

ORDINANCE NO. 9671 (N.S.)

AN ORDINANCE AMENDING CHAPTER 1 OF DIVISION 6 OF TITLE 8 OF THE SAN DIEGO COUNTY CODE TO EXEMPT CERTAIN PROJECTS FROM THE COASTAL SAGE SCRUB HABITAT LOSS PERMIT PROCESS  
REF: POD 04-06

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that the purpose of this ordinance is to amend the San Diego County Code to exempt projects that have a minor impact on Coastal sage scrub and projects that have already received authorization for incidental take under the Federal Endangered Species Act from the requirement for a Habitat Loss Permit. The ordinance amendment will provide reasonable exemptions from the Habitat Loss Permit process for projects that will not contribute to the long-term conservation goals of the State of California Natural Communities Conservation Planning Program or have already completed the Federal Endangered Species Act permitting process, and is consistent with the State of California Natural Communities Conservation Planning Program Conservation Guidelines and Process Guidelines.

Section 2. Section 86.105 of the San Diego County Code is hereby amended to read as follows:

Section 86.105. Exemptions.

Notwithstanding Section 86.102, no Habitat Loss Permit shall be required for:

(a) Any project for which it is determined by the Board of Supervisors that application of this Ordinance would result in the applicant being deprived of all reasonable economic use of property without compensation, in violation of Federal or State Constitutional prohibitions.

(b) Any project for which the Director makes a finding with the concurrence of the U.S. Fish and Wildlife Service that:

1. A final map was approved prior to March 2, 1994 and is listed on Schedule A, attached hereto; and
2. The property is not occupied by the Coastal California gnatcatcher; and
3. Issuance of the permit referenced in Section 86.102 pursuant to the final or parcel map will not preclude the development of preserves in the future.

(c) Any project which has been issued incidental take authorizations pursuant to Section 7 or Section 10(a) of the Federal Endangered Species Act, 16 U.S.C. Section 1531 et seq.

(d) Any project located within the Multiple Species Conservation Plan Program Subarea, adopted by the Board of Supervisors on October 22, 1997, as shown on the Boundary Map attached hereto as Exhibit A.

(e) Any project which qualifies for the de minimus exemption as set forth in the direction from the U.S. Fish and Wildlife Service and the California Department of Fish and Game letter dated March 17, 2004.

Section 3. This ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the Daily Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED this 14th day of July, 2004.