

(0-94-95)

ORDINANCE NUMBER O- 18081 (NEW SERIES)

ADOPTED ON JUN 20 1994

AN ORDINANCE AMENDING CHAPTER VII, ARTICLE 1, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 71.0102, 71.0105, 71.0106, 71.0107, 71.0108, 71.0109, 71.0122, 71.0131 AND 71.0150 RELATING TO TRANSPORTATION DEMAND MANAGEMENT PROGRAM REQUIREMENTS.

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

Section 1. That Chapter VII, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 71.0102 to read as follows:

SEC. 71.0102 Definitions

"Building Owner" means the owner of a single or multi-tenant office, commercial, scientific research, mixed-use or industrially zoned building exceeding 25,000 square feet of gross floor area.

"Developer" means a person engaged in the development of land for or the construction of a commercial, scientific research, mixed use or industrially zoned building exceeding 25,000 square feet of gross floor area.

"EDAR" or "Employee Drive Alone Rate" means the percentage resulting from calculating the number of employees who are scheduled to report to the work site and who drive alone to the work site during the peak period divided by the total number of employees who are

scheduled to report to that work site during the peak period.

"Employee" means a full-time or part-time person employed by an employer, or any consultant or independent contractor hired by the employer and who reports to the work site.

"Employer" means a sole proprietor, partnership, corporation, unincorporated association, joint venture, or other business entity that has 60 or more Employees.

"Implementation Date" means January 1, 1990.

"Peak Period" means from 6:30 a.m. to 8:30 a.m. weekdays for the first 36 months subsequent to the Implementation Date. After January 1, 1993, the Peak Period means 6:00 a.m. to 9:00 a.m. weekdays.

"Technical Requirements" means the comprehensive set of rules, procedures and policies for the implementation and operation of the Transportation Demand Management Program as approved and adopted in a Council Policy, including such amendments as may be approved by the City Council.

"Transportation Demand Management" or "TDM" means a comprehensive set of strategies designed to influence travel behavior with respect to mode, time, frequency, route and distance.

"Transportation Demand Management Administrator" means the person approved by the City Manager to administer the Division.

"Transportation Management Association" or "TMA" means a private organization which assumes a role of facilitating Transportation Demand Management actions by Employers, Building Owners and Developers and which has a written work program, a board of directors, and a funding and staffing plan.

"Transportation Demand Management Plan" means a written transportation demand management plan which outlines schedules, steps, programs, work site incentives, amenities, monitoring, evaluation and includes corrective actions that will be implemented by an Employer to reach the EDAR goal.

"Work Site" means a land area, building or set of contiguous buildings or portions thereof in the City of San Diego under the ownership or control of a single Employer, Building Owner, or Developer. A "Work Site" also includes land, buildings, or portions thereof, under common ownership or control which may be separated by a public or private street.

Section 2. That Chapter VII, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 71.0105 to read as follows:

SEC. 71.0105 Work Site Requirements

Employers failing to meet the requirements of this Division shall be subject to enforcement provisions set forth in Section 71.0122.

A. Each Employer shall establish a new-hire orientation program for its Employees to encourage use

of Transportation Demand Management strategies to reduce the EDAR, based on the guidelines established in the Technical Requirements.

B. Each Employer shall establish a Transportation Demand Management information center for its Employees at each Work Site, based on guidelines established in the Technical Requirements.

C. Each Employer shall designate a transportation coordinator for each Work Site to serve as a point of contact between the Transportation Demand Management Administrator and the Employer.

Section 3. That Chapter VII, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 71.0106 to read as follows:

SEC. 71.0106 Performance Requirements

A. Each Employer with thirty-three (33) or more Employees reporting to a Work Site in the period from 6:00 a.m. to 10:00 a.m. shall utilize Transportation Demand Management strategies as set forth in the Technical Requirements to achieve an EDAR goal of a two (2) percentage point reduction from the previous year, or an average reduction of two (2) percentage points per year from the date of the Employer's initial surveyed EDAR value, until one of the following is achieved and sustained for those Work Sites:

1. A reduction of ten (10) percentage points from the Employer's initial surveyed EDAR value; or

2. For Employers located outside the Centre City Community Plan Area, as designated in Map Number C-828 on file with the Office of the City Clerk, an EDAR of 70% or less; or
3. For Employers located within the Centre City Community Plan Area, as designated in Map Number C-828 on file in the Office of the City Clerk, an EDAR of 60% or less;

B. A Transportation Management Association may be granted authority by an Employer to prepare and/or execute an Employer's EDAR report or Transportation Demand Management Plan within the Transportation Management Association's geographical area. If a group of Employers in a Transportation Management Association, on average, collectively meet the EDAR target, Employers within that Transportation Management Association do not need to individually meet their EDAR target.

