

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 2, DIVISION 14 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 132.1402 AND 132.1403, RELATING TO COMMUNITY PLAN IMPLEMENTATION OVERLAY ZONE.

WHEREAS, the City of San Diego (City) desires to update the University Community Plan, which was adopted in 1987; and

WHEREAS, the City has prepared the University Community Plan Update (Update); and

WHEREAS, San Diego R-##### (INSERT DATE OF FINAL PASSAGE, 2024) which was considered along with this ordinance, proposes to adopt a comprehensive update to the University Community Plan, including the Community Plan Implementation Overlay Zone (CPIOZ); and

WHEREAS, implementation of the proposed Update requires amendments to the San Diego Municipal Code (Municipal Code) sections relating to the CPIOZ to replace the CPIOZ area and requirements and to implement a new CPIOZ area and requirements; and

WHEREAS, the University CPIOZ requirements are specific to new development within University CPIOZ areas as shown in Diagram 132-14J in the Municipal Code section 132.1403; and

WHEREAS, the proposed CPIOZ implements Supplemental Development Regulations (SDRs) found in the University Community Plan Update, including a requirement for new development to include the required provision of affordable housing units in accordance with the City’s Inclusionary Housing Regulations in Municipal Code Chapter 14, Article 3, Division 7, by satisfying the the existing on-site compliance option, or constructing off-site within a Sustainable

Development Area (SDA) and within the University Community Planning area, or providing the existing Inclusionary Affordable Housing In Lieu fee in addition to affordable housing construction options on-site or off-site within a SDA, or paying the existing Inclusionary Affordable Housing In Lieu fee at a rate of 200 percent; and

WHEREAS, the proposed University Community Plan Update and associated rezoning will increase the density of many land parcels within the University Community Plan area, which is largely urbanized and developed with few vacant parcels; and

WHEREAS, the increased density is likely to push already high land values higher, and lead to new luxury infill development with new homes accessible to only the highest income levels if additional regulations are not adopted to ensure that affordable housing is provided, without adversely impacting the overall production of new homes; and

WHEREAS, the University Community Plan area commands some of the highest property values and multi-family market rents in the City, with two-bedroom homes in newer multi-family developments in the area with market rents ranging from \$4,500 to \$5,000 per month (or approximately \$3.50 to \$4.50 per square foot) by contrast to citywide comparable homes at \$2,800 per month (or approximately \$2.90 per square foot); and

WHEREAS, it is anticipated that the imposition of additional affordable housing requirements through the SDRs will have a less adverse impact on project feasibility than in most other communities within the City; and

WHEREAS, one of the goals for the University Community Plan Update is to increase opportunities and access to homes for people of all income levels, and in particular to increase the production of affordable homes in a high resource community to contribute to the City's fair housing goals; and

WHEREAS, the higher cost of land and development in the University community as compared to the rest of the City render the existing citywide Inclusionary Affordable Housing In Lieu Fee a more attractive option for meeting inclusionary requirements than building affordable housing, which does not meet the City's goal to ensure increased production of affordable homes in a high resource community like University; and

WHEREAS, under the existing applicable regulations, property owners are incentivized to pay the Inclusionary Affordable Housing In Lieu Fee rather than produce affordable housing due to the high cost of land in the community relative to the existing fee; and

WHEREAS, the Inclusionary Affordable Housing In Lieu Fees collected from new development in the University community would be insufficient to build an equivalent amount of affordable housing that the fee is meant to offset within the community; and

WHEREAS, a report including a financial feasibility analysis was conducted to evaluate the financial feasibility of an increased Inclusionary Affordable Housing In Lieu Fee for the University community without hindering overall feasibility for developers of multi-family and mixed-use projects in the University Community Plan area; and

WHEREAS, the increased rate of 200 percent of the existing Inclusionary Affordable Housing In Lieu Fee as an option to the affordable housing requirements found in the SDRs was determined to be feasible as a key finding in the report; based on the loss in residual land value resulting from the the imposition of affordable housing set-aside requirements based on various development options compared to a 100 percent market-rate scenario; and

WHEREAS, the result in the feasibility analysis demonstrates that project proponents can afford to pay an alternative compliance fee, above the existing Inclusionary Affordable Housing In Lieu Fee, generally ranging from \$25 to \$30 per square foot making the determination that the

alternative compliance fee of \$25 per square foot above the existing Inclusionary Affordable Housing In Lieu Fee (or 200 percent of the existing fee) is appropriate for this community; and

WHEREAS, these factors support the necessity for the increased affordable housing requirements in the University Community Plan Update CPIOZ; and

WHEREAS, additional SDRs include requirements that currently do not exist citywide, for new development on premises greater than 25,000 square feet to construct public spaces that include a specified number of amenities based on development size and design standards, or an alternative compliance option to pay an in lieu fee; and

