

ORDINANCE NUMBER O- 20797 (NEW SERIES)

DATE OF FINAL PASSAGE MAR 20 2017

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 1 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 126.0108 AND AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTION 129.0710 ALL RELATING TO ACCEPTING THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS REQUIRED FOR CERTIFICATION OF THE UTILIZATION REQUIREMENT OF DEVELOPMENT PERMITS FOR CAPITAL IMPROVEMENT PROGRAM PROJECTS AND ENCROACHMENTS IN THE PUBLIC RIGHT-OF-WAY AS PART OF THE 10TH UPDATE TO THE LAND DEVELOPMENT CODE.

WHEREAS, as part of the 10th Update to the Land Development Code, the Council of the City of San Diego (Council) desires to modify the utilization requirement of development permits for City capital improvement program projects and provide an administrative level approval for some public right-of-way encroachment types; and

WHEREAS, the Council adopted the amendments set forth in the 10th Update to the Land Development Code in 2016, which were subsequently submitted to the California Coastal Commission as an amendment to the City of San Diego's certified local coastal program; and

WHEREAS, the California Coastal Commission approved the amendments set forth in the 10th Update to the Land Development Code with modifications relating to the utilization requirement of development permits for City capital improvement program projects in the Coastal Overlay Zone and excluding the Coastal Overlay Zone from the administrative level approval process for some public right-of-way encroachment types; NOW, THEREFORE,

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

Section 1. That Chapter 12, Article 6, Division 1 of the San Diego Municipal Code is amended by amending section 126.0108, to read as follows:

**§126.0108 Utilization of a Development Permit**

(a) through (c) [No change in text.]

(d) *Development permits for capital improvement program projects* are exempt from the permit utilization requirement of Section 126.0108(a), except that:

- (1) Outside the Coastal Overlay Zone, if 10 years have passed from the date on which all rights of appeal have expired and the City is unable to establish, with evidence in accordance with Section 126.0108(c), that at least one of the circumstances identified in Section 126.0108(b) occurred, then the *development permit* shall be void.
- (2) In the Coastal Overlay Zone, if 6 years has passed from the date on which all rights of appeal have expired and the City is unable to establish, with evidence in accordance with Section 126.0108(c), that at least one of the circumstances identified in Section 126.0108(b) occurred, then, notwithstanding Section 126.0111(a), an extension not to exceed 36 months shall be obtained by the City pursuant to Section 126.0111, or the *development permit* shall be void. If upon the expiration of the extension, the City is unable to establish, with evidence in accordance with Section 126.0108(c),

that at least one of the circumstances identified in Section 126.0108(b) occurred, then the *development permit* shall be void.

Section 2. That Chapter 12, Article 9, Division 7 of the San Diego Municipal Code is amended by amending section 129.0710, to read as follows:

**§129.0710 How to Apply for a Public Right-of-Way Permit**

An application for a Public Right-of-Way Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Public Right-of-Way Permits are listed in the Land Development Manual. A *development permit* is required prior to issuance of a Public Right-of-Way Permit for the following:

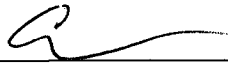
- (a) If the proposed *encroachment* involves construction of a privately-owned *structure* or facility into the *public right-of-way* dedicated for a *street* or an *alley*, and where the *applicant* is the *record owner* of the underlying fee title, a Neighborhood Development Permit is required in accordance with Section 126.0402(j) except for the following, which are subject to approval by the City Engineer in accordance with Process One:
  - (1) through (8) [No change in text.]
  - (9) Outside the Coastal Overlay Zone, encroachment of below-*grade structures* into the *public right-of-way* up to 3 feet behind the existing curb line and at least 3 feet below the existing curb line, or encroachment of above-*grade structures* into the *public right-of-way* up to 4 feet and at least 8 feet above the finished *grade* of the curb line.

(b) through (d) [No change in text.]

Section 3. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this Ordinance shall not take effect until the date the California Coastal Commission unconditionally certifies these provisions as a Local Coastal Program amendment, or until the thirtieth day from and after its final passage, whichever occurs later.

APPROVED: MARA W. ELLIOTT, City Attorney

By   
Corrine L. Neuffer  
Deputy City Attorney


CLN:dkr  
01/24/2017  
Or.Dept:Planning  
Doc. No.: 1416297\_3

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAR 14 2017.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 3/20/17  
(date)

  
KEVIN L. FAULCONER, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
KEVIN L. FAULCONER, Mayor

Passed by the Council of The City of San Diego on MAR 14 2017, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lorie Zapf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Myrtle Cole	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Alvarez	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Georgette Gomez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 20 2017

AUTHENTICATED BY:

KEVIN L. FAULCONER  
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By *Aty Beach*, 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

FEB 27 2017, and on MAR 20 2017

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

ELIZABETH S. MALAND  
City Clerk of The City of San Diego, California.

(Seal)

By *Aty Beach*, Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- <u>20797</u>

## STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

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CLN:dkr  
01/24/2017  
Or.Dept: Planning  
Doc. No.: 1416296\_3