

ORDINANCE NO. 9958 (NEW SERIES)

AN ORDINANCE AMENDING THE ZONING ORDINANCE TO ADD CERTIFIED FARMERS' MARKET AS A TEMPORARY USE, MAKE MISCELLANEOUS MINOR REVISIONS TO THE DEFINITIONS AND ACCESSORY USE REGULATIONS, AND MAKE MINOR CLARIFICATIONS AND CORRECTIONS TO VARIOUS OTHER REGULATIONS.

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

Section 1. The Board of Supervisors finds that the Zoning Ordinance should be updated by amending various sections regarding certified farmers' markets, transient habitation, borrow pits, greenhouses, and Minor Deviations. In addition, the Board finds that miscellaneous sections should be amended to clarify or correct language in the sections. The Board finds that these amendments are reasonable and necessary for the public health, safety, convenience, and welfare.

Section 2. Section 1006 of the San Diego County Zoning Ordinance is amended to add subsection e. to read as follows:

1006 APPLICABILITY OF THE ZONING ORDINANCE.

[a. through d. no change.]

e. The Zoning Ordinance shall not apply to solid waste management projects undertaken by the County on County-owned land.

Section 3. Section 1110, DEFINITIONS (B), of the San Diego County Zoning Ordinance is amended to revise the definition of "Borrow Pit" to read as follows:

Borrow Pit: Premises from which soil, sand, gravel, decomposed granite or rock are removed for any purpose. For exceptions to Extractive Use Regulations see section 6557.

Section 4. Section 1110, DEFINITIONS (C), of the San Diego County Zoning Ordinance is amended to add a definition of "Certified Farmers' Market" to read as follows:

Certified Farmers' Market: A temporary marketplace, either indoors or outdoors, for the display and sale of produce and other agricultural products such as, but not limited to, fresh fruits, vegetables, nuts, honey, shell eggs, flowers, and nursery stock, for which a Certified Farmers' Market Certificate has been issued by the County Agricultural Commissioner pursuant to California Code of Regulations, Title 3, Division 3, Chapter 1, Subchapter 4, Article 6.5.

Section 5. Section 1110, DEFINITIONS (F), of the San Diego County Zoning Ordinance is amended to add a definition of "Farmers' Market, Certified" to read as follows:

Farmers' Market, Certified: See "Certified Farmers' Market."

Section 6. Section 1110, DEFINITIONS (S), of the San Diego County Zoning Ordinance is amended to revise the definition of "Setback, Front Yard" to read as follows:

Setback, Front Yard: The setback applicable in the front yard of a building or structure. When a parcel or lot abuts a public road, the front setback shall be measured from the centerline of the public road.

Section 7. Section 1110, DEFINITIONS (T), of the San Diego County Zoning Ordinance is amended to revise the definition of "Trailer Coach" to read as follows:

Trailer Coach: Any vehicle, with or without motive power, designed or used for human occupancy for residential, recreational, industrial, professional, or commercial purposes and shall include camp car, mobilehome, and travel trailer.

Section 8. Section 1545 of the San Diego County Zoning Ordinance is amended to read as follows:

1545 TRANSIENT HABITATION.

Transient Habitation refers to establishments primarily engaged in the provision of lodging services on a less than weekly basis with incidental food, drink and other sales and services intended for the convenience of guests. The following are Transient Habitation use types:

[a. through c. no change.]

- d. Transient Habitation: Rental Units. Residences, condominiums, apartments and townhomes that are rented on a daily, weekly or monthly basis. When used in this way, a rental unit is not occupied by the owner nor is the occupant using the rental unit as his or her primary or permanent residence.

Section 9. Section 4105 of the San Diego County Zoning Ordinance is amended to read as follows:

4105 DENSITY DESIGNATOR NOTATION.

Density shall be indicated by an Arabic numeral indicating the actual maximum number of permitted dwelling units per net residential acre. Density may be expressed in decimal fraction notation, e.g. "3" and "3.5" indicating three and three and one-half dwelling units per net residential acre, respectively. A dash ("-") shall indicate that no dwelling units are allowed. This prohibition shall not apply to dwellings permitted by the Temporary Use Regulations or the Accessory Use Regulations (see sections 6156 and 6160).

