



THE CITY OF SAN DIEGO

M E M O R A N D U M

DATE: April 21, 2022

TO: Community Planners Committee

FROM: Kelley Stanco, Interim Deputy Director, Planning Department *Kelley Stanco*

SUBJECT: Agenda of April 26, 2022: Item #5, Climate Action Plan Consistency Regulations

The City of San Diego is currently [updating the City's Climate Action Plan \(CAP\)](#), which establishes a community-wide goal of net zero by 2035, committing San Diego to an accelerated trajectory for greenhouse gas reductions. In conjunction with the update to the CAP, the City is proposing an amendment to the San Diego Municipal Code (SDMC) that will add Chapter 14, Article 3, Division 14, the Climate Action Plan (CAP) Consistency Regulations. The new CAP Consistency Regulations will apply to specified ministerial and discretionary projects to ensure that the projects comply with the goals and objectives of the updated CAP. Projects that are unable to comply with the regulations would be required to process a Site Development Permit with deviation findings that address how the project will reduce greenhouse gas emissions in a manner comparable to the regulation(s) that they are deviating from.

The City is also proposing to replace the existing Greenhouse Gas (GHG) Emissions thresholds found in the California Environmental Quality Act (CEQA) Significance Determination Thresholds of the City's Land Development Manual (LDM) with new thresholds. The existing GHG Significance Determination Threshold requires project-level environmental analysis to demonstrate consistency with the CAP through the use of the CAP Consistency Checklist. The CAP Consistency Regulations are replacing the CAP Consistency Checklist as the list of measures that can be implemented on a project-by-project basis to collectively achieve a specified emissions level as required by CEQA Guidelines Section 15183.5b(1)(D) and the Draft GHG Significance Determination Threshold reflects this change.

As amendments to the SDMC and LDM, the CAP Consistency Regulations and amended CEQA Significance Thresholds for GHG emissions require review and a recommendation by the Community Planner's Committee (CPC) and are provided as Attachments 1 and 2. Staff will present these documents to the CPC at the April 26th meeting and answer any questions the Committee may have. Additionally, while the update to the CAP is not within the purview of the CPC, staff will also present an overview of the update at the CPC to provide context for the proposed regulations and significance thresholds.

Attachments: 1. Draft Climate Action Plan Consistency Regulations
2. Draft CEQA Significance Thresholds – GHG Emissions

DRAFT STRIKEOUT ORDINANCE**OLD LANGUAGE: ~~Struck Out~~****NEW LANGUAGE: Double Underline**

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 12, ARTICLE 6, DIVISION 5 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 126.0502 AND 126.0505; AMENDING CHAPTER 12, ARTICLE 9, DIVISION 7 BY AMENDING SECTION 129.0710; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 3 BY AMENDING SECTION 143.0302; AMENDING CHAPTER 14, ARTICLE 3, DIVISION 10 BY AMENDING SECTION 143.1025; AMENDING CHAPTER 14, ARTICLE 3 BY ADDING NEW DIVISION 14, SECTIONS 143.1401, 143.1403, 143.1405, 143.1410, AND 143.1415, ALL RELATING TO CLIMATE ACTION PLAN CONSISTENCY REGULATIONS.

Chapter 12**Article 6: Development Permits****Division 5: Site Development Permit Procedures****§126.0502 When a Site Development Permit is Required**

- (a) through (b) [No change in text.]
- (c) A Site Development Permit decided in accordance with Process Three is required for the following types of *development*.
- (1) through (8) [No change in text.]
- (9) *Development that deviates from the Climate Action Plan Consistency Regulations, as described in Section 143.1403(c)*
- (d) through (g) [No change in text.]

§126.0505 Findings for a Site Development Permit Approval

A Site Development Permit may be approved or conditionally approved only if the decision maker makes all of the *findings* in Section 126.0505(a) and the supplemental *findings* in Section 126.0505(b) through (m) that are applicable to the proposed *development* as specified in this section.

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

(n) Supplemental Findings – Deviation from the Climate Action Plan Consistency Regulations.