Section 4. That Chapter VII, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 71.0107 to read as follows:

SEC. 71.0107 EDAR Reporting Requirements

Employers with (33) or more Employees reporting to a Work Site in the period from 6:00 a.m. to 10:00 a.m. shall comply with the following EDAR reporting requirements for those Work Sites:

A. For each Work Site, the Employer shall file an annual EDAR report in accordance with the Technical Requirements.

B. Employers may elect to file a consolidated EDAR report for all of their Work Sites, provided the report represents and describes each Work Site separately.

Section 5. That Chapter VII, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 71.0108 to read as follows:

SEC. 71.0108 Transportation Demand Management Plan Requirements

For Employers of more than 100 Employees per Work Site who fail to reach their EDAR goal, the Employer shall develop, file, and implement a Transportation Demand Management Plan in accordance with the Technical Requirements. Employers of more than 100 Employees per Work Site who achieved an EDAR of 75% or less during the July 1992 through June 1993 filing year shall be exempt from this section's requirement for the July 1993 through June 1994 filing year only. This section does not apply to Employers of fewer than 100 Employees per Work Site.

A. The Transportation Demand Management Plan shall be submitted to the Administrator within ninety (90) calendar days from receipt of a notice that the Employer's EDAR report indicates failure to achieve the EDAR goal.

B. Transportation Demand Management Plans shall be implemented within thirty (30) calendar days of approval by the Administrator. Rejected Transportation Demand Management Plans must be revised within thirty (30) calendar days of notice of rejection.

C. EDAR reports following a submittal of a Transportation Demand Management Plan shall be filed in accordance with the Employer's initial EDAR reporting date.

D. An Employer may, at its election, consolidate the Transportation Demand Management Plans required for its various Work Sites into one consolidated plan.

Section 6. That Chapter VII, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 71.0109 to read as follows:

SEC. 71.0109 Transportation Demand Management Compliance

The Transportation Demand Management compliance standards for Employers are as follows:

An Employer who has filed a Transportation Demand Management Plan pursuant to Section 71.0108 and who fails to reach its EDAR goal shall amend its Transportation Demand Management Plan in accordance with the Technical Requirements. These amended plans shall be designed to meet the Employer's EDAR goal by the next reporting period.

Section 7. That Chapter VII, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 71.0122 to read as follows:

SEC. 71.0122 Enforcement

A. An Employer who willfully fails to file an EDAR report when due, or who fails to meet Work Site requirements, shall be guilty of an infraction and shall be subject to: 1) an additional administrative fee of 100 percent of the regular fee per month as established in Section 71.0123(b); or 2) one dollar per Employee per month, whichever is greater. This additional administrative fee shall be assessed from the date the EDAR report is due and shall continue to be assessed until such time as the EDAR report is received or the Work Site requirements are met.

B. An Employer who willfully fails to file a Transportation Demand Management Plan when due, or who fails to implement a plan or amendment thereto, shall be subject to an administrative fee of \$20 per Employee per month. This fee shall be assessed until such time as the Transportation Demand Management Plan is filed, or in cases where an Employer has willfully failed to implement, until such time as implementation of the Transportation Demand Management Plan occurs.

C. A Building Owner who willfully fails to comply with the requirements of this Division shall be guilty of an infraction and be subject to an

administrative fee of not to exceed \$0.10 per square foot of gross floor area.

Section 8. That Chapter VII, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 71.0131 to read as follows:

SEC. 71.0131 Variance or Other Permits Granted by the Administrator

A. Application - Form and Contents

Applications for a Transportation Demand Management variance, extension or other exemption or exclusion from this Transportation Demand Management Division may be made by the Employer, Transportation Management Association, Building Owner or Developer affected. Application shall be filed with the Administrator. The application shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate information and business address(es) of the Work Site(s) or building(s) involved.

