

NAIOP San Diego Legislative Update | October 28, 2022

NEW – City of SD Planning Commission Considers Code Updates

The San Diego Planning Commission took up the 2022 Land Development Code update package at its hearing this week. The code update package is brought forward annually to help maintain the Land Development Code (LDC), ensure simplify the City's development regulations, make the code more adaptable, eliminate redundancies and contradictions, standardize the code framework, and increase predictability in application of regulations. The proposed amendments typically streamline regulatory requirements, reduce constraints, and provide additional incentives to increase the supply of housing. As previously noted in these updates, the issue items are separated into five categories; regulatory reforms, compliance with state law, corrections, clarifications and amendments to align the code with the City's climate, equity and housing goals.

This year's package, had two very significant changes that garnered the most attention of both public speakers, including NAIOP, as well as the Planning Commission.

Redefinition of Transit Priority Areas (TPA): The debate centered around activists who are proposing to diminish the coverage for transit priority areas and other stakeholders, including NAIOP, the SD Chamber of Commerce, BIA, Climate Action Campaign, Circulate and YIMBY DEMS asking for no diminishment of area, and, in fact, a specific look at expanding the area covered. Staff, attempting to bridge the divide, came up with a new designation called Sustainable Development Area (SDA). While their plan would pair back some areas covered by TPA's, they would also expand coverage under the SDA in other areas. But, the Planning Commission felt more time was needed to review the maps demonstrating the impacts which were only provided to the commission the day before the hearing. The Commission ended up pulling that item for consideration during their December 8th hearing.

As a reminder, TPA's have been used to allow for by-right residential housing development when certain other requirements are met. The net loss between the existing designation and the new one under staff's proposed SDA is not known, although staff claims it's less than 1%. NAIOP will continue working with coalition members to ensure that not only is there not net loss in coverage area, but an expansion, including plans for future expansion should environmental review be necessary. The TPA change is item #5 in the update matrix you can view by clicking [HERE](#).

Change in uses allowed in RMX / EMX zone: Also included in the code update package was a proposed change to the allowed uses within an RMX / EMX zones. The RMX zone is a residentially focused mixed-use zone and the EMX zone is an employment focused mixed-use zone that has been created and used in the Mission Valley Community Plan, as well as the Kearney Mesa Community Plan (both of which have recently been updated). It's also being used in the pending update to the Mira Mesa Community Plan. Previously, allowed uses included automotive sales and repair, logistics facilities, as well as self-storage, among others. City Planning Staff proposed to the Commission changing the allowed uses and a number of speakers, including NAIOP San Diego, were present to oppose those changes. The Commissioners themselves took issue with the changes, and, similar to the TPA change, pulled the item out of the code package for discussion at its December 8th hearing. The RMX / EMX zone changes are included in item #18 in the update matrix you can view by clicking [HERE](#).

For more information on the hearing, please click [HERE](#). To review the code update package, please click [HERE](#).

NEW – COVID-19 Update: Workplace Noticing Requirements for Employers Modified, San Diego Adjourns COVID-19 Committee for Final Time

Legislation that requires written general exposure notification to employees who may have been exposed to COVID-19 will be extended to January 1, 2024. AB 2693, which was recently signed by the Governor, extends the requirement that was set to expire at the end of 2022. The bill also reduces burden on employers by allowing them to post notice of potential exposure at the worksite OR on an employee portal. Instead of notifying employees that they may have been exposed, the new version of the notice has been streamlined, requiring the following to be included:

1. The dates on which an employee, or employee of a subcontracted employer, with a confirmed case of COVID-19 was on the worksite premises within the infectious period.
2. The location of the exposures, including the department, floor, building, or other area, but the location does not need to be so specific that it would allow individual workers to be identified.
3. Instead of providing detailed information on the specifics, employers now only need to provide contact information for where employees may receive information regarding COVID-19-related benefits they may be entitled to under applicable federal, state, or local laws, as well as antiretaliation and antidiscrimination protections of the employee. These benefits may include categories such as workers' compensation, COVID-19-related local or emergency leave, company sick leave, state-mandated leave, recently extended COVID supplemental sick leave, or negotiated leave provisions.
4. Companies should plan for their HR, Safety, or designated management personnel to be prepared to provide this information upon request and are familiar with the local options for both paid and unpaid leave.
5. Employers now only need to provide contact information for where employees may receive the cleaning and disinfection plan that the employer is implementing per the guidelines of the CDC and the Cal/OSHA standards.
6. Workplace cleaning and disinfection plans are not currently part of CDC guidelines or Cal/OSHA requirements, so many employers will likely refer to their normal cleaning and/or disinfection protocols that may be independent of COVID-19 mitigation measures.

