

ORDINANCE NO. 9676 (N.S.)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY
ZONING ORDINANCE, MAKING PROCEDURAL CHANGES
ASSOCIATED WITH THE DISESTABLISHMENT OF THE
PLANNING AND ENVIRONMENTAL REVIEW BOARD

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

Section 1. The purpose of this ordinance is to make appropriate changes to the The Zoning Ordinance in view of the disestablishment of the Planning and Environmental Review Board, effected by an ordinance entitled "An Ordinance Amending the San Diego County Administrative Code, to Disestablish the Planning and Environmental Review Board, and Make Corresponding Procedural Changes" adopted on the same date as this ordinance.

Section 2. The Definitions of the Zoning Ordinance (following Section 1100) are hereby amended, to change the definitions of "Original Jurisdiction" and "Use Permit, Major", to read as follows:

Original Jurisdiction: Refers to the Director, Planning Commission or Board of Supervisors, whichever body has the authority to take action for approval or denial, regardless if that action is appealable or final.

Use Permit, Major: Use permit under the original jurisdiction of the Planning Commission.

Section 3. Section 5804 of The Zoning Ordinance is hereby amended, to read as follows:

5804 LIMITATION ON USE AND CONSTRUCTION.

No use or construction otherwise permitted is allowed on land subject to the Planned Development Area Regulations except as follows:

- a. Development of a planned development in accordance with the Planned Development Standards is allowed pursuant to a Major Use Permit.
- b. Civic Use Types are permitted provided that a Major Use Permit is granted for any Civic Use Type (other than Essential Services) for which a use permit is not otherwise required.
- c. The Planning Commission may waive the application of this Section to a parcel of not more than 5 acres in area upon a finding that such waiver is consistent with the General Plan and the purposes of these regulations.

Section 4. Section 6708 of The Zoning Ordinance is hereby amended, to read as follows:

6708 PERMITTED FENCES, WALLS, GATES AND ENTRY STRUCTURES. No fence, wall, gate or entry structure shall be permitted unless it conforms to the criteria set forth below, except that the Board of Supervisors, the Planning Commission or the Director, as a condition of approval of a matter under their jurisdiction, may require that a fence, wall or entry structure be constructed to a height greater than otherwise permitted by this section in order to mitigate against potential adverse effects.

- a. Solid Fences and Walls. Solid fences and walls are permitted at the following locations provided they conform to the height limitations shown below. An exception to the height limitations may be granted in accordance with Sections 6708h or 6708i.
 1. Main Building Area. Permitted up to the maximum height applicable to the main building.
 2. Front or Exterior Side Yard. Permitted up to a maximum height of 42 inches.
 3. Rear or Interior Side Yards. Permitted up to a maximum height of 72 inches.
- b. Open Fences and Walls. Open fences and walls are permitted at the following locations provided they conform to the material specifications and height limitations shown below. An exception to the material specifications or the height limitations may be granted in accordance with Section 6708h. An exception to the height limitations may also be granted in accordance with Section 6708i.
 1. Main Building Area. Permitted up to the maximum height applicable to the main building.
 2. Front or Exterior Side Yard. Permitted up to a maximum height of 42 inches, except as follows:

On lots of one (1) gross acre or larger in size in the A70, A72, RR, S82, S88, S90 and S92 Use Regulations, open fences consisting of woven or barbed wire, wrought iron, pipe corral, or rails may be 72 inches high. Posts, pilasters or other support elements for such fences or walls shall not exceed 24 inches in any horizontal measurement, shall be spaced a minimum of 8 feet apart (edge to edge), and shall not exceed a height of 72 inches. Razor wire, and barbed wire attached to supports constructed at an angle to the vertical, are permitted only as a security measure for the purpose of protecting high-value agricultural uses, or commercial or industrial uses.
 3. Rear or Interior Side Yards. Permitted up to a maximum height of 72 inches.
- c. Tennis Court Fencing and Lighting. Tennis court fencing and lighting standards exceeding the height otherwise allowed by this Section, but not greater than twenty (20) feet in height, may be permitted on lots of one (1) gross acre or larger in size upon granting an exception in accordance with Section 6708h.

- d. Gates and Gate Entry Structures on Individual Lots or Building Sites. Gates, not exceeding 12 feet in height, and gate entry structures on individual lots or building sites are permitted. Gate entry structures on individual lots or building sites shall meet the criteria shown below. An exception to these criteria may be granted in accordance with Section 6708h.
 - 1. Main Building Area. Permitted up to the maximum height applicable to the main building.
 - 2. Front, Rear, Interior or Exterior Side Yard. Permitted, provided no higher than 12 feet and located a minimum of 10 feet from the nearest edge of any public road right-of-way or private road easement which intersects the access to the gate entry structure. Support elements designed as entry structures on either side of a fence opening that provides vehicular access may extend a horizontal distance of not more than 15 feet on both sides of the opening and may not exceed 12 feet in height for more than a distance of 6 feet on either side of the opening. Such entry structures may incorporate a gate house not exceeding 12 feet in height, but may not bridge the entryway unless an exception is granted in accordance with Section 6708h.
- e. Gates and Gate Entry Structures Across Private Road Easements. Gates not exceeding 12 feet in height, and gate entry structures across private road easements are permitted. Gate entry structures on private road easements shall meet the criteria shown below. An exception to these criteria may be granted in accordance with Section 6708h.
 - 1. Gate entry structures shall not exceed a height of 12 feet; and
 - 2. Gate entry structures shall be located at least 50 feet from any road right-of-way or road easement which intersects the gated access; and
 - 3. Gate entry structures shall not extend a horizontal distance of more than 15 feet on either side of the gate opening and may not exceed 12 feet in height for more than a distance of 6 feet on either side of the opening.
- f. Lighting. Lights and/or decorative fixtures may be placed on the top of pilasters or fence posts on both sides of each entry, at property corners, and elsewhere along a fence or wall spaced a minimum of 40 feet apart. Such fixtures may extend 12 inches above the top of the supporting post or they may extend up to a height equal to the width of a supporting pilaster (or post), to a maximum of 24 inches, whichever is greater. Such lighting shall conform to the provisions of subsections a., b. and c. of Section 6324 (LIGHTING PERMITTED IN REQUIRED YARDS). Exceptions to these criteria may be granted in accordance with Section 6708h.
- g. Fences and Walls Which Confine Animals. The location of fences and walls which confine animals shall conform to the Animal Regulations commencing at Section 3000.
- h. Exceptions.

