

65a
12-18-2020

(O-2021-52)

ORDINANCE NUMBER O- 21274 (NEW SERIES)

DATE OF FINAL PASSAGE DEC 09 2020

AN ORDINANCE AMENDING CHAPTER 14, ARTICLE 3 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING NEW DIVISION 11, SECTIONS 143.1101, 143.1102, AND 143.1103, RELATING TO MOBILITY CHOICES REGULATIONS.

WHEREAS, in 2008 the City adopted a new General Plan, which includes the “City of Villages” strategy to focus mixed-use activity centers that are pedestrian-friendly, centers of community activity, and linked to the regional transit system; and

WHEREAS, in 2015, the City adopted the Climate Action Plan (CAP), which sets targets for reducing Citywide greenhouse gas (GHG) emissions, including targets specific to public transit, increasing pedestrian and bicycling commuting mode share, and effective land use planning, to reduce vehicle miles traveled (VMT); and

WHEREAS, the City’s transportation sector accounted for 55 percent of all GHG emissions within the City in 2018, representing a significant portion of the City’s GHG emissions, and

WHEREAS, California Senate Bill 743 (SB 743) requires a change in transportation impact analysis for purposes of the California Environmental Quality Act (CEQA) from a level of service (LOS) analysis to a VMT analysis; this shift is intended to more appropriately balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of GHG emissions; and

WHEREAS, rather than focusing on accommodating additional vehicular trips, which occurs under an LOS analysis, the City desires to focus on reducing vehicular trips to reduce Citywide VMT by investing in bicycle, pedestrian, and transit improvements; and

WHEREAS, consistent with the City's CAP and General Plan, the City desires to focus such VMT-reducing improvements in areas that result in the greatest Citywide VMT reductions; and

WHEREAS, focusing VMT-reducing improvements in the City's most VMT-efficient areas can result in up to 20 times greater VMT reductions than investing those same improvements in VMT-inefficient areas; and

WHEREAS, implementing VMT-reducing improvements in the City's VMT-efficient areas will allow the City to achieve the greatest Citywide VMT reductions at lower costs; and

WHEREAS, reducing Citywide VMT results in GHG emissions reductions, consistent with the CAP; and

WHEREAS, the Governor's Office of Planning and Research (OPR) generally recommends a threshold of 15 percent below the VMT per capita for the surrounding region, consistent with the statewide target for VMT reduction (15 percent by 2020) and with regional targets for GHG emissions reductions under California Senate Bill 375 (SB 375); and

WHEREAS, the City has developed the Mobility Choices Regulations to reduce Citywide VMT to align with OPR guidelines, SB 375 targets, and the City's CAP targets; and

WHEREAS, the Mobility Choices Regulations address VMT created by new development through strategic land use planning to incentivize housing and implement a multimodal network around existing development and transit hubs; and

WHEREAS, rather than requiring improvements to be implemented in VMT-inefficient areas, the City desires to address projects' impacts in the City's VMT-efficient areas, where greater VMT reductions can be achieved at lower costs; and

WHEREAS, the City desires to provide clear and streamlined regulations that ensure that new development mitigates additional VMT impacts to the extent feasible; and

WHEREAS, the City intends that compliance with the Mobility Choices Regulations will ensure that VMT impacts resulting from new development will result in the greatest Citywide VMT reductions feasible; and

WHEREAS, at least 50 percent of funds from an Active Transportation In Lieu Fee is desired to be used solely within Communities of Concern; NOW, THEREFORE,

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

Section 1. That Chapter 14, Article 3 of the San Diego Municipal Code is amended by adding new Division 11, sections 143.1101, 143.1102, and 143.1103, to read as follows:

Article 3: Supplemental Development Regulations

Division 11: Mobility Choices Regulations

§143.1101 Purpose of Mobility Choices Regulations

The purpose of the Mobility Choices Regulations is to reduce Citywide vehicle miles traveled (VMT) to address the environmental impacts of *development* related to noise, air pollution, and greenhouse gas emissions, and to promote public health and enjoyment, by investing in active transportation infrastructure and amenities that will result in the greatest reductions to Citywide VMT.

§143.1102 When Mobility Choices Regulations Apply

The Mobility Choices Regulations apply to any *development* for which a Building Permit is issued, except:

- (a) Residential *development* with four or fewer *dwelling units*;
- (b) Any commercial or office *development* with less than 5,000 square feet *gross floor area*;
- (c) *Development* located on property owned, leased, or maintained by the City where the City is the *applicant* or where a private party is the *applicant*

acting on behalf of the City, that is a locally-serving public facility, as defined in the Land Development Manual, Transportation Study Manual, Appendix R;

- (d) *Development* located within a one-half mile pedestrian walk to an existing passenger rail station;
- (e) *Development* located in Mobility Zone 1;
- (f) Industrial Uses, as defined in the Land Development Manual, Transportation Study Manual (Appendix B), located within Prime Industrial Lands;
- (g) Multi-family residential *development* in a *Transit Priority Area* that provides the transportation amenities required by Section 142.0528; and
- (h) *Development* that does not require a Certificate of Occupancy.