Thursday marked the final meeting of the City's COVID-19 Response and Recovery Committee, as the region adjusts to living with the virus. The Committee oversaw half a billion dollars in federal relief funding and assisted with vaccine and test deliveries. The City still has approximately \$150 million dollars in relief funding. The Committee's responsibilities will now shift to the Economic Development and Intergovernmental Relations Committee. You can learn more HERE.

NEW – City Council President Outlines Plans for New Residential Tenant Rights Ordinance

San Diego City Council President, Sean Elo-Rivera, released changes he would like to see made to the city's 2004 Tenants' Right to Know Ordinance, including relocation assistance for no-fault residential evictions and immediate protections for tenants who are currently not covered by the policy until they have lived in a rental for two years. On Monday, the City Council will consider his suggestions and solicit feedback from the public. Following Monday's informational item, Elo-Rivera intends to draft a new tenant protection ordinance, which is expected to ban "no-fault" evictions. He is pressing this because the COVID-inspired residential no-fault eviction moratorium that had previously been in place ended this past September. The previous moratorium, which took effect on May 22, limited landlords' ability to pursue evictions, permitting them only in circumstances where a tenant failed to pay rent or violated a rental agreement. If a landlord wished to remove a home from the rental market or perform extensive renovations, they were prohibited from terminating tenancies. Tenants' rights groups have been calling for a permanent replacement for that expired moratorium. Elo-Rivera's Discussion Framework for Amending the Tenants' Right to Know Ordinance can be found HERE. You can read Elo-Rivera's press statement HERE.

NEW – Del Mar Considering Building Electrification Reach Code

Following cities like Encinitas and Solana Beach, Del Mar will consider an ordinance requiring that all new construction and major remodels be all-electric with no gas infrastructure. Earlier this week, the City of Del Mar directed staff to craft an ordinance during the City's current fiscal year work plan. It is unclear when the reach code may return for a potential vote or if it will be deferred to the next fiscal year. To learn more, click HERE.

REMINDER – City Council Discusses Future of City-Owned Downtown Parcels, Including City Hall

City Council members were given an update on plans to redevelop city-owned parcels throughout downtown, including City Hall and the surrounding buildings. Outgoing Chief Operating Officer, Jay Goldstone, noted that the city would issue a notice of availability in February or March in accordance with California's Surplus Land Act. It is unclear whether the official notice, which will essentially kick off competition for the parcels, will be modeled after the city's sports arena site competition. It is also unclear how many city-owned parcels might be contemplated as part of the notice. In addition to City Hall, Civic Concourse, 101 Ash, and the City Operations Building, which harbors a fire station and the Development Services Department, noncontiguous parcels like the Housing Navigation Center and the San Diego Police Headquarters may be contemplated.

A 20-person volunteer group, which will meet twice a week, is tasked with developing a comprehensive plan before the end of the year. The committee will provide the city with input as they decide on the upcoming RFP specifications. According to the Surplus Land Act, the city must give "first priority" to organizations that propose the most affordable housing units, i.e. those that are deed-restricted for families earning 80% or less of the area median income. A minimum of 25% of the projected residential units must be set aside for low and very low-income families. A new city hall and office space for city workers must also be contemplated as part of the City's plans.

REMINDER – SDG&E Rates Slated to Rise (Again)

According to San Diego Gas & Electric officials, rates for the average residential customer are expected to increase by 8% beginning in January, rising from 22.6 cents per kilowatt per hour to 24.4 cents. SDG&E officials attributed the increased electricity rates to the costs of various projects to support California's transition to cleaner energy, such as the building of battery storage systems and electric vehicle charging stations, as well as spending to upgrade wildfire safety, new customer service technologies, and increased consumption in the wake of the pandemic. The CPUC has warned that bills are expected to rise across the state. To learn more, click [HERE](#).

REMINDER – City of San Diego Wants to Expand SR-56

City of San Diego traffic engineers are requesting \$22.5 million from the City Council to widen the SR-56 motorway through Carmel Valley. On October 12, a council committee unanimously approved the project. According to the Deputy Director of the City's Sustainability and Mobility Department, the proposal is in line with the city's climate goals because the extension will add carpool lanes rather than general-purpose lanes that may be utilized by any vehicle. Buses might also someday use the lanes. The full city council is expected to vote on the project in November. You can read more [HERE](#).