Section 10. Section 5756 of the San Diego County Zoning Ordinance is amended to add "Certified Farmers' Market" to read as follows:

5756 SITE PLAN REQUIRED.

No building permit or discretionary approval pursuant to this ordinance shall be issued, nor shall any person construct or alter a building, structure, or parking area, nor shall any outdoor commercial or industrial use be established, on land subject to the Community Design Review Area Regulations until a Site Plan which conforms to the criteria established pursuant to these regulations has been submitted and approved in accordance with the Site Plan Review Procedure commencing at Section 7150. A Site Plan is not required for any of the following:

[a. through k. no change.]

I. Certified Farmers' Markets pursuant to section 6122.

Any decision by the Director to exempt a project pursuant to this section shall be final.

Section 11. Section 6102 of the San Diego County Zoning Ordinance is amended to add Certified Farmer's Markets to read as follows:

6102 IDENTIFICATION OF PERMITTED TEMPORARY USES.

The following temporary uses shall be permitted as specified by these regulations:

[a. through i. no change.]

j. Certified Farmers' Market. Temporary use of certain public or commercial property for a Certified Farmers' Market.

Section 12. Section 6122 is added to the San Diego County Zoning Ordinance to read as follows:

6122 CERTIFIED FARMERS' MARKET

A Certified Farmers' Market is allowed on a legal lot provided the following conditions are met:

- a. Location. A Certified Farmers' Market shall be located on public property, or within the C31, C32, C34, C35, C36, C37, C40 or C42 use regulations, or within the S88 use regulations and designated commercial in the Specific Plan. A Certified Farmers' Market shall not be located within a private road easement or on vacant or unimproved land.
- b. Duration. A Certified Farmers' Market shall not operate on more than one day per week.
- c. Hours of Operation. No activities, including setup, preparation, sales and close up, shall begin before 6:30 a.m. or continue after than 10:00 p.m. on Monday through Saturday. On Sunday the applicable hours shall be 7:30 a.m. and 6:00 p.m. respectively.
- d. The sales area shall not disrupt the flow of traffic onto and off of the site.
- e. The market shall have a current Certified Farmers' Market Certificate issued by the County Agricultural Commissioner and shall comply with all applicable laws, including the applicable provisions of the Food and Agricultural Code, the applicable regulations of the California Department of Food and Agriculture and the applicable ordinances of the County.

Section 13. Section 6156 of the San Diego County Zoning Ordinance is amended to read as follows:

6156 RESIDENTIAL AND AGRICULTURAL USE TYPES.

[a. through d. no change.]

- e. Greenhouse. In the RR, A70 and A72, and S92 Use Regulations, a greenhouse is allowed. In all other Residential Use Regulations and in the S88 Use Regulations where residential uses occur, a greenhouse is limited to 500 square feet unless an Administrative Permit is approved to increase the size. A greenhouse proposed in the

S88 Use Regulations shall conform to the requirements of any applicable Specific Plan. A greenhouse in any of the Use Regulations listed above shall comply with the applicable setback and Building Code requirements. The building official shall determine if a building permit is required for a greenhouse.

[f. through hh. no change.]

[zz. no change.]

Section 14. Section 6158 of the San Diego County Zoning Ordinance is amended to read as follows:

6158 CIVIC, COMMERCIAL, INDUSTRIAL, OR EXTRACTIVE USE TYPES.
Accessory structures and uses necessarily and customarily associated with, and appropriate, incidental and subordinate to the principal civic, commercial, industrial or extractive uses shall be permitted where the principal civic, commercial, industrial or extractive uses are permitted. As provided for in Section 6152, the Director shall determine whether proposed accessory uses and structures conform to the Accessory Use Regulations, and said determinations are subject to appeal pursuant to the Administrative Appeal Procedure commencing at Section 7200.

