

ORDINANCE NUMBER O- **21771** (NEW SERIES)

DATE OF FINAL PASSAGE **MAR 04 2024**

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE 2, DIVISION 5 BY AMENDING SECTION 142.0528; AND AMENDING CHAPTER 14, ARTICLE 2, DIVISION 7 BY AMENDING SECTION 142.0740, RELATING TO THE 2021 SAN DIEGO LAND DEVELOPMENT CODE/MUNICIPAL CODE UPDATE.

WHEREAS, on January 11, 2022, the Council of the City of San Diego (Council) adopted amendments to the Land Development Code to update the City's Municipal Code; and

WHEREAS, the 2021 Land Development Code Update included amendments to the Land Development Code, which serves as the Implementation Plan to the City's certified Local Coastal Program (LCP); and

WHEREAS, as an amendment to the City's certified LCP, the 2021 Land Development Code Update must be certified by the California Coastal Commission as consistent with Coastal Act Policies prior to being effective in the Coastal Overlay Zone; and

WHEREAS, on September 7, 2023, the California Coastal Commission considered certification of the 2021 Land Development Code Update; and

WHEREAS, upon review of the 2021 Land Development Code Update, the California Coastal Commission found a grammatical error that could be corrected to provide more clear regulations within the Municipal Code; and

WHEREAS, the California Coastal Commission, concerned with maintaining environmentally friendly thresholds of unshielded light pollution for migratory bird flight paths in the Coastal Zone, approved the 2021 Land Development Code Update with modifications relating to the maximum allowable threshold for initial luminaire lumens for unshielded and flat-lensed outdoor light fixtures regulations in the Coastal Overlay Zone; and

WHEREAS, the City desires to accept the California Coastal Commission's modifications; and

WHEREAS, the California Green Building Standards Code, 2019 Edition, was published by the California Building Standards Commission, and amended by the State Department of Housing and Community Development, the Division of the State Architect/Access Compliance, and the State Office of Statewide Health Planning and Development, and the State Fire Marshal; and

WHEREAS, California Health and Safety Code section 17958 provides that the governing body of every city or county shall adopt ordinance or regulations imposing the same requirements as those contained in the California Building Standards Code; and

WHEREAS, the California Health and Safety Code sections 17958.5, 17958.7, and 18941.5 provide that a city or county may make such changes or modifications to the requirements contained in the California Building Standards Code as it determines are reasonably necessary because of local climactic, geologic, or topographic conditions; and

WHEREAS, the City of San Diego desires to modify one of the requirements of the California Building Standards Code due to local climactic conditions as set out below; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

Section 1. That it finds and declares, in accordance with California Health and Safety Code section 17958.5, that the following additions and deletions incorporate changes and modifications that are reasonably necessary because of the local climatic conditions set forth below:

1. Climate Conditions

The City of San Diego is directly located in the Pacific Flyway bird migratory route, a major north-south flyway for migratory birds in the Americas, and the San Diego Bay serves as a key rest stop where birds gather to feed and rest on their migration. Because the City of San Diego has extensive coastlines, which span about 17 miles, further consideration must be given when considering increasing lighting thresholds in the coastal zone. Increasing the threshold for unshielded outdoor lighting from the existing 4,050 initial luminaire lumens to 6,200 initial luminaire lumens could negatively impact the birds migrating through the San Diego region.

After reviewing the local code amendment proposing to raise the initial luminaire lumens to meet the standards set by the California Building Standards Code, the California Coastal Commission's ecologist determined that an increase in unshielded outdoor lighting may have impacts on sensitive resources given the extent of the City's coastline, the amount of development adjacent or within close proximity to sensitive habitat and open spaces, and the City's location within the Pacific Flyway bird migratory route. Allowing for an increase in the intensity of lighting without regulating the shielding or direction of the light may lead to an increase in ambient lighting and skyglow, which can impact the nocturnal activities of migratory birds. As such, the threshold for allowed unshielded outdoor lighting fixtures within the Coastal Overlay Zone will remain 4,050 initial luminaire lumens, while the threshold for allowed unshielded outdoor lighting fixtures outside of the Coastal Overlay Zone will be 6,200 initial luminaire lumens.