REMINDER – County Chief Administrative Officer Announces Retirement

Chief Administrative Officer Helen Robbins-Meyer said that she will retire after 25 years of service to the County of San Diego. To give the County time to choose her replacement and guarantee a smooth transition, the precise date of her departure was not announced. In the coming weeks, the Board of Supervisors will develop a process to find the next Chief Administrative Officer, which is expected to last into 2023. You can read the County's official statement [HERE](#).

REMINDER – City of SD DSD Launches Four New Permits

The City of San Diego's Development Services Department launched four new permit types, which should help make it intuitive and easier for customers to apply for these permits, receive updates and pay invoices. The new permit types being added to the online permitting system are: zone history letter, street tree, individual historical resource nomination and transportation for overweight loads. For more information, please click [HERE](#).

REMINDER – City of San Diego Approves Deal with Trash Haulers, Rates Expected to Rise

San Diego and the city's eight private trash haulers came to a new agreement with the goal of boosting recycling rates by implementing new regulations and reducing certain perceived lucrative payments the operators receive. Members of the City Council said the new agreements, which received unanimous approval, will assist San Diego in achieving its Climate Action Plan's waste reduction objectives. While the City does not set the rates, haulers who manage trash collection and recycling for businesses and some residents who don't receive city service, are anticipated to increase prices which would pay for new machinery and other adjustments necessary to comply with the new regulations. The

updated agreements were spurred by a new state law requiring the recycling of yard and food waste. To learn more, click [HERE](#).

REMINDER – Governor Signs Campaign Contribution Restriction Bill

SB 1439, signed by the Governor, would dramatically impact local land use and government contracting decisions. The new law would require city councilmembers and members of a county board of supervisors to recuse themselves from voting on real estate projects and government contracting decisions if they have received a contribution over \$250 from the property owner or prospective contractors, or their agents, in the prior 12 months. The law also prohibits the aforementioned from making contributions over \$250 while the land use entitlement or contract proceeding is pending and for 12 months following. The law is less clear on whether contributions made this year, before the law takes effect, would trigger disqualification if a project comes before a governing body next year. 40 years ago, the California Supreme Court ruled that elected officials are legally permitted to vote on matters impacting their campaign contributors, setting the new law up for legal challenge. NAIOP's legislative advocacy team has been in conversations with the California Business Property Association and other coalition group members on a potential challenge to the law. To read the full text of the bill, click [HERE](#).

REMINDER – City of San Diego Minimum Wage Increase to \$16.30 Goes Into Effect January 1, 2023

The City's 2016-approved Earned Sick Leave and Minimum Wage Ordinance, which escalates annually, is set to increase the city's minimum wage from \$15 to \$16.30 an hour, starting January 1, 2023. The increase applies to employees who perform at least two hours of work in one or more calendar weeks of the year within the geographic boundaries of the City of San Diego. Employers are required to post notices, found [HERE](#), in a conspicuous place at any workplace or job site in the City of San Diego. The City's media release can be found [HERE](#).

REMINDER – Sign Up for the City Planning Department's Bi-Monthly Newsletter

The City of San Diego Planning Department has created a bi-monthly newsletter and interested members can subscribe by going to this [LINK](#) and entering your contact information. It's an informative way to keep up with the planning department's efforts, including community plan updates.

REMINDER – California Poised to BAN Gas Furnaces and Water Heaters; Ban Diesel Trucks

The State of California's Air Resources Board (CARB) is poised to take up a regulation that would outlaw the sale of natural gas-powered furnaces and water heaters. The effort comes as state and local government's search for ways to respond to climate change and reduce greenhouse gas emissions. The City of San Diego, for example, is looking to adopt a similar decarbonization effort tied to new and existing building electrification in the very near future. CARB is also looking to ban the sale of diesel "big rigs" by 2040 and requiring medium and heavy-duty trucks entering ports and railyards to be zero emission by 2035. CARB also wants the fleets of state and local governments to be zero emission by 2027. CARB's effort is part of their 2022 State Strategy for the State Implementation Plan which updates the state's strategy to meet air quality guidelines set by the state's Environmental Protection Agency. The proposed ban would take effect in 2030. For more information, please click [HERE](#).

REMINDER – City Officials Look to Update Water Rates

San Diego City officials announced that their review of water rates will be completed before year's end and the result could be higher rates for customers. The review, which officials say is "long overdue" could lead to big increases to help cover infrastructure costs, like those associated with the City's "Pure Water" project, which will help repurify the city's sewage for potable water use. The "cost of service study" will be completed soon, with the city then expected to act in November with the yet-to-be-determined increase.

