

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO PHASING THE IMPLEMENTATION OF SENATE
BILL 79 INCLUDING EXEMPTIONS.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. Senate Bill 79 (2025-2026 Reg. Sess.) (S.B. 79), amends Division 1 of Title 7 of the California Government Code (Government Code) by adding Chapter 4.1.5 (commencing with section 65912.155) to the Government Code and was signed by the Governor of California in October 2025.

B. S.B. 79 includes section 65912.155 to the Government Code, in which the Legislature declared that California faces a housing shortage in areas with access to robust public transit and that building more homes near transit access reduces traffic congestion and housing and transportation costs for California families, and promotes environmental sustainability and economic growth.

C. Government Code section 65912.156 adds the definition of Transit Oriented Development (TOD) stops as a major transit stop, as defined by section 21064.3 of the California Public Resources Code (Public Resource Code), that is served by rail transit or bus service within an urban transit county (TOD Stops).

D. Government Code sections 65912.157(a) and 65912.159(a) require that a housing development project meeting certain requirements be an allowed use on any site zoned for residential, mixed, or commercial development within one-half mile of a TOD Stop and be eligible for streamlined, ministerial approval.

E. Based on the definitions in Government Code section 65912.156 and the California Department of Housing and Community Development's *S.B. 79 Advisory Clarifications on Definitions for Metropolitan Planning Organizations*, it is anticipated that the TOD Stops in the City of San Diego (City) are all San Diego Trolley stops and four bus stops, which meet the definition of Tier 2 TOD Stops.

F. Government Code section 65912.160(f) requires metropolitan planning organization create a map of TOD Stops within its region. As of the drafting of this Ordinance, the San Diego Association of Governments (SANDAG) has not prepared this map. The City will apply S.B. 79 to all TOD Stops identified in the SANDAG map upon its release.

G. Section 65912.157(a)(5) of the Government Code prohibits local governments from imposing any height limit less than 65 feet, a maximum density of less than 100 homes per acre, or a floor area ratio of less than three for a housing development project within one-quarter of a mile of a Tier 2 TOD Stop.

H. Section 65912.157(a)(6) of the Government Code prohibits local governments from imposing any height limit less than 55 feet, a maximum density of less than 80 homes per acre, or a floor area ratio of less than 2.5 for a housing development project further than one-quarter mile but within one-half mile of a Tier 2 TOD Stop.

I. Government Code section 65912.157(n) applies an S.B. 79 effective date to the City on July 1, 2026, at which time the City would be required to ministerially approve development allowed under the bill, unless otherwise specified.

J. Government Code section 65912.160(e)(1) allows the designation of areas within one-half mile of a TOD Stop as exempt from S.B. 79 if the City makes findings supported by substantial evidence that there exists no walking path of less than one mile from a site to a TOD Stop.

K. In the City, exempting these areas from S.B. 79 implementation ensures that new development approved under the bill would have adequate walking access to a TOD Stop that takes into consideration the canyons, highways, and other barriers that could impede access.

L. The City Planning Department has identified areas where there exists no walking path of less than one mile from a site to a TOD Stop and excluded areas that do not have walking paths along sidewalks to ensure pedestrians have a safe, publicly available route to a TOD Stop.

M. Allowing S.B. 79 development in areas beyond a one-mile walking distance could result in operational inefficiencies in planning for and servicing new growth in the City, which is why exempting these areas is necessary. The City has mapped these areas by walking distances, excluding areas that do not have a sidewalk.

N. Government Code section 65912.161(b)(1)(B)(iii) allows for the phased implementation of sites located within an area designated as Low Resource Opportunity Areas identified on the most recently adopted maps published by the California Tax Credit Allocation Committee (CTCAC) to prior to one year following adoption of the seventh revision of the Housing Element, provided that the City cumulatively allows for at least 50 percent of the total unit and floor area capacity for housing development allowed around all TOD Stops.

O. The City Planning Department has determined that the City's existing base zones with sites that qualify for development under S.B. 79, already allow for approximately 57 percent of the S.B. 79 required home capacity, exceeding the 50 percent requirement.

P. Phased implementation of S.B. 79 in Low Resource Areas will allow the City to implement the requirements of the bill in Highest, High, and Moderate Resource Areas first, which ensures that more market rate and affordable homes are can be permitted in these areas prior to S.B. 79 implementation in Low Resource Areas.

Q. Government Code section 65912.161(b)(1)(F) allows for the phased implementation of S.B. 79 on any site with a historic resource designated as of January 1, 2025, until prior to one year following adoption of the seventh revision of the City's General Plan Housing Element (Housing Element).