WHEREAS, much of the University community is a desirable and growing subregional employment center and a regional shopping destination anchored by a major higher-education institution; and

WHEREAS, the proposed University Community Plan Update and rezoning will create a community-wide increase of 36,800,000 square feet of non-residential floor area capacity to serve the growth of employment, commerce, and higher-education in the community; and

WHEREAS, the increased non-residential capacity is likely to increase economic incentives for owners of properties currently developed with older, lower density development to redevelop these properties with higher density development through demolition of existing structures; and

WHEREAS, the University community is deficient in recreational value park points, and in planning for urban infill growth, the strategic provision of onsite public spaces is a critical strategy toward achieving the needed recreational value for the community; and

WHEREAS, the public space requirements would help create inviting public spaces for community engagement, relaxation, and recreation, including pedestrian promenades, plazas, platforms, paseos, and podiums; and

WHEREAS, the alternative compliance in lieu fee for public spaces is designed to offset the average total cost to the public of providing recreational amenities when it is impractical for private development to provide the required amenities due to site constraints; and

WHEREAS, the full list of amenities identified in Table 2 of SDR-A.1 were determined to have an average land cost of \$280,153 per amenity point; and

WHEREAS, the full list of amenities identified in Table 2 of SDR-A.1 were determined to have additional hard and soft costs that average \$200,681 per amenity point; and

WHEREAS, the total list of amenities identified in Table 2 of SDR-A.1 were determined to have an average total cost of \$480,835 per amenity point; and

WHEREAS, the cost of land in the University community was determined to be \$170 per square foot; and

WHEREAS, SDR-A.5 allows for an alternative compliance option that includes an in lieu fee for public spaces that allows a maximum buyout of 25 percent of the required public space amenity size (with a minimum of one amenity point) at a rate of \$480,835 per amenity point, or a maximum buyout of 25 percent in reduction of the required size of the public space amenity at a rate of \$170 per square foot; and

WHEREAS, the 25 percentage determination for both the maximum buyout of the development size at the rate of \$480,835 per amenity point or the maximum buyout in reduction of the required size of the public amenity at the rate of \$170 per square foot provides flexibility for public space requirements and amenity requirements for individual site constraints and designs as development comes forward, but still ensures a minimum amount of public space and amenities is provided with new development; and

WHEREAS, the Public Space In Lieu Fee will be deposited into a citywide fund used to provide public facilities in accordance with the Citywide Park Development Impact Fee as established in San Diego Resolution R-313688, approved on August 31, 2021; and

WHEREAS, it is the intent that with the implementation of these SDR regulations and the alternative compliance in lieu fee there will be the production of new public spaces within the community as a recapture of public benefit in exchange for additional density and intensity; and

WHEREAS, these factors support the necessity for the increased public space requirements in the University Community Plan Update CPIOZ; and

WHEREAS, additional SDRs include requirements that currently do not exist citywide, for building transitions in open space canyons and near low scale neighborhoods to protect sunlight and air circulation; and

WHEREAS, the University community contains many open space canyons and will continue to grow with new infill development of varying scales and densities; and

WHEREAS, additional SDRs include requirements that currently do not exist citywide, to prohibit freeway adjacent residential development from siting near common open spaces abutting a freeway; and

WHEREAS, freeways are a source of greenhouse gasses and particulate matter that threaten public health and welfare; and

WHEREAS, the University Community is bisected by several freeways; and

WHEREAS, many of the freeway segments bisecting the University community are flanked with residential designated land; and

WHEREAS, additional SDRs include requirements that currently do not exist citywide, to require new infill development in activity centers and near transit to retain active community serving retail uses; and

WHEREAS, it is the intent of the implementation of the SDRs to encourage residents and visitors to walk, roll, bike, and use transit to reduce Vehicle Miles Traveled (VMT); and

WHEREAS, one of the strategies within the University Community Plan Update to reduce VMT is to concentrate infill development and active uses to existing activity centers and near public transit; and

WHEREAS, the other SDRs are specific to the unique conditions in the University Community Planning area and include standards for parking structure screening, complete streets, pedestrian improvements and crossings, pedestrian connectivity, and street trees; and

WHEREAS, another strategy within the University Community Plan to reduce VMT is to implement a multi-modal mobility network that prioritizes the utilization of rights-of-way for all modes, including for pedestrians, cyclists, transit riders, and drivers; and

WHEREAS, the pedestrian realm should be active, comfortable, and beautiful to encourage more pedestrian activity, especially in activity centers, and reduce VMT; and

WHEREAS, redevelopment in the University community is likely to include automobile parking that produces limited activity adjacent to the pedestrian realm; and

WHEREAS, automobile parking adjacent to the pedestrian realm introduces potential hazard and conflict with automobiles to pedestrians; and

WHEREAS, these factors support the necessity for the additional SDRs in the University Community Plan Update CPIOZ; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on 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 Chapter 13, Article 2, Division 14 of the San Diego Municipal Code is amended by amending sections 132.1402 and 132.1403 to read as follows:

§132.1402 Where the Community Plan Implementation Overlay Zone Applies

- (a) This overlay zone applies to properties that are identified in a community plan as areas requiring supplemental development regulations or processing of a *development permit* and that have been incorporated by ordinance into this overlay zone. Table 132-14A lists the community plan areas in which this overlay zone has been applied and the corresponding rezone maps that indicate which properties are within the boundaries of the overlay zone. These maps are filed in the office of the City Clerk. The properties within this overlay zone are shown generally on Diagrams 132-14A through 132-14U.