REMINDER – City of San Diego Approves Policies to Speed-up Infrastructure Projects

The San Diego City Council approved a comprehensive set of policy changes intended to speed up the delivery of infrastructure projects. The action was presented by Mayor Todd Gloria and would update the minimum cost required for council approval, thus allowing the administration more by right authority to move projects forward without council approval. It is expected that the action would speed up project delivery by several months.

REMINDER – City of SD Development Services Notes Start of Rainy Season

The City of San Diego's Development Services Department has noticed all those with active construction activities that the rainy season starts October 1st and concludes April 30th of next year. They are reminding all owners, developers and contractors to prepare construction sites by following the requirements of the stormwater regulations and permits and taking the necessary actions. For more information, please click [HERE](#).

REMINDER – County of San Diego Unveils Labor Standards and Enforcement Website

San Diego County's new office of Labor Standards and Enforcement unveiled this week a new website where employers and employees can answer labor law questions on minimum wage, meal and rest breaks, sick leave, overtime, COVID-19 vaccination requirements, workers' compensation requirement and more. For more information, please go to the website by clicking [HERE](#).

REMINDER – New State of California Title 24 Energy Code Goes into Effect January 1, 2023

Part of the state's triannual update to their building codes, the newly adopted 2022 California Building Standards Code will go into effect January 1, 2023. This includes Title 24, the state's energy code standards. As a result, all construction projects in the City of San Diego who have applications submitted on or after that date MUST conform to the new regulations. The city notes that, given heavy project volumes, they will honor the current 2019 code standards for project applications submitted before January 1, 2023 as long as staff determines they substantially conform to submittal requirements. For more information, please click [HERE](#).

REMINDER – Development Services Department User Fee Increase Kicks In, September 13, 2022

All Development Services Department user fees will rise by 4.99% starting on September 13, 2022, as a result of the City Council-approved general and special salary increases for employees. The department is also citing a rise in operational costs linked to the growth of the consumer price index as a reason for the increase. All new projects deemed complete on or after September 13, 2022, will be subject to the fee hike. The new cost schedules will be included in DSD informational bulletins, online. To learn more, click [HERE](#).

REMINDER – Development Fees to Increase Beginning July 1

Several City of San Diego fees are set to increase, beginning July 1. The increases, which the city attributes to general salary increases for city employees, will result in a 4.5% increase in fees along with an anticipated 3.2% increase attributed to the annual Consumer Price Index. For applications with a submission date prior to July 1, 2022, the City will offer a 2022 fee schedule if the applicant is willing to pay at building permit issuance; however, if the developer chooses to pay prior to final inspection, the inflationary rates at the time of payment shall apply. The City's inclusionary housing in-lieu fee will increase from \$17.64 to \$20.09 per square foot. The on-site requirement will increase to 6%. The Inclusionary Bulletin can be found [HERE](#). The City is currently outreaching to developers to provide more information. Note: increases are not expected to apply to projects with a deemed complete application before July 1.

REMINDER – New Drought Rules in Effect

A state mandate governing local water restrictions went into effect June 10. Water agencies must activate their "[level two](#)" responses. The City of San Diego, earlier this week, took action to implement, as did a number of other water agencies in the County of San Diego. The regulations in the City of San Diego are as follows:

- Watering grass in front of or next to commercial, industrial, or institutional properties will be banned, starting June 10.
- Landscape irrigation is limited to no more than three assigned days per week, before 10:00am and after 6:00pm. This does not apply to commercial growers or nurseries, nor to the irrigation of golf course greens and trees.
- Use of recycled or non-potable water, when available, is required for construction purposes.
- Areas with no irrigation system must use a hand-held hose with a shutoff nozzle.
- Irrigation is prohibited during and within 48 hours of a rain event.

- Washing of automobiles, vehicles, airplanes, and other mobile equipment is permitted only before 10:00 a.m. or after 6:00 p.m. with a hand-held container or a hand-held hose with shutoff nozzle. Washing is permitted at any time at commercial car washes. Car washes that do not use partially recirculated water will be subject to volume limits designated by a resolution of the City Council.
- Boats and boat engines are permitted to be washed down after use. Mobile equipment washings are exempt from these regulations where the health, safety, and welfare of the public are contingent upon frequent vehicle washings.

The full City of San Diego Water Shortage Contingency Plan may be found [HERE](#). The California Water Resources Control Board updated regulations may be found [HERE](#).

