

Comment Letter Q

March 13, 2013

TO: Carl Stiehl
SUBJECT: Draft Tiered Equine Ordinance

Hello Carl,
I have the following issues with the Draft Tiered Equine Ordinance.

ISSUE 1:
I strenuously object to the addition of requirements for Horsekeeping that appear in the Draft Tiered Equine Ordinance. These additions are entirely new and not clearly identified for the public in any of the public hearings preceding the draft ordinance. In addition these requirements are ambiguous and entirely subject to change and places horse owners throughout the County in immediate threat of Code Enforcement action.

Q-1

The regulations in the Draft Tiered Equine Ordinance I am objecting to are as follows:
In addition Horse Stable or Horsekeeping use shall comply with the following requirements:

2. Restrictions On Use:
 - a. A Horse Stable or Horsekeeping shall conform to the regulations contained in Division 6, Sections 36.401 - 36.414 of the County Code (Noise Abatement and Control).
 - b. Dust and drainage from the Horse Stable or Horsekeeping shall not create a nuisance or a hazard to adjoining properties or uses.
 - c. A Horse Stable or Horsekeeping shall conform to the standards and regulations for the humane treatment of equine animals found in State code, including, but not limited to, Health and Safety Code Section 25988.
 - d. A Horse Stable or Horsekeeping shall maintain the use subject to standard best management practices for equine uses in compliance with the Grading, Stormwater and Watershed Protection Ordinances. Lack of compliance with best management practices may be subject to enforcement by County staff.

Q-2

On March 2, 2011 the Board of Supervisors directed staff to investigate options that would protect and promote equestrian operations while ensuring that we have reasonable permit fees and regulations. *"It is important that the County of San Diego makes certain that the equine industry continues to have a vital role in our rural communities and operates under regulations that are appropriate and fair."* There was no direction to modify or increase regulation of permitted horsekeeping.

Q-3

This action was followed by The Interim Policy on Commercial Equine Facilities, approved March 16, 2011, which was strictly about non-conforming commercial horse operations.

The County Planning Commission, on May 20, 2011, heard POD 10-010: Options for updating Equine Regulations in the Zoning Ordinance. In the staff report to the Planning Commission was the following statement: *"Following the direction from the Board of Supervisors to assess the equine industry and equine operations in the County, staff would propose changes to the existing commercial Horse Stable regulations. Staff does not propose any changes to agricultural Horsekeeping regulations."*

Q-4

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Response to Comment Letter Q

Janis Shackelford

March 13, 2013

Q-1

These are not new regulations. The existing regulations found in the Grading, Stormwater and Watershed Protection Ordinances are being referenced in one place in the new Horsekeeping and Horse Stable use section in the Animal Regulations. Horse owners that do not comply with existing codes and regulations are only subject to enforcement action through a compliant when not in compliance with these existing ordinances.

Q-2

As discussed in Q-1 above, these are not new regulations, the sections reference existing codes, which area already subject to enforcement action by the County.

- a. The Noise Ordinance is not new, it is currently in effect
- b. Dust and drainage control is not new and is currently required under the Air Pollution Control District (APCD) and stormwater regulations
- c. State law, Health and Safety Code is not new, the humane treatment of horses is currently required under code
- d. The Grading, Stormwater and Watershed Protection Ordinances are not new, all properties are currently required to comply.