Subject to the restrictions and limitations specified, the following accessory buildings and uses shall be permitted in zones where Civic, Commercial, Industrial, or Extractive Use Types are permitted:

a. Outdoor Café Seating and Sidewalk Cafés.

1. Outdoor Café Seating. Outdoor café seating accessory to the Eating and Drinking Establishments use type is permitted in the Fallbrook Village Regulations, C32, C34, C35, C36, M50 and M52 use regulations, and outdoor café seating accessory to the Food and Beverage Retail Sales use type is permitted in the Fallbrook Village Regulations, C32, C34, C35, C36 and M50 use regulations, subject to the following conditions:

[i. through viii. no change.]

Proposed outdoor seating for an Eating and Drinking Establishment or Food and Beverage Retail Sales use type in the Fallbrook Village Regulations, C32, C34, C35, C36 or M50 use regulations or an Eating and Drinking Establishment use type in the M52 use regulations not qualifying under these provisions may apply for a Major Use Permit for an open enclosure pursuant to the Enclosure Regulations found in Section 6816.

Section 15. Section 6252 of the San Diego County Zoning Ordinance is amended to read as follows:

6252 EXEMPT ON-PREMISE SIGNS.
The following shall be exempt from these regulations and shall not require sign permits.

[a. through t. no change.]

- u. One sign up to 12 square feet in area for a permitted roadside sales stand or a boutique winery identifying and advertising agricultural products produced on the premises.

Section 16. Section 6456 of the San Diego County Zoning Ordinance is amended to read as follows:

6456 GENERAL STANDARDS.

[a. through c. no change.]

- d. Limitations. Length of occupancy of campground spaces shall be regulated as follows:
 - 1. Persons occupying vehicles with total hook-up capacity, including sewer, water and electricity, shall not occupy any campground space in a recreational vehicle park for a period exceeding 90 days in any 12 month period, nor shall the cumulative occupancy by such persons of different campground spaces anywhere in the facility exceed a total of 90 days in any 12 month period. However, a different occupancy limitation may be specified as a condition of approval of a Use Permit. If no occupancy limitation is specified in an approved Use Permit for a recreational vehicle park that was approved prior to October 20, 1995, there shall be no occupancy limitation in such a park for persons occupying vehicles with total hook-up capacity.
 - 2. Persons occupying tents or vehicles with less than total hook- up capacity shall not occupy any campground space in a recreational vehicle park for a period exceeding 30 days in any 12 month period, nor shall the cumulative occupancy by such persons of different campground spaces anywhere in the facility exceed a total of 30 days in any 12 month period.
 - 3. The recreational vehicle park manager shall reside continuously in the recreational vehicle park on a campground space or in a permanent dwelling unit. The park manager shall maintain a log of the names of persons and dates of occupancy of campground spaces. The log shall be made available to a codes enforcement officer if a question arises as to compliance with these occupancy limitations.

Section 17. Section 6514 of the San Diego County Zoning Ordinance is amended to read as follows:

6514 PRE-APPLICATION CONFERENCE.

Prior to submitting an application for a use permit for a mobilehome park, a prospective applicant should consult with the Department to obtain information and to inform the Department of the applicant's intentions. If requested by the applicant, the Department will schedule a conference to be attended by the applicant and representatives of the Departments of Planning, Public Works, Environmental Health, and other agencies as the Department considers necessary. Such a conference shall provide an opportunity to review the applicant's intended plan, and identify potential requirements or subjects requiring particular attention prior to the applicant entering into binding commitments or incurring substantial expense in preparing plans, surveys, and other data. The applicant shall provide a map showing the proposed mobilehome park site, existing topography, adjoining road rights-of-way, and public access. If such application is for a mobilehome park, to be filed pursuant to Regional Land Use Element Policy 3.8, staff shall familiarize the applicant with Board of Supervisor's Policy No. I-102, "Threshold

Decision Procedure For a Major Use Permit To Be Submitted Pursuant To Regional Land Use Element Policy 3.8."

