

ORDINANCE NUMBER O- 18566 (NEW SERIES)

Re ADOPTED ON AUG 07 1998

AN ORDINANCE SUBMITTING TO THE QUALIFIED VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL ELECTION CONSOLIDATED WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 3, 1998, ONE PROPOSITION RELATING TO AN INITIATIVE MEASURE AMENDING PEOPLE'S ORDINANCE NUMBER 10960 N.S. ADOPTED ON NOVEMBER 7, 1972, AS AMENDED BY VOTE OF THE PEOPLE ON NOVEMBER 8, 1988, PERTAINING TO THE HEIGHT OF BUILDINGS IN THE COASTAL ZONE.

WHEREAS, on June 10, 1998, Sea World of California filed with the City Clerk's Office an initiative petition asking that an amendment to People's Ordinance No. 10960 (New Series), as amended by vote of the People on November 8, 1988, pertaining to the height of buildings in the Coastal Zone, be submitted to voters; and

WHEREAS, the petition was found to contain the valid signatures of over ten percent of the City's registered voters as required by the Charter for direct submission to the voters; and

WHEREAS, People's Ordinance No. 10960 (New Series) was enacted by the voters as Proposition D on November 7, 1972; and

WHEREAS, pursuant to Section 23 of the San Diego City Charter and Section 27.2501 of the San Diego Municipal Code, the City Council may place any legislative act on the ballot to be considered at a Municipal Election; and

WHEREAS, San Diego Municipal Code section 27.2528 requires that any initiated legislative act adopted by a majority vote of the voters may be amended or repealed only by a vote of the majority of the voters or by Charter amendment; and

WHEREAS, on July 20, 1998, the Council by Resolution No. R-290464, directed the City Attorney to prepare an ordinance placing the above-described initiative measure on the ballot at a municipal election consolidated with the next general statewide election on November 3, 1998.

WHEREAS, by Ordinance No. O- 18559, adopted on AUG 07 1998, the City Council is calling a municipal election to be consolidated with the Statewide General Election on November 3, 1998, for the purpose of submitting to the qualified voters of The City one or more ballot propositions; and

WHEREAS, the City Council desires to submit to the electorate at that Municipal Election one proposition relating to the above-described initiative measure to amend People's Ordinance No. 10960 (New Series), as amended by vote of the People on November 8, 1988; NOW, THEREFORE,

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

Section 1. One proposition relating to an ordinance amending People's Ordinance No. 10960 (New Series), as amended by vote of the People on November 8, 1988, pertaining to the height of buildings in the Coastal Zone in The City of San Diego, is hereby submitted to the qualified voters of The City at the Municipal Election to be held November 3, 1998, the proposition to read as follows:

PROPOSITION

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

The San Diego Municipal Code section enacted by the voters as Proposition D on November 7, 1972, and effective on December 7, 1972 as Ordinance No. 10960 (New Series), and amended by vote of the People on November 8, 1988, as Proposition L, effective November 9, 1988, shall be amended as follows (amendment is in italic print underlined):

SAN DIEGO MUNICIPAL CODE

Limitation of Height of Buildings in the Coastal Zone

Section 1. Notwithstanding any section to the contrary, no building or addition to a building shall be constructed with a height in excess of thirty feet within the Coastal Zone of The City of San Diego. The words Coastal Zone as used within this Ordinance shall mean that land and water area of the City of San Diego from the northern city limits, south to the border of the Republic of Mexico, extending seaward to the outer limit of city jurisdiction and extending inland to the location of Interstate 5 on January 1, 1971. This limitation shall not apply to *(i)* that land area of the Coastal Zone bounded by National City on the south, San Diego Bay on the west and Laurel Street or the southwesterly projection of Laurel Street on the north or *(ii) that land area of the Coastal Zone bounded by Ingraham Street on the west, Sea World Drive on the south, Mission Bay on the north and the boat ramp access road in South Shores Park on the east.*

The base of measurement of the height shall be in accordance with the Uniform Building Code of 1970.

Section 2. Other than the restoration of the chimney and rooftop cupola as part of the historic restoration of the 1915 Agar/Mission Brewery building located at Washington and

Hancock Streets in San Diego, California, there shall be no exception to the provisions of this Ordinance.

Section 3.

A. No building or structure or addition to a building or structure within the land described in exception Section 1(ii), shall exceed one-half the height of the existing Sea World Sky Tower on that land using the base of measurement in accordance with the Uniform Building Code of 1970.

B. No taxpayer funds shall be spent for any improvements in connection with a building or structure or addition to a building or structure within the land described in exception Section 1 (ii).

C. The exception set forth in Section 1(ii) shall remain in effect as long as the land described therein is used for recreational, exhibition, educational, research and scientific purposes.

Section 4.

This ordinance shall take effect and be in force on the day from and after its passage. The City Attorney and City Clerk are hereby authorized to publish this amendment in the appropriate section of the San Diego Municipal Code.

Section 5.

This ordinance may be amended, including an amendment to make an exception to the thirty-foot height limitation, only by a majority vote of the voters of the City of San Diego.

Section 6.

The provisions of this Initiative are severable. If any statement, section, subsection, phrase, or word herein, or the application thereof to any person, property or circumstance, is held invalid by a court of competent jurisdiction, either on its face or as applied, the remaining portions of this Initiative shall not be affected, and shall remain in full force and effect.

-----END OF PROPOSITION-----

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

<p>PROPOSITION __. INITIATIVE MEASURE. Shall Ordinance ^{O-18573 (New Series)} _____ be adopted amending the 30-foot height limit in the Coastal Zone to allow Sea World to plan and construct exhibits, attractions and educational facilities only upon that land leased from the City, provided:</p>	<p>YES</p>	
<ul style="list-style-type: none"> ■ The improvements are subject to City and Coastal Commission approval and do not exceed ½ the height of the existing Sea World Sky Tower; and ■ No taxpayer funds are spent for any improvements resulting from this initiative? 	<p>NO</p>	

Section 4. An appropriate mark placed in the voting square after the word "yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the proposition.

Section 5. The City Clerk shall cause this ordinance to be published once in the official newspaper on the Friday following adoption by the City Council. No other notice of election on this proposition need be given.

Section 6. Pursuant to California Elections Code Section 9295, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice in his office of the specific dates that the examination period will run.

Section 7. Pursuant to section 17 of the San Diego City Charter, this ordinance relating to elections shall take effect on AUG 07 1998, which is the day of its introduction and passage.

APPROVED: CASEY GWINN, City Attorney

By *Cristie C McGuire*
Cristie C. McGuire
Deputy City Attorney

CCM:jrl
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08/06/98 COR.COPY
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