A Site Development Permit required in accordance with Section 143.1403(c) due to requested deviations from the Climate Action Plan Consistency Regulations may be approved or conditionally approved only if the decision maker makes the following supplemental findings in addition to the findings in Section 126.0505(a):

- (1) The proposed deviation is the minimum necessary to afford relief from special circumstances or conditions of the land, not of the applicant's making.
- (2) The development provides project features or other mitigating measures, to the extent feasible, that reduce greenhouse gas emissions and support and enhance alternative forms of transit in a manner comparable to compliance with the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14.

Chapter 12

Article 9: Construction Permits

Division 7: Public Right-of-Way Permits

§129.0710 How to Apply for a Public Right-of-Way Permit

An application for a Public Right-of-Way Permit shall be submitted in accordance with Sections 112.0102 and 129.0105. The submittal requirements for Public Right-of-Way Permits are listed in the Land Development Manual. A *development permit* is required prior to issuance of a Public Right-of-Way Permit for the following:

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

(d) Notwithstanding Sections 129.0710(a)-(c), a *development permit* is not required prior to issuance of a Public Right-of-Way Permit for

placemaking, improvements required in accordance with the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14, or a recreational amenity in the *public right-of-way* subject to the following regulations. For purposes of Section 129.0710, a recreational amenity is defined as any improvement that provides recreational value to residents or visitors and that enhances the pedestrian or bicycle travel experience.

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

(4) The term of the Public Right-of-Way Permit shall not exceed five years with the exception of placemaking, and recreational amenities and improvements provided in accordance with the Climate Action Plan Consistency Regulations. The term shall not be limited in accordance with Municipal Code section 129.0750 and shall not be eligible for an extension of time pursuant to Municipal Code section 129.0751. Placemaking, and recreational amenities, and improvements provided in accordance with the Climate Action Plan Consistency Regulations shall be removed in accordance with the Encroachment Maintenance and Removal Agreement required in Section 129.0715.

(5) through (8) [No change in text.]

(9) The placemaking or recreational amenity project and improvements provided in accordance with the Climate Action Plan Consistency Regulations shall allow for safe and efficient visibility and circulation for motor vehicle users and other users of the *public right-of-way*, including bicyclists and pedestrians, and shall not impede the safe use of parking spaces or travel lanes in the *public right-of-way*, as determined by the City Engineer.

(10) [No change in text.]

Chapter 14

Article 3: Supplemental Development Regulations

Division 3: Supplemental Neighborhood Development Permit and Site Development Permit Regulations

143.0302 When Supplemental Neighborhood Development Permit and Site Development Permit Regulations Apply

This Division applies to any *development* proposal for which a Neighborhood Development Permit or Site Development Permit is required as described in Sections 126.0402 and 126.0502, in accordance with Table 143-03A.

Legend for Table 143-03A

[No change in text.]

Table 143-03A

Supplemental Neighborhood Development Permit or Site Development Permit Regulations Applicability

Type of <i>Development</i> Proposal	Applicable Sections	Required <i>Development</i> Permit/Decision Process
Affordable housing, in-fill projects, and sustainable buildings projects as described in Section 143.0915 where a Site Development Permit or Planned Development Permit would otherwise be required through Clairemont Mesa Height Limit Overlay Zone	[No change in text.]	[No change in text.]
<u>Development requesting deviations from the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14.</u>	<u>143.0303, 143.0305, 143.0375, 143.0380</u>	<u>SDP/Process Three</u>

Chapter 14

Article 3: Supplemental Development Regulations

Division 10: Complete Communities Housing Solutions Regulations

§143.1025 Supplemental Development Regulations

Development utilizing the regulations in this Division must comply with the following Supplemental Development Regulations and may not utilize the waivers provided in Section 143.1010(h) to deviate from the requirements in Section 143.1025.

- (a) through (e) [No change in text.]
- (f) Climate Action Plan (CAP) Consistency ~~Checklist~~ Requirements. To ensure consistency with the City’s CAP, all *development* shall comply with each of the measures identified in Step 2 of the CAP Consistency ~~Checklist~~ the Climate Action Plan Consistency Regulations in Chapter 14, Article 3, Division 14.

