



The City of San Diego

Staff Report

DATE ISSUED: 4/4/2024
TO: City Council
FROM: Development Services
SUBJECT: Adoption of Building Code Updates and Updates to Permit and Application Rules

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Council District(s): Citywide

OVERVIEW:

The Development Services Department is proposing updates to permit application rules as a result of continuously high inflation rates in the United States and around the world. High inflation rates are impacting housing development construction with low credit and loan availability. Furthermore, the Federal Reserve has responded to persistent high inflation by increasing their Federal Funds Rate to as high as 5.5%, further impacting credit prices for construction loans, tenant improvement loans, and consumer home mortgage loans. As a result, housing, commercial, and other construction projects have been prevented or stalled within the city. It is in the public's interest to provide the proposed permit application extensions to ensure the city continues to make progress in addressing its housing, climate, and equity initiatives.

On a triennial basis, the City of San Diego adopts the latest editions of the California Fire, Building, Electrical, Plumbing, Mechanical, Residential Code, Green Building Standards Code, and the Existing Building Code. Additionally, during the Intervening Code Adoption Cycle the State publishes a supplement to the codes, which is effective July 1, 2024, for the 2022 edition of the codes. The proposed actions are coordinated with the State of California's adoption of these codes. This procedure provides an additional opportunity to modify local regulations and maintain local and statewide consistency. The proposed local amendments were developed by staff from the Development Services Department after a thorough review of the Municipal Code, the State mandated codes, as well as the model codes that were used as the basis for the development of the State code.

PROPOSED ACTIONS:

1. Adopt through Ordinance amendments to the Municipal Code related to the Building, Residential Building, and Existing Building regulations, as well as amendments to the Application rules in the Land Development Code and the Building Permit Procedures.
2. Determine that this activity is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

DISCUSSION OF ITEM:

The requested action proposes to address issues that have arisen since City Council approval in 2023 of the Code adoption package for the 2022 California Building Standards Code and to provide a building permit extension. Three issues have arisen since San Diego Municipal Code (Municipal Code) that necessitate further Municipal Code updates.

1. Amendments are proposed in response to a request by local industry groups who have indicated that their members are experiencing financing difficulties and other difficulties that preclude obtaining Grading Permits and Building Permits within current permit application time limits.
2. An amendment necessary to address a regulatory gap in the authorities for the City Engineer identified during implementation the "New Safe Sidewalks Program"; the City Engineer will be authorized to issue Public Right-of-Way Permits.
3. An amendment is proposed to address the disparity between residential and non-residential projects. Building permits for residential projects expire two years after issuance, while permits for non-residential projects expire after.
4. Amendments are proposed to the Building Regulations, Residential Building Regulations, and Existing Building Regulations to address inadvertent errors and omissions identified by applicants and code users. No change in regulatory effect is expected.

Grading Permit application rules are determined in Section 112.0102, which applies to certain Construction Permits. Building Permit applications are determined in Section 129.0211 of the Building Permit Procedures.

- Grading Permit Applications: The application rules for Grading Permits are the same as those for other construction permits, such as Demolition/Removal Permits, Grading Permits, Public Right-of-Way Permits, and Sign Permits. Applications expire after one year and can be extended once for 180 days. We propose to allow for one additional 180-day extension.
- Building Permit Applications: The application rules for Building Permits, Electrical Permits, Plumbing/Mechanical Permits, and Fire Permits are addressed separately from the other types of construction permits. We propose to amend the Building Permit application rules to authorize granting two additional 180-day extensions in addition to the two existing 180-day extensions available after the initial 1-year application period expires.
- Building Permits for residential projects: Building permits authorize construction to proceed in compliance with the applicable standards and when construction plans are required based on the approved plans. It is proposed that the combination Building Permit for residential projects complying with the California Residential Code to expire three years after the permit of the Building Permit rather than the current two years.

Section 129.0108 is proposed to be amended to differentiate the permit issuance authority for the City Engineer and the Building Official. The City Engineer should have the authority to issue other Grading Permits and Public Right-of-Way Permits consistent with the authorities identified in Section 129.0104 (b). Presently, the Building Official delegated the authority through a memorandum pending updates to the Municipal Code.

