

ORDINANCE NO. 10494
(New Series)

FEB 4 1971

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, OF THE SAN DIEGO MUNICIPAL CODE, BY REPEALING DIVISION 5, ZONING ADMINISTRATION, AND SECTIONS 101.0501 THROUGH 101.0509, AND BY ADDING DIVISION 5, VARIANCE AND CONDITIONAL USE PERMIT PROCEDURES, AND SECTIONS 101.0500 THROUGH 101.0511.

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

Section 1. That Chapter X, Article 1, of the San Diego Municipal Code be amended by repealing Division 5, Zoning Administration, and Sections 101.0501 through 101.0509.

Section 2. That Chapter X, Article 1, of the San Diego Municipal Code be amended by adding thereto Division 5, Variance and Conditional Use Permit Procedures, and Sections 101.0500 through 101.0511 to read as follows:

DIVISION 5

VARIANCE AND CONDITIONAL
USE PERMIT PROCEDURES

SEC. 101.0500 ZONING ADMINISTRATOR -
POWERS AND DUTIES

The Zoning Administrator shall have the following powers and duties:

1. To grant such variances from the zoning provisions of the Municipal Code as will not be contrary to its intent or to the public health, safety and general welfare when, due to special conditions

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or exceptional characteristics of the property or of its location or surroundings as specified in Section 101.0502, strict and literal interpretation and enforcement of the provisions of the Code would result in unusual difficulties or unnecessary hardship or be inconsistent with the general purpose of the Code.

2. To grant conditional use permits, pursuant to Section 101.0503, for uses to be located on specific parcels of land where such uses will be desirable for the public health, safety and general welfare and will be in harmony with the PROGRESS GUIDE AND GENERAL PLAN FOR THE CITY OF SAN DIEGO.

In granting any conditional use permit or variance, the Zoning Administrator may impose such conditions as he deems necessary or desirable to protect the public health, safety and general welfare in accordance with the purpose and intent of the Municipal Code.

SEC. 101.0501 BOARD OF ZONING APPEALS

A. CREATION OF MEMBERSHIP

There is hereby created a Board of Zoning Appeals which shall consist of five members, who shall serve

without compensation. The members shall be appointed by the Mayor and confirmed by the Council. The members shall serve two year terms and each member shall serve until his successor is duly appointed and qualified. The members shall be appointed in such a manner that the terms of not more than three members shall expire in any year. The expiration date shall be March 1. During March of each year the Mayor shall designate one member as chairman; however, in the absence of such designation, the Board shall on or after April 15 select from among its members a chairman.

B. MEETINGS

The Board shall meet regularly once a month or oftener if necessary for the transaction of business. It shall establish its own rules and procedures necessary or convenient for the conduct of its business.

Three members of the Board of Zoning Appeals shall constitute a quorum. The affirmative vote of not less than three members shall be necessary for any action by the Board.

C. POWER AND DUTIES

The Board shall hear and determine appeals from the rulings, decisions and determinations of the Zoning Administrator, granting or denying applications for

conditional use permits or for variances from the zoning provisions of the Municipal Code or zoning ordinances.

SEC. 101.0502 ZONE VARIANCE GRANTED
 BY ZONING ADMINISTRATOR

A. APPLICATION - FORM AND CONTENTS

Application for a zone variance may be made by the owner of the property affected or it may be initiated by the Zoning Administrator. Application shall be filed with the Zoning Administrator upon forms provided by him. The application shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans (including landscaping plans) and a legal description of the property involved.

B. HEARING BEFORE THE ZONING ADMINISTRATOR - PROCEDURE

1. An advertised public hearing shall not be required when the application is for limited relief in the case of:

a. Modification of distance or area regulations, provided such modification does not exceed 20 percent of required front, side, or rear yards nor exceed ten percent of maximum lot coverage regulations;

- b. Tract real estate offices, model homes, and signs in connection therewith, provided that no such variance shall be granted for a period of more than one year;
 - c. Additions to structures which are nonconforming as to side yard, rear yard, or lot coverage, provided the additions shall meet the requirements of the zoning regulations affecting the property; or
 - d. Walls or fences to exceed heights permitted by the zoning regulations.
2. In all those cases listed in paragraph "B.1." of this section, the Zoning Administrator shall set a reasonable time for the consideration of the variance and give notice thereof to the applicant and may give notice to any other interested persons. Upon the date set for the hearing, the Zoning Administrator shall hear the application unless for cause he shall on that date continue the matter. If a date certain for the continued hearing is announced in the open meeting, no further notice thereof need be given.

3. In all other cases the Zoning Administrator shall set a date for public hearing and give notice of time, place and purpose of such hearing in accordance with the procedure set forth in paragraphs "B.3.a." or "B.3.b." of this section.

a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.

b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or

within 300 feet of the boundaries of
the subject property.

4. In addition to the methods set forth in paragraphs "B.3.a." or "B.3.b." of this section, the Zoning Administrator may use other methods which he finds to be desirable in giving proper notice of the hearing.
5. The mailed and posted notices referred to in paragraph "B.3." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:
 - a. The boundaries of the subject property.
A diagram or plat may be substituted for this description.
 - b. The date, time, place, and subject of the hearing.
 - c. A statement that any person may, but is not required to, appear and be heard.
 - d. A statement that the application, together with plans and other data submitted with the application, are available for public inspection in the office of the Zoning Administrator.

6. Upon the date set for the hearing, the Zoning Administrator shall hear the application unless for cause he shall on that date continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

C. DECISION OF THE ZONING ADMINISTRATOR

1. If a public hearing is not held as provided for in paragraph "B.1." of this section, the Zoning Administrator shall render his decision upon the completion of his investigation of the facts as set forth in the application and his review of the circumstances of the particular case. If a public hearing is held, he shall render his decision at the conclusion of the hearing.
2. The Zoning Administrator may grant a variance from the zoning provisions of the Municipal Code, when it shall appear from the facts contained in the application, from information obtained by the Zoning Administrator and from the evidence presented at the public hearing, if such is held, that the following conclusions can be reached:

- a. There are special circumstances or conditions applying to the land or buildings for which the adjustment is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the neighborhood. Such conditions shall not have resulted from any act of the applicant subsequent to the adoption of the applicable zoning ordinance.
- b. The aforesaid circumstances or conditions are such that the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or buildings and that the variance granted by the City is the minimum variance that will accomplish this purpose.
- c. The granting of the variance will be in harmony with the general purpose and intent of the zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

- d. The granting of the variance will not adversely affect the PROGRESS GUIDE AND GENERAL PLAN FOR THE CITY OF SAN DIEGO.
3. If the Zoning Administrator, after considering the facts presented in the case is unable to reach the conclusions set forth in paragraph "C.2." of this section, he shall deny the variance.
4. In granting a variance, the Zoning Administrator may impose such conditions as he deems necessary and desirable to protect the public health, safety and general welfare.
5. The written decision of the Zoning Administrator, which shall include a finding of facts relied upon in reaching his conclusions, shall be filed with the City Clerk, Director of Building Inspection, County Recorder of San Diego County and a copy shall be mailed to the applicant. The written decision shall not be filed with the County Recorder if it constitutes a denial of the variance.

6. When the decision of the Zoning Administrator is not appealed as provided for in Section 101.0504, his decision shall be final on the eleventh day following the filing of the decision in the office of the City Clerk in those cases where a public hearing was held, and shall be final on the sixth day following such filing in those cases where a public hearing was not held.

D. EXTENSION OF TIME

1. The Zoning Administrator may grant an extension of time to a valid variance which has been granted if he finds that there has been no material change of circumstances since the granting of the variance.
2. A request for an extension of time shall be in writing and shall be filed by the owner of the property covered by the variance. The request shall be filed with the Zoning Administrator who may require a public hearing on such request if he determines that a hearing is in the public interest. In the event that a hearing is ordered, the procedure for noticing shall be as set forth in paragraph "B." of this section.

3. The written decision of the Zoning Administrator granting or denying the extension of time shall contain a finding of facts relied upon in reaching his conclusions and shall be filed with the City Clerk, the Director of Building Inspection, the County Recorder of San Diego County and a copy shall be mailed to the applicant.

E. AMENDMENT OF VARIANCE

1. The Zoning Administrator may grant an amendment to a valid variance which has been granted if, after considering the facts presented on the application and at the hearing, he is able to reach the conclusions set forth in paragraph "C." of this section.
2. An application for an amendment to a variance shall be in writing, and shall be filed by the owner of the property covered by the variance. The application shall be filed with the Zoning Administrator who may require a public hearing on such application if he determines that a hearing is in the public interest. In the event a hearing is

ordered, the procedure on noticing shall be as set forth in paragraph "B." of this section. The decision of the Zoning Administrator shall be by resolution and shall contain a finding of facts relied upon in reaching his conclusions. A copy of the resolution shall be filed with the City Clerk, the Director of Building Inspection, the County Recorder of San Diego County, and a copy shall be mailed to the applicant.

SEC. 101.0503 CONDITIONAL USE PERMIT GRANTED
BY THE ZONING ADMINISTRATOR

A. USES WHICH MAY BE CONSIDERED

The Zoning Administrator shall have the authority under conditions herein provided to permit by conditional use permit the following uses in any zone, including interim zones, except as otherwise provided in paragraphs "A.3." and "A.4." of this section.

1. Churches, temples or buildings of a permanent nature, used primarily for religious purposes.
2. Electric distribution and gas regulating stations serving the immediate area, provided all equipment is located within a building.