Chapter 14

Article 3: Supplemental Development Regulations

Division 14: Climate Action Plan Consistency Regulations

§143.1401 Purpose of the Climate Action Plan Consistency Regulations

It is the purpose and intent of these regulations to implement the City’s Climate Action Plan (CAP) by applying regulations that reduce greenhouse gas (GHG) emissions to *development* specified in this Division. Compliance with these regulations is also intended to demonstrate a *development’s* compliance with the City’s CAP.

§143.1403 Application of the Climate Action Plan Consistency Regulations

- (a) This Division applies to the following:
 - (1) *Development* that results in three or more total *dwelling units* on all *premises* in the *development*;
 - (2) Non-residential *development* that results in 5,000 square feet or more of total *gross floor area*; and
 - (3) Parking facilities as a *primary use*.
- (b) A *development* that has received an incentive or waiver under a local bonus or incentive program may not utilize the incentive or waiver to reduce or waive any of the requirements of this Division.

- (c) Development that deviates from the regulations of this Division may be approved with a Process Three Site Development Permit in accordance with Sections 126.0502(c)(9) and 126.0504(a), provided that the findings in Section 126.0505(a) and the supplemental findings in Section 126.0505(n) are made.

§143.1405 Definitions

The following definitions apply to this Division:

- (a) Furnishings Zone has the same meaning that it has in Section 2.2.5.2 of the 2017 Street Design Manual of the Land Development Manual. It is the zone that provides the buffer between the active pedestrian area, the Throughway Zone, and street traffic, and accommodates street trees, landscaping, street furniture, utility poles, parking meters, fire hydrants, bicycle racks, and the like.
- (b) Throughway Zone has the same meaning that it has in Section 2.2.5.3 of the 2017 Street Design Manual of the Land Development Manual. It is the zone that is intended for pedestrian travel only and should be entirely clear of obstacles.

§143.1410 Mobility and Land Use Regulations

The following regulations support alternative mobility options, such as walking and biking, that reduce vehicle dependency and associated GHGs.

- (a) Pedestrian enhancements that reduce heat island effects shall be provided as follows:
 - (1) For a premises that contains a street yard or abuts a public right-of-way that contains a Furnishings Zone, at least 50 percent of the Throughway Zone shall be shaded as specified below.
 - (A) If the adjacent public right-of-way contains a Furnishings Zone, the shading shall be provided by street trees.
 - (B) If the adjacent public right-of-way does not contain a Furnishings Zone, the shading may be provided by a combination of trees and shade structures placed in the street yard.
 - (C) The shade coverage of a tree shall be determined by the expected canopy at 10-year maturity. The tree shall be selected in accordance with the Landscape Standards of the

Land Development Manual and the City's Street Tree Selection Guide.

- (D) Trees shall be irrigated and maintained consistent with Section 142.0403.
 - (E) The number of street trees provided shall not be less than what is required by the Landscape Regulations in Chapter 14, Article 2, Division 4.
- (2) For a premises that does not contain a street yard and does not abut a public right-of-way that contains a Furnishings Zone, the applicant shall do one of the following:
- (A) Plant the number of trees required by Section 143.1410(a)(1) at an off-site location within 1 mile of the project premises and enter into an agreement with the owner of the off-site location that ensures the indefinite maintenance of the trees; or
 - (B) Pay an Urban Tree Canopy Fee to be deposited into the Climate Resiliency Fund, as adopted by City Council Resolution.
- (b) Development on a premises larger than one acre shall provide accessible pedestrian access and connectivity to directly adjacent premises as follows:
- (1) Accessible pedestrian paths shall connect to existing paths or walkways on the adjacent premises, or to areas where such paths could be constructed.
 - (2) The accessible pedestrian paths shall be at least four feet wide, continuous, clear of obstructions, easily identifiable as a pedestrian path, and visually distinguishable from other hardscaping.
 - (3) The accessible pedestrian paths shall be separated from vehicular access areas by wheelstops, curbs, landscaping, or other physical barriers, except when crossing driveways or aisles.
 - (4) A development is exempt from the requirements of this section if either of the following apply:
 - (A) Both the premises on which the development is located and the adjacent premises are zoned for exclusively residential development; or

- (B) There is a grade differential of more than 3 feet between the premises on which the development is located and the adjacent premises that precludes an accessible pedestrian path.
- (c) At least 50 percent of all residential and non-residential bicycle parking spaces required in accordance with Chapter 14, Article 2, Division 5 shall be supplied with individual outlets for electric charging at each bicycle parking space.