1. Fences, Walls and Gate Entry Structures on Individual Lots. The Director may approve an administrative permit granting an exception to the applicable criteria otherwise specified in this Section for fences (including tennis court fences and light standards), walls and gate entry structures on individual lots. The Administrative Permit Procedure at Section 7050 through Section 7099 shall apply. Notice of the administrative permit application shall be given to all property owners within a distance of 300 feet from the applicant's property. The Director may approve said administrative permit provided the following findings are made:
 - i. The structure will be compatible with the community character and will not have a harmful effect upon the neighborhood; and
 - ii. The structure will not interfere with traffic circulation, create a safety hazard or obstruct future road widening.
2. Gate Entry Structures and Gate Houses on Private Easements. The Director may approve an administrative permit granting an exception to the applicable criteria otherwise specified in this Section for gate entry structures and gate houses on a private easement. The applicant shall provide notice materials in accordance with Section 7060c. in order to notify all property owners having legal access to the easement upon which the gate entry structure or gate house will be located. The Director may approve said administrative permit provided the following findings are made:
 - i. The structure will be compatible with the community character and will not have a harmful effect upon the neighborhood; and
 - ii. The structure will not be detrimental to surrounding properties or improvements.
3. Lighting. The Director may approve an administrative permit granting an exception to the applicable criteria otherwise specified in this Section for lighting provided a finding is made that said lighting will be compatible with the community character and will not have a harmful effect upon the neighborhood.
 - i. Administrative Exceptions for Additional Fence or Wall Height. An administrative exception for fence heights up to 7 feet 6 inches in interior side yard setbacks or in rear yard setbacks not abutting a street, private thoroughfare, or alley, may be granted provided the following requirements are met:
 1. Written consent is obtained for the proposed additional fence height, and submitted to the Department (on a form satisfactory to the Department), from all owners of contiguous property (including owners of parcels or lots across any street or alley from the site proposed for fencing).
 2. An application form shall be submitted and a processing/record-keeping fee shall be collected at the time an administrative exception for additional fence height is requested, pursuant to the fee referenced in Section 7602.

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

- j. Open Fences With Razor Wire or Barbed Wire at Top - Calculation of Fence Height. Where open fences 72 inches in height or greater are permitted, razor wire and barbed wire attached to support elements extending from the top of an open fence at an angle from the vertical are permitted except where said razor wire and barbed wire are not permitted in Subsection b.2. of this Section. The portion of the fence consisting of razor wire or barbed wire attached to support elements extending from the top of an open fence at an angle from the vertical, shall not be used in calculating the height of such a fence provided the vertical height of said razor wire and/or barbed wire shall not exceed 2 feet.

Section 5. Section 6902 of The Zoning Ordinance is hereby amended, to read as follows:

6902 ANIMAL WASTE PROCESSING.

All animal waste processing operations shall comply with the following provision.

- a. Location. No animal waste processing operation shall be located closer than 1/2 mile from property in a zone which does not permit animal waste processing operations; provided that this requirement need not be met if the Planning Commission or Board of Supervisors finds that a closer location will not adversely affect property in a zone which does not permit animal waste processing because of one or both of the following circumstances:
 - 1. The effect of natural topography will largely negate any adverse influences of the waste processing operation on property in such zone; or
 - 2. The property in such zone is vacant or essentially vacant due to its topography, location, access, or other factors, is not reasonably expected to be developed within the time period for which the major use permit is granted.
- b. Minimum Site Area. No animal waste processing operation shall be established or maintained on a lot or parcel unless such lot or parcel is 5 acres or more in area.
- c. Setback. No building, machinery or stockpile in connection with the operation of animal waste processing subject to this section shall be maintained closer than 1,000 feet from the nearest pool, tennis court, public playground or dwelling located outside the boundary of the parcel or contiguous parcels associated with the animal waste processing operation at the time the Major Use Permit is granted. This requirement need not be met if the Planning Commission or Board of Supervisors finds that the animal waste processing facilities will not create significant adverse impacts to residences within said 1,000 feet and that the Major Use Permit findings at Section 7358 can be made.
- d. Operation Plan. The applicant shall submit with his application plans, specifications and a description of the operation in sufficient detail so that the proposed operation can be fully evaluated as to any potential adverse effects on

surrounding territory. Such plans shall include but not necessarily be limited to the following:

1. Site Plan showing the location of all structures and functions of the operation.
 2. A description of machinery, process and products.
 3. Specifications for the mechanisms and techniques to be used in the suppression of odors, air contaminants and flies at all times before, during and after the processing operation.
- e. Director of Environmental Health Review. The Director of Environmental Health shall review all applications and make recommendations thereon, including recommendations as to conditions deemed necessary to assure adequate suppression of odors, air contaminants, flies and other hazards of the public health.
- f. Water Quality Control Board Review. The Director shall send a copy of each application to the appropriate California Regional Water Quality Control Board for information and, if said Board so elects, for recommendation to the Approving Authority.

Section 6. Section 6951 of The Zoning Ordinance is hereby amended, to read as follows:

6951 WIND TURBINE SYSTEM, LARGE.

Large wind turbine systems, shall be permitted on a parcel of at least five acres and considered a Major Impact Services and Utilities use type requiring a major use permit approved in accordance with the Use Permit Procedure commencing at Section 7350 and the following requirements:

- a. Setbacks. The wind turbines shall observe the following setbacks measured from the closest point on the base or support structure. For purposes of calculating setbacks, height of the wind turbines shall mean the distance from ground to the top of blade in vertical position:
 1. From property lines or public road setback 4 times the height.
 2. From all existing residences or buildings occupied by civic use types setback 8 times the height.
 3. From the furthestmost property line of adjacent parcels which are vacant setback 9 times the total height.
 4. Setbacks for experimental wind turbines (those which are not produced by an established wind turbine manufacturer on a production basis) may be greater than those specified above based on the discretion of the permit granting authority.

5. Setbacks may be reduced up to a maximum of 50% with the written consent to the granting of a setback reduction signed by the owner or owners of each lot or parcel affected by the proposed setback reduction.

See paragraph k below for the exception to this setback requirement.

- b. Fencing. Public access shall be restricted through the use of a fence with locked gates, non-climbable towers or other suitable methods.
- c. Signs. Suitable warning signs containing a telephone number and an address for emergency calls and informational inquiries shall face all approaches to the project. Individual signs shall be between 5 and 16 square feet.
- d. Noise. The project shall meet the sound level limits of Title 3, Division 6, Chapter 4 of the San Diego County Code (Noise Abatement and Control). See paragraph k below for the exception to this height requirement.
- e. Height. For the purposes of calculating height, the height of the wind turbines shall mean the distance from ground to the top of the blade in vertical position. The system shall not exceed 80 feet. See paragraph k below for the exception to this height requirement.
- f. Visual. The following measures should be followed whenever possible in order to minimize the visual impact of the project:
 1. Removal of existing vegetation should be minimized.
 2. Internal roads should be graded for minimal size and disruption.
 3. Any accessory buildings should be painted or otherwise visually treated to blend with the surroundings.
 4. The turbines and towers should be painted with non-reflective paint to blend with the surroundings.
- g. Turbine Description. The following information shall be specified as part of the permit:
 1. The wind turbine manufacturer, model, power rating and blade dimensions.
 2. The tower manufacturer and model.
- h. Non-Operational Wind Turbines. It shall be a condition of the permit that non-operational wind turbines shall be removed:
 1. The project owner shall insure that a copy of all prospectuses shall be placed in the County's permit file.
 2. County staff may, at any time in the future, compare the amount of power stated (in kilowatt hours) in the appropriate prospectus with the actual power sold to the utility (as reported in the California Energy Commissions' "Wind

Project Performance Reporting System") and determine if any wind turbine systems meet the definition for "wind turbine non-operational."