§143.1103 Mobility Choices Requirements

- (a) For the purposes of this Division, Mobility Zones shall be defined as follows:
 - (1) Mobility Zone 1 means the Downtown Community Planning Area.
 - (2) Mobility Zone 2 means any *premises* located either partially or entirely in a *Transit Priority Area*.
 - (3) Mobility Zone 3 means a community planning area boundary with a VMT efficiency that is 85 percent or less of the regional average for either resident VMT per capita or employee VMT per employee, as determined by the City Manager.
 - (4) Mobility Zone 4 means any area not located within Mobility Zone 1, Mobility Zone 2, or Mobility Zone 3.

- (5) Where a *premises* is located in two or more Mobility Zones, the entire *premises* shall be subject to the regulations applicable to the lowest Mobility Zone.
 - (6) Where *development* is located within a Specific Plan area, where the Specific Plan was adopted prior to July 1, 2020, any portion of the *development* located within the Specific Plan area shall be subject to the regulations applicable to the lowest Mobility Zone included within the Specific Plan area.
- (b) Except as provided in Section 143.1103(b)(5) or (b)(6), all *development* located within Mobility Zone 2 or Mobility Zone 3 shall provide VMT Reduction Measures in accordance with Land Development Manual, Appendix T as follows:
- (1) *Development* in Mobility Zone 2 shall include VMT Reduction Measures totaling at least 5 points.
 - (2) *Development* in Mobility Zone 3 shall include VMT Reduction Measures totaling at least 8 points.
 - (3) A notice describing the VMT Reduction Measures provided shall be posted in a prominent and accessible common area of the *development* where it can easily be seen by residents and the public. The notice shall include the responsible party contact information and a statement that the VMT Reduction Measures are required pursuant to the San Diego Municipal Code and to the satisfaction of the Development Services Department. The notice

shall be in the form required by Land Development Manual, Appendix T.

- (4) The types of VMT Reduction Measures that shall be used to satisfy the requirements in Section 143.1103(b) are included in Land Development Manual, Appendix T. VMT Reduction Measures that also satisfy other *development* regulations may be used to satisfy the requirements in Section 143.1103(b).
 - (5) In lieu of providing the VMT Reduction Measures in Section 143.1103(b)(1) or (2), the *applicant* may pay the Active Transportation In Lieu Fee referenced in Section 143.1103(c).
 - (6) *Development* in Mobility Zone 3 that provides more than the minimum parking required in Chapter 14, Article 2, Division 5 shall not be required to provide the VMT Reduction Measures in Section 143.1103(b)(2), but shall pay the Active Transportation In Lieu Fee referenced in Section 143.1103(c).
- (c) Unless exempt under Section 143.1103(c)(2), (3), (4), or (5) all *development* in Mobility Zone 4 shall pay an Active Transportation In Lieu Fee, as adopted by City Council resolution.
- (1) The Active Transportation In Lieu Fee shall be used to fund active transportation and VMT-reducing infrastructure projects located within Mobility Zone 1, Mobility Zone 2, or Mobility Zone 3 to reduce Citywide VMT.
 - (2) Locally-serving *development*, as identified in Land Development Manual, Appendix T, and located in Mobility Zone 4, is exempt

from the Active Transportation In Lieu Fee in Section 143.1103(c), but shall provide VMT Reduction Measures that reduce VMT in accordance with Section 143.1103(b)(2).

- (3) For residential *development* in Mobility Zone 4, affordable *dwelling units* that are deed restricted at or below 120 percent of the area *median income*, as defined in Section 143.0720, are exempt from the Active Transportation In Lieu Fee in Section 143.1103(c).
- (4) *Development* in Mobility Zone 4, where any portion of the *development* is located within a census tract that is 85 percent or less of the regional average for either resident VMT per capita or employee VMT per employee, as applicable to the *development*, as determined by the City Manager, is exempt from the Active Transportation In Lieu Fee in Section 143.1103(c), but shall provide VMT Reduction Measures that reduce VMT in accordance with Section 143.1103(b)(2).
- (5) *Development* in Mobility Zone 4 that includes the design and construction of active transportation and VMT-reducing infrastructure located within Mobility Zone 1, Mobility Zone 2, or Mobility Zone 3 that reduces the *development's* required regional average reduction for either resident VMT per capita or employee VMT per employee, as applicable to the *development* and as determined by the City Manager, is exempt from the Active Transportation In Lieu Fee in Section 143.1103(c) for the VMT

that is reduced by the active transportation and VMT-reducing infrastructure, if the City Manager determines all of the following requirements are satisfied:

- (A) The active transportation and VMT-reducing infrastructure is a pedestrian, bicycle, or transit that does not accommodate additional vehicular traffic.
- (B) The active transportation and VMT-reducing infrastructure is located within a Community Planning Area that includes a Community of Concern, as determined by the City Manager.
- (C) The *applicant* substantially completes the active transportation and VMT-reducing infrastructure to the satisfaction of the City Engineer at no cost to the City. For purposes of this section, the active transportation and VMT reducing infrastructure is substantially completed if it is 90 percent complete to the satisfaction of the City Engineer, and an adequate performance bond, as determined by the City Engineer, has been provided to the City.
- (D) The *applicant* completes the active transportation and VMT-reducing infrastructure prior to issuance of any building permit, or request for final inspection for any portion of the *development*, provided the *applicant* enters into a Fee Deferral Agreement pursuant to Section 142.0640.