§143.1415 Resilient Infrastructure and Healthy Ecosystems Regulations

The following regulations support carbon sequestration as well as enhancement of air quality and the urban tree canopy.

- (a) Two trees shall be provided on the premises for every 5,000 square feet of lot area, with a minimum of one tree per premises.
 - (1) If planting of a new tree is required to comply with this section, the tree shall be selected in accordance with the Landscape Standards of the Land Development Manual and the City's Street Tree Selection Guide.
 - (2) Where possible, trees should be planted in native soil. Where native soil planting is prohibited by site conditions, required trees may be provided in built-in or permanently affixed planters and pots on structural podiums. Planters and pots for trees shall have a minimum inside dimension of 48 inches.
 - (3) Trees shall be irrigated and maintained consistent with Section 142.0403.
 - (4) The number of trees provided shall not be less than what is required by the Landscape Regulations in Chapter 14, Article 2, Division 4.

**DRAFT AMENDMENTS TO THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT SIGNIFICANCE THRESHOLDS
OF THE LAND DEVELOPMENT MANUAL**

T. GREENHOUSE GAS EMISSIONS

Pursuant to CEQA Guidelines sections 15183.5(b), 15064(h)(3), and 15130(d), the City may determine that a project's incremental contribution to a cumulative greenhouse gas (GHG) effect is not cumulatively considerable if the project complies with the requirements of a previously adopted GHG emission reduction plan. CEQA Guidelines section 15183.5(b)(1)(A-F) specifically provides that a GHG emissions reduction plan should:

- A. Quantify greenhouse gas emissions, both existing and projected over a specified time period, resulting from activities within a defined geographic area;
- B. Establish a level, based on substantial evidence, below which the contribution to greenhouse gas emissions from activities covered by the plan would not be cumulatively considerable;
- C. Identify and analyze the greenhouse gas emissions resulting from specific actions or categories of actions anticipated within the geographic area;
- D. Specify measures or a group of measures, including performance standards, that substantial evidence demonstrates, if implemented on a project-by-project basis, would collectively achieve the specified emissions level;
- E. Establish a mechanism to monitor the plan's progress toward achieving the level and to require amendment if the plan is not achieving specified levels; and
- F. Be adopted in a public process following environmental review.

An environmental document that relies on a GHG emissions reduction plan for a cumulative impacts analysis must identify those requirements specified in the plan that apply to the project, and if those requirements are not otherwise binding and enforceable, incorporate those requirements as mitigation measures applicable to the project. CEQA Guidelines §15183.5(b)(2). The City's Climate Action Plan was originally adopted by the City Council on December 15, 2015, and was most recently updated on **[Insert date, 2022]**. The Climate Action Plan quantifies existing GHG emissions as well as projected emissions for the years 2030 and 2035 resulting from activities within the City's jurisdiction. The Climate Action Plan also identifies City target emissions levels, below which the Citywide GHG impacts would be less than significant. The Climate Action Plan and the accompanying certified Final Environmental Impact Report (SCH No. 2015021053) also identify and analyze the GHG emissions that would result from the business as usual scenario for the years 2030 and 2035. The Climate Action Plan includes a monitoring and reporting program to ensure its progress toward achieving the specified GHG emissions reductions and specifies actions that, if implemented, would achieve the specified GHG emissions reductions targets. In 2015, the Climate Action Plan was adopted in a public process following certification of Final Environmental Impact Report SCH No. 2015021053. Subsequent to the adoption of the Climate Action Plan, the City also established additional specific measures (Climate Action Plan Consistency Checklist) that, if implemented on a project-by-project basis, would further ensure that the City as a whole achieves the specified GHG emissions reduction targets in the Climate Action Plan. The Climate Action Plan Consistency

Checklist was adopted by the City Council after certification of Addendum to Final Environmental Impact Report SCH No. 2015021053. Most recently, on **[Insert date, 2022]**, the City Council adopted an update to the Climate Action Plan in a public process following certification of the Second Addendum to Final Environmental Impact Report SCH No. 2015021053.