3. County staff may collect other data as necessary to determine if any wind turbine systems meet the definition for "wind turbine non-operational."
 4. Applicant may propose alternate methods to monitor the "non-operational" status of wind turbines.
- i. **Removal Surety.** The project owner shall post a bond, lien contract agreement, cash deposit, or other form of surety acceptable to the Director of Planning and Land Use, sufficient to allow for the removal of non-operational wind turbines. If a bond surety is provided, such bond shall comply with Section 7612, and shall be for a minimum of 10 years (unless the permit is for a shorter period of time). Posting of bond(s) and/or other surety may be phased with the installation of wind turbines.
 - j. **Existing Administrative Permits for Wind Turbine Projects - Modification or Revocation.** Administrative permits for wind turbine projects granted pursuant to Section 7060 prior to January 1, 1986, shall be treated for all purposes as if they are major use permits shall be subject to all the provisions of the Zoning Ordinance which apply to Major Use Permits for purpose of modification or revocation.
 - k. For any Wind Turbine System that meets the definition of "Small Wind Energy System" as defined by Government Code Section 65892.13(c)(1), the requirements for setbacks, noise and height are reduced as follows:
 1. The system shall be set back from property lines at least the height of the wind system. The system must also comply with any applicable fire setback requirements pursuant to Section 4290 of the Public Resources Code.
 2. Decibel levels for the system shall not exceed the lesser of 60 decibels or the sound limits of the Noise Element of the San Diego County General Plan, as measured at the closest neighboring inhabited dwelling, except during short-term events such as utility outages and severe windstorms.
 3. Height of a small wind turbine system shall not exceed either of the following:
 - (a) Up to 65 feet on parcels less than 5 acres in size, and up to 80 feet on parcels 5 acres or more.
 - (b) Height cannot exceed manufacturer's recommendations.

Section 7. Section 7108 of The Zoning Ordinance is hereby amended, to read as follows:

7108 DECISION AND NOTICE. The Board of Supervisors, the Planning Commission or the Director shall decide and notice matters concerning Variances as follows:

- a. Application for Granting or Modifying a Variance. Upon considering an application for granting or modifying a Variance, and holding any public hearing required thereon, the Board of Supervisors, the Planning Commission or the Director, whoever has jurisdiction over the application, shall deny the Variance or the requested modification; or shall grant or modify the Variance subject to specified conditions as may be imposed pursuant to Section 7110. Notice of the decision on the application shall be filed in the office of the authority having jurisdiction over the application and a copy of the notice shall be mailed to the applicant at the address shown on the application. Said decision shall become effective as provided in Section 7112.
- b. Action to Revoke or Modify a Variance For Cause. Following the hearing in an action to revoke or modify a Variance as prescribed in Section 7130, the Board of Supervisors, the Planning Commission or the Director, whoever conducts the hearing, may decide to revoke or to modify the Variance, or may decide to take no action. Notice of the decision on the action shall be filed in the office of the deciding authority and a copy of said notice shall be mailed to the person to whom the Variance was originally granted. Said decision shall become effective as provided in Section 7112.

Section 8. Section 7110 of The Zoning Ordinance is hereby amended, to read as follows:

7110 CONDITIONS.

Variances may be granted or modified subject to the performance of such conditions, including the provision of required improvements, and for such period of time as the Planning Commission, Board of Supervisors, or the Director whoever grants or modifies the Variance, shall deem to be reasonable and necessary or advisable under the circumstances so that the objectives of this Ordinance shall be achieved. Such conditions shall be imposed and enforced as follows:

- a. Security May Be Required to Insure Performance. In order to insure the performance of conditions imposed concurrent with the granting or modification of a Variance, the applicant may be required to furnish security in the form of money or surely bond in the amount fixed by the authority granting or modifying the Variance. Such security shall be furnished as required by Section 7612.
- b. Provision of Required Improvements. Whenever a Variance is granted or modified subject to the condition that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the cognizant County authority, or the applicant shall execute an agreement with the cognizant County authority pursuant to Section 7613 to make such improvements, prior to the time or events specified in the Variance.
- c. Conditions Declared Void. Whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of the conditions of a Variance to be void or ineffective, or enjoining or otherwise prohibiting the

enforcement or operation of one or more of such conditions, said Variance shall cease to be valid and all rights or privileges granted thereby shall lapse, as provided in Section 7128.

- d. Violation of Condition. Whenever a Variance is granted or modified subject to a condition or conditions, use or enjoyment of the Variance in violation of or without observance of any such condition shall constitute a violation of The Zoning Ordinance and said Variance shall be revoked or modified as provided by Section 7130.

Section 9. Section 7112 of The Zoning Ordinance is hereby amended, to read as follows:

7112 EFFECTIVE DATE.

Decisions of the Planning Commission or the Director, made pursuant to Section 7108 shall become final and effective on the eleventh day following the date of decision unless an appeal of the decision is filed as provided by Section 7114. All decisions of the Board of Supervisors made pursuant to Section 7108 shall be effective immediately.

Section 10 Section 7114 of The Zoning Ordinance is hereby amended, to read as follows:

7114 APPEAL.

Variance decisions made pursuant to Sections 7108, 7124 or 7130 may be appealed as follows:

- a. Appeals Authorized.
 - 1. A concurrent Variance decision may be appealed to the same appeal authority and pursuant to the same procedures as apply to the use permit or subdivision map with which the Variance is concurrent.
 - 2. Repealed.
 - 3. A regular Variance decision by the Director may be appealed to the Planning Commission.
- b. Persons Authorized to Appeal. No person may appeal except the applicant for the granting or modification of a Variance, a County officer or body acting pursuant to paragraph "c" of this Section, and those persons who protest the granting, revocation, or modification of a Variance either by written protest filed in the office of the Planning Commission or the Director, whoever has jurisdiction over the Variance, prior to the time of the hearing or consideration of the matter by said authority; or by appearing and protesting the granting, revocation or modification of the Variance at the hearing or consideration of the matter by said authority.