B. Determination of the Requirement For a Hearing Before the Administrator

A public hearing shall not be required for Employers, Transportation Management Associations, Building Owners and Developers who seek temporary extensions of three (3) months or less to file any document due under this Division.

C. Hearing Before the Administrator - Procedure

1. If a public hearing is required, the Administrator shall set a date for the public hearing and give notice of time, place and purpose of such hearing in the following manner:

a. By posting in a prominent place at the business location or locations to be affected by the proposed decision.

b. By posting a notice outside of the entrance to the Chambers of the City Council.

2. Upon the date of the hearing, the Administrator shall hear the application unless cause is found on that date to continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

3. In addition to the methods set forth in Section 71.0131(B)(1), the TDM Administrator may use other methods found to be desirable in giving proper notice of the public hearing.

D. Decision of the Administrator

1. The Administrator may grant a variance or extension from this Division when it appears from the facts contained in the application, from information obtained by the Administrator and from the evidence presented at the public hearing, if required, that the following findings can be reached:

a. A good faith effort has been made by the applicant.

b. Applicant has established that, notwithstanding its good faith efforts, applicant is unable to achieve its EDAR goals.

c. The granting of the variance or extension will be in conformity with the general purpose of this Division.

2. In granting a variance or extension, the Administrator may impose conditions as deemed necessary and desirable to protect the public health, safety and general welfare, and may impose a time limit not to exceed 36 months during which the variance or extension will be effective.

3. The written decision of the Administrator, which shall include findings of fact, shall be filed in the office of the Administrator. A copy of the decision shall be mailed to the applicant.

4. When the decision of the Administrator is not appealed as provided for in Section 71.0150, the decision shall be final upon expiration of the specified appeal period.

E. Amendment of Variance or Permits

1. The Administrator may grant an amendment to a variance which has been granted if, after considering the facts presented on the application, the findings set forth in Section 71.0131(D) are reached.

2. An application for an amendment to a variance or an extension shall be in writing, and shall be filed by the affected Employer, the Transportation Management Association, Building Owner, or Developer. The application shall be filed with the Administrator, who may require a public hearing if it is determined that a hearing is in the public interest.

Section 9. That Chapter VII, Article 1, Division 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 71.0150 to read as follows:

SEC. 71.0150 Appeal to the Appeals Board of an Administrator's Decision

A. Filing of Appeals

1. An appeal from any temporary extension of fewer than three (3) months for which a noticed public hearing is not required, or from any noticed decision of the Administrator may be taken to the Appeals Board by:

- a. The applicant;
- b. Any governmental body or agency;
- c. Any affected citizen located within

the City.

2. Appeals shall be filed within ten (10) calendar days of the decision of the Administrator.

B. Appeal Procedure

1. Appeals shall be in writing, shall be filed in duplicate in the office of the Administrator

upon forms provided, and shall specify wherein there was an error in the decision of the Administrator.

2. An appeal filed with the Administrator within the time specified in Section 71.0150(A) automatically stays proceedings in the matter.

3. Upon the filing of an appeal, the Administrator shall set the matter for public hearing before the Appeals Board and shall give notice of time, date and purpose of such hearing in the following manner:

a. By posting in a prominent place at the business location or locations to be affected by the proposed decision.

b. By posting a notice outside of the entrance to the Chambers of the City Council.

4. The Administrator shall transmit to the Appeals Board a copy of the decision in the case along with findings, minutes of the hearing and all other evidence, maps, papers and exhibits used by the Administrator in making the decision.

5. Upon the date set for the hearing, the Appeals Board shall hear the appeal unless, for cause, the Appeals Board shall on that date continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

6. In addition to the methods set forth in Section 71.0150(B)(3), the TDM Administrator may use

other methods found to be desirable in giving proper notice of the public hearing.

C. Decision of the Appeals Board

1. After conducting a public hearing on an appeal, the Appeals Board may affirm, reverse, or modify in whole or in part the decision of the Administrator, subject to the same limitations imposed upon the Administrator by Section 71.0131(D). The resolution of decision shall contain a finding of facts showing wherein the proposed variance or extension meets or fails to meet the requirements of Section 71.0131(D) (6).