Section 18. Section 6534 of the San Diego County Zoning Ordinance is amended to read as follows:

6534 PRE-APPLICATION CONFERENCE.

Prior to submitting an application for a use permit for a mini-mobilehome park, a prospective applicant should consult with the Department to obtain information and to inform the Department of the applicant's intentions. If requested by the applicant, the Department will schedule a conference to be attended by the applicant and representatives of the Departments of Planning, Public Works, Environmental Health, and other agencies as the Department considers necessary. Such a conference shall provide an opportunity to review the applicant's intended plan, and identify potential requirements or subjects requiring particular attention prior to the applicant entering into binding commitments or incurring substantial expense in preparing plans, surveys, or other data.

The applicant shall provide a map showing the proposed mobilehome park site, existing topography adjoining road rights-of-way, and public access. If such application is for a mobilehome park, to be filed pursuant to Regional Land Use Element Policy 3.8, staff shall familiarize the applicant with Board of Supervisor's Policy No. I-102 "Threshold Decision Procedure For a Major Use Permit To Be Submitted Pursuant To Regional Land Use Element Policy 3.8."

Section 19. Section 6557 of the San Diego County Zoning Ordinance is added to read as follows:

6557 EXCEPTIONS TO USE REGULATIONS

The Extractive Use Regulations shall not apply to the removal of soil, sand, gravel, decomposed granite or rock under any of the following circumstances:

- a. The removal is part of the grading of land done in accordance with a grading plan for a subdivision map or a division of such land created pursuant to a parcel map filed in accordance with Division 2 of Title 8 of the San Diego County Code, and the grading plan has been approved by the Director of Public Works as being reasonably necessary and incidental to the development and improvement of the premises in accordance with the final map or parcel map and the grading will be completed within one year of commencement of the grading.
- b. The removal is part of the grading of land in accordance with a grading plan to prepare a site for a building or structure for which plans have been checked and approved by the Director pursuant to Division 1 of Title 5 of the San Diego County Code, and the grading plan has been approved by the Director of Public Works or Director as being reasonably necessary and incidental to the construction of such building or structure, and the grading will be completed within one year of commencement of the grading.
- c. The removal is part of the grading of land in accordance with a grading plan to prepare a site for vehicle parking areas or similar areas, and the grading plan has been approved by the Director of Public Works or Director as being reasonably necessary and incidental to the development of the area.

- d. The removal is part of the grading of land in accordance with a grading plan approved by the Director as being reasonably necessary and incidental to the use of the premises in accordance with a use permit issued pursuant to the Zoning Ordinance.
- e. Less than 200 cubic yards will be removed.
- f. The Director of Public Works and Director concur that the proposed grading is reasonably necessary to provide material exclusively for a specific County project authorized by the Board of Supervisors. That determination shall be made only after the Director of Public Works and Director have reviewed grading plans for the site from which the material is to be removed, grading plans or public road improvement plans for the site where that material is to be placed, and any contracts or agreements executed by the County for such grading.
- g. To extract and export from a watercourse 500 or more cubic yards to repair flood damage to the watercourse in accordance with San Diego County Code, section 87.601 et seq. for which an emergency watercourse permit is issued by the Director of Public Works or the Board of Supervisors.
- h. During the grading of land to prepare a site for development pursuant to an Administrative Permit approved by the Director, provided:
 - 1. The legal lot from which the material is removed is in a commercial or industrial zone;
 - 2. The sale of any material removed is secondary to the preparation of the site;
 - 3. The on-site processing of any material to be removed is prohibited;
 - 4. The removal and grading is done in accordance with an approved grading plan; and
 - 5. The removal and grading will not have a significant detrimental effect on the site or surrounding area.