- c. County Officer May Appeal. Notwithstanding any other provision of this Ordinance, any County officer, Board, Commission or other County body, other than the authority having jurisdiction over the appeal, may appeal a decision of the Planning Commission or the Director pursuant to Section 7108, without fee.
- d. 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 within ten days following the decision, as provided in Section 7112, in the office of the Planning Commission or Director, whoever rendered the decision.
- e. Effect of Filing the Appeal. An appeal of a decision within the time specified in paragraph "d" of this Section shall stay the proceedings and effective date of the decision of the Planning Commission or Director as provided by Section 7112, until such time as the appeal has been acted on as hereinafter set forth in the Ordinance.
- f. Public Hearing. Following the filing of an appeal, the authority having appellate jurisdiction shall hold a public hearing on the matter scheduled and noticed as required by Sections 7603 and 7605, respectively. The public hearing shall be a hearing de novo and all interested persons may appeal and present evidence.
- g. Decision and Notice. Following the hearing on an appeal, the authority having the appellate jurisdiction may sustain the decision which is being appealed; or may grant or modify the Variance subject to specified conditions it imposes pursuant to Section 7110; or may revoke or deny the Variance, as is appropriate. The authority shall adopt findings, which specify all facts relied upon by it in reaching its decision and their relation to the requirements of Section 7107, and which state the reasons for any conditions imposed by it; provided, however, findings shall be deemed waived unless expressly requested in writing by the applicant or appellant at the time of the hearing on the appeal and prior to decision by the authority. Notice of the decision of the authority together with a copy of any findings adopted by said authority shall be mailed to the appellant and applicant, or to both if they are different parties, and a copy thereof shall be attached to the Planning Commission's or Director's file in the matter and said file returned to the Planning Commission, Planning Environmental Review Board or Director, whoever rendered the decision which was appealed.
- h. Finality and Effective Date. Subject to the provisions of Chapter 4 (commencing with Section 86.401) of Division 6 of Title 8 of the San Diego County Code, relating to appeals of environmental determinations, the decision of the authority having jurisdiction over an appeal shall be final, conclusive, and effective immediately.
- i. No Decision Reached. Whenever an authority holds a hearing on an appeal from a decision of the Planning Commission or the Director and thereafter fails to reach a decision because a motion on the item failed to carry by the required vote, the secretary of the authority shall set the matter for a noticed public hearing de novo if such hearing is requested by the authority. Such request must be made within 30 days of the date when the motion on the item failed to carry. If no such request is made within such period, the decision of the Planning

Commission or the Director from which the appeal has been taken shall be deemed sustained.

Section 11 Section 7124 of The Zoning Ordinance is hereby amended, to read as follows:

7124 APPLICATION FOR EXTENSION OF RELIANCE PERIOD OF A VARIANCE.

If prior to expiration of the Variance the applicant files a written application for extension, the period within which construction or use of the property in reliance on the Variance must be commenced may be extended by order of the Director, Planning Commission or Board of Supervisors, whichever granted the Variance, (or, in the case of a Variance granted by the Board of Planning and Zoning Appeals, by the Board of Supervisors) at any time within 90 days of the date of expiration as originally established. An application for such an extension shall be made on the prescribed form, shall be accompanied by the fee referenced in Section 7602, and shall be filed with the authority who granted the Variance. The period within which construction and/or use of the property in reliance on a Variance must be commenced may be extended subject to conditions, as provided by Section 7110. Decision of the Director, Planning Commission or Board of Supervisors pursuant to this section shall become effective as provided by Section 7112. Decisions of the Director and Planning Commission may be appealed as provided by Section 7114. All other provisions of The Zoning Ordinance shall apply to an extension granted in accordance with this section.

Section 12. Section 7130 of The Zoning Ordinance is hereby amended, to read as follows:

7130 REVOCATION OR MODIFICATION OF A VARIANCE FOR CAUSE.

A Variance may be revoked or modified for cause as provided by the provisions of this section. For purposes of this section, the modification of a Variance may include modification of the terms of the Variance itself or the waiver alteration or imposition of new conditions pursuant to Section 7110.

- a. Grounds for Revocation or Modification. A Variance may be revoked or modified pursuant to the provisions of this section on any one or more of the following grounds:
 1. That such Variance was obtained or extended by fraud.
 2. That one or more of the conditions upon which such Variance was granted have been violation.
 3. That the use for which the Variance was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.
- b. Initiation of Action. An action to revoke or modify a Variance may be initiated by order of the Board of Supervisors, Planning Commission or the Director, whichever granted or modified the Variance, on its own motion or on the request of any County Officer; provided, however, the Planning Commission may initiate

an action to revoke or modify any Variance granted or modified by the Director or the Planning Environmental Review Board and the Board of Supervisors may initiate an action to revoke or modify any Variance granted or modified by either the Director, the Planning Environmental Review Board, the Board of Planning and Zoning Appeals or the Planning Commission. The order shall set forth grounds for revocation or modification.

- c. Other Provisions Applicable. The following provisions of the Variance Procedure shall apply to an action for the revocation or modification of any Variance: Sections 7105, 7180.b, and 7110 through 7114, inclusive.

Section 13 Section 7132 of The Zoning Ordinance is hereby amended, to read as follows:

7132 EXTENSION OF TIME LIMITS.

The time limits prescribed for the Variance Procedure may be extended by the Board of Supervisors, the Planning Commission or the Director, as appropriate, upon the consent of the applicant or appellant.

Section 14 Section 7134 of The Zoning Ordinance is hereby amended, to read as follows:

7134 REAPPLICATION.

No application for the granting of a Variance which has been denied shall be filed earlier than one year after the date such denial becomes effective, unless specific permission to do so has been granted as follows:

- a. Denial by Director. If the Director has denied the Variance, permission to reapply may be granted by the Director, the Planning Commission or the Board of Supervisors.
- b. Denial by the Planning Commission. If the Planning Commission has denied the Variance, permission to reapply may be granted by the Planning Commission or the Board of Supervisors.
- c. Denial by the Board. If the Board of Supervisors has denied the Variance, permission to reapply may be granted by the Board of Supervisors.

Section 15. Section 7352 of The Zoning Ordinance is hereby amended, to read as follows:

7352 CLASSIFICATION OF USE PERMITS AND ORIGINAL JURISDICTION. Use Permits shall be classified and original jurisdiction exercised over them as follows, except as otherwise provided in Sections 7376 and 7378:

- a. Major Use Permit. Applications for granting or modifying the conditions of a permit for one or more uses, structures or actions, any one of which requires a

Major Use Permit, shall require Major Use Permits and shall be under the original jurisdiction of the Planning Commission, except that Major Use Permits which are not within the Current Urban Development Area as shown by the Regional Land Use Element and propose connection to the Rancho San Diego Interceptor sewer line shall be under the original jurisdiction of the Board of Supervisors with the Planning Commission making a report to the Board of Supervisors.

- b. Minor Use Permit. Application for granting or modifying the conditions of a permit for any use, structure, or action requiring a Minor Use Permit shall be under the original jurisdiction of the Director, except that applications for Minor Use Permits filed concurrently with tentative subdivision maps, reclassifications or Major Use Permits shall be under the jurisdiction of the body having jurisdiction over the tentative subdivision maps, reclassifications and Major Use Permits. Any use allowed by a Minor Use Permit may be allowed by a Major Use Permit.
- c. Concurrent Use Permit. Applications for granting or modifying the conditions of a use permit filed concurrently with an application requesting amendment of the Zoning Ordinance applicable to the land which is the subject of the use permit application shall be under the original jurisdiction of the Planning Commission. Applications for granting or modifying the conditions of a use permit filed concurrently with any other application under the original jurisdiction of the Board of Supervisors shall be under the original jurisdiction of the Board of Supervisors, and shall receive a recommendation from the Planning Commission prior to action by the Board of Supervisors.