**Table 132-14A
Community Plans with Property in the Community Plan Implementation Overlay Zone**

Community Plan	Map Number Showing Boundaries of CPIOZ Area
Barrio Logan (See Diagram 132-14T) through Southeastern San Diego (See Diagram 132-14P) [No change in text.]	[No change in text.]
University (See Diagram 132-14J)	C-1030
Uptown (See Diagram 132-14K) [No change in text.]	[No change in text.]

- (b) [No change in text.]

**Table 132-14B
Community Plan Implementation Overlay Zone Applicability**

[No change in text.]

§132.1403 Exception to the Community Plan Implementation Overlay Zone

The City Manager may grant an exception to the requirements of this division for proposed *development* that is minor, temporary, or incidental and is consistent with the intent of this division. Exceptions made by the City Manager shall be filed with the office of the City Clerk.

DIAGRAM 132-14A through DIAGRAM 132-14I

[No change in text.]

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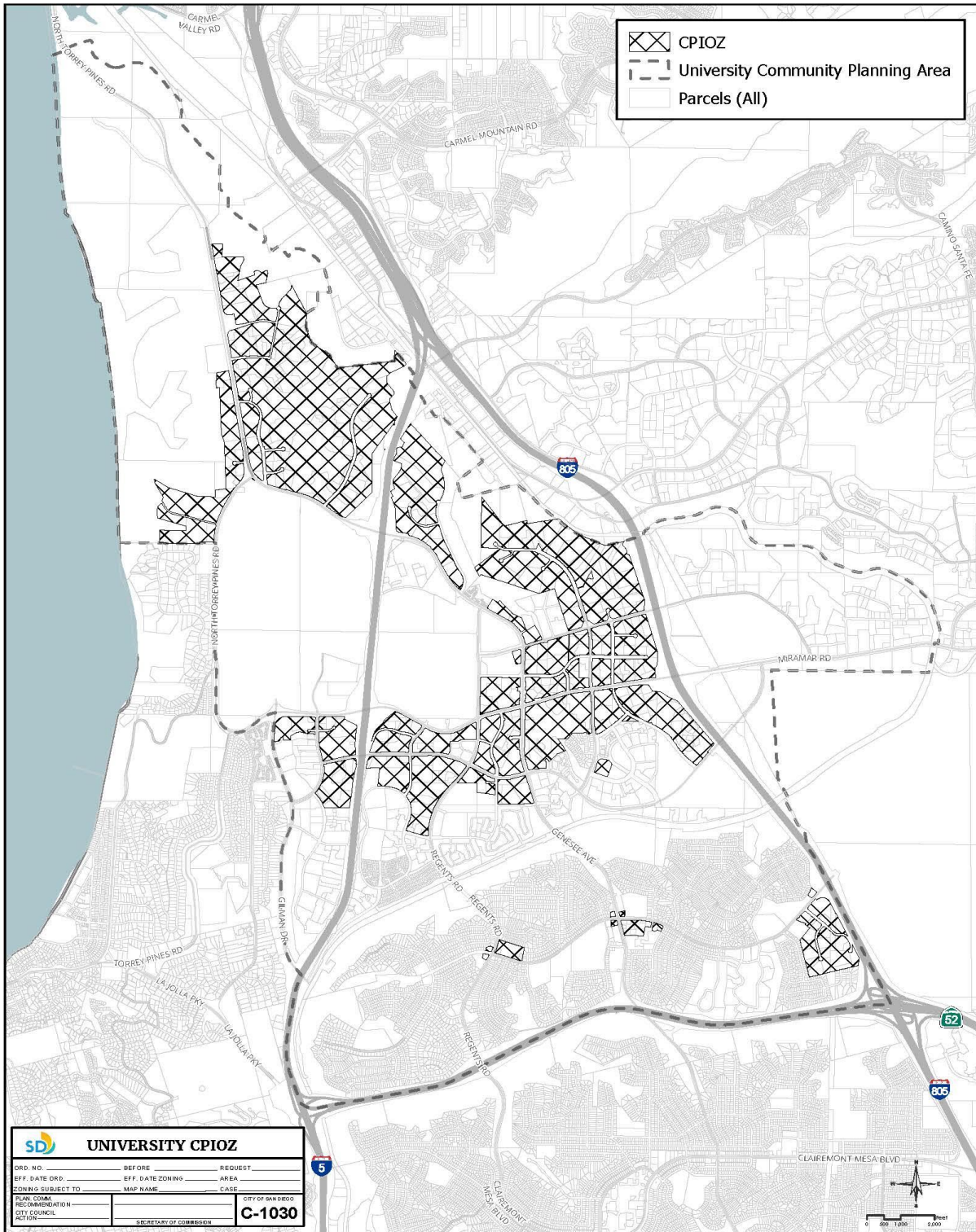