Section 20. Section 6814 of the San Diego County Zoning Ordinance is hereby amended to read as follows:

6814 EXCEPTIONS TO ENCLOSURE MATRIX.

[a. through f. no change.]

g. Exception for Certified Farmers' Market. The Certified Farmers' Market Temporary Use type is exempt from the enclosure regulations.

Section 21. Section 6903 of the San Diego County Zoning Ordinance is amended to read as follows:

6903 LOT LINE LOCATIONS

Lot lines shall not be relocated so as to do any of the following:

[a. through l. no change]

- m. Include all or any portion of a lot that was created without a parcel map under Government Code Section 66428(a)(2).

Section 22. Section 6975 of the San Diego County Zoning Ordinance is amended to read as follows:

6975 RECYCLING PROCESSING FACILITY.

The Recycling Processing Facility Use Type (as defined at Section 1513) is a permitted use in the specified zones when conducted in accordance with the following:

- a. Recycling Processing Facility, Light

[1. through 15. no change]

- 16. Incidental sale of products produced from recycled material is allowed on-site.

[b. and c. no change.]

Section 23. Section 7354 of the San Diego County Zoning Ordinance is amended to read as follows:

7354 APPLICATION FOR THE GRANTING OF A USE PERMIT.

An application for the granting of a use permit shall be made as follows:

[a. no change.]

- b. Required Documents. An application for the granting of a use permit shall be accompanied by the following documents:

1. A list of the names of all persons having an interest in the application as well as the names of all persons having any ownership interest in the property involved. If any person identified pursuant to this provision is a corporation or partnership, the names of all persons owning more than 10 percent of the shares in the corporation or owning any partnership interest in the partnership shall be listed. If any person identified pursuant to this provision is a non-profit organization or trust, the names of all persons serving as directors of the non-profit organization or as beneficiaries, trustees and trustors of the trust shall be listed.
2. Complete plans, a description of the property involved and a complete description of the proposed use. The complete plans shall include a plot plan drawn to scale showing all structures (existing and proposed). If the use permit will cover only a portion or portions of a lot or parcel, the plot plan shall include a measurable delineation of the area to which the use permit shall apply. That area shall include all land necessary for the proposed use, together with any open space, non-development areas, or other buffer areas which are necessary to enable making the required findings for use permit approval.

3. Satisfactory evidence of the ability and intention of the applicant to proceed with actual construction work in accordance with the requested use permit within 6 months after it is granted.
4. The appropriate environmental impact review document, as provided by Section 7610.
5. In the case of an application for a Mobilehome Park to be pursuant to the Regional Land Use Element Policy 3.8, evidence satisfactory to the Director that the authorization for filing has been obtained as required by any applicable Board Policy.

[c. no change.]

Section 24. Section 7366 of the San Diego County Zoning Ordinance is amended to read as follows:

7366 APPEAL.

Use permit decisions pursuant to Sections 7360, 7376, 7378 or 7382 may be appealed as follows:

[a. through d. no change.]

- e. Manner and Time of Filing. An appeal shall be in writing, shall be accompanied by the fee referenced in Section 7602 and shall be filed as follows:
 1. If filed personally, the appeal shall be filed in the Department of Planning and Land Use by the tenth day after the date of the decision and shall be addressed to the Secretary of the Planning Commission or the Director, depending on who rendered the decision.
 2. If mailed, the appeal shall be postmarked by the tenth day after the date of the decision and shall be addressed to the Secretary of the Planning Commission or the Director, depending on who rendered the decision, Department of Planning and Land Use, 5201 Ruffin Road, Suite B, San Diego, CA 92123.

[f. through k. no change.]

