

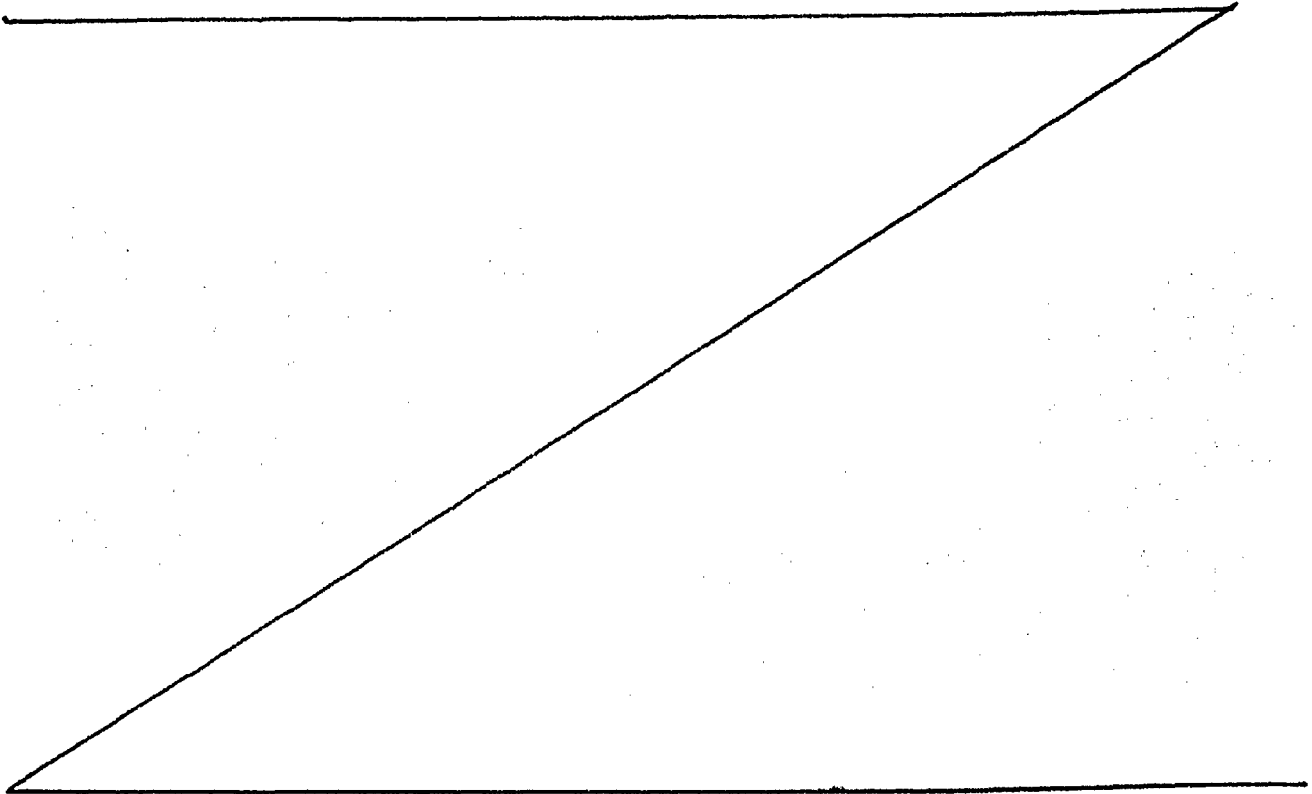
ORDINANCE NUMBER O- 16259 (New Series)

Adopted on AUG 13 1984

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISIONS 3, 4 AND 5, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 101.0303, 101.0410, 101.0423, 101.0426, 101.0427, 101.0435.2, 101.0506, AND ADDING SECTION 101.0506.7, RELATING TO RESTRICTION OF FACILITIES THAT TREAT SEX OFFENDERS.

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

Section 1. That Chapter X, Article 1, Divisions 3, 4 and 5, of the San Diego Municipal Code be, and the same is hereby amended by amending Sections 101.0303, 101.0410, 101.0423, 101.0426, 101.0427, 101.0435.2 and 101.0506, to read as follows:



SEC. 101.0303 CONTINUANCE OF NONCONFORMING USES AND STRUCTURES

The lawful use of land existing at the time the zone ordinance became effective, with which ordinance such use did not conform, may be continued provided no enlargement or addition to such use is made.

The lawful use of buildings existing at the time the Zone Ordinance became effective, with which ordinance such building did not conform with respect to the development regulations, may be continued provided any enlargements, additions or alterations to such building will not increase its degree of nonconformity and will conform in every respect with the development regulations of the zone in which the building is located, except as hereinafter provided by zone variance.

Any discontinuance of a nonconforming use for a continuous period of 12 months shall be deemed to constitute abandonment of any nonconforming rights existing at the time of the enactment of the ordinance.

Any change from a nonconforming use of land or buildings to a more restrictive or conforming use shall constitute abandonment of such nonconforming rights.

Repairs and alterations which do not increase the degree of nonconformity of a nonconforming building, structure or improvement, nor increase the size or degree of nonconformity of a use, may be made provided that the aggregate value of such repairs or alterations shall not exceed 50 percent of its fair market value, according to the assessment thereof by the County Assessor for the fiscal year during which the repairs and alterations occur. The terms "repairs" and "alterations" do not include painting or replacement of exterior stucco siding, or shingles.

If any nonconforming building or use be destroyed by fire, explosion, act of God or act of the public enemy to the extent of 50 percent or more of the fair market value, according to the assessment thereof by the County Assessor for the fiscal year during which such destruction occurs, then and without further action by the City Council, the said building or use and the land on which said building was located or maintained shall from and after the date of such destruction be subject to all the regulations specified by the zone ordinance for the district in which such building was located. The provisions of this paragraph shall not apply to any nonconforming building for which a Reconstruction Permit has been or is obtained pursuant to Municipal Code Section 101.0500 and 101.0502.

If the use is a medical or counseling service and is prohibited pursuant to Sections 101.0410 B,9.c., 101.0423 B.1., 101.0426 B.1., 101.0427 B.1., or 101.0435.2 B.11.e., and if such use existed on the effective date of the ordinance enacting the provisions of this paragraph, it shall become a nonconforming use and shall be governed by the provisions of this section. Any such medical or counseling service existing on the effective date of the ordinance shall have 90 days to cease operation, after which time the service shall be unlawful at that site and shall constitute a violation of this Code unless a Conditional Use Permit is obtained in accordance with Section 101.0506.7.

SEC. 101.0410 R(MULTIPLE FAMILY RESIDENTIAL) ZONES

A. - No change.

B. PERMITTED USES

No building or improvement or portion thereof shall be erected, constructed, converted, established, altered or enlarged, nor shall any lot or premises be used except for one or more of the following purposes as provided herein:

1. through 8. - No changes.

9. In addition to the uses listed above, the following uses shall be permitted in the R-1000 through R-200 zones:

a. and b. - No change.

c. Offices for psychologists, social workers, religious practitioners, doctors, and dentists, provided that no overnight patients are permitted; and, further provided, that not more than two such professional persons, and not more than three employees of each, shall be engaged in such work on the premises.

Such lot or parcel may not be used by one or more practitioners who, among them, medically treat, or medically or psychologically counsel, on a group or individual basis, five or more persons in one calendar year who have committed, been charged by criminal indictment or complaint, or convicted of, a sex-related offense outside the family unit as defined in the California Penal Code, Part 1, Title 9, Chapter 1, or in Sections 286, 286.5, 288, 288a, 289 of Chapter 5, or in Section 314 of Chapter 8, or any amendment or recodification or any such sections, if such lot or parcel is located within 1,000 feet of any premises occupied by an elementary, junior, or senior high school, except that such use is permitted by organizations described in Section 101.0503 A.1, 4, 8, and Sections 101.0506 A.3, 4, 8, 10, 12,

or the office use shall become a nonconforming use and be subject to Section 101.0303. This restriction applies only to medical and counseling services which are directly related to physical or psychological treatment for the sex-related offenses committed and described in the above California Penal Code sections.

10. through 13. - No change.

C. through L. - No change.

SEC. 101.0423 CO ZONE (COMMERCIAL OFFICE)

A. No change.

B. PERMITTED USES.

In the CO Zone, no building or improvement or portion thereof, shall be erected, constructed, converted, established, altered or enlarged, nor shall any premises be used except for one or more of the following purposes:

1. Business and professional office uses. Such uses may include accountants, advertising agencies, architects, attorneys, contractors, doctors, engineers, financial institutions, insurance agencies, medical clinics (no overnight patients),

photographers, real estate brokers, securities brokers, surveyors and graphic artists.

Such lot or parcel may not be used by one or more practitioners who, among them, medically treat, or medically or psychologically counsel, on a group or individual basis, five or more persons in one calendar year who have committed, been charged by criminal indictment or complaint or convicted of a sex-related offense outside the family unit as defined in the California Penal Code, Part 1, Title 9, Chapter 1, or in Sections 286, 286.5, 288, 288a, 289 of Chapter 5, or in Section 314 of Chapter 8, or any amendment or recodification or any such sections, if such lot or parcel is located within 1,000 feet of any premises occupied by an elementary, junior, or senior high school, except that such use is permitted by organizations described in Section 101.0503 A.1, 4, 8, and Sections 101.0506 A.3, 4, 8, 10, 12, or the office use shall become a nonconforming use and be subject to Section 101.0303. This restriction applies only to medical and counseling services which are directly related to physical or psychological treatment for the sex-related offenses committed and described in the above California Penal Code sections. Court ordered forensic evaluations are exempt services.

2. through 9. - No change.

C. through E. - No change.

SEC. 101.0426 CN ZONE (Neighborhood Commercial)

A. No change.

B. PERMITTED USES.

In the CN Zone, no building or improvement, or portion thereof, shall be erected, constructed, converted, established, altered, or enlarged, nor shall any premises be used except for one or more of the following purposes:

1. Business and professional offices (not including employment agencies or hiring halls).

Such lot or parcel may not be used by one or more practitioners who, among them, medically treat, or medically or psychologically counsel, on a group or individual basis, five or more persons in one calendar year who have committed, been charged by criminal indictment or complaint or convicted of a sex-related offense outside the family unit as defined in the California Penal Code, Part 1, Title 9, Chapter 1, or in Sections 286, 286.5, 288, 288a, 289 of Chapter 5, or in Section 314 of Chapter 8, or any amendment or recodification or any such sections, if such lot or parcel is located within 1,000 feet of any premises occupied by an elementary, junior, or senior high school, except that such use is permitted by organizations described in Section 101.0503

A.1, 4, 8, and Sections 101.0506 A.3, 4, 8, 10, 12, or the office use shall become a nonconforming use and be subject to Section 101.0303. This restriction applies only to medical and counseling services which are directly related to physical or psychological treatment for the sex-related offenses committed and described in the above California Penal Code sections. Court ordered forensic evaluations are exempt services.

2. through 8. - No change.

C. through E. - No change.

SEC. 101.0427 CC (COMMUNITY COMMERCIAL)

A. - No change.

B. In the CC zone, no building or improvement, or any portion thereof, shall be erected, constructed, converted, established, altered, or enlarged, nor shall any premise be used except for one or more of the following purposes; provided, however, that no premises shall contain an establishment exceeding a total of 5,000 square feet in gross floor area; and, further provided, that no premises shall contain drive through or drive-in facilities except through a Planned Commercial Development Permit.

1. Business and professional offices.

Such lot or parcel may not be used by one or more practitioners who, among them, medically treat, or medically or psychologically counsel, on a group or individual basis, five or more persons in one calendar year who have committed, been charged by criminal indictment or complaint or convicted of a sex-related offense outside the family unit as defined in the California Penal Code, Part 1, Title 9, Chapter 1, or in Sections 286, 286.5, 288, 288a, 289 of Chapter 5, or in Section 314 of Chapter 8, or any amendment or recodification or any such sections, if such lot or parcel is located within 1,000 feet of any premises occupied by an elementary, junior, or senior high school, except that such use is permitted by organizations described in Section 101.0503 A.1, 4, 8, and Sections 101.0506 A.3, 4, 8, 10, 12, or the office use shall become a nonconforming use and be subject to Section 101.0303. This restriction applies only to medical and counseling services which are directly related to physical or psychological treatment for the sex-related offenses committed and described in the above California Penal Code sections. Court ordered forensic evaluations are exempt services.

2. through 8. - No change.

C. through F. - No change.

SEC. 101.0435.2 M-1B ZONE

A. - No change.

B. 1, through 10. - No change.

11. The following establishments;

a. through d. - No change.

e. Business and professional office uses. Such uses may include accountants, advertising agencies, architects, attorneys, contractors, doctors, engineers, financial institutions, insurance agencies, medical clinics (no overnight patients), photographers, real estate brokers, securities brokers, surveyors and graphic artists.

Such lot or parcel may not be used by one or more practitioners who, among them, medically treat, or medically or psychologically counsel, on a group or individual basis, five or more persons in one calendar year who have committed, been charged by criminal indictment or complaint or convicted of a sex-related offense outside the family unit as defined in the California Penal Code, Part 1, Title 9, Chapter 1, or in Sections 286, 286.5, 288, 288a, 289 of Chapter 5, or in Section 314 of Chapter 8, or any amendment or recodification

or any such sections, if such lot or parcel is located within 1,000 feet of any premises occupied by an elementary, junior, or senior high school, except that such use is permitted by organizations described in Section 101.0503 A.1, 4, 8, and Sections 101.0506 A.3, 4, 8, 10, 12, or the office use shall become a nonconforming use and be subject to Section 101.0303. This restriction applies only to medical and counseling services which are directly related to physical or psychological treatment for the sex-related offenses committed and described in the above California Penal Code sections. Court ordered forensic evaluations are exempt services.

12. through 14. - No change.

C. through F. - No change.

SEC. 101.0506 CONDITIONAL USE PERMIT GRANTED BY
 PLANNING COMMISSION

A. USE 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.," "A.14.," "A.16," and "A.17." of this section.

1. through 16. - No change.

17. Treatment and counseling offices for sex offenders in the R-1000 through R-200 zones, commercial zones, and the M-1B Zone.

B. through G. - No amendment.

Section 2. That Chapter X, Article 1, Division 5, of the San Diego Municipal Code be, and the same is hereby amended by adding Section 101.0506.7, to read as follows:

SEC. 101.0506.7 CONDITIONAL USE PERMIT FOR TREATMENT AND
 COUNSELING OFFICES FOR SEX OFFENDERS

A. PURPOSE AND INTENT

The purpose of these regulations is to establish a procedure to permit continued use of, and to monitor, the locations of certain existing medical and counseling services which medically treat, or medically or psychologically counsel, sex offenders in cases where the inappropriate location of such facilities would be likely to adversely impact the safety or health of persons living in adjacent residential areas or minors attending nearby elementary, junior or senior high schools. The intent of these regulations is to provide locations for offices that are located

within the required 1,000-foot buffer area surrounding any premises occupied by an elementary junior, or senior high school, and that are engaged in the above-mentioned activities, by providing a procedure by which these facilities may continue to operate at locations they occupied on ^{September 12}, 1984.

B. APPLICATION - FORM AND CONTENT

Application to permit an office referred to above may be made by the owner of the property affected, by a person holding or seeking a lease for the property affected (with the concurrence of the property owner), or it may be initiated by the Planning Commission. Application shall be filed with the Planning Department upon forms provided, and shall state fully the circumstances and conditions relied upon as grounds for the application and shall be accompanied by appropriate plans (including a vicinity map), a legal description of the property involved, and a detailed description of the proposed use.

C. HEARING BEFORE THE PLANNING COMMISSION

1. The Planning Commission shall hold a public hearing which has been noticed in accordance with the provisions of SEC. 101.0220.

2. After the public hearing, the Planning Commission may, by resolution, grant a Conditional Use Permit if, after considering the facts presented in the application and at the hearing, it is concluded that:

a. The proposed use will not adversely affect the neighborhood, the General Plan or the Community Plan, and will not be detrimental to the health, safety and general welfare of persons residing in adjacent residential areas or minors attending nearby elementary, junior or senior high schools; and

b. The proposed use will comply with all relevant regulations in the Municipal Code.

3. The Planning Department, in providing background to the Planning Commission for the above findings, shall utilize substantiated information from sources including governmental or licensing agencies, or professional associations, as applicable.

4. If the Commission, after considering the facts presented on the application and at the hearing, is unable to reach the two conclusions set forth in paragraph C.2 above, it shall deny the permit by resolution.

5. 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, and a copy shall be mailed to the applicant.

D. APPEAL FROM THE DECISION OF THE PLANNING COMMISSION

An appeal to the City Council from the decision of the Planning Commission granting or denying any Conditional Use Permit as provided in this section may be filed with the City Clerk within 10 days after the Commission's decision. The procedure shall be in accordance with SEC. 101.0506 D.

E. TIME PERIOD FOR PERMIT APPROVAL

If a Conditional Use Permit is granted by the Planning Commission, or by the City Council upon appeal, the permit shall be valid for the operation of the above-described office(s) for an unlimited period of time, unless the permit is revoked by the Planning Commission, or by the City Council upon appeal.

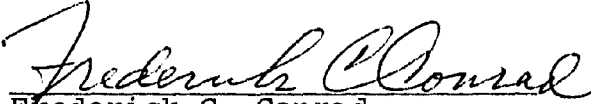
F. REVOCATION OF THE PERMIT

If the Planning Director determines that the conditions of the Conditional Use Permit are being violated, he shall recommend to

the Planning Commission that the permit be revoked. The hearing for revocation shall be noticed in accordance with SEC. 101.0220 and held in accordance with paragraph "C" above.

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
Chief Deputy City Attorney

FCC:ib:630
06/21/84
(Rev. 1 07/26/84)
Or.Dept:Plan.
O-84-256
Form=o.none

Passed and adopted by the Council of The City of San Diego on AUG 13 1984,
 by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksmma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Ellen Board, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its ^{re-}introduction and the day of its final passage, to wit, on

JUL 30 1984

AUG 13 1984

~~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.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By Ellen Board, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16259 Adopted AUG 13 1984