Section 2. That Chapter 14, Article 2, Division 5 of the San Diego Municipal Code is amended by amending section 142.0528, to read as follows:

§142.0528 Parking Standards Transit Priority Area Regulations

The Parking Standards Transit Priority Area Regulations establish the parking requirements for *multiple dwelling unit residential development* where all or a portion of the *premises* is located within a Parking Standards Transit Priority Area. For purposes of this section, Parking Standards Transit Priority Area means the area defined in California Public Resources Code Section 21099, as may be amended, or an area within one-half mile of a *major transit stop* that is existing or planned, if the planned *major transit stop* is scheduled to be completed within the San Diego Association of Governments (SANDAG) Regional Transportation Improvement Program (RTIP). The RTIP covers five fiscal years and incrementally implements the long-range Regional Transportation Plan for the San Diego region. *Multiple dwelling unit residential development* that involves four or fewer *dwelling units*, or that includes at least 20 percent on-site housing that is affordable to persons with a household income equal to or less than 50 percent of the area median income as determined in accordance with California Health and Safety Code section 50093 and is subject to an affordability restriction for a minimum of 55 years, is exempt from the *unbundled parking* requirement in subsection 142.0528(b)(1). Reasonable accommodations to parking requirements shall be granted if necessary to afford people with disabilities equal housing opportunities under state or federal law, in accordance with Section 131.0466. *Multiple dwelling unit residential development* in the Centre City and Gaslamp Planned Districts is exempt from the transportation amenity requirement in subsection 142.0528(c).

- (a) Parking Requirement. *Off-street parking spaces* are not required.

(1) through (2) [No change in text.]

(3) A passenger drop-off and loading zone shall be provided along the *street frontage*, near the main accessible entrance unless there is an existing compliant passenger drop-off and loading zone within 200 feet from the main accessible entrance of the *development*. The passenger drop-off and loading zone shall comply with the City of San Diego Standard Drawings for Public Works Construction. An accessible route within the boundaries of the *premises* shall be provided, from the main accessible entrance of the *development* to the passenger drop-off and loading zone, in accordance with the California Building Standards Code.

(4) [No change in text.]

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

Section 3. That Chapter 14, Article 2, Division 7 of the San Diego Municipal Code is amended by amending section 142.0740, to read as follows:

§142.0740 Outdoor Lighting Regulations

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

(c) General regulations that apply to all outdoor lighting:

(1) [No change in text.]

(2) Shields and flat lenses shall be required to control and direct the light below an imaginary horizontal plane passing through the lowest point of the fixture, except for:

(A) [No change in text.]

(B) Outdoor lighting fixtures less than 6,200 initial luminaire lumens outside of the Coastal Overlay Zone and outdoor lighting fixtures less than 4,050 initial luminaire lumens within the Coastal Overlay Zone, including landscape lighting and decorative lighting;

(C) through (G) [No change in text.]

(3) through (7) [No change in text.]

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

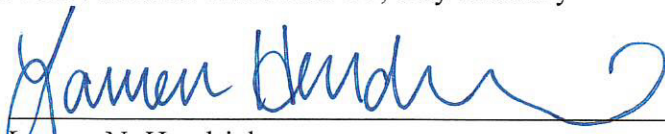
Section 4. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 5. That no permits shall be issued for development that is inconsistent with the provisions of this Ordinance unless a deemed complete application for such permits is submitted to the City prior to the date on which the applicable provisions of this Ordinance become effective.

Section 6. 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



Lauren N. Hendrickson
Deputy City Attorney

LNH:cm
January 10, 2024
Or.Dept: Planning
Doc. No. 3540973

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of FEB 27 2024.

DIANA J.S. FUENTES
City Clerk

By Connie Patterson
Deputy City Clerk

Approved: 3/4/24
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: May 7, 2024

TO: Connie Patterson, Legislative Recorder

FROM: Lauren Hendrickson, Deputy City Attorney

SUBJECT: San Diego Ordinance O-21771 and San Diego Ordinance O-21758

This Memorandum is presented to provide the Office of the City Clerk with clarification relating to discrepancies between O-21758 and O-21771 as requested by the Office of the City Clerk. O-21758 is related to the Housing Action Package 2.0 and became effective March 16, 2024 citywide, except for in portions of the City located in the Coastal Overlay Zone. O-21771 is related to the 2021 Land Development Code and specifically adopted California Coastal Commission modifications to the 2021 Land Development Code. O-21771 became effective April 12, 2024, only within the portions of the City located in the Coastal Overlay Zone. Both ordinances revised San Diego Municipal Code (Municipal Code) section 142.0528.