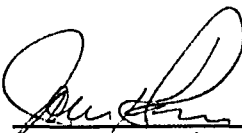
2. The resolution of decision shall be filed with the City Clerk and the Administrator and a copy shall be mailed to the applicant.

3. The decision of the Appeals Board shall be final.

Section 10. 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



John K. Riess
Deputy City Attorney

JKR:pev
04/11/94
Or.Dept:E&D
0-94-95
Form=o.code

OLD LANGUAGE: ~~STRIKEOUT~~
NEW LANGUAGE: ~~REDLINED~~

AN ORDINANCE AMENDING CHAPTER VII, ARTICLE 1,
DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE
BY AMENDING SECTIONS 71.0102, 71.0105,
71.0106, 71.0107, 71.0108, 71.0109, 71.0122,
71.0131 AND 71.0150 RELATING TO
TRANSPORTATION DEMAND MANAGEMENT PROGRAM
REQUIREMENTS.

SEC. 71.0102 Definitions

A.—"Building Owner" ~~shall means~~ the owner of a single or multi-tenant office, commercial, scientific research, mixed-use or industrially zoned ~~building or buildings~~ exceeding 25,000 square feet of gross floor area.

B.—"Developer" ~~shall means~~ a person engaged in the development of land for or the construction of commercial, scientific research, mixed use or ~~industrially zoned buildings~~ ~~industrially zoned~~ building exceeding 25,000 square feet of gross floor area.

C.—"EDAR" or "Employee Drive Alone Rate" ~~shall means~~ the percentage resulting from calculating the number of employees who are scheduled to report to the work site and who drive alone to the work site during the peak period divided by the total number of employees who are scheduled to report to that work site during the peak period.

D.—"Employee" ~~shall means~~ a full-time or part-time person employed by an employer, or any consultant or independent contractor hired by the employer and who reports to the work site.

E.—"Employer" shall means a sole proprietor, partnership, corporation, unincorporated association, joint venture, or other business entity that employs has 60 or more employees—Employees.

F.—"Implementation Date" shall means January 1, 1990.

G.—"Peak Period" shall be means from 6:30 a.m. to 8:30 a.m. weekdays for the first 36 months subsequent to the implementation date—Implementation Date. After January 1, 1993, the peak period shall be Peak Period means 6:00 a.m. to 9:00 a.m. weekdays.

H.—"Technical Requirements" shall means the comprehensive set of rules, procedures and policies for the implementation and operation of the Transportation Demand Management Program as approved and adopted in a Council Policy, including such amendments as may be necessary—approved by the City Council.

I.—"Transportation Demand Management" or "TDM" shall means a comprehensive set of strategies designed to influence travel behavior with respect to mode, time, frequency, route and distance.

J.—"Transportation Demand Management Administrator" means the person approved by the City Manager to administer the Division.

"Transportation Management Association" or "TMA" shall means a private organization which assumes a role of facilitating Transportation Demand Management actions by employers—Employers, building owners—Building Owners and developers—Developers and

which has a written work program, a board of directors, and a funding and staffing plan.

K.—"Transportation Demand Management Plan" shall mean a written transportation demand management plan which outlines schedules, steps, programs, work site incentives, amenities, monitoring, evaluation and includes corrective actions that will be implemented by an ~~employer~~ Employer to reach the EDAR targets goal.

L.—"Work Site" shall mean a land area, building or set of contiguous buildings or portions thereof in the City of San Diego under the ownership or control of a single ~~employer~~ Employer, ~~building owner~~ Building Owner, or ~~developer~~ Developer. A work site "Work Site" shall also mean includes land, buildings, or portions thereof, under common ownership or control which may be separated by a public or private street.

SEC. 71.0105 Work Site Requirements

Employers failing to meet these the requirements of this Division shall be subject to enforcement provisions set forth in Section 71.0122+.

A. Each ~~employer~~ Employer shall establish a new-hire orientation program for its Employees to encourage use of Transportation Demand Management strategies to reduce the EDAR, based on the guidelines established in the Technical Requirements.

B. Each Employer shall establish a Transportation Demand Management information center for its Employees at each Work

Site, based on guidelines established in the Technical Requirements.

C. Each Employer shall designate a transportation coordinator for each Work Site to serve as a point of contact between the Transportation Demand Management Administrator and the Employer.