Section 16. Section 7360 of The Zoning Ordinance is hereby amended, to read as follows:

7360 DECISION AND NOTICE.

The Board of Supervisors, the Planning Commission or the Director shall decide and notice matters concerning use permits as follows:

- a. Applications for granting or modifying a use permit. Following the hearing on an application for granting or modifying a use permit, the Board of Supervisors, the Planning Commission or the Director, whoever has jurisdiction over the application, shall deny the use permit or the requested modification; or shall grant or modify the use permit subject to specified conditions as may be imposed pursuant to Section 7362. Notice of the decision on the application shall be filed in the office of the authority having jurisdiction over the application and a copy of said notice shall be mailed to the applicant at the address shown on the application. Said decision shall become effective as provided in Section 7364.
- b. Action to Revoke or Modify a Use Permit For Cause. Following the hearing in an action to revoke or modify a use permit, as prescribed in Section 7382, the Board of Supervisors, the Planning Commission or the Director, whoever conducts the hearing, may decide to revoke or to modify the use permit, or may decide to take no action. Notice of the decision on the action shall be filed in the office of the deciding authority and a copy of said notice shall be mailed to the person to whom the use permit was originally granted. Said decision shall become effective as provided in Section 7364.

Section 17. Section 7362 of The Zoning Ordinance is hereby amended, to read as follows:

7362 CONDITIONS.

Use permits may be granted or modified subject to the performance of such conditions, including the provision of required improvements, and for such period of time as the Planning Commission, the Board of Supervisors or the Director, whoever grants or modifies the use permit, shall deem to be reasonable and necessary or advisable under the circumstances so that the objectives of the Zoning Ordinance shall be achieved. Such conditions shall be imposed and enforced as follows:

- a. **Security May Be Required to Insure Performance.** In order to insure the performance of conditions imposed concurrent with the granting or modification of a use permit, the applicant may be required to furnish security in the form of money or surety bond in the amount fixed by the authority granting or modifying the use permit. Such security shall be furnished as required by Section 7612.
- b. **Provision of Required Improvements.** Whenever a use permit is granted or modified subject to the condition that specified improvements be provided by the applicant, such improvements shall be installed by the applicant and approved and accepted by the cognizant County authority, the applicant shall execute an agreement with the cognizant County authority pursuant to Section 7613 to make such improvements, prior to the time or events specified in the permit.
- c. **Condition Declared Void.** Whenever there becomes final any judgment of a court of competent jurisdiction declaring one or more of the conditions of a use permit to be void or ineffective, or enjoining or otherwise prohibiting the enforcement or operation of one or more of such conditions, said use permit shall cease to be valid and all rights or privileges granted thereby shall lapse, as provided by Section 7380.
- d. **Violation of Condition.** Whenever a use permit is granted or modified subject to a condition or conditions, use or enjoyment of the use permit in violation of or without observance of any such condition shall constitute a violation of the Zoning Ordinance and said use permit may be revoked or modified as provided by Section 7382.

Section 18. Section 7364 of The Zoning Ordinance is hereby amended, to read as follows:

7364 EFFECTIVE DATE.

Decisions of the Planning Commission or the Director made pursuant to Section 7360 shall become final and effective on the eleventh day following the date of decision unless an appeal of the decision is filed as provided by Section 7366. All decisions of the Board of Supervisors made pursuant to Section 7360 shall be final and effective immediately.

Section 19. Section 7366 of The Zoning Ordinance is hereby amended, to read as follows:

7366 APPEAL.

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

- a. Appeals Authorized.
 1. A Major Use Permit decision of the Planning Commission may be appealed to the Board of Supervisors.
 2. A Minor Use Permit decision of the Director may be appealed to the Planning Commission, except that (a) a decision concerning a Minor Use Permit application filed concurrently with a tentative subdivision map, reclassification or Major Use Permit application may be appealed to the same appeal authority and pursuant to the same procedures as apply to such concurrent application; and (b) a decision concerning a Minor Use Permit for a mini-mobilehome park may be appealed to the Planning Commission; and (c) a decision concerning a Minor Use Permit for a nonconforming use within an adopted Redevelopment Area pursuant to Section 6878 may be appealed to the Board of Supervisors.
 3. A concurrent use permit decision by the Planning Commission may be appealed to the Board of Supervisors.
- b. Resubmittal of Revised Application. If upon appeal an application for a use permit is revised so as to require the submittal of a revised plot plan, all appellate proceedings shall be terminated and the application resubmitted to the authority having original jurisdiction for further consideration and decision. The decision of the revised application may thereafter be appealed as provided in this Section.
- c. Persons Authorized to Appeal. No person may appeal except the applicant for the granting or modification of a use permit; a County officer acting pursuant to paragraph "d" of this section; and those persons who protest the granting, revocation, or modification of a use permit either by written protest filed in the office of the Planning Commission or the Director, whoever has jurisdiction over the use permit, prior to the time of the hearing or consideration of the matter by said authority; or by appearing and protesting the granting, revocation or modification of the use permit at the hearing or consideration of the matter by said authority.
- d. County Officer May Appeal. Notwithstanding any other provision of this Ordinance, any County officer, Board, Commission, or other County body, other than the authority having jurisdiction over the appeal, may appeal a decision of the Planning Commission or the Director made pursuant to Section 7360, without fee.
- e. Manner and Time of Filing. An appeal shall be in writing, and shall be filed, in the office of the Planning Commission or Director, whoever rendered the decision. It

shall be filed within ten days following the decision, as provided in Section 7364, and shall be accompanied by the fee referenced in Section 7602.

- f. **Effect of Filing the Appeal.** An appeal of a decision within the time specified in paragraph "e" of this Section shall stay the proceedings and effective date of the decision of the Planning Commission or Director, as provided by Section 7366, until such time as the appeal has been acted on as hereinafter set forth in the Ordinance.
- g. **Forwarding of Record.** Upon the filing of an appeal, the authority having made the decision being appealed shall transmit to the appeal authority the records concerning the decision.
- h. **Public Hearing.** Following the filing of an appeal, the authority having appellant jurisdiction shall hold a public hearing on the matter scheduled and noticed as required by Sections 7603 and 7605, respectively. The public hearing shall be a hearing de novo and all interested persons may appear and present evidence.
- i. **Decision and Notice.** Following the hearing on an appeal, the authority having appellate jurisdiction may sustain the decision which is being appealed; or may grant or modify the use permit subject to specified conditions it imposes pursuant to Section 7362; or may revoke or deny the use permit, as is appropriate. The authority shall adopt findings, which specify all facts relied upon by it in reaching its decision and their relation to the requirements of Section 7358, and which state the reasons for any conditions imposed by it; provided, however, findings shall be deemed waived unless expressly requested in writing by the applicant or appellant at the time of the hearing on the appeal and prior to decision by the authority. Notice of the decision of the authority together with a copy of any findings adopted by said authority shall be mailed to the appellant and applicant, or to both if they are different parties, and a copy thereof shall be attached to the Planning Commission's or the Director's file in the matter and said file returned to the Planning Commission or Director, whoever rendered the decision which was appealed.
- j. **Finality and Effective Date.** Subject to the provisions of Chapter 4 (commencing with Section 86.401) of Division 6 of Title 8 of the San Diego County Code, relating to appeals of environmental determinations, the decision of the authority having jurisdiction over an appeal shall be final, conclusive, and effective immediately.
- k. **No Decision Reached.** Whenever the Board of Supervisors holds a hearing on an appeal from a decision on an application for a use permit, the proceedings shall be governed by the Board of Supervisors' Rules of Procedure and Section 375.13 of the San Diego Administrative Code. Whenever the Planning Commission holds a hearing on an appeal from a decision on an application for a use permit and thereafter fails to reach a decision because a motion on the item failed to carry by the required vote, the secretary of the Commission shall set the matter for a noticed public hearing de novo if such hearing is requested by the Commission. Such request must be made within 30 days of the date when the motion on the item failed to carry. If no such request is made within such period, the decision from which the appeal has been taken shall be deemed sustained.