3. Residential care homes for not more than six aged persons which are licensed by the State of California Department of Social Welfare in the R-1 and R-2 Zones.
4. Impound storage yards, provided they are located in the C and C-1A Zones.
5. Nursery and elementary schools (private and public).
6. Outdoor storage and display of new, unregistered motor vehicles.
7. Parking facilities.
8. Private clubs, lodges and fraternal organizations except fraternities and sororities.
9. Teaching of the fine arts including but not limited to music, drawing, painting, sculpture, drama and dancing.

B. APPLICATION - FORM AND CONTENTS

Application to permit any conditional use permit referred to in this section may be made by the owner of the property affected or may be initiated by the Zoning Administrator. Application shall be filed with the Zoning Administrator upon a form provided by him. The application shall state fully the circumstances

and conditions relied upon as grounds for the application and shall be accompanied by adequate plans, a legal description of the property involved and a detailed description of the proposed use.

C. HEARING BEFORE ZONING ADMINISTRATOR - PROCEDURE

1. The Zoning Administrator shall set a date for public hearing and give notice of time, place and purpose of such hearing in accordance with the procedure set forth in paragraphs "C.1.a." or "C.1.b." of this section.

- a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.
- b. By at least one publication of a notice in the City official newspaper, not less than

ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.

2. In addition to the methods set forth in paragraphs "C.1.a." and "C.1.b." of this section, the Zoning Administrator may use other methods which he finds to be desirable in giving proper notice of the public hearing.
3. The mailed and posted notices referred to in paragraph "C.1." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:
 - a. The boundaries of the subject property.
A diagram or plat may be substituted for this description.
 - b. The date, time, place, and subject of the hearing.

c. A statement that any person may, but is not required to, appear and be heard.

d. A statement that the application, together with plans and other data submitted with the application are available for public inspection in the office of the Zoning Administrator.

4. Upon the date set for the hearing, the Zoning Administrator shall hear the application unless for cause the Zoning Administrator shall, on that date, continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

D. DECISION OF THE ZONING ADMINISTRATOR

1. After the public hearing, the Zoning Administrator may, by resolution, grant a conditional use permit, if, after considering the facts presented in the application and at the hearing, he concludes that:

a. The proposed use at the particular location is desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community;

- b. The proposed use will not, particularly because of conditions imposed, be detrimental to the public health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
 - c. The proposed use will comply with the regulations specified in the Code for such use; and
 - d. The granting of the conditional use permit will not adversely affect the PROGRESS GUIDE AND GENERAL PLAN OF THE CITY OF SAN DIEGO or the adopted plan of any governmental agency.
2. If the Zoning Administrator, after considering the facts presented on the application and at the hearing is unable to reach the four conclusions set forth in paragraph "D.1." of this section, he shall deny the permit by resolution.
 3. The resolution granting or denying the conditional use permit shall include a finding of facts relied upon by the Zoning

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Administrator in reaching his decision. The resolution shall be filed with the City Clerk, Director of Building Inspection, County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with said County Recorder if the resolution is a denial of the conditional use permit.

4. In granting a conditional use permit, the Zoning Administrator may impose such conditions as he deems necessary and desirable to protect the public health, safety and the general welfare. Any regulations of the zone in which the property is situated including but not limited to signs, fences, walls, maximum building height, density, minimum yards, maximum building coverage and off-street parking may be increased or decreased.
5. The decision of the Zoning Administrator shall be final on the eleventh day after the filing of the resolution in the office of the City Clerk, except when appeal is taken to the Board of Zoning Appeals as provided in Section 101.0504 of this Code.

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E. AMENDMENT TO PERMIT

1. The Zoning Administrator may, by resolution, grant an amendment to a valid conditional use permit which he has granted.
2. The procedure for making application for hearing, for decision and for appeal to the Board of Zoning Appeals from the decision of the Zoning Administrator shall be as set forth in this section.

F. EXTENSION OF TIME

1. The Zoning Administrator may grant an extension of time to a valid conditional use permit which he has granted if he finds that there has been no material change of circumstances since the granting of the permit.
2. A request for an extension of time shall be in writing and shall be filed by the owner of the property covered by the permit. The request shall be filed with the Zoning Administrator who may require a public hearing on such application if he determines that a hearing is in the public interest. In the event a hearing is ordered, the

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procedure for noticing shall be as set forth in paragraph "C." of this section.

3. The decision of the Zoning Administrator granting or denying the extension of time shall be in writing and shall contain a finding of facts relied upon by the Zoning Administrator in reaching his decision. A copy of the decision shall be filed with the City Clerk, the Director of Building Inspection, the County Recorder of San Diego County, and a copy shall be mailed to the applicant.

SEC. 101.0504 APPEAL TO BOARD OF ZONING APPEALS
FROM DECISION OF ZONING ADMINISTRATOR

A. TIME PERIOD FOR APPEALS

An appeal from any decision of the Zoning Administrator may be taken to the Board of Zoning Appeals by the applicant, any governmental body or agency, or by any owner of land located within 300 feet of the exterior boundaries of the property on which the variance or conditional use permit was granted or denied by the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within ten days if a public hearing was held and within five days if a public hearing was not held.

B. APPEAL PROCEDURE

1. Appeals shall be in writing and shall be filed in duplicate in the office of the

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Zoning Administrator upon forms provided by him and shall specify wherein there was an error in the decision of the Zoning Administrator.

2. An appeal filed with the Zoning Administrator within the time specified in paragraph "A." of this section automatically stays proceedings in the matter.
3. Upon the filing of an appeal the Board of Zoning Appeals shall set the matter for public hearing and shall give notice of the time and purpose of such hearing in accordance with the procedure set forth in paragraphs "B.3.a." or "B.3.b." of this section.
 - a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.

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- b. By at least one publication of a notice-
in the City official newspaper, not
less than ten days prior to the date of
the hearing, and by posting notices, not
less than ten days prior to the date of
the hearing, in at least four public
places within the subject property or
within 300 feet of the boundaries of the
subject property.
4. In addition to the methods set forth in
paragraphs "B.3.a." or "B.3.b." of this
section, the Board of Zoning Appeals may
use other methods which it finds to be
desirable in giving proper notice of the
public hearing.
5. The mailed and posted notices referred
to in paragraph "B.3." of this section
shall be headed "NOTICE OF PUBLIC HEARING"
in letters not less than one inch in
height and shall recite in legible
characters the following:
 - a. The boundaries of the subject property.
A diagram or plat may be substituted
for this description.

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- b. The date, time, place, and subject of the hearing.
 - c. A statement that any person may, but is not required to, appear and be heard.
 - d. A statement that the application, together with plans and other data submitted with the application are available for public inspection in the office of the Zoning Administrator.
6. The Board shall forward to the Zoning Administrator the duplicate copy of the appeal and instruct the Zoning Administrator to transmit to the Board a copy of his decision in the case along with findings, minutes of the hearing and all other evidence, maps, papers and exhibits used by the Zoning Administrator in making his decision in the case.
7. Upon the date set for the hearing, the Board shall hear the appeal unless for cause the Board shall on that date continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

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C. DECISION OF THE BOARD OF ZONING APPEALS

1. After conducting a public hearing on an appeal, the Board of Zoning Appeals may, by resolution, affirm, reverse, or modify in whole or in part the decision of the Zoning Administrator subject to the same limitations imposed upon the Zoning Administrator by either paragraph "C." of Section 101.0502, or paragraph "D." of Section 101.0503 of this Code, whichever is applicable. The resolution shall contain a finding of facts showing wherein the proposed variance or conditional use meets or fails to meet the requirements of either paragraph "C." of Section 101.0502 or paragraph "D." of Section 101.0503 of this Code, whichever is applicable.
2. The resolution shall be filed with the City Clerk, Zoning Administrator, the Director of Building Inspection, the County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if the resolution is a denial of the variance or conditional use permit.

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SEC. 101.0505

APPEAL TO THE CITY COUNCIL FROM
DECISION OF THE BOARD OF ZONING
APPEALS

A. TIME PERIOD FOR APPEALS

An appeal from any decision of the Board of Zoning Appeals may be taken to the City Council by the applicant, any governmental body or agency, or by any owner of land located within 300 feet of the exterior boundaries of the property on which the variance or conditional use permit was granted or denied by the Zoning Administrator or the Board of Zoning Appeals. Such appeal shall be filed within ten days after the decision of the Board of Zoning Appeals has been filed with the City Clerk.

B. APPEAL PROCEDURE

1. Said appeal shall be in writing and filed with the City Clerk on forms provided by him and shall specify wherein there was error in the decision of the Board of Zoning Appeals. An appeal filed with the City Clerk within the time specified in paragraph "A." of this section automatically stays proceedings in the matter.
2. Upon the filing of the appeal, the City Clerk shall set the matter for public hearing and shall give notice of the time, place and purpose of such hearing in accordance with the procedure set forth in paragraphs "B.2.a." or "B.2.b." of this section.

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- a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.
 - b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.
3. In addition to the methods set forth in paragraphs "B.2.a." or "B.2.b." of this section, the City Clerk may use other methods which he finds to be desirable in

giving proper notice of the public hearing. In all cases the City Clerk shall send the notice of the hearing to the Board of Zoning Appeals along with a copy of the appeal and shall request the Board to submit to the City Clerk a copy of its decision, minutes of the hearing held by the Board of Zoning Appeals and all maps prepared and exhibits used by the Board of Zoning Appeals in making its decision.

