



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

NORA VARGAS
First District

JOEL ANDERSON
Second District

TERRA LAWSON-REMER
Third District

MONICA MONTGOMERY STEPPE
Fourth District

JIM DESMOND
Fifth District

DATE: October 23, 2024 and December 11, 2024

08

TO: Board of Supervisors

SUBJECT:

SUNSET REVIEW OF BOARD OF SUPERVISORS POLICIES AND PROVISIONS OF THE COUNTY REGULATORY CODE ASSIGNED TO THE LAND USE AND ENVIRONMENT GROUP AND ASSOCIATED CEQA EXEMPTION (10/23/24 –First Reading; 12/11/24 – Second Reading, unless the ordinances are modified on second reading) (DISTRICTS: ALL)

OVERVIEW

In accordance with Board of Supervisors (Board) Policy A-76, Sunset Review Process, the Land Use and Environment Group (LUEG) periodically reviews Board Policies and provisions of the County of San Diego (County) County Regulatory Code to ensure they reflect current Board standards and practices, that obsolete policies and Code provisions are removed, and that policy language is revised for clarity.

Today's proposed actions include Board approval of amendments and sunset date extensions to December 31, 2031, for seven Board Policies, of which three have no recommended changes (G-006, I-044, and I-070):

- a) G-006, User Fees County Parks and Recreation Facilities
- b) I-044, Procedure for Designing New County-Owned Community/Local Parks
- c) I-053, Cost Responsibility for the Construction of Flood Control and Drainage Facilities Within Road Rights-of-Way
- d) I-070, Reporting Complaint and/or Violations History for Planning Actions Brought Before Hearing Boards
- e) I-073, Hillside Development Policy
- f) I-118, Refund and Relief Policy When Permits and Projects are Issued in Error
- g) I-121, Procedure for Determining Public Convenience or Necessity for Alcoholic Beverage License Applications

There are also recommended amendments and a sunset date extension to December 31, 2031, for Title 6: Health and Sanitation, and no amendments for Title 5: Regulation of Buildings, Mobilehome and Special Occupancy Parks and Trailer Coaches.

SUBJECT: SUNSET REVIEW OF BOARD OF SUPERVISORS POLICIES AND PROVISIONS OF THE COUNTY REGULATORY CODE ASSIGNED TO THE LAND USE AND ENVIRONMENT GROUP AND ASSOCIATED CEQA EXEMPTION (10/23/24 – First Reading; 12/11/24 – Second Reading, unless the ordinances are modified on second reading) (DISTRICTS: ALL)

If on October 23, 2024, the Board approves the Board Policy updates and first reading of the ordinance related to the reviewed code, then on December 11, 2024, the Board will be asked to consider and adopt the ordinance to implement the amendments and sunset date extension.

RECOMMENDATION(S):

CHIEF ADMINISTRATIVE OFFICER

1. In accordance with the definitions in Section 15378 (b)(5) of the California Environmental Quality Act (CEQA) Guidelines, find that actions to amend the County of San Diego (County) Administrative Code and Board of Supervisors Policies do not constitute a project since they are administrative actions and will not result in direct or indirect changes in the environment. Further, pursuant to CEQA Guidelines section 15061(b)(3), find that it can be seen with certainty that there is no possibility that the proposed actions may have a significant effect on the environment for the reasons stated in the Environmental Statement.
2. Approve amendments to and establish the sunset review date of December 31, 2031, for the following Board of Supervisors (Board) Policies:
 - a) *I-053, Cost Responsibility for the Construction of Flood Control and Drainage Facilities Within Road Rights-of-Way*
 - b) *I-073, Hillside Development Policy*
 - c) *I-118, Refund and Relief Policy When Permits and Projects are Issued in Error*
 - d) *I-121, Procedure for Determining Public Convenience or Necessity for Alcoholic Beverage License Applications*
3. Establish the new sunset review date of December 31, 2031, for the following Board Policies that have been reviewed by staff and have no recommended changes:
 - a) *G-006, User Fees County Parks and Recreation Facilities*
 - b) *I-044, Procedure for Designing New County-Owned Community/Local Parks*
 - c) *I-070, Reporting Complaint and/or Violations History for Planning Actions Brought Before Hearing Boards*
4. Determine no change is necessary and approve the sunset review date of December 31, 2031, for the following title of the County Regulatory Code:
 - a) *Title 5, Regulation of Buildings, Mobilehome and Special Occupancy Parks and Trailer Coaches*
5. Approve the introduction of the following Ordinance entitled:

