

ORDINANCE NUMBER O- 16371 (NEW SERIES)

ADOPTED ON JUN 23 1986

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISIONS 2 AND 5 OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 101.0503, 101.0506, 101.0506.5, 101.0506.8, 101.0507, 101.0508, 101.0509 AND 101.0511; BY RENUMBERING AND AMENDING SECTIONS 101.0220, 101.0240, 101.0245, 101.0500, 101.0502, 101.0503, 101.0511, 101.0512, 101.0513, 101.0514, 101.0550 AND 101.0560; AND BY ADDING SECTIONS 101.0250 AND 101.0510, RELATING TO THE ESTABLISHMENT OF A PLANNING DIRECTOR CONDITIONAL USE PERMIT PROCEDURE AND SUBSEQUENT ADMINISTRATIVE CHANGES.

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 and the same is hereby amended by repealing Sections 101.0503, 101.0506, 101.0506.5, 101.0506.8, 101.0507, 101.0508, 101.0509 and 101.0511.

Section 2. That Chapter X, Article 1, Divisions 2 and 5, of the San Diego Municipal Code be and the same is hereby amended by renumbering and amending Sections 101.0220, 101.0240, 101.0245, 101.0500, 101.0502, 101.0503, 101.0511, 101.0512, 101.0513, 101.0514, 101.0550 and 101.0560 and the title to Division 5, to read as follows:

**SEC. 101.0220 PROCEDURE FOR PERMITS AND VARIANCES, AND  
SUBDIVISION MAPS FILED CONCURRENTLY - NOTICING**

A. Prior to a Zoning Administrator, Board of Zoning Appeals, Planning Director, Planning Commission, or City Council action on a permit or a variance, or a subdivision map filed concurrently, a date shall be set for a public hearing and notice shall be given of the time, place, and purpose of such hearing in the following manner:

1. By at least one publication thereof in a newspaper of general circulation that is published on five or more days in a calendar week in The City of San Diego, not less than ten days or 30 days prior to the date of the hearing (see paragraph 3. below); except that publication in a newspaper of general circulation shall not be required for hearings held before the Zoning Administrator or Board of Zoning Appeals; and

2. (No changes.)

3. The following noticing periods shall be required for Planned Residential Development, Planned Commercial Development, Planned Industrial Development permits, Hillside Review Permits, Conditional Use Permits, variances and other permits, where applicable:

a. At least 30 days prior to a Planning Director hearing for a Planned Industrial Development Permit, Planned Commercial Development Permit, Planned Residential Development Permit, or Hillside Review Permit;

b. At least ten days prior to a Planning Director hearing for a Conditional Use Permit;

c. At least ten days prior to any hearing before the Zoning Administrator, Board of Zoning Appeals, Planning Commission, or City Council, or for any extension of time.

B. The notice required under paragraph A.2. of this section shall be headed "NOTICE OF PUBLIC HEARING" in letters not less than one-quarter inch in height and shall recite in legible characters:

1. through 4. (No changes.)

5. A statement that any person may, but is not required to, appear and be heard at the public hearing.

6. A statement that the application, together with schematic plans and other data submitted with the application, is available for public inspection in the appropriate office within the Planning Department, except one day prior to and on the date of the public hearing.

C. In addition to the methods set forth in paragraphs A. and B. of this section, the Decisionmaker may use other methods which it finds to be desirable in giving proper notice of the public hearing.

**SEC. 101.0240 PROCEDURE FOR PERMITS AND VARIANCES, AND  
SUBDIVISION MAPS FILED CONCURRENTLY - APPEAL FROM  
THE DECISION OF THE PLANNING COMMISSION  
OR BOARD OF ZONING APPEALS**

The Planning Commission shall hear appeals from the decisions of the Planning Director, pursuant to Sections 101.0230 and 101.0510.H. The Board of Zoning Appeals shall hear appeals from decisions of the Zoning Administrator, pursuant to Sections 101.0503 and 101.0510.H. A further appeal from the appellate decision may be requested of the City Council by any appellant identified in Sections 101.0230, 101.0503 or 101.0510.H. The appeal from the decision of the Planning Commission or Board of Zoning Appeals must be filed in the office of the City Clerk within ten calendar days of the decision. When a request to be heard on appeal is filed with the City Clerk, it shall be placed on the Council docket for the limited purpose of determining whether the City Council will hear the appeal. The City Council will accept an appeal for hearing when any of the following situations are found to exist:

1. The appellant was denied the opportunity to make a full and complete presentation to the Planning Commission or Board of Zoning Appeals;
2. New evidence is now available that was not available at the time of the hearing before the Planning Commission or the Board of Zoning Appeals;
3. The decision of the Planning Commission or Board of Zoning Appeals was arbitrary because no evidence was presented to the Commission or Board that supports the decision;
4. The development presents a City-wide planning issue on which guidance from the City Council is required and the matter is of City-wide significance;
5. The decision of the Planning Commission or Board of Zoning Appeals is inconsistent with the applicable community plans or the General Plan for those areas not covered by a community plan; or
6. The decision of the Planning Commission or Board of Zoning Appeals is in conflict with adopted Council policy or the Municipal Code.