4. The mailed and posted notices referred to in paragraph "B.2." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:
 - a. The boundaries of the subject property. A diagram or plat may be substituted for this description.
 - b. The date, time, place, and subject of the hearing.
 - c. A statement that any person may, but is not required to, appear and be heard.

d. A statement that the application, together with plans and other data submitted with the application, are available for public inspection in the office of the Zoning Administrator.

5. Upon the date set for the hearing the City Council shall hear the appeal unless for cause the City Council shall, on that date, continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

C. DECISION OF THE CITY COUNCIL

1. After the public hearing, the City Council may, by resolution, affirm, reverse or modify in whole or in part any determination of the Board of Zoning Appeals, subject to the same limitations as are placed upon the Zoning Administrator by either paragraph "C." of Section 101.0502 or paragraph "D." of Section 101.0503 of this Code. A majority vote of all the members of the City Council shall be required to reverse or modify in whole or in part any determination of the Board of Zoning Appeals.

2. The resolution shall contain a finding of facts showing wherein the proposed variance or conditional use, as the case may be, meets or fails to meet the requirements of either paragraph "C." of Section 101.0502 or paragraph "D." of Section 101.0503 of this Code.

3. A copy of the resolution shall be filed with the Planning Director, the Zoning Administrator, the Director of Building Inspection, and the County Recorder of San Diego County, and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if it is a denial.

SEC. 101.0506 CONDITIONAL USE PERMIT
 GRANTED BY PLANNING COMMISSION

A. USES WHICH MAY BE CONSIDERED

The Planning Commission shall have the authority under conditions herein provided to permit by conditional use permit the following uses in any zone, including interim zones, except as otherwise provided in paragraphs "A.2.," "A.6." and "A.13." of this section.

1. Automobile service stations in any zone except the R-1 Zones.
2. Boarding kennels for dogs or cats in any agricultural, industrial or commercial zone.
3. Buildings, structures, and uses operated by a public utility or by a public body having the power of eminent domain.
4. Educational institutions, except nursery and elementary schools.
5. Establishments or enterprises involving large assemblages of people or automobiles, including, but not limited to:
 - a. Open air theaters.
 - b. Recreational facilities privately operated.
6. Fraternity houses, sorority houses and student dormitories provided that such use is within one mile of the exterior boundaries of the campus of a major institution of higher learning and is in the R-3, R-3A, R-4 or R-4C Zones.
7. Golf courses, golf practice driving tees or ranges and pitch-and-putt golf courses, but not including miniature golf courses.
8. Hospitals and sanitariums.

9. Natural resources development and utilization including, but not limited to, extracting, processing, storing, selling and distributing sand, gravel, rock, clay, decomposed granite, soil and manufacturing, producing, processing, storing, selling and distributing asphaltic concrete, Portland cement concrete, concrete products, and clay products.
10. Nonprofit institutions whose primary purpose is the promotion of public health and welfare.
11. Research, development and testing laboratories and facilities.
12. Retirement homes when operated in conjunction with hospitals or sanitariums.
13. Travel trailer parks, together with incidental facilities for convenience of occupants, in any commercial or industrial zone except in the SR Zone (Scientific Research).
14. Veterinary clinics and hospitals.

B. APPLICATION - FORM AND CONTENTS

Application to permit any conditional use referred to in this section may be made by the owner of the property affected, or it may be initiated by the

Planning Commission. Application shall be filed with the Planning Department upon forms provided by it and shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans, a legal description of the property involved, and a detailed description of the proposed use.

C. HEARING BEFORE PLANNING COMMISSION - PROCEDURE

1. The Planning Commission shall set a date for public hearing and give notice of time, place, and purpose of such hearing in accordance with the procedure set forth in paragraphs "C.1.a." or "C.1.b." of this section.

a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.

- b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.
2. In addition to the methods set forth in paragraphs "C.1.a." or "C.1.b." of this section, the Planning Director may use other methods which he finds to be desirable in giving proper notice of the hearing.
3. The mailed and posted notices referred to in paragraph "C.1." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:
 - a. The boundaries of the subject property.
A diagram or plat may be substituted for this description.

- b. The date, time, place, and subject of the hearing.
 - c. A statement that any person may, but is not required to, appear and be heard.
 - d. A statement that the application, together with plans and other data submitted with the application are available for public inspection in the office of the Planning Department.
4. Upon the date set for the hearing, the Planning Commission shall hear the application, unless for cause the Planning Commission shall, on that date, continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.
- D. DECISION OF THE PLANNING COMMISSION
- 1. After the public hearing, the Planning Commission may, by resolution, grant a conditional use permit if, after considering the facts presented on the application and at the hearing, it is concluded that:

- a. The proposed use at the particular location is desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community;
 - b. The proposed use will not, particularly because of conditions imposed, be detrimental to the public health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
 - c. The proposed use will comply with the regulations specified in the Code for such use; and
 - d. The granting of the conditional use permit will not adversely affect the PROGRESS GUIDE AND GENERAL PLAN OF THE CITY OF SAN DIEGO or the adopted plan of any governmental agency.
2. If the Commission, after considering the facts presented on the application and at the hearing, is unable to reach the four conclusions set forth in paragraph "D.1." of

this section, it shall deny the permit by resolution.

3. The resolution granting or denying the conditional use permit shall include a finding of facts relied upon by the Commission in reaching its decision. The resolution shall be filed with the City Clerk, the Director of Building Inspection, the County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if the resolution is a denial of the conditional use permit.
4. In granting a conditional use permit, the Planning Commission may impose such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which the property is situated including, but not limited to, signs, fences, walls, maximum building heights, minimum yards, maximum building coverage and off-street parking may be increased or decreased.

5. The decision of the Planning Commission shall be final on the eleventh day following its filing in the office of the City Clerk, except when appeal is taken to the City Council, as provided in paragraph "E." of this section.

E. APPEAL TO THE CITY COUNCIL FROM DECISION OF THE PLANNING COMMISSION

1. An appeal from the decision of the Planning Commission granting or denying any conditional use permit as provided in this section may be taken to the City Council by the applicant, any governmental body or agency, or by any owner of land located within 300 feet of the exterior boundaries of the property on which the conditional use permit was granted or denied by the Planning Commission. Such appeal shall be filed within ten days after the decision is filed with the City Clerk. Such appeal shall be in writing and shall be filed with the City Clerk on forms provided by him. The appeal shall specify wherein there was error in the decision of the Planning Commission.
2. If an appeal is filed within the time specified, it automatically stays proceedings in the matter until determination is made by the City Council.

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3. Upon the filing of the appeal, the Clerk shall set the matter for public hearing, giving the same notice as provided herein for hearing before the Planning Commission. The City Clerk shall send the Planning Commission a duplicate copy of the appeal and request the Planning Commission to transmit to the City Council a copy of its decision and findings, minutes of the hearing, and all other evidence, maps, papers, and exhibits upon which the Planning Commission made its decision.
4. Upon the hearing of such appeal, the City Council may, by resolution, affirm, reverse, or modify in whole or in part any determination of the Planning Commission subject to the same limitations as are placed upon the Planning Commission by the Code.
5. The resolution shall contain a finding of facts showing wherein the proposed conditional use permit meets or fails to meet the requirements set forth in paragraph "D." of this section.

6. The resolution shall be filed with the Planning Director, the Zoning Administrator, Director of Building Inspection and the County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if the resolution is a denial of the conditional use permit.

F. AMENDMENT TO PERMIT

1. The Planning Commission may, by resolution, grant an amendment to a valid conditional use permit which it has granted.
2. The procedure for making application, for hearing before the commission, for the decision of the Commission and for an appeal to the City Council from the decision of the Commission shall be as set forth in this section.

G. EXTENSION OF TIME

1. The Planning Commission may, by resolution, grant an extension of time to a valid conditional use permit which it has granted if it finds that there has been no material change of circumstances since the granting of the permit.

2. Application for an extension of time shall be in writing and shall be filed by the owner of the property covered by the permit. Application shall be filed in the Planning Department. The Planning Commission may require a public hearing on such application if it determines that such hearing is in the public interest. In the event a public hearing is ordered by the Commission, the procedure for noticing shall be as set forth in paragraph "C." of this section.
3. A copy of the resolution granting or denying the extension of time shall be filed with the City Clerk, the Planning Director, the Zoning Administrator, the Director of Building Inspection and the County Recorder of San Diego County, and a copy shall be mailed to the applicant.
4. An appeal from the decision of the Planning Commission in granting or denying an extension of time may be taken to the City Council in the same manner as provided in paragraph "E." of this section.

SEC. 101.0507

CONDITIONAL USE PERMIT
GRANTED BY CITY COUNCIL

A. USES WHICH MAY BE CONSIDERED

The City Council shall have the authority, under conditions herein provided, to permit by conditional use permit the following uses in any zone including interim zones except as otherwise provided in paragraph "A.5." of this section.

1. Airports, including permanent heliports and helistops.
2. Amusement parks.
3. Cemeteries, mausoleums and crematories.
4. Fairgrounds.
5. Mobilehome parks, together with incidental facilities for the convenience of the occupants, on parcels comprising not less than five usable acres in any multiple family zone except the R-4 and R-4C Zones.
6. Newspaper publishing plants.
7. Race tracks.
8. Radio or television transmission stations and broadcasting studios.

B. APPLICATION - FORM AND CONTENTS

Application to permit any conditional use referred to in this section may be made by the owner of the property affected, or it may be initiated by the City

Council. Application shall be filed with the Planning Department upon forms provided by it and shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans, a legal description of the property involved and a detailed description of the proposed use.