AN ORDINANCE AMENDING TITLE 6 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES PERTAINING TO DEPARTMENT OF ENVIRONMENTAL HEALTH PROGRAMS

SUBJECT: SUNSET REVIEW OF BOARD OF SUPERVISORS POLICIES AND PROVISIONS OF THE COUNTY REGULATORY CODE ASSIGNED TO THE LAND USE AND ENVIRONMENT GROUP AND ASSOCIATED CEQA EXEMPTION (10/23/24 – First Reading; 12/11/24 – Second Reading, unless the ordinances are modified on second reading) (DISTRICTS: ALL)

If on October 23, 2024, the Board takes action as recommended, then, on December 11, 2024:

1. Consider Adopt the following Ordinance (unless Ordinance is modified on second reading):

AN ORDINANCE AMENDING TITLE 6 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES PERTAINING TO DEPARTMENT OF ENVIRONMENTAL HEALTH PROGRAMS

2. Approve the new sunset review date of December 31, 2031, for the amended San Diego County Regulatory Code.

EQUITY IMPACT STATEMENT

County departments are guided by several Regulatory Codes, Administrative Codes, and Board Policies in order to serve the region and customers consistently and equitably. The periodic review of County codes and policies ensures that departments keep documents up to date, provide clarifying language and continue to guide departmental practices. Additionally, this practice allows the language within these codes and policies to align with current efforts and be revised for inclusivity.

Today’s recommendations will contribute to providing equitable, inclusive, and consistent service to the community and customers. The revisions proposed in this Board Letter enable the County of San Diego to provide residents the opportunity to review the updates that are made for consistency, clarity, and accuracy.

SUSTAINABILITY IMPACT STATEMENT

This action to review and amend the San Diego County Regulatory Code and Board policies aligns with the goal to promote opportunities for community engagement. Updates proposed in today’s action are meant to ensure that codes and policies are up to date, reflect current processes and to continue County services and responsibilities in the region. Some examples of these are policies for continued parks operations and care of park locations, environmental standards for facilities, and undergrounding utilities for community safety.

FISCAL IMPACT

There is no fiscal impact associated with these recommendations. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

SUBJECT: SUNSET REVIEW OF BOARD OF SUPERVISORS POLICIES AND PROVISIONS OF THE COUNTY REGULATORY CODE ASSIGNED TO THE LAND USE AND ENVIRONMENT GROUP AND ASSOCIATED CEQA EXEMPTION (10/23/24 – First Reading; 12/11/24 – Second Reading, unless the ordinances are modified on second reading) (DISTRICTS: ALL)

BACKGROUND

In accordance with Board Policy A-76, Sunset Review Process, County departments periodically review (about every seven years) Board Policies and provisions of the San Diego County Regulatory Code to ensure outdated or obsolete policies and Code provisions are deleted, and remaining requirements reflect current Board standards and practices.

San Diego County Regulatory Code

The San Diego County Regulatory Codes listed below has been reviewed by County staff. Staff recommends approval to extend the sunset review date to December 31, 2031.

Title 5 Regulation of Buildings, Mobilehome and Special Occupancy Parks and Trailer Coaches:
The purpose of Title 5 is to regulate the construction, maintenance, and safety standards for buildings, mobilehome parks, special occupancy parks, and trailer coaches. It helps to ensure these structures are safe, habitable, and comply with local building codes, and aims to protect public health and welfare by enforcing standards for sanitation, fire safety, and structural integrity. No changes are proposed to Title 5.