The Climate Action Plan has been developed in response to State legislation and policies that are aimed at reducing California's GHG emissions. This includes Executive Order S-3-05, which established the 2050 statewide GHG reduction target of 80 percent below 1990 levels, Executive Order B-30-15, which established the 2030 statewide GHG reduction target of 40 percent below 1990 levels, and Assembly Bill 32, the Global Warming Solutions Act (AB 32), which tasked the California Air Resources Board (CARB) with creating the Climate Change Scoping Plan (Scoping Plan) to establish a 2020 interim target and to provide a path for local governments to contribute their fair share of the GHG emission reductions necessary to achieve the target. CARB recognizes in its Scoping Plan that city-level data does not exist to determine what 1990 levels were, so it is assumed that GHG emissions in 2020 are representative of 1990 levels. The City acknowledges that 2020 emissions data may have impacts from the COVID-19 pandemic, so the 2019 GHG emissions inventory is likely the most representative under normal circumstances in achieving the 2020 goal of AB 32. Executive Order B-55-18 calls for California to achieve carbon neutrality by 2045. The update to the CAP sets the target emission level for 2035 at net zero emissions and sets a science-based, fair share target for 2030 based on net zero emissions in 2035.

INITIAL STUDY CHECKLIST QUESTIONS

Would the Project:

- 1) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?
- 2) Conflict with the City's Climate Action Plan or another applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

SIGNIFICANCE THRESHOLDS

The method for determining significance depends on whether the action requires plan- or policy-level or project-level environmental analysis.

1. For plan- and policy-level environmental documents, as well as environmental documents for public infrastructure projects, the Planning Department has prepared a Memorandum, Climate Action Plan Consistency for Plan- and Policy-Level Documents and Public Infrastructure Projects, to provide guidance on significance determination as it relates to consistency with the strategies in the CAP.
2. For project-level environmental documents, significance is determined through land use consistency and project compliance with the regulations set forth in San Diego Municipal Code Chapter 14, Article 3, Division 14.

- a. The first step in determining CAP consistency for development projects is to assess the project's consistency with the growth projections used in the development of the CAP.
 - i. Is the proposed project consistent with the existing General Plan and Community Plan land use and zoning designations?¹; OR
 - ii. If the proposed project is not consistent with the existing land use plan and zoning designations, and includes a land use plan and/or zoning designation amendment, would the proposed amendment result in an increased density within a Transit Priority Area (TPA)²?; OR
 - iii. If the proposed project is not consistent with the existing land use plan and zoning designations, does the project include a land use plan and/or zoning designation amendment that would result in an equivalent or less GHG-intensive project when compared to the existing designations?
- b. Implementation of the regulations set forth in San Diego Municipal Code Chapter 14, Article 3, Division 14 would ensure that new development is consistent with the CAP's assumptions for relevant CAP strategies toward achieving the identified GHG reduction targets. Projects that are consistent with the CAP as determined through compliance with the CAP Consistency Regulations may rely on the CAP for the cumulative impacts analysis of GHG emissions. Projects that do not comply with the CAP Consistency Regulations set forth in San Diego Municipal Code Sections 143.1410 and 143.1415 must prepare a comprehensive project-specific analysis of GHG emissions, including quantification of existing and projected GHG emissions and incorporation of the measures in the CAP Consistency Regulations to the extent feasible. Cumulative GHG impacts would be significant for any project that is not consistent with the CAP. The CAP Consistency Regulations may be updated to incorporate new GHG emissions reduction techniques or to comply with later amendments to the CAP or local, State, or federal law.

See also the CAP Consistency Checklist Technical Support Documentation, dated June 8, 2016, and CAP Consistency Regulations Technical Support Documentation, dated **[Insert date]**.

¹ This question may also be answered in the affirmative if the project is consistent with SANDAG Series 14 growth projections, which were used to determine the CAP projections, as determined by the Planning Department.

² This category applies to all projects that can answer the following in the affirmative: Is the project or a portion of the project located in a transit priority area?