C. HEARING BEFORE PLANNING COMMISSION - PROCEDURE

1. The Planning Commission shall set a date for public hearing and give notice of time, place, and purpose of such hearing in accordance with the procedure set forth in paragraphs "C.1.a." or "C.1.b." of this section.

a. By depositing in the United States mail postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.

- b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.
2. In addition to the methods set forth in paragraphs "C.1.a." or "C.1.b." of this section, the Planning Director may use other methods which he finds to be desirable in giving proper notice of the hearing.
3. The mailed and posted notices referred to in paragraph "C.1." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:
 - a. The boundaries of the subject property.
A diagram or plat may be substituted for this description.

- b. The date, time, place and subject of the hearing.
- c. A statement that any person may, but is not required to, appear and be heard.
- d. A statement that the application together with plans and other data submitted with the application are available for public inspection in the office of the Planning Department.

4. Upon the date set for the hearing, the Planning Commission shall hear the application, unless for cause the Planning Commission shall, on that date, continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

D. RECOMMENDATION OF THE PLANNING COMMISSION

- 1. After the public hearing, the Planning Commission may, by resolution, recommend the granting of a conditional use permit if, after considering the facts presented on the application and at the hearing, it is concluded that:

- a. The proposed use at the particular location is desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community;
 - b. The proposed use will not, particularly because of conditions imposed, be detrimental to the public health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
 - c. The proposed use will comply with the regulations specified in the Code for such use; and
 - d. The granting of the conditional use permit will not adversely affect the PROGRESS GUIDE AND GENERAL PLAN OF THE CITY OF SAN DIEGO or the adopted plan of any governmental agency.
2. If the Commission, after considering the facts presented on the application and at the hearing, is unable to reach the four conclusions set forth in paragraph "D.1." of

this section, it shall recommend by resolution that the permit be denied.

3. In recommending the granting of a conditional use permit, the Planning Commission may recommend the attachment of such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which the property is situated including, but not limited to, signs, fences, walls, maximum building height, density, minimum yards, maximum building coverage, and off-street parking may be increased or decreased.
4. In recommending the granting or denying of a conditional use permit, the Planning Commission shall make a written finding which shall specify the facts relied upon by the commission in making its decision and in recommending conditions. This finding of facts shall be incorporated in the resolution referred to in this section. A copy of the resolution shall be mailed to the applicant.

E. HEARING SET BEFORE CITY COUNCIL

A copy of the resolution setting forth the recommendations of the Planning Commission and the finding of facts shall be filed with the City Clerk as soon as possible after the public hearing or continuance thereof. The City Clerk shall thereupon set the matter for public hearing before the City Council giving notice of the time, place and purpose of such hearing in the same manner as provided in paragraph "C." of Section 101.0507.

F. DECISION OF THE CITY COUNCIL

1. The City Council shall consider the conditional use permit application at the public hearing on the date set for said hearing or on the date to which such hearing may be continued from time to time by the City Council.
2. Upon the conclusion of the hearing, the City Council may, by resolution, grant or deny the permit. The resolution shall contain a finding of facts showing wherein the conditional use shall fulfill or fail to fulfill the requirements as set forth in paragraph "D.1." of this section. The resolution shall be filed with the City Clerk, the Planning Director, the Zoning Administrator,

the Director of Building Inspection and the County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if the resolution is a denial of the conditional use permit.

3. In granting a conditional use permit, the Council may impose such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which property is situated including, but not limited to, signs, fences, walls, maximum building heights, density, minimum yards, maximum building coverage and off-street parking may be increased or decreased.

G. AMENDMENT TO PERMIT

1. The City Council may, by resolution, grant an amendment to a valid conditional use permit which it has granted, if after considering the facts presented on the application and at the hearing, it can reach the conclusions set forth in paragraph "D.1." of Section 101.0506.

2. The procedure for making application for an amendment to a valid conditional use permit and for hearing before the Planning Commission and City Council shall be as set forth in Section 101.0507.
3. In recommending the granting or denying of an amendment to a valid conditional use permit, the Planning Commission shall make a written finding of facts which shall specify the facts relied upon by the Commission in making its decision and in recommending conditions. Such finding of facts shall be incorporated in a resolution and a copy of the resolution shall be filed with the City Clerk as soon as possible after the public hearing or continuation thereof. The City Clerk shall thereupon set the matter for public hearing before the City Council.
4. Upon the conclusion of the hearing, the City Council may by resolution grant or deny the amendment. The resolution shall contain a finding of facts showing wherein the amendment fulfills or fails to fulfill the requirements as set forth in paragraph "D.1." of this

section. A copy of the resolution shall be filed with the Planning Director, the Zoning Administrator, the Director of Building Inspection and the County Recorder of San Diego County, and a copy shall be mailed to the applicant.

5. In granting an amendment to a valid conditional use permit, the Council may impose such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which the property is situated including, but not limited to, signs, fences, walls, maximum building heights, minimum yards, maximum building coverage and off-street parking may be increased or decreased.

H. EXTENSION OF TIME

1. The City Council may, by resolution, grant an extension of time to a valid conditional use permit which it has granted if it finds that there has been no material change of circumstances since the granting of the permit.
2. Application for an extension of time shall be in writing and shall be filed by the owner of

2. Failure to utilize such zone variance or conditional use permit within the 18-month period will automatically void the same. If construction work is involved and if the City Council should find, after a public hearing noticed in accordance with the procedure set forth in paragraph "C." of Section 101.0507, that there has been no construction substantial in character accomplished under said zone variance or conditional use permit prior to the expiration of the 18-month period, the zone variance or conditional use permit shall be void.
3. Construction substantial in character shall be not less than 20% of the total footings, foundations or similar supporting structural elements required in the construction of structures or buildings authorized by a variance or conditional use permit unless other specific provisions are included in the variance or conditional use permit.
4. Except as provided in Section 101.0509, during the 18-month period referred to in paragraph "1." of this section the property covered by a conditional use permit granted by the Zoning Administrator, Planning Commission or City Council shall not be used for any purpose other than that authorized by the permit.

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SEC. 101.0509 CANCELLATION OF A CONDITIONAL
USE PERMIT

1. A valid conditional use permit granted by the Planning Commission or City Council may be cancelled at any time during the 18-month period referred to in paragraph "1." of Section 101.0508.
2. Cancellation may be initiated by the owner of the property covered by the permit by means of a communication directed to the Planning Director in the office of the Planning Department.
3. The permit becomes void 120 days after receipt of the communication in the office of the Planning Department.

SEC. 101.0510 RESPONSIBILITY FOR A CONDITIONAL
USE PERMIT INVOLVING USES
ASSIGNED TO TWO OR MORE BODIES

1. Application for conditional use permit which includes uses which may be considered for conditional use permit by more than one body shall be considered by the following listed body:
 - a. By the Planning Commission if the uses are assigned to the Zoning Administrator and the Planning Commission.
 - b. By the City Council, after hearing and recommendation by the Planning Commission, if the uses are assigned to the Zoning

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Administrator and the City Council.

- c. By the City Council, after hearing and recommendation by the Planning Commission, if the uses are assigned to the Planning Commission and City Council.
 - d. By the City Council, after hearing and recommendation by the Planning Commission, if the uses are assigned to the Zoning Administrator, Planning Commission, and City Council.
2. The procedure to be followed in considering the application for a conditional use permit involving uses assigned to two or more bodies shall be as set forth in the following sections:
- a. Section 101.0506 if the conditional use permit is considered by the Planning Commission.
 - b. Section 101.0507 if the conditional use permit is considered by the City Council.

SEC. 101.0511 RESTRICTION ON REAPPLICATION
FOR A CONDITIONAL USE PERMIT

No application for a conditional use permit on the same property or essentially the same property for the same use or essentially the same use which

has been denied by the Zoning Administrator, the Board of Zoning Appeals, the Planning Commission or the City Council shall be accepted within 12 months of such denial; provided, however, that the City Council may permit the processing of such application by the affirmative vote of a majority of its members.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By


Frederick C. Conrad, Deputy

v. 1/21/71
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10494
APR 28 1978

Passed and adopted by the Council of The City of San Diego on FEB 4 1971
by the following vote:

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SAN DIEGO, CALIF.

Councilmen	Yeas	Nays	Excused	Absent
Helen Cobb	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sam T. Loftin	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mike Schaefer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mayor Frank Curran	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

FRANK CURRAN

Mayor of The City of San Diego, California.

JOHN LOCKWOOD

City Clerk of The City of San Diego, California.

(Seal)

By Elfa J. Hamel 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

JAN 21 1971

FEB 4 1971

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

JOHN LOCKWOOD

City Clerk of The City of San Diego, California.

(Seal)

By Elfa J. Hamel, Deputy.

FORM CC-1255-A (1-70)

Office of the City Clerk, San Diego, California	
Ordinance Number <u>10494</u>	Adopted <u>FEB 4 1971</u>

MR

MICROFILMED APR 28 1978

ATTORNEY (S)

- City of San Diego
202 C Street
Community Concourse
San Diego, California 92101

RECEIVED
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1971 FEB 19 PM 4:47
SAN DIEGO, CALIF.