Reponses to Comments

<p>The Board of Supervisors heard POD 10-010 on July 13, 2011. The following statement appeared in the report to the Board: <i>"Based on the direction of the Board, the focus of the regulation changes considered in this report are for non-private equine operations. The keeping of horses owned solely by the occupants of a property is referred to in County regulations as "Horsekeeping" and would not be affected. The private Horsekeeping use is allowed without the need for permits on most properties in the unincorporated county. In such cases, occupants of a property may have an unlimited number of horses under their ownership for their own use. A horse allowed under the Horsekeeping use is required to meet animal enclosure setbacks and a building permit may be necessary for an associated shade structure, stable or barn."</i></p> <p>The Draft Ordinance Summary POD 11-011 with initial recommendations had no mention of changes to Horsekeeping regulations.</p> <p>The Notice of Preparation of an Environmental Impact Report, placed for public review on January 19-February 17th, 2012, made no disclosure of proposed changes to Horsekeeping regulations. <i>"The amendments consist of clarifications, deletions, and revisions to provide an updated set of definitions, procedures and standards for review and permitting of equine uses, specifically for commercial horse stables. The amendments will implement a new tiered system of permitting for a horse stable with both ministerial and discretionary tiers of permitting."</i></p> <p>The first time the public was made aware of the new proposed requirements to be placed in the County Zoning Ordinance for Horsekeeping was the release of the Draft Tiered Equine Ordinance first presented at the Equine Stakeholders meeting on January 24, 2013 followed by release of the Draft Environmental Impact Report for the Ordinance on February 4, 2013.</p> <p>I will note that the general public reviewing the documents and description of the Draft Tiered Equine Ordinance as published on the County of San Diego's website would have no idea that new regulations for Horsekeeping are proposed in the Draft Tiered Equine Ordinance. There is one sentence in the Project Summary that might be construed to indicate new regulations pertaining to Horsekeeping are proposed, but the entire summary is directed to commercial equine uses not individual horsekeeping. <i>"Update regulations for equine uses to be consistent with current technology and design."</i> Further the Project Description includes no disclosure of revisions to Animal Regulations (3000s) pertaining to Horsekeeping.</p> <p>Regarding the proposed regulations: <i>A Horse Stable or Horsekeeping shall maintain the use subject to standard best management practices for equine uses in compliance with the Grading, Stormwater and Watershed Protection Ordinances. Lack of compliance with best management practices may be subject to enforcement by County staff.</i></p> <p>I have reviewed the web sites referenced with the Draft Tiered Equine Ordinance and found the following statements: Equine Facilities Best Management Practices: "Below is a list of BMPs that may be applicable to your business." It is not clear to the individual horse owner that the requirements apply to them.</p>	<p>Q-3 See response to Q-1 and Q-2, these are not new regulations, there is no increase in regulation. The existing regulations are appropriate and fair. Staff is following direction from the Planning Commission and the Board that all equine regulations should be in the same place in the ordinance.</p> <p>Q-4 See response to Q-1 and Q-2, This is correct, staff is not proposing any changes to Horsekeeping that would more substantially regulate it. As noted above, staff does not propose any changes related to noise, dust management, grading, watershed protection or stormwater as these are all covered under existing ordinances. The only change to Horsekeeping in the new ordinance is to make a less onerous permit process under certain animal regulations from a Minor Use Permit to an Administrative Permit. This was a change that developed over the past two years through the process of developing the ordinance.</p> <p>Q-5 As noted in Q-4 above, the statement from the Board Letter two years ago is still correct. There are no major changes to Horsekeeping. It will remain allowed with unlimited numbers on the majority of parcels in the County by animal regulations. There are only minor changes to the ordinance which staff recommends, as noted in Q-4.</p>
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Reponses to Comments

	<p>Q-6 See previous responses. There are no major changes to Horsekeeping, only minor updates as noted above, this is consistent with amendments that provide clarifications, deletions and revisions for review and permitting of equine uses.</p> <p>Q-7 See Q-4, Q-5 and Q-6 above.</p> <p>Q-8 BMPs are required on a case by case basis. Properties are different, intensity of uses are different, therefore different best management practices may apply to different properties depending on the case. Individual horse owners may also not know what building permit requirements are necessary depending on the design and construction of a building by just looking at Building Code. There is ample information on the County webpages regarding BMPs, including project cleanwater. There will also be additional information handouts for Equine facilities as part of the implementation of this ordinance. Typically owners and operators should contact staff after reviewing the handouts to determine BMPs that are necessary. This would be part of permitting a Horse Stable or any building permit related to a Horse Stable or Horsekeeping. Therefore, stables being permitted under the new tiered ordinance will be reviewed by County staff and BMPs may be required on a case by case basis. Existing properties may be required to comply with existing grading, stormwater or</p>
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Reponses to Comments