Some minor edits and corrections are proposed to the Building Regulations, the Residential Building Regulations, and the Existing Building Regulations to repeal or correct existing requirements made moot due to the pending implementation of the 2022 code supplement or due to conflicts with the State adopted code.

- California Building Code: Two non-substantive edits to the building regulations applicable to the construction of unventilated attics and the fire classification for solar photovoltaics are proposed to be repealed, and a third requirement is proposed to be updated for consistency with the California Building Code. The requirements for Geotechnical Investigations are also being corrected for consistency with the building code.

- Residential Code: The Residential Building Regulations are proposed to be updated to correct a cross referencing error for local sound transmission requirements between dwellings units.
- Existing Building Code: The Existing Building Regulations include a proposed repeal of rules not permitting the use of the work area method; the American Institute of Architects has identified the method to be important for adaptive reuse projects. The proposal ensures consistency with State action during the implementation of the supplement to the code.

Development Services proposes liberally granting a building permit extension if the applicant successfully demonstrates that they meet one or more of the following criteria:

- Meets public health and safety codes: the project complies with more current life and safety building code standards, only if the prior standards would be insufficient to protect public health and safety.
- Public interest: The project addresses priorities for the city including, but not limited to, Mayoral and City Council priorities related to housing of all affordability levels, life-science projects, and various sustainability initiatives.
- Circumstances beyond the applicant’s control: The applicant can receive an extension by demonstrating difficulties related to, without limitation, securing construction financing, conditions in the financial market, affordable housing financing schedules, or other complexities that arise for the project.

Two informative documents provide more details regarding these issues. Attachment # 1 includes an Issues Matrix that includes a quick summary of the proposed revisions. Attachment # 2 is a detailed code change report that shows the proposed changes and a detailed reason statement for each proposed revision.

The Development Services Department (DSD) recommends approval and codification of the proposed revisions to the Municipal Code necessary to comply with State law, necessary to address lingering construction industry difficulties, and to improve consistency and predictability in the permit process.

DSD also requests that the proposed permit application extensions and the permit extension be available to any applicant with a building permit that expired or expires after June 1, 2024.

Lastly, Development Services and the Mayor’s Office will continue to monitor financial market conditions to determine if further modifications to permit and application rules are warranted in the future, should financial conditions or other circumstances deteriorate.

City of San Diego Strategic Plan:

This action relates to the Strategic Plan’s Priority Area “Housing for All of Us” by promoting a customer focused culture that prizes accessible, consistent, and predictable delivery of services.

Fiscal Considerations:

There is the potential for limited fiscal impact to the City’s Enterprise Fund as a result of this action. The ability to extend the permit application times may result in reducing the overall permit volume as projects will not expire and applicants will be able to delay their permit expiration dates.

The additional time proposed for Building Permit application extensions will require a fee surcharge to address service cost increases that may occur during the extended period for permit applications and permits. The permit application “deemed complete” date establishes the fee schedule used to recover the costs of processing and reviewing permit applications, as well as costs to manage a permit and to perform construction inspections. DSD has recently completed a fee study and expects its new fee schedule to be implemented July 1, 2024. In order to be cost recoverable, the Department should charge a fee surcharge for staff work performed on extended permits after the new fee schedule has been implemented.

Charter Section 225 Disclosure of Business Interests:

N/A

Environmental Impact:

This activity is not a project pursuant to CEQA Guidelines Section 15378(b)(5), where a project does not include organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. As such, this activity is not subject to CEQA pursuant to CEQA Guidelines Section 15060(c)(3).

Climate Action Plan Implementation:

N/A

Equal Opportunity Contracting Information (if applicable):

N/A

Previous Council and/or Committee Actions:

N/A

Key Stakeholders and Community Outreach Efforts:

Permit applicants informed DSD of the need for this ordinance. DSD has informed some of the key stakeholders and beneficiaries of this action, including the Building Industry Association, Building Owners and Managers Association and NAIOP of the intent to bring forward this ordinance.

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