

ORDINANCE NO. 10981 JAN 30 1973
(New Series)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1,
DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE,
BY AMENDING SECTION 101.0506 RELATING TO
CONDITIONAL USE PERMIT PROCEDURES.

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

Section 1. That Chapter X, Article 1, Division 5, of
the San Diego Municipal Code, be amended by amending Section
101.0506 to read as follows:

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.1.," "A.2.," "A.6.," "A.12.,"
and "A.14." 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.

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MAY 1 1978
02031

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, pitch-and-putt golf courses, and miniature golf courses.
8. Hospitals, intermediate care facilities and nursing homes.
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. Residential care homes, for more than ten aged or mentally disordered or otherwise handicapped persons or dependent or neglected children, which are licensed or certified by the State of California, in the R-2, R-2A, R-3, R-3A and R-4 Zones.
13. Residential, commercial, industrial or institutional uses in and on historical sites.
14. Housing for the elderly in any residential or commercial zone.
15. Facilities for the wrecking and dismantling of automobiles and other similar vehicles, junk yards, and all establishments engaged in the salvaging or processing of scrap metal, in any agricultural or industrial zone.

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 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,

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10981 MAY 1 1978

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.l.a." or "C.l.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

MICROFILMED

10981 MAY 1 1978

02034

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.

MICROFILMED

MAY 1 1978

10981

02035

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.

MICROFILMED

MAY 1 1978

10981

02036

- 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 FOR 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.

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MAY 1 1978

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, by any owner of real property located within the City, or by any resident of the City. Such appeal shall be filed within ten days after the decision is filed with the City Clerk. Such appeal shall

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MAY 1 1978

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.

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MAY 1 1978

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

MICROFILMED

10981

MAY 1 1978

02040

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

MICROFILMED

MAY 1 1978

10981

02041

paragraph "E." of this section.

Section 2. 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*
Frederick C. Conrad, Chief Deputy

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JAN 30 1973

Passed and adopted by the Council of The City of San Diego on _____
by the following vote:

*Received
City Clerk's Office
1973 Jan 10 am 10:32
at City 1973*

Councilmen	Yeas	Nays	Excused	Absent
Gil Johnson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Maureen F. O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Landt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Floyd L. Morrow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Martinet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Allen Hitch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Bates	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON
Mayor of The City of San Diego, California.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

(Seal)

By *Mary Anne Nease*, 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 16 1973

JAN 30 1973

_____, and on _____

~~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.

EDWARD NIELSEN
City Clerk of The City of San Diego, California.

(Seal)

By *Mary Anne Nease*, Deputy.

MICROFILMED
MAY 1 1978

Office of the City Clerk, San Diego, California	
Ordinance Number	10981 Adopted JAN 30 1973
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J.B.

ATTORNEY (S)

*CITY OF SAN DIEGO
202 "C" St.
12th Floor
Community Concourse
San Diego, California

RECEIVED
CITY CLERK'S OFFICE

1973 MAR -1 PM 2:19

SAN DIEGO, CALIF. *B*

CERTIFICATE OF PUBLICATION

No.

IN THE MATTER OF

CONDITIONAL USE PERMIT PROCEDURES

I, Patricia M. Applestill hereby certify that San Diego 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. 10981 (NEW SERIES)

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

February 8, 1973.

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

February 20, 1973

Patricia M. Applestill
(Signature)

37" = 155.40 02044

ORDINANCE NO. 10981

(New Series)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE, BY AMENDING SECTION 101.0506 RELATING TO CONDITIONAL USE PERMIT PROCEDURES, BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter X, Article 1, Division 5 of the San Diego Municipal Code, be amended by amending Section 101.0506 to read as follows:

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.1." "A.2." "A.6." "A.12." and "A.14." 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, pitch-and-putt golf courses, and miniature golf courses.
8. Hospitals, intermediate care facilities and nursing homes.
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. Residential care homes, for more than ten aged or mentally disabled or otherwise handicapped persons or dependent or neglected children, which are licensed or certified by the State of California, in the R-2, R-2A, R-3, R-3A and R-4 Zones.
13. Residential, commercial, industrial or institutional uses in and on historical sites.
14. Housing for the elderly in any residential or commercial zone.
15. Facilities for the wrecking and dismantling of automobiles and other similar vehicles, junk yards, and all establishments engaged in the salvaging or processing of scrap metal, in any agricultural or industrial zone.

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 effected, or it may be initiated by 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 FOR 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, by any owner of real property located within the City, or by any resident of the City. 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.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

Introduced on January 10, 1973.

Passed and adopted by the Council of The City of San Diego on January 30, 1973.

AUTHENTICATED BY:

PETE WILSON
Mayor of The City of San Diego, California.
EDWARD NIELSEN,
City Clerk of The City of San Diego, California.
By MARY ANNE MEASE, Deputy.

(SEAL)
Published February 8, 1973

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