R. Phased implementation of S.B. 79 on sites with designated historic resources will allow for the City to ensure the developments allowed under the bill is consistent with its historical resources regulations, which are currently being considered for amendments.

S. Government Code section 65912.161(b)(1)(D) allows for the phased implementation of any site within a Very High Fire Hazard Severity Zone, as determined by the Department of Forestry and Fire Protection pursuant to section 51178 of the Public Resource Code, until prior to one year following adoption of the seventh revision of the Housing Element.

T. Phased implementation of S.B. 79 outside of Very High Fire Hazard Severity Zone allows the City to identify areas that may not be appropriate for development allowed under the bill, such as areas that have only one evacuation route, ensuring public safety is taken into account, consistent with Senate Bill 99 (2019-2020 Reg. Sess.) requirements.

U. Government Code section 65912.161(b)(1)(E) allows for the phased implementation of any site identified as vulnerable to one foot of sea level rise, until prior to one year following adoption of the seventh revision of the Housing Element.

V. The City has identified areas vulnerable to sea level rise, and phased implementation of S.B. 79 outside of these areas allows the City to determine whether the development allowed under the bill would be consistent with its Climate Resilient SD Plan.

W. According to the California Department of Housing and Community Development, the City's seventh revision of the Housing Element will be due on June 15, 2031.

X. Government Code section 65912.161 allows the City to implement S.B. 79 through the adoption of a TOD Alternative Plan that shifts the housing capacity required under the bill from one site to another site as long as the plan maintains at least the same total housing capacity as provided for in bill across all areas that qualify for development under S.B. 79 within the jurisdiction and the housing capacity one-half mile around each TOD Stop meets at least 50 percent of the housing capacity required by the bill.

Y. The City Planning Department will prepare a TOD Alternative Plan that will tailor S.B. 79 implementation to address the areas described above, along with other relevant issues, such as development scale and climate resiliency.

Z. Government Code section 65912.160 establishes that the California Department of Housing and Community Development (Department) shall oversee the City's proposed implementation ordinance and provides the Department with 90 to 120 days to review the ordinance and determine whether it is consistent with S.B. 79.

AA. Since SB 79 will take effect on July 1, 2026, a TOD Alternative Plan would not be adopted with a completed review from the Department prior to the bill taking effect on July 1, 2026.

BB. Because implementing S.B. 79 in Low Resource Areas, Very High Fire Severity Zones, on sites with designated historic resources, and on sites in area subject to one foot of sea level rise through a TOD Alternative Plan ensures the issues mentioned above are comprehensively addressed, the City desires for S.B. 79 not take effect in these areas on July 1, 2026, as allowed under state law.

CC. 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.

ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. The Council adopts this Ordinance to implement Government Code sections 65912.160(e)(1), 65912.161(b)(1)(B)(iii), 65912.161(b)(1)(D), 65912.161(b)(1)(E), and 65912.161(b)(1)(F) related to the phased implementation of S.B. 79.

Section 2. The Council finds all areas identified by the City as having more than one mile walking path to a TOD Stop are exempt from the requirements of S.B. 79, as shown on the map attached to this Ordinance as Attachment 1.

Section 3. All areas identified as being Low Resource in the latest version of the opportunity area maps prepared by CTCAC will implement S.B. 79 no later than one year following adoption of the seventh revision of the Housing Element.

Section 4. All areas identified as being within a Very High Fire Severity Zone as shown on map attached to this Ordinance as Attachment 2, prepared by the City and approved by the Department of Forestry and Fire Protection will implement S.B. 79 upon the adoption of a TOD Alternative Plan that has been deemed compliant by the Department or no later than one year following adoption of the seventh revision of the Housing Element, whichever occurs first.

Section 5. All sites with a historic resource designated as of January 1, 2025, on a local register shown on map attached to this Ordinance as Attachment 3, will implement S.B. 79 upon the adoption of a TOD Alternative Plan that has been deemed compliant by the Department or no later than one year following adoption of the seventh revision of the Housing Element, whichever occurs first.

Section 6. All sites site identified as vulnerable to one foot of sea level rise, as determined by the City coastal hazards vulnerability assessment shown on map attached to this Ordinance as Attachment 4, will implement S.B. 79 upon the adoption of a TOD Alternative

Plan that has been deemed compliant by the Department or no later than one year following adoption of the seventh revision of the Housing Element, whichever occurs first.

Section 7. The Council finds that no Planning Commission hearing or recommendation prior to Council consideration pursuant to San Diego Municipal Code section 111.0107(a)(1) is required as authorized and pursuant to this Ordinance.

Section 8. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 9. This Ordinance will take effect and be in force on the thirtieth day from and after its final passage.

APPROVED:

By

Deputy City Attorney

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on _____.

DIANA J.S. FUENTES
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

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