REMINDER – City Releases New Transportation Priority Maps

The City released a draft Transportation Priority Map that may impact projects depending on SB 743 incentives. The draft map, which was updated consistent with SANDAG’s recently adopted Regional Transportation Plan, removes portions of Normal Heights and Kensington, while expanding TPA’s in City Heights, Clairemont, and Golden Hills. To view the new maps, click [HERE](#) and [HERE](#).

REMINDER – City of San Diego Releases New Downtown Interactive Map Showcasing Construction Activity

The City of San Diego’s new map includes all construction activity within the Downtown Community Plan area since 2001. The map overlays data from projects that are currently under review, pending construction, under construction, and built. You can view the new map [HERE](#). The Downtown Development Status Log may be found [HERE](#).

REMINDER – City of San Diego Development Services Department Adding Permit Review Capacity

In response to NAIOP’s advocacy and to assist in clearing the current 40-day permitting backlog, the City’s Development Services Department has hired specialized consultants to slash long permit processing timelines and serve as a stop-gap measure while the department seeks to fill its existing 100 vacancies. Customers should expect to see new names and faces assisting with their permit processes; though, the contracted employees will have City of San Diego email accounts and work under the authority of DSD section supervisors. While the \$250,000 contract is a one-time expenditure, NAIOP will continue to advocate throughout the budget process for additional relief.

REMINDER – City of San Diego Development Services Department Offering New Virtual Service – Permit Issuance Appointments for Projects Signed Off by All Reviewers

The City’s Development Services Department is now offering virtual appointments for the final steps in permit issuance for qualified projects that have been signed off by all reviewers. The new virtual 30-45 minute permit issuance appointments are available during business hours for: No Plan or Rapid Review Building Permits, Demolition Permits, Standalone Mechanical, Electrical, Plumbing (MEP) Permits with plans, and Sign Permits. To book an appointment, click [HERE](#).

REMINDER – City of San Diego initiates third-party plan check and permit review

The San Diego City Council has approved and staff is initiating a contract with NV5 to assist the Development Services Department with their backlog of permits and applications needing review. NAIOP, along with other industry groups, has been leading the charge to help provide relief to our members who are facing significant delays in getting their projects/permits approved. The City has faced a hiring challenge and has, as a result, a number of vacant positions in key areas, including the Development Services Department. NAIOP supported the city’s budget request to provide more resources to help fill these vacancies, but also called on the City to provide relief through outsourced third-party support. The approval for \$250,000 worth of services is the first of three actions to help support third-party review. NAIOP will continue to support actions that accelerate review and approval of discretionary and ministerial applications. To learn more, please [CLICK HERE](#).

REMINDER – City of San Diego Releases Revised Earthquake Fault Zone Map

A new map depicting earthquake fault zones for the La Jolla Quadrangle and Point Loma Quadrangle, regulatory zones that encompass surface traces of active faults, was released to the public earlier this week. These zones establish a

500-foot buffer area on either side of active faults, requiring any future development to conduct a fault study if building near the surface traces of active faults. For more information, click [HERE](#).

REMINDER – New City of SD Development Services Department Virtual Service for Sign Permits

Free virtual appointments are now available for sign permits. Formerly available over the counter, these virtual appointments provide a completeness check on new project applications for sign permits. To schedule a free 30-minute virtual appointment, click [HERE](#).

REMINDER – City of San Diego offers online zoning and parcel information map

The City of San Diego has launched its NEW Zoning and Parcel Information Portal (ZAPP – find the link [HERE](#)). This portal is intended to make it easier for customers to research real-time zoning and property information 24 hours a day, 7 days a week. The interactive portal allows customers to review multiple layers of information, including assessor parcel numbers, zoning maps, City Council districts, school districts, historic districts, fire risk areas, earthquake fault buffers, and various regulatory areas.

COVID REFERENCE LIST:

CAL/OSHA Emergency Temporary Standards for the workplace (updated June 17, 2021) – Link [HERE](#)

State of California *Resilience Roadmap* Page (including industry-specific guidance and checklists) – LINK [HERE](#)

City of San Diego COVID-19 *Construction Safety* Protocols - [LINK HERE](#)

County of San Diego COVID-19 Resource Page – [LINK HERE](#)

City of San Diego COVID-19 Resource Page – [Link HERE](#)

US Federal Government COVID-19 Resource Website – [Link HERE](#)

US Small Business Administration COVID-19 Resource Page – [Link HERE](#)

US Federal Reserve COVID-19 Resource Page – [Link HERE](#)

State of California COVID-19 Resource Website – [Link HERE](#)

City of San Diego DIGITAL DSD (Development Services Department) Webpage (for online permitting and submittal) – Link [HERE](#)