

(O-96-122)

ORDINANCE NUMBER O- 18277 (NEW SERIES)

ADOPTED ON APR 01 1996

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1,
DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE
BY AMENDING SECTION 101.0303 RELATING TO
CONTINUANCE OF NONCONFORMING USES AND
STRUCTURES

WHEREAS, February 12, 1996, has been declared "Regulatory Relief Day"; and

WHEREAS, one purpose of Regulatory Relief Day is to streamline and consolidate where appropriate the City's land use regulatory and environmental procedures; and

WHEREAS, the City Manager's office has reviewed San Diego Municipal Code section 101.0303 having to do with the continuance of nonconforming uses and structures and has suggested amending the code section to streamline the regulatory process; NOW, THEREFORE,

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

Section 1. That Chapter X, Article 1, Division 3, of the San Diego Municipal Code be and the same is hereby amended by amending Section 101.0303, 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 two years 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 fifty percent (50%) 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(B).

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 August 13, 1984, 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 ninety (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 101.0513.

If an investigation by the Development Services Department reveals that a particular property contains a legal, nonconforming use or structure, a "Notice of Nonconforming Rights," may be recorded in the County Recorder's office. This notice is designed to provide constructive notice to any successors in interest that nonconforming rights as to the property or structures existed at the time of the recordation of notice. Nothing in this notice shall permit the continuation of a nonconforming use or structure that was subsequently expanded, enlarged, abandoned or destroyed which extinguishes the previous nonconforming right.

If a subsequent investigation reveals that a previous nonconforming right as to the property's use or structure has been lost, a cancellation of the Notice of Nonconforming Rights shall be recorded.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage, however, the provisions of this ordinance shall not be applicable within the Coastal Zone until the thirtieth day following the date the California Coastal Commission unconditionally certifies this ordinance as a local coastal program amendment. If this ordinance is not certified, or is certified with suggested

modifications by the California Coastal Commission, the provisions of this ordinance shall be null and void within the Coastal Zone.

APPROVED: JOHN W. WITT, City Attorney

By Prescilla Dugard
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Deputy City Attorney

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Or.Dept:Dev.Svcs.
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