housing projects which meet the criteria for exemption as defined in the San Diego Housing Commission Policy.

2. Senior citizen housing and student dormitories as approved by a conditional use permit.

3. Construction of not more than two (2) single family residences on two (2) contiguous preexisting recorded lots in the same ownership.

4. Residential development in Redevelopment Areas adopted pursuant to the Community Redevelopment Law.

5. Residential projects for which all required discretionary permits have been approved and recorded and/or for which building permit applications have been accepted as complete prior to the first date of notice by publication pursuant to Section G.

For purposes of this ordinance only, "residential development" means construction of new dwelling units requiring issuance of a building permit pursuant to Section 91.01 of the San Diego Municipal Code, but does not include remodeling, additions, rehabilitation

or other improvements to an existing structure, or rebuilding or replacement of an existing structure, provided such activities do not result in an increase in dwelling units.

The maximum number of dwelling units for residential development, except exempt development, for which building permits may be issued in the affected area shall be established by Council resolution at the time the ordinance is implemented. This resolution shall specify the maximum number of dwelling units to be allotted through a standard allocation and through an established reserve. The City Council may by resolution review, revise or update the dwelling unit allocation for the affected area as necessary.

E. PROCEDURE FOR DEVELOPMENT APPROVAL

1. The Planning Director, City Manager and City Engineer, or their designees, (hereinafter collectively called "Administrator") shall be charged with the administration of this ordinance. The duties of the Administrator shall include:

a. Administering the dwelling unit allocation pursuant to the procedure set forth in Section E3, and as specified in the implementing resolution;

b. Reviewing requests for approval of exempt developments;

c. Processing variance requests to the Planning Commission.

2. The Building Inspection Department shall not accept building permit applications for dwelling units regulated by this ordinance until the applicant obtains approval of the dwelling unit or units from the Administrator or through the variance process.

3. The priority for the review of applications by the Administrator shall be as follows:

a. Development approvals granted pursuant to a vesting tentative map, a development agreement, and/or other entitlement which may create a legally vested right to development of the whole or part of the project under California law.

b. An approved subdivision map in which all required improvements are installed prior to the issuance of building permits.

c. Proposed developments which have a discretionary permit granted by the Planning Director, the Planning Commission or the City Council.

d. Proposed developments which will not detrimentally impact the adequacy of public facilities, pursuant to the Progress Guide and General Plan and community plan analysis.

e. Date of application submittal.

F. VARIANCES

An applicant may request a variance from the decision of the Administrator within thirty (30) days of the Administrator's determination. The applicant shall indicate the nature of the variance requested and shall supply information sufficient to establish the basis for such variance request. The Administrator shall forward the variance application to the Planning Commission within thirty (30) days after notification of compliance with Section J of this Ordinance, approval of all discretionary permits, and recommendations/comments of the requested variance by the applicable community planning group. All dwelling unit allocations granted pursuant to a variance approval shall be taken from the reserve allocation as set forth in the implementing resolution. In the event that the granting of variances by the Planning Commission depletes the reserve allocation for dwelling units, the City Council shall either (1) reestablish a reserve allocation or (2) discontinue acceptance of variance requests pursuant to this section. The Planning Commission may grant such variance or modification upon its determination and its discretion that such variance or modification will (1) not result in any material damage or prejudice to other property in the vicinity and will not be detrimental to the public

health, safety and general welfare; (2) there are special circumstances unique to the development of this project and property which are not of the applicant's making; and which outweigh the policy and purpose of this Ordinance; and (3) the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of the land; and (4) the variance granted is the minimum variance that will accomplish this purpose. Any variance granted shall be subject to conditions, including limitations on the number of building permits requested, as the Planning Commission shall deem appropriate. The decision of the Planning Commission shall be appealable to the City Council.

G. METHOD OF IMPLEMENTATION

The City Council by resolution may implement this ordinance. Notice of the proposed implementation shall be provided by publication in a newspaper of general circulation and by mail to the applicable community planning group(s) at least 10 days before the date set for the Council hearing on the implementing resolution. The resolution shall include the following:

1. A diagram showing the affected area to be designated.

2. A statement of findings based on data analysis provided to the City Council which may include but are not limited to (1) location, type, amount, and rate of development; (2) the adequacy of and financing for public facilities and services necessary to accommodate development; and (3) the preservation of environmental quality necessary to maintain the public health, safety and welfare.

3. The establishment of a standard and a reserve allocation.

H. EFFECT OF THE REGULATIONS ON EXISTING CITY REGULATIONS AND ORDINANCES

1. This ordinance shall not affect, in any manner, any provision of the San Diego Municipal Code relating to the permissible use of property, density of development, design and improvement standards and requirements or any other aspect of the development of land or provision of public improvements subject to the zoning, subdivision, building or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such residential development.

2. This ordinance is additional and supplemental to, and not in substitution of, any other temporary,

emergency, or moratorium ordinances enacted by the City Council. Such ordinances shall remain in full force and effect pursuant to their terms and conditions, unless modified by the City Council in accordance with law. To the extent of any conflict between such ordinances and this ordinance, the more restrictive shall be deemed applicable.

I. FEES/DEPOSITS

Prior to the filing of any application, the applicant shall pay to the City fees/deposits equal to the cost of processing said request. Fees/deposits may be adjusted periodically by resolution of the City Council to ensure full cost recovery for the services. A list of current fees/deposits is on file in the office of the City Clerk. If the deposit is insufficient to cover the actual cost to the City, plus an applicable percentage to cover general overhead, the applicant shall be required to make additional deposits.

J. CODE COMPLIANCE

All allocations and variance applications are to receive a zoning plan check by the Building Inspection Department. No variance request shall be brought forth for public hearing for potential allocation without zoning code compliance and any required discretionary permits approved.

K. TOLLING OF TIME

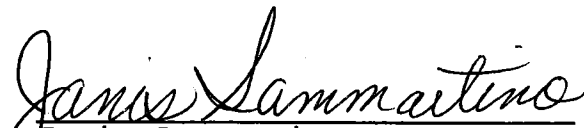
The expiration date for a tentative map, planned development permit, subdivision improvement agreement, land development permit, or conditional rezoning approved by the City shall be extended by a period of time equal to the effective period of the implementing resolution.

L. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

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 
Janis Sammartino
Deputy City Attorney

JS:lc
09/27/89
04/17/89 COR.COPY
04/19/89 COR.COPY
Or.Dept:Plan.
O-89-197
Form=o.none

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

MAY 1 1989

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<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"/>
J. Bruce Henderson	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *Rhonda R. Barnes*, 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

APR 18 1989

MAY 1 1989

~~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 *Rhonda R. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance **6-17285**
Number

MAY 1 1989

Adopted