Title 6 Health and Sanitation:

The purpose of this code is to provide guidance regarding health and sanitation. This includes various aspects such as food safety, public swimming pools, and water management. This code is meant to align with the County's Operational Plan to protect the health and safety of residents and preserve and enhance the natural and built environment by unifying the County's efforts in land use, environmental protection and preservation, agriculture, recreation, and infrastructure development and maintenance.

This review encompassed the entire code which is composed of 10 divisions, or sections, that involve several departments and offices. The Department of Environmental Health and Quality (DEHQ), Department of Public Works (DPW), Department of Agriculture, Weights and Measures (AWM), Department of Parks and Recreation (DPR), Planning & Development Services (PDS), Sheriff's Office, Health and Human Services Agency (HHS), and Public Safety Group (PSG) have all reviewed Code to update the language for consistency with prior Board actions, provide clarity, remove outdated language or sections that no longer apply due to State law changes, and reflect current operational standards.

The following are the highlights of the proposed updates for this Code:

DEHQ proposes amending the Code throughout for clarity and consistency with existing Regulation. This includes: removal of outdated definitions, updated terminology, grammar and formatting changes, and clarity when referencing existing operations process.

DPW proposes amending the Code under Division 7, Chapter 8: Watershed Protection, Stormwater Management and Discharge Control. The purpose of this chapter is to protect water resources by establishing requirements that prevent stormwater pollution, including development

SUBJECT: SUNSET REVIEW OF BOARD OF SUPERVISORS POLICIES AND PROVISIONS OF THE COUNTY REGULATORY CODE ASSIGNED TO THE LAND USE AND ENVIRONMENT GROUP AND ASSOCIATED CEQA EXEMPTION (10/23/24 – First Reading; 12/11/24 – Second Reading, unless the ordinances are modified on second reading) (DISTRICTS: ALL)

site design criteria, to comply with State and Federal law under the Regional Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) Permit. Proposed changes will clarify definitions for consistency with the NPDES Permit and address discrepancies in the development plan review process to determine stormwater site design. The changes provide clarity and consistency with existing regulation & regional MS4 permit, process, and is consistent with MS4 permit requirements. Much of existing ordinance matches regulations set forth in MS4 permit and additional comprehensive watershed protection ordinance update to commence with next MS4 Permit (expected 2025).

AWM proposes to make revisions to Division 2, Chapter 9: Beekeeping and Apiaries and Division 3, Chapter 2: Pest Control. Proposed changes for Chapter 9 will update language to reflect current scientific terminology, expand the definition of undesirable honeybee behavior, further define water supply requirements, include required abatement methods, and update notification requirements to be consistent with State Food and Agricultural code sections.

The proposed change for Chapter 2: Pest Control will remove section 63.208 Structural Pest Control Board Examination and Fee. AWM no longer provides exams, which are instead administered through the Structural Pest Control Board at third-party testing centers.

PSG and the Sheriff's Office propose to repeal the following chapters from Title 6 County Code of Regulation:

- Chapter 5: Massage Establishments and Massage Therapists
- Chapter 6: Bathhouses

These two chapters should be repealed given the change in California laws over a decade ago that affect the way the County regulates the massage industry. The California Massage Therapy Council (CAMTC) was created by the California Legislature through the enactment of Senate Bill 731 and re-authorized by Assembly Bill 1147 and later in 2016 by Assembly Bill 2194. CAMTC is a private nonprofit public benefit corporation made up of a volunteer Board of Directors appointed by California cities, counties, law enforcement, massage schools, the Department of Consumer Affairs, professional massage associations and other stakeholders as authorized by law in California Business and Professions Code sections 4600 et. seq.

CAMTC is required by California Business and Professions Code section 4600 et. seq. to:

- Create and implement a voluntary certification program for the massage therapy profession that will enable consumers to easily identify credible Certified Massage Therapists (CMTs);
- Ensure that certified massage professionals have completed sufficient training at approved schools; and
- Approve massage schools. As of July 1, 2016, CAMTC only accepts education from massage school programs that have been CAMTC approved.