SEC. 71.0106 Performance Requirements

A. Each Employer with thirty-three (33) or more Employees reporting to a Work Site in the period from 6:00 a.m. to 10:00 a.m. shall utilize Transportation Demand Management strategies as set forth in the Technical Requirements to achieve the EDAR targets prescribed below an EDAR goal of a two (2) percentage point reduction from the previous year, or an average reduction of two (2) percentage points per year from the date of the Employer's initial surveyed EDAR value, until one of the following is achieved and sustained for those Work Sites:

~~MAXIMUM EMPLOYEE DRIVE ALONE RATE:~~

Time From Date That Employer, Owner, or Developer Phasing in Section 71.0103 Applies	EDAR Target
0 - 12 months	No Target
13 - 24 months	85%
25 - 36 months	75%
37 - 48 months	65%
49 - 60 months	60%
61 months and after	55%

1. A reduction of ten (10) percentage points from the Employer's initial surveyed EDAR value; or

2. For Employers located outside the Centre City Community Plan Area, as designated in Map Number C-828 on file with the Office of the City Clerk, an EDAR of 70% or less; or

3. For Employers located within the Centre City Community Plan Area, as designated in Map Number C-828 on file in the Office of the City Clerk, an EDAR of 60% or less;

B. A Transportation Management Association may be granted authority by an Employer to prepare and/or execute an Employer's EDAR report or Transportation Demand Management Plan within the Transportation Management Association's geographical area. If a group of Employers in a Transportation Management Association, on average, collectively meet the EDAR target, Employers within that Transportation Management Association do not need to individually meet their EDAR target.

~~C. Each Employer shall designate a transportation coordinator for each Work Site to serve as a point of contact between the Transportation Demand Management Administrator (as defined in Section 71.0123) and the Employer.~~

SEC. 71:0107 EDAR Reporting Requirements

Employers with (33) or more Employees reporting to a Work Site in the period from 6:00 a.m. to 10:00 a.m. shall comply with the following EDAR reporting requirements for those Work Sites:

A. For each Work Site, the Employer shall file an annual EDAR report in accordance with the Technical Requirements.

B. Employers may elect to file a consolidated EDAR report for all of their Work Sites, provided the report represents and describes each Work Site separately.

SEC. 71.0108 Transportation Demand Management Plan Requirements

~~If an Employer fails to reach its EDAR target for two successive years, the Employer shall develop, file, and implement a Transportation Demand Management Plan in accordance with the Technical Requirements. This section does not apply to Employers of fewer than 100 employees per work site Work Site.~~

For Employers of more than 100 Employees per Work Site who fail to reach their EDAR goal, the Employer shall develop, file, and implement a Transportation Demand Management Plan in accordance with the Technical Requirements. Employers of more than 100 Employees per Work Site who achieved an EDAR of 75% or less during the July 1992 through June 1993 filing year shall be exempt from this section's requirement for the July 1993 through June 1994 filing year only. This section does not apply to Employers of fewer than 100 Employees per Work Site.

A. The Transportation Demand Management Plan shall be submitted to the Administrator within ninety (90) calendar days from receipt of a notice that the Employer's EDAR report indicates failure to achieve the EDAR target.

B. Transportation Demand Management Plans shall be implemented within thirty (30) calendar days of approval by the Administrator. Rejected Transportation Demand Management Plans

must be revised within ~~thirty (30) calendar~~ days of notice of rejection.

C. EDAR reports following a submittal of a Transportation Demand Management Plan shall be filed in accordance with the Employer's initial EDAR reporting date.

D. An Employer may, at its election, consolidate the Transportation Demand Management Plans required for its various Work Sites into one consolidated plan.

SEC. 71.0109 Transportation Demand Management Compliance

The Transportation Demand Management compliance standards for Employers are as follows:

An Employer who, ~~having~~ ~~has~~ filed a Transportation Demand Management Plan pursuant to Section 71.0108, ~~and who~~ fails to reach its EDAR ~~targets for two successive years goal~~ shall amend its Transportation Demand Management Plan in accordance with the Technical Requirements. These amended plans shall be designed to meet the Employer's EDAR ~~target goal~~ by the next reporting period.

SEC. 71.0122 Enforcement

A. An Employer who, ~~inadvertently or improperly but in good faith,~~ ~~willfully~~ fails to file an EDAR report when due, or who fails to meet Work Site requirements, shall be ~~guilty of an infraction and shall be~~ subject to: 1) an additional administrative fee of 100 percent of the regular fee per month as established in Section 71.0123(b); or 2) one dollar per Employee per month, whichever is greater. This additional administrative

fee shall be assessed from the date the EDAR report is due and shall continue to be assessed until such time as the EDAR report is received or the Work Site requirements are met.

B. An Employer who, ~~inadvertently or improperly but in good faith,~~ willfully fails to file a Transportation Demand Management ~~plan~~ Plan when due, or who fails to implement a plan or amendment thereto, shall be subject to an administrative fee of \$20 per Employee per month. This fee shall be assessed until such time as the Transportation Demand Management ~~plan~~ Plan is filed, or in cases where an Employer has willfully failed to implement, until such time as implementation of the Transportation Demand Management Plan occurs.

C. A Building Owner who, ~~inadvertently or improperly but in good faith,~~ willfully fails to comply with the requirements of this Division shall be guilty of an infraction and be subject to an administrative fee of not to exceed \$0.10 per square foot of gross floor area.

~~D. If the Employer has willfully failed to comply with Sections 71.0105 or 71.0107 or fails to develop, file or implement a plan or amendment thereto as required in Sections 71.0108 and 71.0109 of this Division, or fails to comply with a written decision of the Administrator or of the Appeals Board (as defined in Section 71.0130), the Employer shall be sanctioned in accordance with this Section and be guilty of a misdemeanor.~~

SEC. 71.0131 Variance or Other Permits Granted by the Administrator

A. Application - Form and Contents

Applications for a Transportation Demand Management variance, extension or other exemption or exclusion from this Transportation Demand Management Division may be made by the Employer, Transportation Management Association, Building Owner or Developer affected. Application shall be filed with the Administrator. The application shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate information and business address(es) of the Work Site(s) or building(s) involved.

B. Determination of the Requirement For a Hearing Before the Administrator

A public hearing shall not be required for Employers, Transportation Management Associations, Building Owners and Developers who seek temporary extensions of three (3) months or less to file any document due under this Division.

C. Hearing Before the Administrator - Procedure

1. ~~In all cases~~ If a public hearing is required, the Administrator shall set a date for the public hearing and give notice of time, place and purpose of such hearing in the following manner:

a. By posting in a prominent place at the business location or locations to be affected by the proposed decision.

b. By posting a notice outside of the entrance to the Chambers of the City Council.

2. Upon the date of the hearing, the Administrator shall hear the application unless cause is found on that date to continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

3. In addition to the methods set forth in Section 71.0131(B)(1), the TDM Administrator may use other methods found to be desirable in giving proper notice of the public hearing.

~~C-D.~~ Decision of the Administrator

1. The Administrator may grant a variance or extension from ~~the Transportation Demand Management Division (San Diego Municipal Code Chapter 7, Article 5, this Division 1)~~ when it appears from the facts contained in the application, from information obtained by the ~~administrator~~ Administrator and from the evidence presented at the public hearing, ~~if required~~, that the following findings can be reached:

a. A good faith effort has been made by the applicant.

b. Applicant has established that, notwithstanding its good faith efforts, applicant is unable to achieve its EDAR ~~targets~~ goals.

c. The granting of the variance or extension will be in conformity with the general purpose of this Division.

2. In granting a variance or extension, the Administrator may impose conditions as deemed necessary and desirable to protect the public health, safety and general welfare, and may impose a time limit not to exceed 36 months during which the variance or extension will be effective.

3. The written decision of the Administrator, which shall include findings of fact, shall be filed in the office of the Administrator. A copy of the decision shall be mailed to the applicant.

4. When the decision of the Administrator is not appealed as provided for in Section 71.0150, the decision shall be final upon expiration of the specified appeal period.

~~D-E.~~ **D-E. Amendment of Variance or Permits**

1. The Administrator may grant an amendment to a variance which has been granted if, after considering the facts presented on the application ~~at the hearing~~, the findings set forth in ~~Paragraph C of this Section~~ 71.0131(D) are reached.