Municipal Code section 142.0528, as amended and adopted by O-21758, is the current operative language citywide, except for in portions of the City located in the Coastal Overlay Zone. Municipal Code section 142.0528, as amended and adopted by O-21771, is the current operative language for areas of the City located in the Coastal Overlay Zone.

Municipal Code section 142.0528 already includes an Editors Note indicating the amendments adopted by O-21758 are not effective in the Coastal Overlay Zone until certified by the California Coastal Commission as a Local Coastal Program Amendment. An additional Editors Note relating to O-21771 should also be included. It can state:

Amendments as adopted by O-21771 include additional amendments applicable within the Coastal Overlay Zone, including text amendments and title changes.

This Editors Note should also link the Ordinance and Strikeout for O-21771.

There are no revisions to either ordinance as a result of this memorandum.

LNH:cm

Doc. No. 3637449

cc: Gil Sanchez, Associate Management Analyst

Sonia Pickens, Municipal Code Administrator

**Office of
The City Attorney
City of San Diego**

**MEMORANDUM
MS 59**

(619) 236-6220

DATE: April 26, 2024

TO: Connie Patterson, Legislative Recorder

FROM: Lauren Hendrickson, Deputy City Attorney

SUBJECT: Correction to San Diego Strikeout O-21771 (Mar. 4, 2024) (City Attorney Strikeout O-2024-63 COR. COPY)

This Memorandum is presented, pursuant to San Diego Charter (Charter) section 275(a), to notify the Office of the City Clerk that this Office is requesting to correct a typographical error in City Attorney Strikeout O-2024-63 amending the San Diego Municipal Code and Local Coastal Program pursuant to the California Coastal Commission's modifications to the 2021 Land Development Code. This Office approves of the requested corrections, as permitted under the provision of Charter section 275(a)¹.

We are submitting a corrected copy of the 2021 Land Development Code/Municipal Code Update strikeout ordinance to reflect the following change:

A duplicative subsection 142.0740(C)(2)(B) has been removed.

The ordinance and digest were not affected.

LNH:cm

Doc. No. 3634454

Attachment: O-2024-63 COR. COPY Strikeout, dated April 26, 2024

cc: Gil Sanchez, Associate Management Analyst

Sonia Pickens, Municipal Code Administrator

¹ Charter section 275 addresses modifications or ordinances as follows:

An alteration necessary only to correct a typographical or clerical error or omission may be performed by the City Clerk with the written approval and concurrence of the City Attorney, so long as the alteration does not materially or substantially alter the contents, requirements, rights, responsibilities, conditions, or prescriptions contained in the original text of the ordinance. A typographical or clerical error shall include, but is not limited to, incorrect spelling, grammar, numbering, punctuation, transposed words or numbers, and duplicate words or numbers.

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck-Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

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Health and Safety Code section 50093 and is subject to an affordability restriction for a minimum of 55 years, is exempt from the *unbundled parking* requirement in subsection 142.0528(b)(1). Reasonable accommodations to parking requirements shall be granted if necessary to afford people with disabilities equal housing opportunities under state or federal law, in accordance with Section 131.0466. *Multiple dwelling unit residential development* in the Centre City and Gaslamp Planned Districts is exempt from the transportation amenity requirement in subsection 142.0528(c).

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(A) [No change in text.]

(B) Outdoor lighting fixtures less than 6,200 initial luminaire lumens outside of the Coastal Overlay Zone and outdoor lighting fixtures less than 4,050 initial luminaire lumens within the Coastal Overlay Zone, including landscape lighting and decorative lighting;

(C) through (G) [No change in text.]

(3) through (7) [No change in text.]

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

LNH:cm
January 10, 2024
April 26, 2024 COR. COPY
Or.Dept: Planning
Doc. No. 3525130_2

Passed by the Council of The City of San Diego on FEB 27 2024, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 4 - vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAR 04 2024.

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California.

(Seal)

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California.

By Linda Irwin, Deputy
For Connie Patterson

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 12 2024

, and on MAR 04 2024.

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.

(Seal)

DIANA J.S. FUENTES

City Clerk of The City of San Diego, California.

By Linda Irwin, Deputy
For Connie Patterson

Office of the City Clerk, San Diego, California

Ordinance Number O- 21771