Section 20. Section 7376 of The Zoning Ordinance is hereby amended, to read as follows:

7376 APPLICATION FOR EXTENSION OF RELIANCE PERIOD OF A USE PERMIT.

- a. If prior to expiration of the use permit, the applicant files a written application for extension, the period within which construction or use of the property in reliance on the use permit must be commenced may be extended by order of the Director or Planning Commission, whichever has original jurisdiction over said use permit, at any time within 90 days of the date of expiration. An application for such an extension shall be made on the prescribed form, shall be accompanied by the fee referenced in Section 7602, and shall be filed with the authority which has original jurisdiction. The period within which construction and/or use of the property in reliance on a use permit must be commenced may be extended subject to conditions, as provided by Section 7362. Decisions of the Director or Planning Commission pursuant to this section shall become effective as provided by Section 7364. Decisions of the Director and Planning Commission may be appealed as provided by Section 7366. All other provisions of the Zoning Ordinance shall apply to an extension granted in accordance with this section.
- b. Notwithstanding the provisions of paragraph "a" above or any other provision of the Zoning Ordinance, upon filing of an application to extend such reliance period for a major use permit for a planned development or lot size averaging in conjunction with an application filed pursuant to the Subdivision Ordinance (San Diego County Code, Section 81.101 et seq.) to extend a tentative map or tentative parcel map, the Director may extend or conditionally extend such reliance period pursuant to the procedure specified in the Subdivision Ordinance for acting upon such map extensions. Sections 7354, 7358, 7362 and 7602, and all other provisions of the Zoning Ordinance not in conflict with said Subdivision Ordinance procedure, shall apply to such action by the Director.

Section 21. Section 7382 of The Zoning Ordinance is hereby amended, to read as follows:

7382 REVOCATION OR MODIFICATION OF A USE PERMIT FOR CAUSE.

A use permit may be revoked or modified for cause as provided by the provisions of this section. For purposes of this section, the modification of a use permit may include the modification of the terms of the permit itself or the waiver, alteration or imposition of new conditions pursuant to Section 7362.

- a. **Grounds for Revocation or Modification.** A use permit may be revoked or modified pursuant to the provisions of this section upon a finding of any one or more of the following grounds:
 1. That such permit was obtained or extended by fraud.

2. That one or more of the conditions upon which such permit was granted have been violated.
 3. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare, or safety, or as to be a nuisance.
- b. **Initiation of Action.** An action to revoke or modify a use permit may be initiated by order of the Board of Supervisors, Planning Commission or the Director, whichever granted, extended or modified the permit, on its own motion or on the request of any County Officer. The Planning Commission may initiate an action to revoke or modify any use permit granted or modified by the Director or the Planning Environmental Review Board, and the Board of Supervisors may initiate an action to revoke or modify any use permit granted by either the Director, Planning Environmental Review Board, Board of Planning and Zoning Appeals or Planning Commission. The order shall set forth grounds for revocation or modification.
 - c. **Other Provisions Applicable.** Sections 7356 through 7366, inclusive, shall apply to an action for the revocation or modification of any use permit.

Section 22. Section 7384 of The Zoning Ordinance is hereby amended, to read as follows:

7384 EXTENSION OF TIME LIMITS.

The time limits prescribed for the Use Permit Procedure may be extended by the Board of Supervisors; or by the Planning Commission or the Director, as appropriate, upon the consent of the applicant or appellant.

Section 23. Section 7386 of The Zoning Ordinance is hereby amended, to read as follows:

7386 REAPPLICATION.

No application for the granting or modifying of a use permit which has been denied shall be filed earlier than one year after the date such denial becomes effective, unless specific permission to do so has been granted as follows:

- a. **Denial by Director.** If the Director has denied the use permit, permission to reapply may be granted by the Director, Planning Commission or the Board of Supervisors.
- b. **Denial by the Planning Environmental Review Board.** If the Planning Environmental Review Board has denied the use permit, permission to reapply may be granted by the Planning Commission or the Board of Supervisors.
- c. **Denial by the Planning Commission.** If the Planning Commission has denied the use permit, permission to reapply may be granted by the Planning Commission or the Board of Supervisors.

- d. Denial by the Board. If the Board of Supervisors has denied the use permit, permission to reapply may be granted by the Board of Supervisors.

Section 24. Section 7602 of The Zoning Ordinance is hereby amended, to read as follows:

7602 FEES.

Fees shall be paid to the County of San Diego as provided by the Zoning Ordinance for the purpose of defraying the expense of postage, investigation, posting, advertising and other costs incidental to the proceedings prescribed herein. The following provisions shall apply to the establishment, waiver and refund of fees.

- a. Establishment. Fees for consideration of material submitted pursuant to the requirements of the Zoning Ordinance shall be recommended by the Director and approved by the Board of Supervisors.
- b. Fee Schedule. The fees established pursuant to paragraph "a" of this section shall be contained in a Fee Schedule.
- c. Waiver. The application fee for the granting of a Variance, Zone Reclassification, Administrative Permit, Site Plan, or a Use Permit may be waived in any of the following circumstances:
 - 1. Upon written request of an applicant, when the Director, Planning Commission, or the Board of Supervisors finds the necessity for a Variance is the result of the dedication or granting (without receipt of substantial monetary consideration) of a portion of the property for a public purpose, said Director, Commission, or Board may waive the fee for filing the application for Variance, or
 - 2. If, after considering a statement supplied by the applicant, it is the opinion of the Board of Supervisors that the request is due to a hardship resulting from some error or negligence on the part of the County or its employees.
 - 3. If the requested waiver of fee is found to conform to the Board of Supervisors Policy regarding refunds and relief from fees when permits are issued in error. The following criteria shall apply:
 - a. An applicant is owed a refund (or a credit) for any fees or deposits paid, fee waiver or other relief when the applicant can demonstrate that:
 - i. The permit issued or approval granted was rescinded due to staff error; or,
 - ii. An additional County permit or approval is required for the project due to staff oversight; and