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1,
OF THE SAN DIEGO MUNICIPAL CODE

I, Patricia M. Applestill hereby certify that The Daily Transcript is a daily newspaper of general circulation within the provisions of the Government Code of the State of California, printed and published in the City of San Diego, County of San Diego, State of California; that I am the principal clerk of said newspaper; that the

ORDINANCE NO. 10494 (NEW SERIES)

to a true and correct copy of which this certificate is annexed was published in said newspaper on

February 12, 1971

I certify under penalty of perjury that the foregoing is true and correct, at San Diego, California, on Feb. 12, 1971

Patricia M. Applestill
(Signature)

10494 166 - 697.20

10494

ORDINANCE NO. 10494
(NEW SERIES)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, OF THE SAN DIEGO MUNICIPAL CODE, BY REPEALING DIVISION 5, ZONING ADMINISTRATION, AND SECTIONS 101.0501 THROUGH 101.0509, AND BY ADDING DIVISION 5, VARIANCE AND CONDITIONAL USE PERMIT PROCEDURES, AND SECTIONS 101.0500 THROUGH 101.0511.

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

Section 1. That Chapter X, Article 1, of the San Diego Municipal Code be amended by repealing Division 5, Zoning Administrator, and Sections 101.0501 through 101.0509.

Section 2. That Chapter X, Article 1, of the San Diego Municipal Code be amended by adding thereto Division 5, Variance and Conditional Use Permit Procedures, and Sections 101.0500 through 101.0511 to read as follows:

DIVISION 5
VARIANCE AND CONDITIONAL
USE PERMIT PROCEDURES

SEC. 101.0500 ZONING ADMINISTRATOR—POWERS AND DUTIES

The Zoning Administrator shall have the following powers and duties:

1. To grant such variances from the zoning provisions of the Municipal Code as will not be contrary to its intent or to the public health, safety and general welfare when, due to special conditions or exceptional characteristics of the property or of its location or surroundings as specified in Section 101.0502, strict and literal interpretation and enforcement of the provisions of the Code would result in unusual difficulties or unnecessary hardship or be inconsistent with the general purpose of the Code.

2. To grant conditional use permits, pursuant to Section 101.0503, for uses to be located on specific parcels of land where such uses will be desirable for the public health, safety and general welfare and will be in harmony with the PROGRESS GUIDE AND GENERAL PLAN FOR THE CITY OF SAN DIEGO.

In granting any conditional use permit or variance, the Zoning Administrator may impose such conditions as he deems necessary or desirable to protect the public health, safety and general welfare in accordance with the purpose and intent of the Municipal Code.

SEC. 101.0501 BOARD OF ZONING APPEALS

A. CREATION OF MEMBERSHIP

There is hereby created a Board of Zoning Appeals which shall consist of five members, who shall serve without compensation. The members shall be appointed by the Mayor and confirmed by the Council. The members shall serve two year terms and each member shall serve until his successor is duly appointed and qualified. The members shall be appointed in such a manner that the terms of not more than three members shall expire in any year. The expiration date shall be March 1. During March of each year the Mayor shall designate one member as chairman; however, in the absence of such designation, the Board shall on or after April 15 select from among its members a chairman.

B. MEETINGS

The Board shall meet regularly once a month or oftener if necessary for the transaction of business. It shall establish its own rules and procedures necessary or convenient for the conduct of its business.

Three members of the Board of Zoning Appeals shall constitute a quorum. The affirmative vote of not less than three members shall be necessary for any action by the Board.

C. POWERS AND DUTIES

The Board shall hear and determine appeals from the rulings, decisions and determinations of the Zoning Administrator, granting or denying applications for conditional use permits or for variances from the zoning provisions of the Municipal Code or zoning ordinances.

SEC. 101.0502 ZONE VARIANCE GRANTED BY

ZONING ADMINISTRATOR

A. APPLICATION—FORM AND CONTENTS

Application for a zone variance may be made by the owner of the property affected or it may be initiated by the Zoning Administrator. Application shall be filed with the Zoning Administrator upon forms provided by him. The application shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans (including landscaping plans) and a legal description of the property involved.

B. HEARING BEFORE THE ZONING ADMINISTRATOR—PROCEDURE

1. An advertised public hearing shall not be required when the application is for limited relief in the case of:

a. Modification of distance or area regulations, provided such modification does not exceed 20 percent of required front, side, or rear yards nor exceed ten percent of maximum lot coverage regulations.

b. Tract real estate offices, model homes, and signs in connection therewith, provided that no such variance shall be granted for a period of more than one year.

c. Additions to structures which are nonconforming as to side yard, rear yard, or lot coverage, provided the additions shall meet the requirements of the zoning regulations affecting the property, or

d. Walls or fences to exceed heights permitted by the zoning regulations.

2. In all those cases listed in paragraph "B.1." of this section, the Zoning Administrator shall set a reasonable time for the consideration of the variance and give notice thereof to the applicant and may give notice to any other interested persons. Upon the date set for the hearing, the Zoning Administrator shall hear the application unless for cause he shall on that date continue the matter. If a date certain for the continued hearing is announced in the open meeting, no further notice need be given.

3. In all other cases the Zoning Administrator shall set a date for public hearing and give notice of time, place and purpose of such hearing in accordance with the procedure set forth in paragraphs "B.3.a." or "B.3.b." of this section.

a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.

b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.

4. In addition to the methods set forth in paragraphs "B.3.a." or "B.3.b." of this section, the Zoning Administrator may use other methods which he finds to be desirable in giving proper notice of the hearing.

5. The mailed and posted notices referred to in paragraph "B.3." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:

a. The boundaries of the subject property. A diagram or plat may be substituted for this description.

b. The date, time, place, and subject of the hearing.

c. A statement that any person may, but is not required to, appear and be heard.

d. A statement that the application, together with plans and other data submitted with the application, are available for public inspection in the office of the Zoning Administrator.

6. Upon the date set for the hearing, the Zoning Administrator shall hear the application unless for cause he shall on that date continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

C. DECISION OF THE ZONING ADMINISTRATOR

1. If a public hearing is not held as provided for in paragraph "B.1." of this section, the Zoning Administrator shall render his decision upon the completion of his investigation of the facts as set forth in the application and his review of the circumstances of the particular case. If a public hearing is held, he shall render his decision at the conclusion of the hearing.

2. The Zoning Administrator may grant a variance from the zoning provisions of the Municipal Code, when it shall appear from the facts contained in the application, from information obtained by the Zoning Administrator and from the evidence presented at the public hearing, if such is held, that the following conclusions can be reached:

a. There are special circumstances or conditions applying to the land or buildings for which the adjustment is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to the land or buildings in the neighborhood. Such conditions shall not have resulted from any act of the applicant subsequent to the adoption of the applicable zoning ordinance.

b. The aforesaid circumstances or conditions are such that the strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the land or buildings and that the variance granted by the City is the minimum variance that will accomplish this purpose.

c. The granting of the variance will be in harmony with the general purpose and intent of the zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

d. The granting of the variance will not adversely affect the PROGRESS GUIDE AND GENERAL PLAN FOR THE CITY OF SAN DIEGO.

3. If the Zoning Administrator, after considering the facts presented in the case is unable to reach the conclusions set forth in paragraph "C.2." of this section, he shall deny the variance.

4. In granting a variance, the Zoning Administrator may impose such conditions as he deems necessary and desirable to protect the public health, safety and general welfare.

5. The written decision of the Zoning Administrator, which shall include a finding of facts relied upon in reaching his conclusions, shall be filed with the City Clerk, Director of Building Inspection, County Recorder of San Diego County and a copy shall be mailed to the applicant. The written decision shall not be filed with the County Recorder if it constitutes a denial of the variance.

6. When the decision of the Zoning Administrator is not appealed as provided for in Section 101.0504, his decision shall be final on the eleventh day following the filing of the decision in the office of the City Clerk in those cases where a public hearing was held, and shall be final on the sixth day following such filing in those cases where a public hearing was not held.

D. EXTENSION OF TIME

1. The Zoning Administrator may grant an extension of time to a valid variance which has been granted if he finds that there has been no material change of circumstances since the granting of the variance.

2. A request for an extension of time shall be in writing and shall be filed by the owner of the property covered by the variance. The request shall be filed with the Zoning Administrator who may require a public hearing on such request if he determines that a hearing is in the public interest. In the event that a hearing is ordered, the procedure for noticing shall be as set forth in paragraph "B." of this section.

3. The written decision of the Zoning Administrator granting or denying the extension of time shall contain a finding of facts relied upon in reaching his conclusions and shall be filed with the City Clerk, the Director of Building Inspection, the County Recorder of San Diego County and a copy shall be mailed to the applicant.

E. AMENDMENT OF VARIANCE

1. The Zoning Administrator may grant an amendment to a valid variance which has been granted if, after considering the facts presented on the application and at the hearing, he is able to reach the conclusions set forth in paragraph "C." of this section.

2. An application for an amendment to a variance shall be in writing, and shall be filed by the owner of the property covered by the variance. The application shall be filed with the Zoning Administrator who may require a public hearing on such application if he determines that a hearing is in the public interest. In the event a hearing is ordered, the procedure on noticing shall be as set forth in paragraph "B." of this section. The decision of the Zoning Administrator shall be by resolution and shall contain a finding of facts relied upon in reaching his conclusions. A copy of the resolution shall be filed with the City Clerk, the Director of Building Inspection, the County Recorder of San Diego County, and a copy shall be mailed to the applicant.

SEC. 101.0503 CONDITIONAL USE PERMIT GRANTED BY THE ZONING ADMINISTRATOR

A. USES WHICH MAY BE CONSIDERED

The Zoning Administrator shall have the authority under conditions herein provided to permit by conditional use permit the following uses in any zone, including interim zones, except as otherwise provided in paragraphs "A.3." and "A.4." of this section.