- (6) If an *applicant* completes the active transportation and VMT-reducing infrastructure that meets the requirements in Section 143.1103(c)(5) and would reduce more than the *development's* required VMT reduction provided in Section 143.1103(c), the City Manager may grant VMT reduction credits to the *applicant* upon completion of the active transportation and VMT-reducing infrastructure. The VMT reduction credits expire within 5 years from the issuance of the credits. The VMT reduction credits may be assigned to other *development* within the City or may be used to offset another *development's* Active Transportation In Lieu Fee.

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 (SDCRAA) for a consistency determination.

That if the SDCRAA finds this Ordinance consistent with the Airport Land Use Compatibility Plans (ALUCP) for San Diego International Airport, Marine Corps Air Station Miramar, Gillespie Field, Montgomery Field, and Brown Field Airports (collectively, Airports), this Ordinance shall take effect and be in force on the thirtieth day from and after the finding of consistency, or on the thirtieth day from and after its final passage, whichever is later, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which 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 those provisions as a local coastal program amendment.

That if the SDCRAA determines that this Ordinance is inconsistent or conditionally consistent, subject to proposed modifications, with the ALUCPs for the Airports, the Ordinance shall be submitted to the City Council for reconsideration.

That if the SDCRAA determines that this Ordinance is conditionally consistent with the ALUCPs for the Airports, 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, except that the provisions of this Ordinance as amended inside the Coastal Overlay Zone, which 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 those provisions as a local coastal program amendment.

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 SDCRAA, the California Department of Transportation, Division of Aeronautics, and the airport operators for the Airports. The City Council shall hold a second hearing not less than 45 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.

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, except that the provisions of this Ordinance inside the Coastal Overlay Zone, which 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 those provisions as a local coastal program amendment.

Section 4. Development subject to project-level environmental review pursuant to CEQA for which an environmental document was available for public review prior to July 1, 2020, provided that any such environmental document is approved no later than December 31, 2021, shall be exempt from compliance with this Ordinance. Building permits issued pursuant Process One Substantial Conformance Review for such development also shall be exempt from compliance with this Ordinance.

Section 5. Development for which an amendment is sought to existing discretionary approvals resulting in equivalent or fewer VMT than the existing discretionary approvals shall be exempt from compliance with this Ordinance.

Section 6. That no permits shall be issued for development that is inconsistent with the provisions of this Ordinance, unless complete applications for such permits are submitted to the City and deemed complete prior to the date on which the applicable provisions of this Ordinance become effective.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Corrine L. Neuffer
Corrine L. Neuffer
Deputy City Attorney

CLN:als
10/19/2020
Or.Dept: Planning
Doc. No.: 2377339_3

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 12/08/2020.

ELIZABETH S. MALAND
City Clerk

By /s/ Connie Patterson
Deputy City Clerk

Approved: 12/9/2020
(date)


KEVIN L. FAULCONER, Mayor

Vetoed: _____
(date)

KEVIN L. FAULCONER, Mayor

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~
NEW LANGUAGE: Double Underline

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Mobility Zone 3 that reduces the *development*, required regional average reduction for either resident VMT per capita or employee VMT per employee, as applicable to the *development* and as determined by the City Manager, is exempt from the Active Transportation In Lieu Fee in Section 143.1103(c) for the VMT that is reduced by the active transportation and VMT-reducing infrastructure, if the City Manager determines all of the following requirements are satisfied:

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- (D) The applicant completes the active transportation and VMT-reducing infrastructure prior to issuance of any building permit, or request for final inspection for any portion of the development, provided the applicant enters into a Fee Deferral Agreement pursuant to Section 142.0640.
- (6) If an applicant completes the active transportation and VMT-reducing infrastructure that meets the requirements in Section 143.1103(c)(5) and would reduce more than the development's required VMT reduction provided in Section 143.1103(c), the City Manager may grant VMT reduction credits to the applicant upon completion of the active transportation and VMT-reducing infrastructure. The VMT reduction credits expire within 5 years from the issuance of the credits. The VMT reduction credits may be assigned to other development within the City or may be used to offset another development's Active Transportation In Lieu Fee.

CLN:als
10/19 /2020
Or.Dept: Planning
Doc. No.: 2377296_4

Passed by the Council of The City of San Diego on DEC 08 2020, 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"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vacant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input 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"/>
Vivian Moreno	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 09 2020.

AUTHENTICATED BY:

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

(Seal)

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

By Connie Patterson, 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

NOV 09 2020, and on DEC 09 2020.

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)

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

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21274