- iii. No misinformation was supplied nor information withheld by the applicant which resulted in the permit rescission or initial oversight.
 - b. Any approval or permit issuance done in error shall not create a liability for the County to pay for or to grant other approvals.
- d. Waived. The application fee is waived for:
 1. Family Day Care Home for Children, Small Schools and Group Care uses with occupancy of not more than 14 persons.
 2. Animal Raising Projects pursuant to Section 3115.
 3. Modification of a Major Use Permit for an existing mobilehome park pursuant to Section 6549 a. provided the Director determines that the necessary discretionary action for said modification can occur concurrently with the related tentative subdivision map.
 4. Major Use Permit for an existing mobilehome park not established pursuant to the Mobilehome Park Regulations pursuant to Section 6549 b. provided the Director determines that the necessary discretionary action for said Major Use Permit can occur concurrently with the related tentative subdivision map.
 5. Any Minor Use Permit for a farm labor camp, or Administrative Permit for farm employee housing, for which a complete application was filed between July 13, 1990, and January 13, 1991 pursuant to Ordinance No. 7768 (N.S.) or was filed between April 5, 1991 and October 5, 1991, pursuant to Ordinance No. 7875 (N.S.) or was filed between October 31, 1991 and July 15, 1992, pursuant to Ordinance No. 8086 (N.S.).
 6. Any application for a Building Permit for farm employee housing for which: (i) the Agricultural Commissioner has issued a certificate of active agricultural enterprise; (ii) the housing is not the subject of an active code enforcement action; (iii) the applicant has entered into the contract required by Section 6156 u.9. of The Zoning Ordinance; and (iv) a complete application was filed between July 16, 1992 and June 30, 1993, pursuant to Ordinance No. 8086 (N.S.) or was filed between July 30, 1993, and June 30, 1994, pursuant to Ordinance No 8271 (N.S.), or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N.S.); or was filed between September 15, 1995 and June 30, 1998 pursuant to Ordinance 8574 (N.S.), or was filed between May 14, 1999 and June 30, 2004 pursuant to Ordinance No. 9012 (N.S.).

Said costs shall include planning and environmental review fees. Costs associated with review by staff of the Departments of Environmental Health and Public Works shall be waived in their entirety.

7. Waive up to the first \$5,000.00 of costs expended by staff within the Department of Planning and Land Use to process any single Minor Use

Permit for a farm labor camp which: (i) is not the subject of an active code enforcement action; (ii) the applicant has entered into the contract required by Section 6906.c of The Zoning Ordinance; and (iii) a complete application was filed between July 16, 1992 and June 30, 1993, pursuant to Ordinance No. 8086 (N.S.) or was filed between July 30, 1993, and June 30, 1994, pursuant to Ordinance No 8271 (N.S.), or was filed between September 2, 1994 and June 30, 1995, pursuant to Ordinance No. 8436 (N. S.); or was filed between September 15, 1995 and June 30, 1998 pursuant to Ordinance No. 8574 (N.S.) or was filed between May 14, 1999 and June 30, 2004 pursuant to Ordinance No. 9012 (N.S.).

Said costs shall include planning and environmental review fees. Costs associated with review by staff of the Departments of Environmental Health and Public Works shall be waived in their entirety.

8. Appeals by any County citizen advisory body of any land use decision, provided such body is authorized to review and make recommendations pertaining to such decisions pursuant to this Ordinance. The decision to file an appeal must be approved by a majority of the group's authorized membership. If no group meeting is scheduled prior to the end of the appeal period, the Chair of the group may file the appeal or must file the appeal if so directed by petition of a majority of the group's membership. The decision to appeal shall then be confirmed by a majority of the group's authorized membership at their next meeting. Failure to achieve a majority vote in favor of appeal shall require the group to withdraw the appeal.
 9. A Site Plan filed pursuant to the Community Design Review Area regulations (Section 5750 et seq.) that is a) within the I-15 Corridor (as defined in the County General Plan), and b) for review of a single dwelling on an existing legal lot or for buildings or structures accessory to such a dwelling.
- e. Refund. At any time prior to final action on any application filed pursuant to The Zoning Ordinance, the applicant may file a written request with the authority having jurisdiction over the application, requesting that the application be withdrawn from further consideration, and that any unused portion of the application fee be refunded. The authority shall then withdraw the application and may recommend to the Board of Supervisors that the application fee or a portion of it be refunded to the applicant. The Board of Supervisors may order the refund of the application fee less any costs said Board shall determine to have been incurred by the County incidental to action on the proposed application.

Section 25. Section 7603 of The Zoning Ordinance is hereby amended, to read as follows:

7603 PUBLIC HEARINGS - SCHEDULING.

Public hearings required by The Zoning Ordinance shall be scheduled as follows:

- a. Hearings before the Zoning Administrator or Planning Commission shall be scheduled by the Director for a date not less than 10 days but not more than 90 days from the date that an application is determined to be complete. However, if an Environmental Impact Report is required, such hearings shall be scheduled for a date not more than one year from the date that an application is determined to be complete. The Director may, with the consent of the applicant, extend this one year or 90 day period one time for a period of time not to exceed 90 additional days.
- b. Hearings before the Board of Supervisors shall be scheduled by the Clerk of the Board of Supervisors for a date not less than 10 days but not more than 90 days from the date specified below:
 1. Appeals. Where an application is brought before the Board on appeal, the above time period shall commence upon the filing of the appeal.
 2. Other Cases. Where the Board has sole jurisdiction to approve an application, the above time period shall commence upon the latter of either the date the application was determined to be complete, or the date a recommendation is made on the application by any San Diego County authority whose recommendation is required by law.

In the event that a required hearing cannot be held within said 90 days, the Director shall inform the Board as to the reasons for such delay.

Any failure to hold a hearing within the time specified shall not affect the validity of any decision reached as the result of such hearing.

Section 26. Section 7604 of The Zoning Ordinance is hereby amended, to read as follows:

7604 PUBLIC HEARINGS - CONDUCT.

Public hearings required by The Zoning Ordinance shall be conducted in accordance with the following provisions.

- a. Establishment of Rules. The Planning Commission or Director respectively may establish rules for the conduct of public hearings. The person acting as chairperson of the Planning Commission is hereby empowered to administer oaths to any person testifying at a hearing before the Planning Commission and the Director is hereby empowered to administer oaths to any person testifying at a hearing before the Director.
- b. Designated Commissioner May Conduct Hearings. Public hearings before the Planning Commission shall be conducted before the Planning Commission or before any number of members thereof designated by the Commission so to serve. The member of the Commission presiding at a hearing is hereby empowered to administer oaths to any person testifying at such hearing.
- c. Commissioner Conducting Hearing Shall File Recommendations. The member of the Commission presiding at a public hearing held pursuant to paragraph "b" of

this section shall, within 10 days after such hearing file a recommendation with the Commission and such recommendation shall be approved, modified or disapproved in which case the action of the Planning Commission shall be final as to action of the Commission.

- d. Hearings May Be Continued Without Public Notice. If for any reason, testimony on any matter set for public hearing cannot be completed on the day set for such hearing, the Planning Commission, Planning Commission Hearing Officer, or Director may, before the adjournment or recess thereof, publicly announce the time to which and the place at which said hearing will be continued and no further notice shall be required.