SUBJECT: SUNSET REVIEW OF BOARD OF SUPERVISORS POLICIES AND PROVISIONS OF THE COUNTY REGULATORY CODE ASSIGNED TO THE LAND USE AND ENVIRONMENT GROUP AND ASSOCIATED CEQA EXEMPTION (10/23/24 – First Reading; 12/11/24 – Second Reading, unless the ordinances are modified on second reading) (DISTRICTS: ALL)

These State laws changed the regulation of massage establishments in the unincorporated areas of the region, and eliminated the way the County had been regulating massage establishments under the County Code, which included the Sheriff's Office review, approval, and issuance of operating permits.

Additionally, the Sheriff's Office Licensing Division has not issued a massage license since 2011. The Licensing Division has had inquiries from CAMTC asking as to why we are not enforcing the ordinance. The division has repeatedly explained any complaints or alleged unlawful activities are investigated by the Sheriff's Special Investigations Division, since the Business and Professions Code preempts the massage regulation for law enforcement agencies. Regarding compliance inspections, the consensus internally is that they are better facilitated by Code Enforcement and the County Health Department for both bathhouses and massage establishments given the inspection criteria. In the last 34 years, no bathhouse license has been issued by the Sheriff's Licensing Division.

Board of Supervisors Policies

The Board policies listed below have been reviewed by County staff. Staff recommends approval of a sunset review date of December 31, 2031, as well as the revisions noted in the descriptions below. The intent of the policies is unchanged by the proposed revisions.

I-053 Cost Responsibility for the Construction of Flood Control and Drainage Facilities Within Road Rights-of-Way:

The purpose of this policy is to define and assign financial responsibility between the San Diego County Flood Control District and the County for drainage facilities constructed within County-maintained road rights of way. The proposed updates are minor, non-substantive changes to the cost share methodology for clarification purposes.

I-073 Hillside Development Policy:

The purpose of this policy is to minimize the effects of disturbing natural terrain and provide for creative design for Hillside Developments. The policy provides guidelines to assist the Board of Supervisors, the Planning Commission, the Director of Planning & Development Services, and staff in the evaluation of hillside development in unincorporated area. It is intended that this policy serve as a guideline and supplement to any other applicable regulations, including the Resource Protection Ordinance. It is also intended that this policy provide advance notice of what may be required when reviewing development proposals in hillside areas.

The proposed minor revisions update the policy to reflect the change of name from the Department of Environmental Health (DEH) to the Department of Environmental Health and Quality (DEHQ).

I-118 Refund and Relief Policy When Permits and Projects are Issued in Error:

The purpose of this policy is to establish a policy for identifying the circumstances for which an applicant is eligible for a refund of fees paid or other relief where an error has been made in the permit or approval process.

SUBJECT: SUNSET REVIEW OF BOARD OF SUPERVISORS POLICIES AND PROVISIONS OF THE COUNTY REGULATORY CODE ASSIGNED TO THE LAND USE AND ENVIRONMENT GROUP AND ASSOCIATED CEQA EXEMPTION (10/23/24 – First Reading; 12/11/24 – Second Reading, unless the ordinances are modified on second reading) (DISTRICTS: ALL)

The proposed minor revisions update the policy to reflect the change of name from Department of Environmental Health (DEH) to Department of Environmental Health and Quality (DEHQ) and to clarify that the policy also applies to the San Diego County Fire Protection District since they are involved in reviewing and charging projects.

I-121 Procedure for Determining Public Convenience or Necessity for Alcoholic Beverage License Applications:

The purpose of this policy is to outline the procedure for determining public convenience or necessity for alcoholic beverage license applications. This policy helps ensure that new licenses serve the community's needs and do not negatively impact the area.

The proposed minor revisions to the policy are to reflect the change of name from the Department of Environmental Health (DEH) to the Department of Environmental Health and Quality (DEHQ) and to clarify that the role of the Health and Human Services agency is to provide optional input on the neighborhood compatibility criteria contained within the policy.

The Board Policies listed below have been reviewed by County staff. Staff recommend approval of a sunset review date of December 31, 2031, and do not recommend changes to these three Policies:

G-006 User Fees County Parks and Recreation Facilities:

The policy covers the charging of fees for the use of County-operated parks and recreation facilities and to establish certain group exemptions to said policy. The policy has been reviewed and found to remain applicable with no recommended changes other than a sunset date extension to December 31, 2031.