The City Council shall rely upon the record of the proceedings before the Planning Commission or Board of Zoning Appeals and the written appeal. No oral presentations shall be made to the City Council by proponents or opponents of the project. A vote on the motion to set the appeal for hearing shall not constitute a vote on the merits of the appeal. If at least five members of the Council vote in favor of hearing the

appeal, the City Clerk shall set the appeal for hearing before the City Council and give notice of the appeal in the manner required by this Code.

**SEC. 101.0245 RECORDATION OF VARIANCES, PERMITS OR ENTITLEMENTS**

Upon approval or rescission of a variance or any of the permits or entitlements listed in this section, all of which are found to constitute instruments affecting title to or possession of real property, the variance, permit, entitlement or declaration of rescission shall be recorded in the office of the County Recorder of San Diego County.

A. through E. (No changes.)

F. Section 101.0510, Conditional Use Permit granted initially or on appeal by the Zoning Administrator Board of Zoning Appeals, Planning Director, Planning Commission, or City Council.

G. Section 101.0900, Planned Residential Development Permits.

H. Section 101.0910, Planned Commercial Development Permits.

I. Section 101.0920, Planned Industrial Development Permits.

J. Section 101.1123, Comprehensive Sign Plan.

K. Section 105.0103, Development Agreements.

L. Any permit or approval not listed above, when such permit or approval incorporates a variance.

**DIVISION 5**

**VARIANCES, CONDITIONAL USE PERMITS, AND SPECIAL PERMITS**

**SEC. 101.0500 ZONING ADMINISTRATOR - DUTIES AND POWERS**

The Zoning Administrator shall have the following powers and duties:

1. (No changes.)

2. To grant Conditional Use Permits pursuant to Section 101.0510 for uses to be located on specific parcels of land where such uses will not be detrimental to the public health, safety and general welfare and will not adversely affect the Progress Guide and General Plan for The City of San Diego.

3. through 5. (No changes).

**SEC. 101.0502 ZONE VARIANCE OR OTHER PERMITS GRANTED BY THE ZONING ADMINISTRATOR**

A. (No changes.)

B. HEARING BEFORE THE ZONING ADMINISTRATOR - PROCEDURE

1. and 2. (No changes.)

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 procedures set forth in Section 101.0220.

4. Upon the date set for the hearing, the Zoning Administrator shall hear the application unless cause is found on that date to 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, an option provided for in paragraph B.1. of this section, the Zoning Administrator shall render the decision upon the completion of the investigation of the facts, as set forth in the application and the review of the circumstances of the particular case. If a public hearing is held, the decision shall be rendered at the conclusion of the hearing.

2.a. through c. (No changes.)

d. The granting of the variance will not adversely affect the Progress Guide and General Plan for The City of San Diego or the adopted community plan for the area.

3. through 5. (No changes.)

6. In granting a variance or other permit, the Zoning Administrator may impose conditions as deemed necessary and desirable to protect the public health, safety, and general welfare, and may impose a time limit not to exceed 36 months within which the variance or other permit must be utilized.

Failure to use the variance in the specified time period shall automatically void the variance unless an extension of time has been previously granted, as set forth in paragraph D. of this section. Usage shall be determined to have been initiated upon the occurrence of any of the following:

a. Where no construction is required: occupancy of structures and conduct of activities in conformance with activities authorized by the variance;

b. Where construction is required without subdivision of land: twenty percent or more completion of the total footings, foundations, or similar supporting structures authorized by the variance; or

c. Where subdivision of land is required: recordation of the final or parcel map.

7. (No changes.)

8. When the decision of the Zoning Administrator is not appealed as provided for in Section 101.0503, the decision shall be final upon expiration of the specified appeal period.

D. and E. (No changes.)

**SEC. 101.0503 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:

1. The applicant;
2. Any governmental body or agency;
3. Any owner of real property located within the City;
4. Any resident of the City; or
5. Any resident of property located outside the City but within 300 feet of the property for which the permit has been requested.

Such appeal shall be filed with the Zoning Administrator within ten calendar days of the decision.

**B. APPEAL PROCEDURE**

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

2. (No changes.)

3. Upon the filing of an appeal the Zoning Administrator shall set the matter for public hearing before the Board of Zoning Appeals and shall give notice of time, date and purpose of such hearing in accordance with Section 101.0220.

4. The Zoning Administrator shall transmit to the Board a copy of the 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 the decision in the case.

5. 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 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 G. of Section 101.0510 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 101.0510 or paragraph G. of Section 101.0510 of this Code, whichever is applicable.

2. (No changes.)

3. The decision of the Board of Zoning Appeals shall be final unless a request to be heard on appeal is filed in the office of the City Clerk within ten calendar days of the decision in accordance with the procedures provided in Section 101.0240.

**SEC. 101.0511 REQUIREMENTS FOR PROCESSING CONDITIONAL USE PERMITS AND RECLAMATION PLANS FOR NATURAL RESOURCES DEVELOPMENT**

A. through M. (No changes.)

**SEC. 101.0512 CONDITIONAL USE PERMIT FOR COMPANION UNITS**

A. and B. (No changes.)

C. HEARING BEFORE AND DECISION OF PLANNING COMMISSION

A noticed public hearing shall be conducted by the Planning Commission in accordance with procedures set forth in Section 101.0510.E., and the Planning Commission shall render a decision in accordance with the provisions in Section 101.0510.G. and this Section.

D. (No changes.)

E. STANDARD CONDITIONS

In addition to those conditions which may be imposed by the Planning Commission in accordance with the provisions of Section 101.0510.G.5., the following Standard Conditions shall be made a part of each Conditional Use Permit approved for a companion unit:

1. through 7. (No changes.)

F. APPEAL OF DECISION OF THE PLANNING COMMISSION

An appeal from the decision of the Planning Commission may be made in accordance with the provisions of Section 101.0510.H.

G. (No changes.)

H. EXCLUSION OF COMPANION UNITS IN COASTAL ZONE

Notwithstanding the provisions of Section 101.0512 to the contrary, no building or addition to a building shall be constructed, nor shall a building be converted for purposes of developing a companion unit within the Coastal Zone of The City of San Diego. For purposes of this section, Coastal Zone shall mean that land and water area of The City of San Diego extending seaward to the outer limits of City jurisdiction, extending inland to the right-of-way of Interstate 5 on July 1, 1983, extending northward to the northern City limits and extending southward to San Diego Bay, Laurel Street and the southwesterly extension of Laurel Street to San Diego Bay.

**SEC. 101.0513 CONDITIONAL USE PERMIT FOR TREATMENT AND COUNSELING OFFICES FOR SEX OFFENDERS**

A. through C. (No changes.)

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 ten days after the Commission's decision. The procedure shall be in accordance with Section 101.0510.H.



E. and F. (No changes.)

**SEC. 101.0514 CONDITIONAL USE PERMIT FOR MOVED BUILDINGS**

A. (No changes.)

B. MOVED BUILDINGS DEFINED

A moved building is defined as any building which was previously constructed, used and/or occupied on a lot other than the lot on which the building is placed. Excepted from this definition are mobilehomes and manufactured housing certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.) on a permanent foundation system pursuant to Section 18551 of the Health and Safety Code.

C. APPLICATION - FORM AND CONTENT (No changes to text.)

D. HEARING BEFORE AND DECISION OF ZONING ADMINISTRATOR

A noticed public hearing shall be conducted by the Zoning Administrator in accordance with the procedure set forth in SEC 101.0510.E., and the Zoning Administrator shall render a decision in accordance with the provisions in this Section.

E. FINDINGS (No changes to text.)

F. APPEAL PROCEDURE, PERMIT AMENDMENTS AND EXTENSIONS OF TIME

All procedures pertaining to the amendment of Conditional Use Permits, extensions of time for Conditional Use Permits and the appeal of actions of the Zoning Administrator and the Board of Zoning Appeals shall be as indicated in Section 101.0510. However, the findings for any appeal shall be limited to those provided for in this Section.

**SEC. 101.0550 SIDEWALK CAFES**

A. through E. (No changes.)

F. APPEAL FROM THE DECISION OF THE PLANNING DIRECTOR

In the event that anyone is dissatisfied with any discretionary decision of the Planning Director, regarding the issuance of a Sidewalk Cafe Permit, an appeal as provided for herein may be directed to the Committee of the City Council having jurisdiction over such matters by filing a notice with the City Clerk within ten calendar days following such action. Appeals shall be filed in writing with and on forms provided by the City Clerk. Such appeals shall state the nature and basis of

the appeal. The City Clerk shall immediately transmit a copy of the appeal to the Committee Consultant who shall place the matter on the Committee docket for a hearing.

At the hearing, the Committee shall hear testimony of the appellant or any other persons desiring to be heard. Upon the conclusion of the hearing, unless the Committee and the appellant mutually agree that additional time is needed for further consideration, the Committee shall, within seven calendar days, declare its finding based on the testimony and documents placed before it. The Committee may sustain, modify, or reject, the recommendations of the Planning Director and may make such findings as are not inconsistent with state or local laws. The action of the Committee shall be final unless a hearing is set before the City Council pursuant to Section 22.0101, Rule 4, of this Code.

G. through I. (No changes.)

#### SEC. 101.0560 PUSH CART ORDINANCE

A. through F. (No changes.)

#### G. APPEAL FROM THE DECISION OF THE PLANNING DIRECTOR OR CITY ENGINEER

In the event that anyone is dissatisfied with any discretionary decision of the City Engineer or Planning Director, regarding the issuance of a Pushcart Permit, an appeal as provided for herein may be directed to the Committee of the City Council having jurisdiction over such matters by filing a notice thereof with the City Clerk within ten calendar days following such action. Appeals shall be filed in writing with and on forms provided by the City Clerk. Such appeals shall state the nature and basis of the appeal. The City Clerk shall immediately transmit a copy of the appeal to the Committee Consultant who shall place the matter on the Committee docket.

At the hearing, the Committee shall hear testimony of the appellant or any other persons desiring to be heard. Upon the conclusion of the hearing, unless the Committee and the appellant mutually agree that additional time is needed for further consideration, the Committee shall, within seven calendar days, declare its finding based on the testimony and documents placed before it. The Committee may sustain, modify or reject, the recommendations or the rulings of The City Engineer or Planning Director and may make such findings as are not inconsistent with state or local laws. The action of the Committee shall be final unless a hearing is set before the City Council pursuant to Section 22.0101, Rule 4, of this Code.

H. (No changes.)

Section 3. That Chapter X, Article 1, Divisions 2 and 5, of the San Diego Municipal Code be and the same is hereby amended by adding Sections 101.0250 and 101.0510, to read as follows:

**SEC. 101.0250 APPEAL PERIODS - PROCEDURE**

Appeals from the actions of the Decisionmaker on any discretionary permit or variance provided for in Chapter X of this Code shall be filed within a time frame designated as the appeal period. The length of each appeal period shall be established by the relevant section of this Code. All appeal periods shall be subject to the following:

a. Appeal periods shall be counted in consecutive calendar days, including Saturdays, Sundays and holidays;

b. The first day of any appeal period shall be the day following the day in which the Decisionmaker took action;

c. An appeal must be filed by 5:00 p.m. of the last day of the appeal period unless the last day is not a business day for The City of San Diego, in which case the appeal period shall automatically be extended to 5:00 p.m. of the next business day.

d. The filing of an appeal automatically stays all proceedings in a matter until a determination is made by the appellate Decisionmaker.

**SEC. 101.0510 CONDITIONAL USE PERMIT**

**A. PURPOSE AND INTENT**

Certain classes of land use are not permitted by right in some or all zones of the City, but are nevertheless recognized as being desirable to the full function of the City under appropriate circumstances. It is the purpose of the Conditional Use Permit regulations to provide a means whereby proposals for such land uses may be examined on a case by case basis to determine whether, and under what conditions, these uses may be approved at a given site.

It is intended that when these classes of land use are approved, each proposal will be developed so as to fully protect the health, safety, and general welfare of all persons who live or work in the area. It is further intended that proposals developed under a Conditional Use Permit will incorporate the highest standards in site planning, architecture, environmental protection, and sensitivity to the neighborhood character.

It is intended that in exchange for the development and land use privileges extended under a Conditional Use Permit, the permittee will agree to abide by all conditions which the City may require. It is intended that both these privileges and conditions shall constitute a covenant which runs with the lands, and in addition to binding the permittee shall likewise bind each successor in interest.

This section identifies those classes of land use for which a Conditional Use Permit may be granted and establishes the legal framework for the administration of permits.

#### B. DECISIONMAKER

Conditional Use Permits may be granted by the following Decisionmakers: Zoning Administrator, Planning Director, Planning Commission, and City Council. In addition, Conditional Use Permits may be granted by the following Appeal Bodies, acting as provided herein as appellate Decisionmakers: Board of Zoning Appeals, Planning Commission, and City Council.

#### C. USES WHICH MAY BE CONSIDERED

##### 1. Zoning Administrator as Decisionmaker:

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 below:

a. Churches, temples or buildings of a permanent nature, used primarily for religious purposes.

b. Commercial uses associated with agriculture in areas designated "future urbanizing," including, but not limited to: nurseries, agricultural sales and services, animal sales and service (including hay, feed and tack), equestrian-related sales and services.

c. Community identification signs. (The permit may be granted by the Sign Code Administrator.)

d. Electric distribution, gas regulating, and communications switching stations not involving aerial transmissions, which serve the immediate area, provided all equipment is located within a building.

e. Guest quarters in any single-family residential zone.

f. Impound storage yards, provided they are located in the CA-RR or any less restrictive commercial zone.

- g. Lights for illuminating tennis courts and similar lighting.
- h. Mobile homes for use by watchmen in any zone.
- i. Moved buildings pursuant to Section 101.0514.
- j. Nursery and elementary schools, and day care facilities serving children.
- k. Outdoor storage and display of new, unregistered motor vehicles.
- l. Parking facilities.
- m. Private clubs, lodges and fraternal organizations except fraternities and sororities.
- n. Residential care facilities for not more than twelve aged, mentally disordered, or otherwise disabled or dependent persons, or for persons in rehabilitation programs, in any zone which otherwise permits residential use.
- o. Rotating and revolving signs pursuant to Section 101.1117.1. (The permit may be granted by the Sign Code Administrator.)
- p. Solar systems for individual or joint use where otherwise not permitted.
- q. Tandem parking for assigned employee parking spaces or valet parking associated with restaurant use, pursuant to Section 101.0821.
- r. Teaching of the fine arts including, but not limited to music, drawing, painting, sculpture, drama and dancing.
- s. Theater marquee signs pursuant to Section 101.1118.1. (The permit may be granted by the Sign Code Administrator.)
- t. Veterinary clinics and hospitals in any commercial industrial or agricultural zone.
- u. Joint parking, in the coastal zone only, pursuant to Section 101.0822.

v. Common parking, in the Coastal Zone only, pursuant to Section 101.0823.

2. Planning Director as Decisionmaker:

The Planning Director shall have the authority under conditions herein provided to authorize by Conditional Use Permit the following uses in any zone, including interim zones, except as otherwise provided below:

a. Automobile service stations in any zone except the R-1 Zones, subject to the locational criteria and developmental and operational standards contained within the document entitled "Guidelines for Automobile Service Stations" as adopted by resolution of the City Council.

b. Housing for the elderly and/or the handicapped in any residential or commercial zone, subject to the standards contained within the document entitled "Locational Criteria Design and Development Standards and Guidelines for Senior Citizen Housing Projects," as adopted by resolution of the City Council.

3. Planning Commission as Decisionmaker:

The Planning Commission shall have the authority under conditions herein provided to authorize by Conditional Use Permit the following uses in any zone, including interim zones, except as otherwise provided below:

a. Boarding kennels for dogs or cats in any agricultural, industrial or commercial zone.

b. Buildings, structures, and uses operated by a public utility or by a public body having the power of eminent domain.

c. Companion units in R-1 Zones, subject to the requirements of Section 101.0512 and when not located within the Coastal Zone.

d. Educational institutions, except nursery and elementary schools.

e. Establishments or enterprises involving large assemblages of people or automobiles, including, but not limited to:

(1) Open air theaters.

(2) Recreational facilities privately operated.

(3) Theaters, nightclubs or bars, with or without live entertainment, and/or any combination thereof which exceeds 5,000 square feet in gross floor area. A Conditional Use Permit will be considered only if the zone in which the property is located permits similar uses under 5,000 square feet and provided that off-street parking is provided as follows: one parking space for each three fixed seats or one parking space for each 21 square feet of floor area where there are no fixed seats.

f. Fraternity houses, sorority houses and student dormitories provided that such use is within an area designated for such use in the applicable community plan or, if no such area is designated, is within one mile of the exterior boundaries of the campus of a major institution of higher learning and is in the R-1000, R-600, R-400 or R-200 Zones.

g. 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.

h. Golf courses, golf practice driving tees or ranges, pitch-and-putt golf courses, and miniature golf courses.

i. Hospital, intermediate care facilities and nursing homes.

j. Natural resources development and utilization including, but not limited to:

(1) Extracting, processing, storing, selling and distributing of sand, gravel, rock, clay, decomposed granite, and soil; and

(2) Manufacturing, producing, processing, storing, selling and distributing of asphaltic concrete, Portland cement concrete, concrete products, and clay products.

Those activities, defined in Section 2735 of the California Surface Mining and Reclamation Act of 1975 as surface mining operations, shall comply with the requirements of Section 101.0511, including a requirement for a reclamation plan for activities conducted subsequent to January 1, 1976.

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

1. Research, development and testing laboratories and facilities.

m. Residential care facilities for more than twelve aged, mentally disordered, or otherwise disabled or dependent persons, or for persons in rehabilitation programs, in any zone which otherwise permits residential use.

n. Residential, commercial, industrial or institutional uses in and on historical sites.

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

p. Within the Coastal Zone only, marine-related uses (including boat building, maintenance, servicing, repair, and storage; diving, salvage, and underwater maintenance; marine carpentry and woodworking; sailmaking and repair) in any commercial zone except the CO and CN Zones.

4. City Council as Decisionmaker:

The City Council shall have the authority, under conditions herein provided, to authorize by Conditional Use Permit the following uses in any zone including interim zones except as otherwise provided below:

a. Airports and permanent helicopter facilities, subject to the standards contained within the document entitled "Locational Criteria and Development Standards for Helicopter Facilities," as adopted by resolution of the City Council.

b. Amusement parks.

c. Cemeteries, mausoleums and crematories.

d. Fairgrounds.

e. Newspaper publishing plants.

f. Race tracks.

g. Major stationary facilities for the aerial transmission or relay of electromagnetic communications signals, including, but not limited to, radio or television transmission stations and broadcasting studios, microwave relay stations, paging broadcast facilities, and cellular mobile telephone transmitting facilities.



h. Camping parks, together with incidental facilities for convenience of occupants, in the following zones:

- (1) Any commercial zone;
- (2) Any industrial zone, except the SR (Scientific Research) Zone;
- (3) Any agricultural zone; and
- (4) The FW (Floodway) Zone.

5. In addition to the land uses specified in this paragraph, various other land uses may be authorized within planned districts only under Conditional Use Permit. For a list of such uses refer to the individual planned district regulations, as set forth in Chapter X, Article 3, Division 1, et seq., of this Code.

#### D. APPLICATION - FORM AND CONTENTS

Application for any Conditional Use Permit referred to in this section may be made by the owner of the property affected. Application shall be filed with the Planning Department upon forms provided by it. 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.

#### E. NOTICING PROCEDURE

1. The Decisionmaker 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 Section 101.0220.

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

#### F. RECOMMENDATION OF PLANNING COMMISSION TO CITY COUNCIL

1. Prior to any hearing before City Council for uses set forth in paragraph C.4., City Council as Decisionmaker, the Planning Commission, shall hold a public hearing, noticed and conducted as set forth in paragraphs E. and G. of this section, for the purpose of formulating a recommendation to the City Council on the proposed conditional use.

2. A copy of the resolution setting forth the recommendation 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, date, place and purpose of such hearing in accordance with Section 101.0220.

G. ACTION OF THE DECISIONMAKER

1. The Decisionmaker 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 Decisionmaker.

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

a. The proposed use will not adversely affect the neighborhood, the General Plan, or the Community Plan, and, if conducted in conformity with the conditions provided by the permit, will not be detrimental to the health, safety and general welfare of persons residing or working in the area; and

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

3. If the Decisionmaker, after considering the facts presented on the application and at the hearing, is unable to make the two findings set forth in paragraph G.2. of this section, it shall, by resolution, deny the permit.

4. The resolution granting or denying the Conditional Use Permit shall include a finding of facts showing wherein the conditional use shall fulfill or fail to fulfill the requirements set forth in paragraph G.2. 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.

5. In granting a Conditional Use Permit, the Decisionmaker 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, floor area ratio and

off-street parking may be increased or decreased. If deemed appropriate the Decisionmaker may assign an expiration date to the permit.

#### H. APPEALS

1. An appeal from the decision of the Zoning Administrator, Planning Director, or Planning Commission granting, denying, or rescinding any Conditional Use Permit may be taken to an Appeal Body as set forth herein if filed within ten calendar days of the decision. Appeals may be filed by:

- a. The applicant;
- b. Any governmental body or agency;
- c. Any owner of real property located within the City;
- d. Any person who resides in the City; or
- e. Any person who resides outside the City, but within 300 feet of the property for which the permit has been requested.

2. Appeals shall be filed as follows:

a. Appeals from the decision of the Zoning Administrator are made to the Board of Zoning Appeals and filed in duplicate with the Zoning Administrator on forms provided by that office.

b. Appeals from the decision of the Planning Director are made to the Planning Commission and filed in duplicate with the Planning Department on forms provided by that office.

c. Appeals from the decision of the Planning Commission are made to the City Council and filed in duplicate with the City Clerk on forms provided by that office.

d. Actions of the City Council are final.

3. The appeal shall specify wherein there was error in the action of the Decisionmaker.

4. If an appeal is filed within the time specified, it automatically stays proceedings in the matter until determination is made by the Appeal Body.

5. Upon filing the appeal with the designated office, the matter shall be set for public hearing, noticed pursuant to Section 101.0220.

6. Upon the hearing of such appeal, the Appeal Body may affirm, reverse, or modify in whole or in part any determination of the Decisionmaker subject to the same limitations as are placed upon the Decisionmaker by this Code.

7. The resolution shall contain a finding of fact showing wherein the proposed Conditional Use Permit meets or fails to meet the requirements set forth in paragraph G.2. of this section.

8. The appellate decision of the City Council shall be final. The appellate decision of the Planning Commission or Board of Zoning Appeals shall be final unless, within ten calendar days of the decision, the matter is further appealed to the City Council, pursuant to Section 101.0240.

9. The resolution of the ultimate Appeal Body affirming, reversing, or modifying the actions of lower Decisionmakers 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.

#### I. AMENDMENT TO PERMIT

1. The Decisionmaker may, by resolution, grant an amendment to a valid Conditional Use Permit.

2. The procedures for making application, for the action of the Decisionmaker, and for an appeal shall be as set forth in this section.

#### J. TIME LIMIT ON INITIATION OF CONDITIONAL USE

1. The land uses and privileges authorized in any Conditional Use Permit, granted by the City as provided by this section, shall be utilized not later than 36 months after the effective date of the permit.

2. Failure to initiate use of the Conditional Use Permit within the 36 month period shall automatically void the permit unless an extension of time has been previously granted, as set forth in paragraph K. of this section.

3. Usage shall be determined to have been initiated upon the occurrence of any of the following:

a. Where no construction is required: occupancy of structures and conduct of activities in conformance with activities authorized by the Conditional Use Permit;

b. Where construction is required without subdivision of land: twenty percent or more completion of the total footings, foundations, or similar supporting structures authorized by the Conditional Use Permit; or

c. Where subdivision of land is required: recordation of the final or parcel map.

In large projects the permit may expressly authorize two or more phases of implementation, in which instance the time limits and conditions set forth in this paragraph may be determined separately for each phase or as determined in the permit.

#### K. EXTENSION OF TIME

1. The Decisionmaker may, by resolution, grant an extension to either (a) the 36-month period to initiate usage of the permit or (b) the expiration date of the permit, if any, for any 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 as set forth in paragraph D. The Decisionmaker shall give notice and conduct a public hearing on such application as set forth in paragraphs E. and G. of this section.

3. An appeal from the action of the Decisionmaker in granting or denying an extension of time may be made in the same manner as provided in paragraph H. of this section.

#### L. RESCISSION OF PERMIT BY APPLICANT PRIOR TO INITIATION OF USE.

1. A valid Conditional Use Permit granted by the City of San Diego may be rescinded by the owner of the subject property at any time prior to the initiation of usage set forth in paragraph J. of this section.

2. Such rescission shall be initiated upon receipt by the Planning Department of a written communication from the owner of the subject property to the Planning Director or Zoning Administrator as appropriate.

3. Upon receipt of the request the Planning Director or Zoning Administrator shall cause preparation of a written declaration rescinding the Conditional Use Permit. The declaration shall be filed with the City Clerk, the Planning Director, the Zoning Administrator, the Director of Building

Inspector and the County Recorder of San Diego County. A copy of the declaration shall be mailed to the owner of the subject property. The permit shall become void when the declaration is recorded by the County Recorder or 120 days after the Planning Department receives the written request, whichever occurs later.

M. OPERATIONAL PARAMETERS

1. In the interim between the effective date of the permit and the initiation of the Conditional Use Permit as set forth in paragraph J. of this section, existing uses and structures that conform to the underlying zoning, or are otherwise authorized by this Code, may be continued.

2. Following the initiation of a Conditional Use Permit as set forth in paragraph J. of this section, the subject property shall not be used for any purpose other than that authorized by the permit. Unless expressly authorized by the permit, preexisting uses and structures shall be terminated or removed, respectively. Any change in use requires a new or amended Conditional Use Permit to be obtained.

3. Neither construction nor any activity authorized by the Conditional Use Permit shall be undertaken on the premises until:

a. The permittee and property owner, if the owner is not the permittee, shall sign and return a copy of the permit to the Planning Department, and

b. The Conditional Use Permit is recorded in the office of the County Recorder of San Diego County.

By signing the permit, the permittee/owner shall acknowledge that he/she has read, understands, and agrees to all provisions and conditions of the permit.

4. Where the facilities and uses authorized by the Conditional Use Permit are operated or managed by parties other than the permittee, the permittee shall be responsible to assure that each such manager or operator, or each successor manager or operator, is fully knowledgeable of all provisions and conditions of the permit. A copy of the permit, together with any amendments, shall be posted on the premises, unless such premises consists of a single household dwelling, and shall be available for viewing by any person who may desire to see the permit.

N. FAILURE TO CONFORM OR COMPLY WITH CONDITIONS

1. Upon recommendation the Decisionmaker set forth in paragraph C. shall consider the rescission of a Conditional

Use Permit, in accordance with the provisions of this paragraph, for uses which are within such Decisionmaker's jurisdiction. Recommendations may be made by the Zoning Administrator for permits granted by the Zoning Administrator and Board of Zoning Appeals. Recommendations may be made by the Planning Director for permits granted by the Planning Director, Planning Commission and City Council.

2. Rescission may be considered by Decisionmakers for permitted uses as set forth in paragraph C. of this section at a public hearing, noticed as set forth in Section 101.0220 following the procedures of this section.

3. A Decisionmaker may rescind a Conditional Use Permit if from the facts presented at the public hearing it finds any one or more of the following grounds:

a. That the permit approval was obtained by fraud;

b. That the uses and privileges authorized by the permit have not been initiated within the 36 months specified in paragraph J. and no extension of time has been granted;

c. That the permit is being or has been exercised contrary to the conditions of said permit, or in violation of any applicable licenses, permits, regulations or laws;

d. That the use for which the permit was obtained is being or has been exercised so as to be detrimental to the public health, safety, or general welfare or so as to constitute a public nuisance; or

e. That the property or any structure thereon subject to the permit has been abandoned or the use authorized by the permit has ceased for a period exceeding 12 months and no amendment has been granted for a longer time.

4. If any of the grounds specified in the preceding paragraph are found to exist, the Decisionmaker may direct that a notice of rescission be prepared and filed as set forth in paragraph L.3. Upon recordation of the declaration with the County Recorder, the permit shall be void. Uses and structures not in conformance with the underlying zone or planned district shall be brought into compliance.

5. In lieu of rescinding the permit the Decisionmaker may:

a. Let the permit stand;

- b. Modify or delete any condition; or
- c. Establish new conditions.

If the permit is changed, a new copy shall be filed with the Planning Director, Zoning Administrator, Director of Building Inspection, and the County Recorder of San Diego County.

6. The action of the Decisionmaker shall be final unless within ten calendar days of the decision the matter is appealed to an Appeal Body as set forth in paragraph H.

O. RESCISSION OF PERMIT BY APPLICANT FOLLOWING ESTABLISHMENT OF USE

1. Following the establishment of uses authorized by a valid Conditional Use Permit, the owner of the subject property may request the rescission of the permit.

2. The rescission shall be initiated upon receipt by the Planning Department of a written communication from the owner of the subject property to the Planning Director or Zoning Administrator, as appropriate.

3. Upon receipt of the request for rescission the Zoning Administrator or the administrator of the planned district in which the subject property is located, shall initiate an investigation and determine in what ways, if any, the premises fail to conform to the provisions of the zone or planned district in which the premises are located. If the premises fail in any way to conform with the zone or district, the Zoning Administrator or district administrator shall prepare a list of particulars. A copy of the list shall be provided to the permittee, together with a statement that after the permit becomes void, nonconformance with the provisions of the zone or district constitutes a public nuisance subject to the provisions of Section 101.0213, Zoning Violation Abatement Program.

4. Once the Zoning Administrator or planned district administrator has provided the permittee with the list of nonconformities the Planning Director or Zoning Administrator, as appropriate, shall cause the preparation and filing of a declaration rescinding the permit, as set forth in paragraph L.3. Upon recordation of the declaration with the County Recorder, the permit shall be void. If appropriate, the City shall actively pursue any zoning or planned district nonconformance.



P. RESTRICTION ON REAPPLICATION FOR A CONDITIONAL USE PERMIT

Unless a waiver of this section is granted by the City Council, no application for a Conditional Use Permit on the same property or essentially the same property, for the same or essentially the same use which has been denied by the City shall be accepted within twelve months of such denial.

Q. COASTAL ZONE REGULATIONS

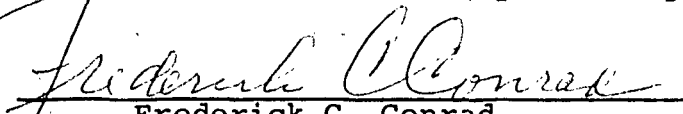
Within the Coastal Zone, the following regulations shall be supplementary to and in the event of conflict shall supersede the regulations set forth or referenced in preceding paragraphs of the section.

Uses Which May be Considered (see paragraph C.): Any use included in paragraph C. provided that where such uses are proposed to be located within the SCR Overlay Zone, the HR Overlay Zone, the FW Zone or the FPF Overlay Zone, such uses shall be consistent with the uses permitted under such zones and shall be subject to all applicable regulations and restrictions.

Section 4. 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:cc:600  
06/17/86  
07/08/86 Rev. 1  
Or.Dept:Plan.  
O-86-212  
(Prep.Plan.)

JUN 23 1986

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

Councilmen	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<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"/>
Judy McCarty	<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	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

VACANT

AUTHENTICATED BY:

ED STRUIKSMA

Deputy Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *June G. Blackwell*, 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

JUN 10 1986

JUN 23 1986

~~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 *June G. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16671 Adopted JUN 23 1986

RECEIVED  
CITY CLERK

1986 JUN 20 PM 4: 23 *pls*  
SAN DIEGO, CALIF.

00774

00774

CERTIFICATE OF PUBLICATION

CITY OF SAN DIEGO  
202 C STREET  
SAN DIEGO, CA 92101

IN THE MATTER OF  
AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION  
2 AND 5 OF THE SAN DIEGO MUNICIPAL CODE

NO.

Thomas D. Kelleher

I, \_\_\_\_\_, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

**ORDINANCE NUMBER O-16671 (NEW SERIES)**

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISIONS 2 AND 5 OF THE SAN DIEGO MUNICIPAL CODE BY REPEALING SECTIONS 101.0503, 101.0506, 101.0506.5, 101.0506.8, 101.0507, 101.0508, 101.0509 AND 101.0511; BY RENUMBERING AND AMENDING SECTIONS 101.0220, 101.0240, 101.0245, 101.0500, 101.0502, 101.0503, 101.0511, 101.0512, 101.0513, 101.0514, 101.0550 AND 101.0550; AND BY ADDING SECTIONS 101.0250 AND 101.0510, RELATING TO THE ESTABLISHMENT OF A PLANNING DIRECTOR, CONDITIONAL USE PERMIT PROCEDURE AND SUBSEQUENT ADMINISTRATIVE CHANGES.

The ordinance revises the procedures for considering conditional use permits and reorganizes and rennumbers the sections relating thereto.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on JUN 10 1986.  
Passed and adopted by the Council of The City of San Diego on JUN 23 1986.

AUTHENTICATED BY: ED STRUIKSMAN,  
Deputy Mayor of The City of San Diego, California.  
CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(SEAL)  
By JUNE A. BLACKNELL, Deputy.  
Pub. July 21

64892

ORDINANCE NUMBER O-16671

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

July 21

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 21 day of July, 19 86.

*Thomas D Kelleher*

(Signature)

00775

$2 \frac{5}{8} \times 2 \times 9.76 = \$ 51.24$