<p>Page 3</p> <p>Tips for Manure Management: "We encourage horse and livestock owners to stay informed of the compliance requirements....". Language is encourage not require.</p> <p>Project Clean Water: The web site is not functioning very well. A search for manure came up with 0 results.</p> <p>It is very unclear what the requirements and BMPs are that an individual horse owner must comply with since nothing is clearly stated in the Draft Tiered Equine Ordinance. In addition the regulations pertaining to watershed protection and runoff are ever evolving. Placing a requirement in the Zoning Ordinance for all horse owners to comply with, without clearly stating what those requirements are, is not appropriate and fair.</p> <p>ISSUE 2:</p> <p>In this attempt to permit non-conforming horse stables the Draft Tiered Equine Ordinance has developed new requirements for ALL horse stables that are onerous and not appropriate or fair. Regardless of whether the horse stable is a 'by-right' permitted use, or has one or one hundred horses being boarded, the stable is required to formulate a manure management plan, a fire protection plan and a vector control plan. There are aspects of the three plans that are infeasible by the common horse owner- install a water hydrant (a hydrant for fire protection is a large diameter pipe with large volume flow) specifications for storing rags in enclosed buildings, setbacks between structures of 50 ft (it is not clear whether a horse shade structure is considered a structure in this ordinance) pick up waste hay daily, etc.</p> <p>In addition there may be a misinterpretation of the Watershed Protection Program for Equine Facilities (WPPEF). The WPPEF states manure must be cleaned up at least twice weekly and may be composted or may be stored for off-site disposal in a manner that prevents contact with runoff. However the Draft Tiered Equine Ordinance requires a Horse Stable to develop a manure management plan with the following requirement: "Manure shall be kept in the manure management area in an enclosed or covered container unless being composted. Manure shall be removed from the property a minimum of bi-weekly or properly composted onsite." The word bi-weekly has two definitions, one is twice a week the other is every two weeks. The draft ordinance needs to clarify which meaning is required. Otherwise this requirement exceeds the WPPEF and since most trash service is once a week, places an undue economic burden on horse stable uses.</p> <p>ISSUE 3:</p> <p>Section 12, 3130 initially seems to apply to the expansion of horse stable uses for specific animal designators (such as V). However since 3130 is referenced in the matrix for both horse stables and horsekeeping, it appears that all horse uses in all animal designators (such as X) must comply with the new restrictions on use. Requiring manure management plans, fire protection, and vector control for previously 'by-right' horse stable uses is inconsistent with the original intent for developing this ordinance. How are existing by-right equine uses going to be grandfathered? If these uses have</p>	<p>watershed protection ordinance requirements with BMPs depending on the situation.</p> <p>Q-9 See previous responses, Q-1, Q-2 and Q-8. A manure management plan, fire protection plan and vector control plan are all necessary for the commercial operation of a Horse Stable. Existing stables that are grandfathered are not subject to these requirements as the Nonconformity Regulations in Zoning Ordinance Section 6850 apply. New stables established throughout the County would be subject to these requirements as they apply to all stables, not just in the tiered areas. The fire hydrant regulation has been updated in the draft ordinance. Setback regulations have also been updated. Waste must be picked up daily. In staff's discussion with operators, all were picking up waste daily from Animal Enclosures. All horse stables, those grandfathered and those that are new, do have to comply with the existing Air Pollution Control District Regulations, Noise Ordinance, Grading, Stormwater and Watershed Protection Ordinances. These are existing ordinances and regulations that are already in effect and applicable to all stables. These are not new regulations.</p> <p>Q-10 Agree, this has been updated in the draft ordinance.</p>
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Reponses to Comments

any horses not owned by the property owner, will all sections of 3130 be applied to the existing business that were never required before?

↑ Q-11
Cont.

While the Tiered Equine Ordinance has been developed to resolve a problem with non-permitted commercial equine uses, expansion of the ordinance to include regulations for previously permitted Horse Stables and Horsekeeping is not justified or supported in the public review process. This needs to be corrected by striking the word Horsekeeping from Section 12, 3130: 1. and 2. of the Draft Tiered Equine Ordinance. In addition, the ordinance appears to place new regulations on all horse uses in the County and is exceedingly detrimental to the equine industry.

↓ Q-12

Submitted by,

Janis Shackelford
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El Cajon, CA 92021

Q-11 Grandfathered or legal non-conforming Stables are not subject to the new requirements based on section 6800 and specifically new section 6879. However, stables that now expand under the new regulations are subject to the new requirements.

Q-12 See Responses Q-1 through Q-5. Staff is not proposing any changes to Horsekeeping that would more substantially regulate it. As noted above, the only change to Horsekeeping in the new ordinance is to make a less onerous permit process under certain animal regulations from a Minor Use Permit to an Administrative Permit. This was a change that developed over the past two years through the process of developing the ordinance along with public input from the equestrian community.

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