Section 25. Section 7609 of the San Diego County Zoning Ordinance is amended to read as follows:

7609 MINOR DEVIATION FROM PLAN.

If an Administrative Permit, Variance, Site Plan or Use Permit allows or requires land to be used or developed in accordance with a plan(s) that is referred to in the Administrative Permit, Variance, Site Plan, or Use Permit, a Minor Deviation from the plan may be authorized in accordance with the following provisions:

- a. Intent. This section provides for situations where it is necessary to deviate from a plan in a minor way which is consonant with the purpose and intent of the related Administrative Permit, Variance, Site Plan or Use Permit. The intent of this section is to provide for flexibility in the implementation of an Administrative Permit, Variances, Site Plan or Use

Permit by permitting a Minor Deviation to be administratively granted by the Director. It is not the intent of this section to authorize a deviation from the plan which would be inconsistent with the intent and purpose of the related Administrative Permit, Variance, Site Plan or Use Permit or any of its conditions, or to allow a deviation for which an Administrative Permit, Variance, Site Plan or Use Permit would otherwise be required by the Zoning Ordinance.

- b. Jurisdiction. The Director may authorize a Minor Deviations from a plan referred to in an Administrative Permit, Variances, Site Plan or Use Permit granted by the Board of Supervisors, the Planning Commission, or the Director.
- c. Required Findings. A Minor Deviation from a plan shall be authorized only after findings that:
 - 1. The requested deviation does not constitute a substantial change in the Administrative Permit, Variance, Site Plan, or Use Permit; and
 - 2. The requested deviation will not adversely affect adjacent property or property owners.
- d. Prohibited Deviations. No deviation from a plan, or deviations having a cumulative effect, shall be authorized which would permit one or more of the following:
 - 1. An increase or decrease from the original approved plan of more than 10 percent of the gross area of any yard, open space, working area or parking area, provided that no decrease may be permitted in any required yard for which an exception pursuant to Section 4813 or a Variance is required:
 - 2. An increase or decrease from the original approved plan of more than 10 percent of the size of any building or structure or of the total land area covered by any building or structure;
 - 3. An increase or decrease from the original approved plan of more than 10 percent of the height of any building or structure or of any part thereof, or of the depth or area of an excavation, slope or working area; or
 - 4. In case of Use Permits and Site Plans, an increase in the number of buildings or structures shown on the original approved plan so as to increase by more than 10 percent the total land area covered by all buildings and structures.
 - 5. A sign, if signs are not regulated by the approved Administrative Permit, Variance, Site Plan or Use Permit except that a Minor Deviation for a sign or sign program subject to a Community Design Review, Historic Landmark, Historic District or Design Review special area regulations designator may be approved upon due consideration of the recommendation of the applicable Design Review Board, Historic Site Board, Historic District Review Board, or Community or Subregional Planning Group.

[e. and f. no change.]

- g. Decision is Final. A decision by the Director pursuant to this section shall be final; provided, however, that the denial by the Director of a request for a Minor Deviation from a plan shall not prevent the applicant from applying for a new Administrative Permit, Variance, Site Plan, or Use Permit or modification thereof pursuant to the Zoning Ordinance.

Section 26. Section 7175, MINOR DEVIATION OR MODIFICATION NOT REQUIRED, of the San Diego County Zoning Ordinance is added to read as follows:

7175 MINOR DEVIATION OR MODIFICATION NOT REQUIRED

A Minor Deviation or Modification to a Site Plan is not required for any Building, Structure or Projection listed in section 4835 or any use listed in the Accessory Use Regulations, sections 6150 – 6199, provided the Building, Structure, Projection or use meets the specific accessory use setbacks in the Site Plan and meets all other conditions and restrictions in the Site Plan. If the Site Plan does not specify setbacks for an Accessory Use or a Building, Structure or Projection listed in 4835, a Minor Deviation or Modification to the Site Plan is not required provided the Building, Structure, Projection or Accessory Use meets the least restrictive setbacks for the zone that applies to the subject site.

Section 27. Effective Date. This Ordinance shall take effect and be in force 30 days after the date of its passage, and before the expiration of 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 by the Board of Supervisors of the County of San Diego this 10th day December, 2008.