1. Churches, temples, or buildings of a permanent nature, used primarily for religious purposes.
2. Electric distribution and gas regulating stations serving the immediate area, provided all equipment is located within a building.
3. Residential care homes for not more than six aged persons which are licensed by the State of California Department of Social Welfare in the R-1 and R-2 Zones.
4. Impound storage yards, provided they are located in the C and C-1A Zones.
5. Nursery and elementary schools (private and public).
6. Outdoor storage and display of new, unregistered motor vehicles.
7. Parking facilities.

8. Private clubs, lodges and fraternal organizations except fraternities and sororities.

9. Teaching of the fine arts including but not limited to music, drawing, painting, sculpture, drama and dancing.

B. APPLICATION - FORM AND CONTENTS

Application to permit any conditional use permit referred to in this section may be made by the owner of the property affected or may be initiated by the Zoning Administrator. Application shall be filed with the Zoning Administrator upon a form provided by him. The application shall state why the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans, a legal description of the property involved and a detailed description of the proposed use.

C. HEARING BEFORE ZONING ADMINISTRATOR - PROCEDURE

1. The Zoning Administrator shall set a date for public hearing and give notice of time, place and purpose of such hearing in accordance with the procedure set forth in paragraphs "C.1.a." or "C.1.b." of this section.

a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.

b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.

2. In addition to the methods set forth in paragraphs "C.1.a." and "C.1.b." of this section, the Zoning Administrator may use other methods which he finds to be desirable in giving proper notice of the public hearing.

3. The mailed and posted notices referred to in paragraph "C.1." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:

a. The boundaries of the subject property. A diagram or plat may be substituted for this description.

b. The date, time, place, and subject of the hearing.

c. A statement that any person may, but is not required to, appear and be heard.

d. A statement that the application, together with plans and other data submitted with the application are available for public inspection in the office of the Zoning Administrator.

4. Upon the date set for the hearing, the Zoning Administrator shall hear the application unless for cause the Zoning Administrator shall, on that date, continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

D. DECISION OF THE ZONING ADMINISTRATOR

1. After the public hearing, the Zoning Administrator may, by resolution, grant a conditional use permit, if, after considering the facts presented in the application and at the hearing, he concludes that:

a. The proposed use at the particular location is desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community;

b. The proposed use will not, particularly because of conditions imposed, be detrimental to the public health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;

c. The proposed use will comply with the regulations specified in the Code for such use; and

d. The granting of the conditional use permit will not adversely affect the PROGRESS GUIDE AND GENERAL PLAN OF THE CITY OF SAN DIEGO or the adopted plan of any governmental agency.

2. If the Zoning Administrator, after considering the facts presented on the application and at the hearing is unable to reach the four conclusions set forth in paragraph "D.1." of this section, he shall deny the permit by resolution.

3. The resolution granting or denying the conditional use permit shall include a finding of facts relied upon by the Zoning Administrator in reaching his decision. The resolution shall be filed with the City Clerk, Director of Building Inspection, County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with said County Recorder if the resolution is a denial of the conditional use permit.

4. In granting a conditional use permit, the Zoning Administrator may impose such conditions as he deems necessary and desirable to protect the public health, safety and the general welfare. Any regulations of the zone in which the property is situated including but not limited to signs, fences, walls, maximum building height, density, minimum yards, maximum building coverage and off-street parking may be increased or decreased.

5. The decision of the Zoning Administrator shall be final on the eleventh day after the filing of the resolution in the office of the City Clerk, except when appeal is taken to the Board of Zoning Appeals as provided in Section 101.0504 of this Code.

E. AMENDMENT TO PERMIT

1. The Zoning Administrator may, by resolution, grant an amendment to a valid conditional use permit which he has granted.

2. The procedure for making application for hearing, for decision and for appeal to the Board of Zoning Appeals from the decision of the Zoning Administrator shall be as set forth in this section.

F. EXTENSION OF TIME

1. The Zoning Administrator may grant an extension of time to a valid conditional use permit which he has granted if he finds that there has been no material change of circumstances since the granting of the permit.

2. A request for an extension of time shall be in writing and shall be filed by the owner of the property covered by the permit. The request shall be filed with the Zoning Administrator who may require a public hearing on such application if he determines that a hearing is in the public interest. In the event a hearing is ordered, the procedure for noticing shall be as set forth in paragraph "C." of this section.

3. The decision of the Zoning Administrator granting or denying the extension of time shall be in writing and shall contain a finding of facts relied upon by the Zoning Administrator in reaching his decision. A copy of the decision shall be filed with the City Clerk, the Director of Building Inspection, the County Recorder of San Diego County, and a copy shall be mailed to the applicant.

SEC. 101.0504 APPEAL TO BOARD OF ZONING APPEALS FROM DECISION OF ZONING ADMINISTRATOR

A. TIME PERIOD FOR APPEALS

An appeal from any decision of the Zoning Administrator may be taken to the Board of Zoning Appeals by the applicant, any governmental body or agency, or by any owner of land located within 300 feet of the exterior boundaries of the property on which the variance or conditional use permit was granted or denied by the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within ten days if a public hearing was held and within five days if a public hearing was not held.

B. APPEAL PROCEDURE

1. Appeals shall be in writing and shall be filed in duplicate in the office of the Zoning Administrator upon forms provided by him and shall specify wherein there was an error in the decision of the Zoning Administrator.

2. An appeal filed with the Zoning Administrator within the time specified in paragraph "A." of this section automatically stays proceedings in the matter.

3. Upon the filing of an appeal the Board of Zoning Appeals shall set the matter for public hearing and shall give notice of the time and purpose of such hearing in accordance with the procedure set forth in paragraphs "B.3.a." or "B.3.b." of this section.

a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.

b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.

4. In addition to the methods set forth in paragraphs "B.3.a." or "B.3.b." of this section, the Board of Zoning Appeals may use other methods which it finds to be desirable in giving proper notice of the public hearing.

5. The mailed and posted notices referred to in paragraph "B.3." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:

a. The boundaries of the subject property. A diagram or plat may be substituted for this description.

b. The date, time, place, and subject of the hearing.

c. A statement that any person may, but is not required to, appear and be heard.

d. A statement that the application, together with plans and other data submitted with the application are available for public inspection in the office of the Zoning Administrator.

6. The Board shall forward to the Zoning Administrator the duplicate copy of the appeal and instruct the Zoning Administrator to transmit to the Board a copy of his decision in the case along with findings, minutes of the hearing and all other evidence, maps, papers and exhibits used by the Zoning Administrator in making his decision in the case.

7. Upon the date set for the hearing, the Board shall hear the appeal unless for cause the Board shall on that date continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

C. DECISION OF THE BOARD OF ZONING APPEALS

1. After conducting a public hearing on an appeal, the Board of Zoning Appeals may, by resolution, affirm, reverse, or modify in whole or in part the decision of the Zoning Administrator subject to the same limitations imposed upon the Zoning Administrator by either paragraph "C." of Section 101.0502, or paragraph "D." of Section 101.0503 of this Code, whichever is applicable. The resolution shall contain a finding of facts showing wherein the proposed variance or conditional use meets or fails to meet the requirements of either paragraph "C." of Section 101.0502 or paragraph "D." of Section 101.0503 of this Code, whichever is applicable.

2. The resolution shall be filed with the City Clerk, Zoning Administrator, the Director of Building Inspection, the County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if the resolution is a denial of the variance or conditional use permit.

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SEC. 101.0505 APPEAL TO THE CITY COUNCIL FROM DECISION OF THE BOARD OF ZONING APPEALS

A. TIME PERIOD FOR APPEALS

An appeal from any decision of the Board of Zoning Appeals may be taken to the City Council by the applicant, any governmental body or agency, or by any owner of land located within 300 feet of the exterior boundaries of the property on which the variance or conditional use permit was granted or denied by the Zoning Administrator or the Board of Zoning Appeals. Such appeal shall be filed within ten days after the decision of the Board of Zoning Appeals has been filed with the City Clerk.

B. APPEAL PROCEDURE

1. Said appeal shall be in writing and filed with the City Clerk on forms provided by him and shall specify wherein there was error in the decision of the Board of Zoning Appeals. An appeal filed with the City Clerk within the time specified in paragraph "A." of this section automatically stays proceedings in the matter.
2. Upon the filing of the appeal, the City Clerk shall set the matter for public hearing and shall give notice of the time, place and purpose of such hearing in accordance with the procedure set forth in paragraphs "B.2.a." or "B.2.b." of this section.
 - a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.
 - b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.
3. In addition to the methods set forth in paragraphs "B.2.a." or "B.2.b." of this section, the City Clerk may use other methods which he finds to be desirable in giving proper notice of the public hearing. In all cases the City Clerk shall send the notice of the hearing to the Board of Zoning Appeals along with a copy of the appeal and shall request the Board to submit to the City Clerk a copy of its decision, minutes of the hearing held by the Board of Zoning Appeals and all maps prepared and exhibits used by the Board of Zoning Appeals in making its decision.
4. The mailed and posted notices referred to in paragraph "B.2." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:
 - a. The boundaries of the subject property. A diagram or plat may be substituted for this description.
 - b. The date, time, place, and subject of the hearing.
 - c. A statement that any person may, but is not required to, appear and be heard.
 - d. A statement that the application, together with plans and other data submitted with the application, are available for public inspection in the office of the Zoning Administrator.
5. Upon the date set for the hearing the City Council shall hear the appeal, unless for cause the City Council shall, on that date, continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

C. DECISION OF THE CITY COUNCIL

1. After the public hearing, the City Council may, by resolution, affirm, reverse or modify in whole or in part any determination of the Board of Zoning Appeals, subject to the same limitations as are placed upon the Zoning Administrator by either paragraph "C." of Section 101.0502 or paragraph "D." of Section 101.0503 of this Code. A majority vote of all the members of the City Council shall be required to reverse or modify in whole or in part any determination of the Board of Zoning Appeals.
2. The resolution shall contain a finding of facts showing wherein the proposed variance or conditional use, as the case may be, meets or fails to meet the requirements of either paragraph "C." of Section 101.0502 or paragraph "D." of Section 101.0503 of this Code.
3. A copy of the resolution shall be filed with the Planning Director, the Zoning Administrator, the Director of Building Inspection, and the County Recorder of San Diego County, and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if it is a denial.

SEC. 101.0506 CONDITIONAL USE PERMIT GRANTED BY PLANNING COMMISSION

A. USES WHICH MAY BE CONSIDERED

The Planning Commission shall have the authority under conditions herein provided to permit by conditional use permit the following uses in any zone, including interim zones, except as otherwise provided in paragraphs "A.2.", "A.6." and "A.13." all of this section.

1. Automobile service stations in any zone except the R-1 Zones.
2. Boarding kennels for dogs or cats in any agricultural, industrial or commercial zone.
3. Buildings, structures, and uses operated by a public utility or by a public body having the power of eminent domain.
4. Educational institutions, except nursery and elementary schools.
5. Establishments or enterprises involving large assemblages of people or automobiles, including, but not limited to:
 - a. Open air theaters.
 - b. Recreational facilities privately operated.
6. Fraternity houses, sorority houses and student dormitories provided that such use is within one mile of the exterior boundaries of the campus of a major institution of higher learning and is in the R-3, R-3A, R-4 or R-4C Zones.
7. Golf courses, golf practice driving tees or ranges and pitch-and-putt golf courses, but not including miniature golf courses.
8. Hospitals and sanitariums.
9. Natural resources development and utilization including, but not limited to, extracting, processing, storing, selling and distributing sand, gravel, rock, clay, decomposed granite, soil and manufacturing, producing, processing, storing, selling and distributing asphaltic concrete, Portland cement, concrete, concrete products, and clay products.

10. Nonprofit institutions whose primary purpose is the promotion of public health and welfare.

11. Research, development and testing laboratories and facilities.
12. Retirement homes when operated in conjunction with hospitals or sanitariums.
13. Travel trailer parks, together with incidental facilities for convenience of occupants, in any commercial or industrial zone except in the SR Zone (Scientific Research).
14. Veterinary clinics and hospitals.

B. APPLICATION — FORM AND CONTENTS

Application to permit any conditional use referred to in this section may be made by the owner of the property affected, or it may be initiated by the Planning Commission. Application shall be filed with the Planning Department upon forms provided by it and shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans, a legal description of the property involved, and a detailed description of the proposed use.

C. HEARING BEFORE PLANNING COMMISSION — PROCEDURE

1. The Planning Commission shall set a date for public hearing and give notice of time, place, and purpose of such hearing in accordance with the procedure set forth in paragraphs "C.1.a." or "C.1.b." of this section.
 - a. By depositing in the United States mail, postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.
 - b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.
2. In addition to the methods set forth in paragraphs "C.1.a." or "C.1.b." of this section, the Planning Director may use other methods which he finds to be desirable in giving proper notice of the hearing.
3. The mailed and posted notices referred to in paragraph "C.1." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:
 - a. The boundaries of the subject property. A diagram or plat may be substituted for this description.
 - b. The date, time, place, and subject of the hearing.
 - c. A statement that any person may, but is not required to, appear and be heard.
 - d. A statement that the application, together with plans and other data submitted with the application are available for public inspection in the office of the Planning Department.
4. Upon the date set for the hearing, the Planning Commission shall hear the application, unless for cause the Planning Commission shall, on that date, continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

D. DECISION OF THE PLANNING COMMISSION

1. After the public hearing, the Planning Commission may, by resolution, grant a conditional use permit if, after considering the facts presented on the application and at the hearing, it is concluded that:
 - a. The proposed use at the particular location is desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community;
 - b. The proposed use will not, particularly because of conditions imposed, be detrimental to the public health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
 - c. The proposed use will comply with the regulations specified in the Code for such use; and
 - d. The granting of the conditional use permit will not adversely affect the PROGRESS GUIDE AND GENERAL PLAN OF THE CITY OF SAN DIEGO or the adopted plan of any governmental agency.
2. If the Commission, after considering the facts presented on the application and at the hearing, is unable to reach the four conclusions set forth in paragraph "D.1." of this section, it shall deny the permit by resolution.
3. The resolution granting or denying the conditional use permit shall include a finding of facts relied upon by the Commission in reaching its decision. The resolution shall be filed with the City Clerk, the Director of Building Inspection, the County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if the resolution is a denial of the conditional use permit.
4. In granting a conditional use permit, the Planning Commission may impose such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which the property is situated including, but not limited to, signs, fences, walls, maximum building heights, minimum yards, maximum building coverage and off-street parking may be increased or decreased.
5. The decision of the Planning Commission shall be final on the eleventh day following its filing in the office of the City Clerk, except when appeal is taken to the City Council, as provided in paragraph "E." of this section.

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E. APPEAL TO THE CITY COUNCIL FROM DECISION OF THE PLANNING COMMISSION

1. An appeal from the decision of the Planning Commission granting or denying any conditional use permit as provided in this section may be taken to the City Council by the applicant, any governmental body or agency, or by any owner of land located within 300 feet of the exterior boundaries of the property on which the conditional use permit was granted or denied by the Planning Commission. Such appeal shall be filed within ten days after the decision is filed with the City Clerk. Such appeal shall be in writing and shall be filed with the City Clerk on forms provided by him. The appeal shall specify wherein there was error in the decision of the Planning Commission.
2. If an appeal is filed within the time specified, it automatically stays proceedings in the matter until determination is made by the City Council.
3. Upon the filing of the appeal, the Clerk shall set the matter for public hearing, giving the same notice as provided herein for hearing before the Planning Commission. The City Clerk shall send the Planning Commission a duplicate copy of the appeal and request the Planning Commission to transmit to the City Council a copy of its decision and findings, minutes of the hearing, and all other evidence, maps, papers, and exhibits upon which the Planning Commission made its decision.
4. Upon the hearing of such appeal, the City Council may, by resolution, affirm, reverse, or modify in whole or in part any determination of the Planning Commission subject to the same limitations as are placed upon the Planning Commission by the Code.
5. The resolution shall contain a finding of facts showing wherein the proposed conditional use permit meets or fails to meet the requirements set forth in paragraph "D." of this section.
6. The resolution shall be filed with the Planning Director, the Zoning Administrator, Director of Building Inspection and the County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if the resolution is a denial of the conditional use permit.

F. AMENDMENT TO PERMIT

1. The Planning Commission may, by resolution, grant an amendment to a valid conditional use permit which it has granted.
2. The procedure for making application, for hearing before the commission, for the decision of the Commission and for an appeal to the City Council from the decision of the Commission shall be as set forth in this section.

G. EXTENSION OF TIME

1. The Planning Commission may, by resolution, grant an extension of time to a valid conditional use permit which it has granted if it finds that there has been no material change of circumstances since the granting of the permit.
2. Application for an extension of time shall be in writing and shall be filed by the owner of the property covered by the permit. Application shall be filed in the Planning Department. The Planning Commission may require a public hearing on such application if it determines that such hearing is in the public interest. In the event a public hearing is ordered by the Commission, the procedure for noticing shall be as set forth in paragraph "C." of this section.
3. A copy of the resolution granting or denying the extension of time shall be filed with the City Clerk, the Planning Director, the Zoning Administrator, the Director of Building Inspection and the County Recorder of San Diego County, and a copy shall be mailed to the applicant.
4. An appeal from the decision of the Planning Commission in granting or denying an extension of time may be taken to the City Council in the same manner as provided in paragraph "E." of this section.

SEC. 101.0597. CONDITIONAL USE PERMIT GRANTED BY CITY COUNCIL.

A. USES WHICH MAY BE CONSIDERED

The City Council shall have the authority, under conditions herein provided, to permit by conditional use permit the following uses in any zone including interim zones except as otherwise provided in paragraph "A.5." of this section.

1. Airports, including permanent heliports and helistops.
2. Amusement parks.
3. Cemeteries, mausoleums and crematories.
4. Fairgrounds.
5. Mobilehome parks, together with incidental facilities for the convenience of the occupants, on parcels comprising not less than five usable acres in any multiple family zone except the R-4 and R-1C Zones.
6. Newspaper publishing plants.
7. Race tracks.
8. Radio or television transmission stations and broadcasting studios.

B. APPLICATION — FORM AND CONTENTS

Application to permit any conditional use referred to in this section may be made by the owner of the property affected, or it may be initiated

by the City Council. Application shall be filed with the Planning Department upon forms provided by it and shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by adequate plans, a legal description of the property involved and a detailed description of the proposed use.