DIAGRAM 132-14J
University Community Plan Implementation Overlay Zone
This is a reproduction of Map No. C-1030 for illustration purposes only.

[**Editors Note:** Amendments as adopted by San Diego O-~~Y#####~~ (INSERT DATE OF FINAL PASSAGE, 2024) will not apply within the Coastal Overlay Zone until the California Coastal Commission certifies it as a Local Coastal Program Amendment. Click the link to view the Strikeout Ordinance highlighting changes to prior language [[LINK](#)].]

DIAGRAM 132-14K through DIAGRAM 132-14U

[No change in text.]

Section 2. 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 3. That prior to becoming effective, this ordinance shall be submitted to the San Diego County Regional Airport Authority serving as the Airport Land Use Commission (ALUC) for a consistency determination.

Section 4. That if the ALUC finds this ordinance consistent with the Airport Land Use Compatibility Plan (ALUCP) for MCAS Miramar and Montgomery Airport Influence Area, this ordinance shall take effect and be in force on the date of the finding of consistency, provided that and not until at least thirty days have passed from the date of final passage, or the date that San Diego R-~~#####~~ (INSERT DATE OF FINAL PASSAGE, 2024) adopting the University Community Plan becomes effective, whichever date occurs later, except that all provisions of this ordinance that are inside the Coastal Overlay Zone, and that are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies the provisions as a local coastal program amendment.

Section 5. That if the ALUC determines that this ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCP for MCAS Miramar and Montgomery Airport Influence Area, the ordinance shall be submitted to the City Council for reconsideration.

Section 6. That if the ALUC determines that this ordinance is conditionally consistent with the ALUCP for MCAS Miramar and Montgomery Airport Influence Area, but that consistency is subject to proposed modifications, the City Council may amend this ordinance to accept the proposed modifications, and this ordinance as amended shall take effect and be in force on the thirtieth day from and after its final passage, or the date that San Diego R-##### (INSERT DATE OF FINAL PASSAGE, 2024) adopting the updated University Community Plan becomes effective, whichever date occurs later, except that all provisions of this ordinance that concern property that is inside the Coastal Overlay Zone, and subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies the provisions as a local coastal program amendment.

Section 7. That a proposed decision by the City Council to overrule a determination of inconsistency or to reject the proposed modifications for a finding of conditional consistency shall include the findings required pursuant to Public Utilities Code section 21670 and require a two-thirds vote. The proposed decision and findings shall be forwarded to the ALUC, the California Department of Transportation, Division of Aeronautics, and the airport operators for the applicable airport(s). The City Council shall hold a second hearing not less than forty-five

days from the date the proposed decision and findings were provided, at which hearing any comments submitted by the public agencies shall be considered and a final decision to overrule a determination of inconsistency shall require a two-thirds vote.

Section 8. That if the City Council makes a final decision to overrule a determination of inconsistency, this ordinance shall take effect and be in force on the thirtieth day from and after that final decision, or the date that San Diego R-##### (INSERT DATE OF FINAL PASSAGE, 2024) adopting the updated University Community Plan becomes effective, whichever date occurs later, except that all provisions of this ordinance that concern property that is inside the Coastal Overlay Zone, and subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies the provisions as a local coastal program amendment.

Section 9. That no building permits for development inconsistent with the provisions of this ordinance shall be issued unless complete applications for such permits are submitted to the City prior to the date on which the applicable provisions of this ordinance become effective, which date is determined in accordance with the sections above.

Section 10. That San Diego Ordinance O-##### (INSERT DATE OF FINAL PASSAGE, 2024) will be considered by the City Council in the near future which amend San Diego Municipal Code sections also amended by this ordinance; therefore, the City Clerk, with the written approval and concurrence of the City Attorney, is authorized to reconcile the

numbering of sections and placement of text within the section upon the final passage of the ordinances, without further action by the City Council, pursuant to San Diego Charter section 275.

APPROVED: MARA W. ELLIOTT, City Attorney

By _____
Shannon Christine Eckmeyer
Deputy City Attorney

SCE:cm
April 23, 2024
Or.Dept: Planning
Doc. No. 3631011

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

DIANA J.S. FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor