

ORDINANCE NUMBER O- 16931 (NEW SERIES)

ADOPTED ON SEP 8 1987

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 101.0510 (PLANNING AND ZONING REGULATIONS) ESTABLISHING A CONDITIONAL USE PERMIT PROCESS FOR HAZARDOUS WASTE FACILITIES AND FOR HAZARDOUS WASTE TREATMENT RESEARCH, DEVELOPMENT, AND DEMONSTRATION FACILITIES; AND ADDING SECTION 101.0516, ESTABLISHING REQUIREMENTS FOR PROCESSING SUCH CONDITIONAL USE PERMITS.

WHEREAS, the Planning and Zoning Regulations of The City of San Diego do not provide for hazardous waste facilities or for hazardous waste treatment research, development, and demonstration facilities as uses permitted by right within any zoning district in the City; and

WHEREAS, the City Council intends that such facilities and uses may be allowed under a conditional use permit as herein provided; NOW, THEREFORE,

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

Section 1. That Chapter X, Article 1, of the San Diego Municipal Code be and the same is hereby amended by amending Section 101.0510, by adding thereto the following:

SEC. 101.0510 CONDITIONAL USE PERMIT

No changes in subsections A. through C.4.h.

i. Any hazardous waste facility project, as defined in Section 101.0516, in any manufacturing

or agricultural zone; subject to the additional provisions in Section 101.0516.

j. Any facility, activity, or use of property in the scientific research (SR) Zone which is required by federal law to obtain a Research, Development and Demonstration Permit for Hazardous Waste Treatment from the Environmental Protection Agency or any other agency of the United States Government pursuant to the Federal Resource Conservation and Recovery Act.

No changes in subsection C.5. through subsection Q.

Section 2. That Chapter X, Article 1, of the San Diego Municipal Code be and the same is hereby amended by adding Section 101.0516, as follows:

SEC. 101.0516 REQUIREMENTS FOR PROCESSING  
CONDITIONAL USE PERMITS FOR  
HAZARDOUS WASTE FACILITIES.

A. APPLICABILITY

Any conditional use permit granted pursuant to Section 101.0510 C.4.i. shall comply with the applicable provisions of this section which are supplementary to and in the event of conflict shall supersede the regulations set forth in Section 101.0510. Subsections C., D., E., F., G., H. and J. of this section shall apply only to specified hazardous waste facility projects, as herein defined.

B. DEFINITIONS

Unless the context otherwise requires, the following definitions govern the construction of this section:

1. "Hazardous waste" shall mean a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may either:

a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

b. Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

Unless expressly provided otherwise, the term "hazardous waste" shall be understood to also include extremely hazardous waste.

2. "Hazardous waste facility" shall mean any structure, other appurtenances, and improvements on the land, and all contiguous land, used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste.

3. "Hazardous waste facility project" shall mean a project undertaken for the purpose of siting and constructing a new hazardous waste facility or

for the purpose of significantly expanding or modifying an existing hazardous waste facility that is being used or operated under a permit issued pursuant to Section 25200 of the California Health and Safety Code or a grant of interim status pursuant to Section 25200.5 of that code. Unless expressly provided otherwise, "hazardous waste facility project" includes a specified hazardous waste facility project.

4. "Land use decision" shall mean a discretionary decision of a local agency concerning a hazardous waste facility project, including the issuance of a land use permit or a conditional use permit, the granting of a variance, the subdivision of property, and the modification of existing property lines pursuant to Title 7 (commencing with Section 65000) of the California Government Code.

5. "Significantly expand or modify" shall mean to expand or modify an existing hazardous waste facility, including a specified hazardous waste facility, in a manner so that a land use decision and an environmental impact report are required.

6. "Specified hazardous waste facility" shall mean an off-site facility which serves more than one producer of hazardous waste.

7. "Specified hazardous waste facility project" shall mean a project undertaken for the purpose of siting and constructing a new specified hazardous waste facility or for the purpose of significantly expanding or modifying an existing specified hazardous waste facility that is being used or operated under a permit issued pursuant to Section 25200 of the California Health and Safety Code or a grant of interim status pursuant to Section 25200.5 of that code.

C. NOTICE OF INTENT TO APPLY

1. At least ninety (90) days before filing an application for a conditional use permit, the applicant shall file with the Planning Department and with the Office of Permit Assistance in the State Office of Planning and Research a notice of intent to make the application.

2. The notice of intent shall contain a complete description of the nature, function, and scope of the project.

3. The Planning Department shall provide public notice of the applicant's intent to apply for a conditional use permit, pursuant to the noticing procedure in Section 101.0220 and by posting notices in the location where the proposed project is located. The notice shall include the date, time, and place of the public meeting described in subsection D.

4. The applicant may not file an application for a conditional use permit unless the applicant has first complied with item 1 above.

D. PUBLIC MEETING

Within ninety (90) days after a notice of intent to file an application for a conditional use permit is filed with the Planning Department and with the Office of Permit Assistance in the State Office of Planning and Research, the Office of Permit Assistance will, in cooperation with the Planning Department, convene a public meeting in The City of San Diego to inform the public on the nature, function, and scope of the proposed project and the procedures that are required for approving applications for the project.

E. LOCAL ASSESSMENT COMMITTEE

1. Within ninety (90) days after a notice of intent to file an application for a conditional use permit is filed with the Planning Department and with the Office of Permit Assistance in the State Office of Planning and Research, the City Council shall appoint a seven member local assessment committee.

2. The membership of the local assessment committee shall be broadly constituted to reflect the makeup of the City, and shall include three representatives of the City at large, two representatives of environmental or public interest

groups and two representatives of affected businesses and industries. Members of the committee shall have no direct financial interest, as defined in Section 87103 of the California Government Code, in the proposed project.

3. The local assessment committee shall, within the time period prescribed by the City Council, do all of the following:

a. Adopt rules and procedures which are necessary to perform its duties.

b. Represent generally, in negotiations with the project applicant, the interest of the residents of The City of San Diego and the interests of adjacent communities.

c. Negotiate with the project applicant on the detailed terms, provisions, and conditions for project approval which would protect the public health, safety, and welfare and the environment of The City of San Diego and adjacent communities, and would promote the fiscal welfare of The City of San Diego through special benefits and compensation.

d. Receive and expend, subject to the approval of the City Manager and authorization of the City Council, the technical assistance grants made available by the Office of Permit Assistance in the State Office of Planning and

Research to enable the local assessment committee to hire an independent consultant to assist the committee in reviewing the project and negotiating terms, provisions, and conditions with the applicant.

e. Advise the Planning Department, Planning Commission, and City Council of the terms, provisions, and conditions for project approval which have been agreed upon by the committee and the applicant, and of any additional information which the committee deems appropriate. The Planning Department, Planning Commission, and City Council may use this advice for their independent consideration of the project.

4. The City Council shall provide staff resources to assist the local assessment committee in performing its duties.

5. The local assessment committee shall cease to exist after final administrative action by state and local agencies has been taken on the permit applications for the project for which the committee was convened.

F. NOTICE OF PERMIT APPLICATION

1. The Planning Department shall notify the Office of Permit Assistance in the State Office of Planning and Research within ten (10) days after an



application for a conditional use permit is accepted as complete by the Planning Department.

2. Within sixty (60) days after receiving this notice, the Office of Permit Assistance in the State Office of Planning and Research will convene a meeting in The City of San Diego of the lead agency and responsible agencies for the project, the applicant, the local assessment committee, and the interested public, for the purpose of determining the issues which concern the agencies that are required to approve the project and the issues which concern the public. The Planning Department shall provide notice to the public of the date, time, and place of the meeting.

#### G. NEGOTIATION PROCESS

1. Following the meeting required by subsection F., the local assessment committee and the applicant shall meet and confer on the project proposal for the purpose of establishing the terms, provisions, and conditions under which the project would be acceptable to the community.

2. If the local assessment committee and the applicant cannot resolve any differences through the meetings, the Office of Permit Assistance in the State Office of Planning and Research may recommend the use of a mediator.

#### H. CONSULTANT AND MEDIATION FEES

1. Pursuant to Section 25199.7(g) of the California Health and Safety Code, the applicant shall pay a fee, established by the Office of Permit Assistance in the State Office of Planning and Research, equal to the cost of hiring independent consultants to review the project. The Office of Permit Assistance in the State Office of Planning and Research may use this money to make technical assistance grants to the local assessment committee to enable the committee to hire an independent consultant to assist the committee in reviewing the project and negotiating terms, provisions, and conditions with the applicant.

2. Pursuant to Section 25199.7(h) of the California Health and Safety Code, the applicant shall pay one-half of the costs of any mediation process which may be recommended by the Office of Permit Assistance in the State Office of Planning and Research. The remaining costs will be paid, upon appropriation by the legislature, from the State General Fund.

I. INITIAL CONSISTENCY DETERMINATION

1. At the request of the applicant, the City Council shall, within sixty (60) days after the Planning Department has determined that an application for a conditional use permit is complete and after a noticed public hearing, issue

an initial written determination on whether the proposed project is consistent with both of the following:

a. The general plan and applicable community plan and zoning ordinances in effect at the time the application was received.

b. The county hazardous waste management plan authorized by Article 3.5 (commencing with Section 25135) of the California Health and Safety Code, if such plan is in effect at the time of the application.

2. The Planning Department shall send to the applicant a copy of the written determination made pursuant to item 1 above.

3. The determination required by item 1 above does not prohibit the City Council from making a different determination when the final decision to approve or deny the conditional use permit is made, if the final determination is based on information that was not considered at the time the initial determination was made.

#### J. APPEAL OF CITY COUNCIL DECISION

The decision of the City Council regarding the approval, conditions of approval, or denial of a conditional use permit shall be final unless appealed by the applicant or an interested person to the Governor of the State of California, or the

Governor's designee, pursuant to Article 8.7  
(commencing with Section 25199) to Chapter 6.5 of  
Division 20 of the California Health and Safety  
Code within thirty (30) days after the date the  
City Council approves or denies the conditional use  
permit.

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 Thomas F. Steinke  
Thomas F. Steinke  
Deputy City Attorney

TFS:smm:ta  
08/03/87  
08/17/87 REV. 1  
Or.Dept:Plan.  
O-88-24  
Form=o.code

SEP 8 1987

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

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<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 type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Celia Ballesteros	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By *Ellen Bovard*, 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

AUG 11 1987, and on SEP 8 1987

~~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 Bovard*, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number	<u>0-16931</u> Adopted <u>SEP 8 1987</u>

RECEIVED  
CITIZEN'S SERVICE  
1987 AUG 18 AM 11:39  
SAN DIEGO, CALIF.

110011

CERTIFICATE OF PUBLICATION CITY CLERK'S OFFICE

RECEIVED

1987 SEP 25 PM 12:48

SAN DIEGO, CALIF. *PH*

CITY OF SAN DIEGO  
202 C STREET, 2ND FLOOR  
SAN DIEGO, CA 92101  
ATTN: TENA MARTIN

IN THE MATTER OF

NO.

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

**ORDINANCE NUMBER O-16931 (NEW SERIES)**

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 101.0510 (PLANNING AND ZONING REGULATIONS) ESTABLISHING A CONDITIONAL USE PERMIT PROCESS FOR HAZARDOUS WASTE FACILITIES AND FOR HAZARDOUS WASTE TREATMENT RESEARCH, DEVELOPMENT, AND DEMONSTRATION FACILITIES; AND ADDING SECTION 101.0516, ESTABLISHING REQUIREMENTS FOR PROCESSING SUCH CONDITIONAL USE PERMITS.

This ordinance amends Chapter X, Article 1, Planning and Zoning Regulations of the San Diego Municipal Code, by amending Section 101.0510 to require that a conditional use permit be obtained prior to establishing a new hazardous waste facility, or significantly expanding or modifying an existing hazardous waste facility, and by adding Section 101.0516 establishing requirements for processing conditional use permit applications for certain of such facilities.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on August 11, 1987  
Passed and adopted by the Council of The City of San Diego on September 8, 1987

AUTHENTICATED BY: MAUREEN O'CONNOR  
Mayor of The City of San Diego, California  
CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California  
By TENA MARTIN, Deputy  
Pub. September 22 88276

I, THOMAS D. KELLEHER, 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-16931 (NEW SERIES)

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:

SEPT. 22

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

Dated at San Diego, California this 22 day of SEPT., 1987

*Thomas D. Kelleher*

(Signature)

31 Lines x .98 = \$60.76  
( 27/8" x 10.78 x 2 = \$61.98 )