Section 27. Section 7605 of The Zoning Ordinance is hereby amended, to read as follows:

7605 PUBLIC HEARINGS - NOTICE REQUIREMENT.

Notice of the time and place of public hearings required by The Zoning Ordinance shall be given in the following manner:

- a. Amendment of The Zoning Ordinance. If a public hearing on a proposed amendment to The Zoning Ordinance is required by the California Government Code, notice of the hearing shall be given in the manner provided by said Code. If a public hearing on a proposed amendment to The Zoning Ordinance is not required by the California Government Code, any hearing which may be held shall be given notice in the manner as the body holding the hearing shall prescribe.
- b. Variance and Use Permit Granting. Notice of any public hearing pertinent to the granting of a Variance, a use permit or use permit modification shall be given in the manner provided by the California Government Code.
 - 1. If notice is given by mail, such notice shall be mailed, postage prepaid, not less than 10 days prior to the date of such hearing to the owners of property within a radius of 300 feet of the exterior boundaries of the property for which the Variance or permit is sought or has been granted.
 - 2. If notice is given by posting, notices shall be posted at least 10 days prior to the date of such hearing in at least three conspicuous places close to the property for which the Variance or permit is sought or has been granted.
- c. Variance and Use Permit Revocation. Notice of any public hearing pertinent to the revocation of a Variance or use permit shall be given in the following manner. Not less than 10 days prior to the date of any hearing before the Director, Planning Commission or Board of Supervisors, Director or Clerk of the Board, respectively, shall:
 - 1. Cause a copy of the notice of the time and place of such hearing to be published once in a newspaper of general circulation in the County of San Diego.

2. Serve a written notice of the time and place of such hearing and a copy of the order upon the owner and upon the person in possession of the premises involved. Service of the notice and copy of order shall be made in the manner required by law for the service of summons, or be registered or certified mail, postage prepaid; provided, however, if no owner or person in possession can be found, the Director shall cause notice of such hearing together with a copy of the order by first class mail, postage prepaid, to be mailed to the person whose name and address appear as owner of the premises involved on the latest adopted tax roll of the County of San Diego, or, alternatively on such other records of the Assessor or the Tax Collector as contain more recent information in the opinion of the Director.
 3. Cause a notice of the time and place of hearing and a copy of order to be sent to such public officers, departments or agency in the opinion of the Director, might be interested, and request report thereon.
- d. Administrative Appeal. Notice of any public hearing pertinent to an administrative appeal shall be given in the same manner as prescribed by the California Government Code for variance and use permit.
 - e. Supplementary Notice. Any additional methods of notification of public hearings may be employed at the discretion of the body or the officer before which the hearing is to be held.
 - f. Signatures Of Applicants as Evidence of Notice. If signatures of persons other than the owners of property making the application are required or offered in support of, or in opposition to, an application, they may be received as evidence of notice having been served upon them of the pending application, and/or as evidence of their opinion on the pending issue, but they shall in no case infringe upon the free exercise of the powers vested in the Director, the Planning Commission or the Board of Supervisors.

Section 28. Section 7607 of The Zoning Ordinance is hereby amended, to read as follows:

7607 PUBLIC HEARINGS - ADDITIONAL MATTERS IN NOTICE.

Where application is made for an amendment of The Zoning Ordinance which proposes changing the zone classification of any property or the boundaries of any zone, or for a Variance or Major Use Permit, the Director or the Planning Commission shall have the discretion to include in the notice of hearing on such application, notice that the Planning Commission will consider classification other than that proposed and/or additional properties and/or uses and/or Variances. Where application is made for an ordinary Variance or a Minor Use Permit, the Director shall have the discretion to include in the notice of hearing on such application notice that the Director will consider additional uses and/or Variances.

Section 29. Section 7608 of The Zoning Ordinance is hereby amended, to read as follows:

7608 INVESTIGATIONS.

The Planning Commission or the Director shall cause an investigation to be made of facts bearing on an application for granting, extending, or modifying, or an action to revoke or modify a variance or use permit, or whenever necessary to investigate a proposed amendment of The Zoning Ordinance, an application for a planned development permit, or an Administrative Appeal. The investigation shall include an analysis of precedent cases as will serve to provide all necessary information to assure action on each case consistent with the purpose of The Zoning Ordinance and with prior actions.

Section 30. Section 7609 of The Zoning Ordinance is hereby amended, to read as follows:

7609 MINOR DEVIATION FROM PLAN.

In the event there is granted a Variance, Site Plan or Use Permit which allows or requires land to be used or developed in accordance with a plan, or plans that are referred to in such Variance, Site Plan, or Use Permit, Minor Deviations from said 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 Variance, Site Plan or Use Permit. The intent of this section is to provide for flexibility in the operation of Variances, Site Plans and Use Permits by permitting these Minor Deviations to be administratively granted by the Director. It is not the intent of this section to permit deviations from plans which violate the intent and purpose of the related Variance, Site Plan or Use Permit or any of its conditions, or to allow any action for which a Variance, Site Plan or Use Permit would be required by The Zoning Ordinance.
- b. Jurisdiction. The Director may authorize Minor Deviations from plans pertinent to all Variances, Site Plans and Use Permits 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 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 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. Application Form, Filing and Fee. An application requesting a minor deviation from a plan shall be made on the form prescribed by the Director, shall be filed with the authority having jurisdiction as provided by paragraph "b" of this section, and shall be accompanied by the fee referenced in Section 7602.
 - f. Hearing Not Required. Any action of the Director pursuant to this section may be taken without notice or public hearing.
 - g. Decision is Final. Any 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 Variance, Site Plan, or use permit or modification thereof pursuant to the Zoning Ordinance.

Section 31. Section 7611 of The Zoning Ordinance is hereby amended, to read as follows:

7611 ENVIRONMENTAL IMPACT REVIEW - CONSIDERATION.

The Board of Supervisors, Planning Commission or Director, whoever has jurisdiction to grant, conditionally grant, or deny an application for which an environmental impact report has been prepared, shall consider such report as independent evidence in making the decision whether to grant, conditionally grant or deny the application. In addition to any other discretion granted by law, such Board, Commission or County officer shall have the authority to consider the adequacy of the environmental impact report and shall have the authority to require the preparation of a supplementary report in any case in which a supplementary report is deemed by it to be necessary as a basis for a decision on the application.

Section 32. Section 7612 of The Zoning Ordinance is hereby amended, to read as follows:

7612 BOND TO INSURE PERFORMANCE OF CONDITIONS.

Every bond to insure performance of conditions shall be a penalty bond and shall be in a form satisfactory to the Director, Planning Commission or Board of Supervisors, whoever requires same, shall be payable to the County of San Diego and shall be conditioned upon compliance with the conditions and limitations including any limitation of time, upon which such variance or use permit is granted. Upon the breach of any condition or limitation, including a limitation of time, upon which the variance or use permit is granted, the money or the bond furnished as security shall be forfeited to the County of San Diego and such money or the money collected on any such bond shall be paid into the general fund of the County of San Diego.

Section 33. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED THIS 22nd day of September, 2004.