I-044 Procedure for Designing New County-Owned Community/Local Parks:

This policy provides a procedure to ensure that the Department of Parks and Recreation (DPR), and applicants for subdivision or development projects solicit community input on the design of new local parks. The policy has been reviewed and found to remain applicable with no recommended changes other than sunset date extensions to December 31, 2031.

I-070 Reporting Complaint and/or Violations History for Planning Actions Brought Before Hearing Boards:

The purpose of this policy is to establish a policy and procedure for providing the Planning Commission, and/or the Board of Supervisors with a record of complaints and/or violations on property for a land division, a use permit, a Rezone, or General Plan Amendments for which project approval is requested. The policy has been reviewed and found to remain applicable with no recommended changes other than a sunset date extension to December 31, 2031.

SUBJECT: SUNSET REVIEW OF BOARD OF SUPERVISORS POLICIES AND PROVISIONS OF THE COUNTY REGULATORY CODE ASSIGNED TO THE LAND USE AND ENVIRONMENT GROUP AND ASSOCIATED CEQA EXEMPTION (10/23/24 – First Reading; 12/11/24 – Second Reading, unless the ordinances are modified on second reading) (DISTRICTS: ALL)

ENVIRONMENTAL STATEMENT

In accordance with the definitions in Section 15378(b)(5) of the California Environmental Quality Act (CEQA) Guidelines, the actions to amend the County of San Diego (County) Administrative Code and Board of Supervisors Policies do not constitute a project since they are administrative actions and will not result in direct or indirect changes in the environment.

Pursuant to Section 15061 (b)(3) of the State CEQA Guidelines, the proposed actions are exempt from CEQA because they are a review of existing policies and ordinances to ensure obsolete policies and Code provisions are deleted and remaining requirements reflect current Board of Supervisors standards and practices. The proposed actions are administrative in nature, strengthening enforcement mechanisms, and clarifying existing provisions. None of the proposed changes establish a new program or substantially change any existing programs or policies. Therefore, it can be seen with certainty that there is no possibility that the activities in question may have a significant effect on the environment and the activity is not subject to CEQA.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

The requested action to amend certain Board of Supervisors (Board) Policies, County Administrative Code, and the San Diego County Code of Regulatory Ordinances supports the Sustainable Environments/Thriving and Operational Excellence Initiatives of the County of San Diego’s 2024-2029 Strategic Plan by ensuring services are positioned to meet the needs and expectations of communities in San Diego County and by ensuring obsolete policies and Code provisions are deleted and the remaining requirements reflect current Board standards and practices.

Respectfully submitted,



DAHVIA LYNCH
Deputy Chief Administrative Officer

SUBJECT: SUNSET REVIEW OF BOARD OF SUPERVISORS POLICIES AND PROVISIONS OF THE COUNTY REGULATORY CODE ASSIGNED TO THE LAND USE AND ENVIRONMENT GROUP AND ASSOCIATED CEQA EXEMPTION (10/23/24 – First Reading; 12/11/24 – Second Reading, unless the ordinances are modified on second reading) (DISTRICTS: ALL)

ATTACHMENT(S)

Note: Due to the size of the attachments, the documents are available online through the Clerk of the Board's website at www.sandiegocounty.gov/content/sdc/cob/bosa.html

Attachment A – Executive Summary

Attachment B – AN ORDINANCE AMENDING TITLE 6 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES PERTAINING TO DEPARTMENT OF ENVIRONMENTAL HEALTH PROGRAMS – Clean

Attachment C – AN ORDINANCE AMENDING TITLE 6 OF THE SAN DIEGO COUNTY CODE OF REGULATORY ORDINANCES PERTAINING TO DEPARTMENT OF ENVIRONMENTAL HEALTH PROGRAMS – Strikeout/Underline

Attachment D – Amended Board of Supervisors Policies – Clean

Attachment E – Amended Board of Supervisors Policies – Strikeout/Underline