2. An application for a ~~variance~~, an amendment to a variance, or an extension shall be in writing, and shall be filed by the ~~affected~~ Employer, the Transportation Management Association, Building Owner, or Developer ~~affected~~. The application shall be filed with the Administrator, who may require a public hearing if it is determined that a hearing is in the public interest.

SEC. 71.0150 Appeal to the Appeals Board of an Administrator's Decision

A. Filing of Appeals

1. An appeal from any temporary extension of fewer than three (3) months for which a noticed public hearing is not required, or from any noticed decision of the Administrator may be taken to the Appeals Board by:

- a. The applicant;
- b. Any governmental body or agency;
- c. Any affected citizen located within the City.

2. Appeals shall be filed within ten (10) calendar days of the decision of the Administrator.

B. Appeal Procedure

1. Appeals shall be in writing, shall be filed in duplicate in the office of the Administrator upon forms provided, and shall specify wherein there was an error in the decision of the Administrator.

2. An appeal filed with the Administrator within the time specified in ~~Paragraph A of this Section~~ 71.0150(A) automatically stays proceedings in the matter.

3. Upon the filing of an appeal, the Administrator shall set the matter for public hearing before the Appeals Board and shall give notice of time, date and purpose of such hearing in the following manner:

a. By posting in a prominent place at the business location or locations to be affected by the proposed decision.

b. By posting a notice outside of the entrance to the Chambers of the City Council.

4. The Administrator shall transmit to the Appeals Board a copy of the decision in the case along with findings, minutes of the hearing and all other evidence, maps, papers and exhibits used by the Administrator in making the decision.

5. Upon the date set for the hearing, the Appeals Board shall hear the appeal unless, for cause, the Appeals Board shall on that date continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

6. In addition to the methods set forth in Section 71.0150(B)(3), the TDM Administrator may use other methods found to be desirable in giving proper notice of the public hearing.

C. Decision of the Appeals Board

1. After conducting a public hearing on an appeal, the Appeals Board may affirm, reverse, or modify in whole or in part the decision of the Administrator, subject to the same limitations imposed upon the Administrator by ~~Paragraph C of~~ Section 71.0131(D). The resolution of decision shall contain a finding of facts showing wherein the proposed variance or

extension meets or fails to meet the requirements of ~~Paragraph C~~
~~of~~ Section 71.0131 **(D)(6)**.

2. The resolution of decision shall be filed with the City Clerk and the Administrator and a copy shall be mailed to the applicant.

3. The decision of the Appeals Board shall be final.

JKR:pev
04/20/94
so-94-95

Vote for Relaxing and restructuring of the program targets:

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

JUN 20 1994

by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Harry Mathis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Christine Kehoe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barbara Warden	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Vote to adopt ordinance:

Council Members	Yeas	Nays	Not Present	Ineligible
Harry Mathis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Christine Kehoe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barbara Warden	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<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"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

SUSAN GOLDING

Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *Mary Cepeda* 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

MAY 31 1994

JUN 20 1994

, and on

~~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 *Mary Cepeda* Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number **18081**

Adopted **JUN 20 1994**

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE

94 JUL -8 AM 11:40

SAN DIEGO, CALIF. P

OFFICE OF THE CITY CLERK
2ND FLOOR, CITY ADMINISTRATION BLDG.
202 C. STREET
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER VII,...

ORDINANCE NUMBER 0-18081 (NEW SERIES)
AN ORDINANCE AMENDING CHAPTER VII, ARTICLE 1, DIVISION 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 71.0102, 71.0105, 71.0106, 71.0107, 71.0108, 71.0109, 71.0122, 71.0131, AND 71.0150 RELATING TO TRANSPORTATION DEMAND MANAGEMENT PROGRAM REQUIREMENTS.
A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.
INTRODUCED ON May 31, 1994. Passed and adopted by the Council of the City of San Diego on June 20, 1994.
AUTHENTICATED BY:
SUSAN GOLDING
Mayor of The City of San Diego, CA
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, CA
(SEAL) By MARY CEPEDA, Deputy
Pub. July 1 287182

I, Corey Donahue, 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 0-18061 (NEW SERIES)

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 1

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

Dated at San Diego, California this 1st day of JULY, 1994.

Corey Donahue

(Signature)

2" x 2 = \$ 53.76