C. HEARING BEFORE PLANNING COMMISSION — PROCEDURE

1. The Planning Commission shall set a date for public hearing and give notice of time, place, and purpose of such hearing in accordance with the procedure set forth in paragraphs "C.1.a." or "C.1.b." of this section.
 - a. By depositing in the United States mail postage prepaid, at least ten days prior to the date of such hearing, a notice addressed to the owner of each parcel of land lying within the subject property and within 300 feet of the exterior boundaries of the subject property. The last known name and address of each owner as shown in the records of the County Assessor may be used for this notice.
 - b. By at least one publication of a notice in the City official newspaper, not less than ten days prior to the date of the hearing, and by posting notices, not less than ten days prior to the date of the hearing, in at least four public places within the subject property or within 300 feet of the boundaries of the subject property.

2. In addition to the methods set forth in paragraphs "C.1.a." or "C.1.b." of this section, the Planning Director may use other methods which he finds to be desirable in giving proper notice of the hearing.

3. The mailed and posted notices referred to in paragraph "C.1." of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one inch in height and shall recite in legible characters the following:

- a. The boundaries of the subject property. A diagram or plat may be substituted for this description.
- b. The date, time, place and subject of the hearing.
- c. A statement that any person may, but is not required to, appear and be heard.
- d. A statement that the application together with plans and other data submitted with the application are available for public inspection in the office of the Planning Department.

4. Upon the date set for the hearing, the Planning Commission shall hear the application, unless for cause the Planning Commission shall, on that date, continue the matter. If a date and time certain for the continued hearing is announced in the open meeting, no further notice need be given.

D. RECOMMENDATION OF THE PLANNING COMMISSION

1. After the public hearing, the Planning Commission may, by resolution, recommend the granting of a conditional use permit if, after considering the facts presented on the application and at the hearing, it is concluded that:

- a. The proposed use at the particular location is desirable to provide a service or facility which will contribute to the general well-being of the neighborhood or community;
- b. The proposed use will not, particularly because of conditions imposed, be detrimental to the public health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity;
- c. The proposed use will comply with the regulations specified in the Code for such use; and
- d. The granting of the conditional use permit will not adversely affect the PROGRESS GUIDE AND GENERAL PLAN OF THE CITY OF SAN DIEGO or the adopted plan of any governmental agency.

2. If the Commission, after considering the facts presented on the application and at the hearing, is unable to reach the four conclusions set forth in paragraph "D.1." of this section, it shall recommend by resolution that the permit be denied.

3. In recommending the granting of a conditional use permit, the Planning Commission may recommend the attachment of such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which the property is situated including, but not limited to, signs, fences, walls, maximum building height, density, minimum yards, maximum building coverage, and off-street parking may be increased or decreased.

4. In recommending the granting or denying of a conditional use permit, the Planning Commission shall make a written finding which shall specify the facts relied upon by the commission in making its decision and in recommending conditions. This finding of facts shall be incorporated in the resolution referred to in this section. A copy of the resolution shall be mailed to the applicant.

E. HEARING SET BEFORE CITY COUNCIL

A copy of the resolution setting forth the recommendations of the Planning Commission and the finding of facts shall be filed with the City Clerk as soon as possible after the public hearing or continuance thereof. The City Clerk shall thereupon set the matter for public hearing before the City Council giving notice of the time, place and purpose of such hearing in the same manner as provided in paragraph "C." of Section 101.0597.

F. DECISION OF THE CITY COUNCIL

1. The City Council shall consider the conditional use permit application at the public hearing on the date set for said hearing or on the date to which such hearing may be continued from time to time by the City Council.

2. Upon the conclusion of the hearing, the City Council may, by resolution, grant or deny the permit. The resolution shall contain a finding of facts showing wherein the conditional use shall fulfill or fail to fulfill the requirements as set forth in paragraph "D.1." of this section. The resolution shall be filed with the City Clerk, the Planning Director, the Zoning Administrator, the Director of Building Inspection and the County Recorder of San Diego County and a copy shall be mailed to the applicant. The resolution shall not be filed with the County Recorder if the resolution is a denial of the conditional use permit.

3. In granting a conditional use permit, the Council may impose such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which property is situated including, but not limited to, signs, fences, walls, maximum building heights, density, minimum yards, maximum building coverage and off-street parking may be increased or decreased.

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G. AMENDMENT TO PERMIT

1. The City Council may, by resolution, grant an amendment to a valid conditional use permit which it has granted, if after considering the facts presented on the application and at the hearing, it can reach the conclusions set forth in paragraph "D.I." of Section 101.0506.
2. The procedure for making application for an amendment to a valid conditional use permit and for hearing before the Planning Commission and City Council shall be as set forth in Section 101.0507.
3. In recommending the granting or denying of an amendment to a valid conditional use permit, the Planning Commission shall make a written finding of facts which shall specify the facts relied upon by the Commission in making its decision and in recommending conditions. Such finding of facts shall be incorporated in a resolution and a copy of the resolution shall be filed with the City Clerk as soon as possible after the public hearing or continuation thereof. The City Clerk shall thereupon set the matter for public hearing before the City Council.
4. Upon the conclusion of the hearing, the City Council may by resolution grant or deny the amendment. The resolution shall contain a finding of facts showing wherein the amendment fulfills or fails to fulfill the requirements as set forth in paragraph "D.I." of this section. A copy of the resolution shall be filed with the Planning Director, the Zoning Administrator, the Director of Building Inspection and the County Recorder of San Diego County, and a copy shall be mailed to the applicant.
5. In granting an amendment to a valid conditional use permit, the Council may impose such conditions as it deems necessary and desirable to protect the public health, safety and general welfare. Any regulations of the zone in which the property is situated including, but not limited to, signs, fences, walls, maximum building heights, minimum yards, maximum building coverage and off-street parking may be increased or decreased.

H. EXTENSION OF TIME

1. The City Council may, by resolution, grant an extension of time to a valid conditional use permit which it has granted if it finds that there has been no material change of circumstances since the granting of the permit.
2. Application for an extension of time shall be in writing and shall be filed by the owner of the property covered by the permit. Application shall be filed with the City Clerk. The City Council may require a public hearing on such application if it determines that such a hearing is in the public interest. In the event a hearing is ordered by the Council, the procedure for noticing shall be as set forth in paragraph "C." of this section.
3. A copy of the resolution granting or denying the extension of time shall be filed with the Planning Director, the Zoning Administrator, the Director of Building Inspection, and the County Recorder of San Diego County, and a copy shall be mailed to the applicant.

SEC. 101.0508 FAILURE TO UTILIZE ZONE VARIANCE OR CONDITIONAL USE PERMIT

1. Any zone variance or conditional use permit granted by the City as provided in this Code shall be conditioned upon the privileges granted being utilized within 18 months after the effective date thereof.
2. Failure to utilize such zone variance or conditional use permit within the 18-month period will automatically void the same. If construction work is involved and if the City Council should find, after a public hearing noticed in accordance with the procedure set forth in paragraph "C." of Section 101.0507, that there has been no construction substantial in character accomplished under said zone variance or conditional use permit prior to the expiration of the 18-month period, the zone variance or conditional use permit shall be void.
3. Construction substantial in character shall be not less than 20% of the total footings, foundations or similar supporting structural elements required in the construction of structures or buildings authorized by a variance or conditional use permit unless other specific provisions are included in the variance or conditional use permit.
4. Except as provided in Section 101.0509, during the 18-month period referred to in paragraph "1." of this section the property covered by a conditional use permit granted by the Zoning Administrator, Planning Commission or City Council shall not be used for any purpose other than that authorized by the permit.

SEC. 101.0509 CANCELLATION OF A CONDITIONAL USE PERMIT

1. A valid conditional use permit granted by the Planning Commission or City Council may be cancelled at any time during the 18-month period referred to in paragraph "1." of Section 101.0508.
2. Cancellation may be initiated by the owner of the property covered by the permit by means of a communication directed to the Planning Director in the office of the Planning Department.
3. The permit becomes void 120 days after receipt of the communication in the office of the Planning Department.

SEC. 101.0510 RESPONSIBILITY FOR A CONDITIONAL USE PERMIT INVOLVING USES ASSIGNED TO TWO OR MORE BODIES

1. Application for conditional use permit which includes uses which may be considered for conditional use permit by more than one body shall be considered by the following listed body:
 - a. By the Planning Commission if the uses are assigned to the Zoning Administrator and the Planning Commission.
 - b. By the City Council, after hearing and recommendation by the Planning Commission, if the uses are assigned to the Zoning Administrator and the City Council.
 - c. By the City Council, after hearing and recommendation by the Planning Commission, if the uses are assigned to the Planning Commission and City Council.
 - d. By the City Council, after hearing and recommendation by the Planning Commission, if the uses are assigned to the Zoning Administrator, Planning Commission, and City Council.
2. The procedure to be followed in considering the application for a conditional use permit involving uses assigned to two or more bodies shall be as set forth in the following sections:
 - a. Section 101.0506 if the conditional use permit is considered by the Planning Commission.
 - b. Section 101.0507 if the conditional use permit is considered by the City Council.

SEC. 101.0511 RESTRICTION ON REAPPLICATION FOR A CONDITIONAL USE PERMIT

No application for a conditional use permit on the same property or essentially the same property for the same use or essentially the same use which has been denied by the Zoning Administrator, the Board of Zoning Appeals, the Planning Commission or the City Council shall be accepted within 12 months of such denial; provided, however, that the City Council may permit the processing of such application by the affirmative vote of a majority of its members.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Introduced on January 21, 1971.

4, 1971. Passed and adopted by the Council of The City of San Diego on February

AUTHENTICATED BY:

FRANK CURRAN,
Mayor of The City of San Diego, California.
JOHN LOCKWOOD,
City Clerk of The City of San Diego, California.
By ELFA F. HANEL, Deputy.

(SEAL)
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