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June 14, 2013

Update No. 92
6-13

TO: Persons Holding Copies of the San Diego County Zoning Ordinance
FROM: Department of Planning & Development Services
RE: AMENDMENT PAGES FOR THE COUNTY ZONING ORDINANCE

Attached are pages containing changes to the San Diego County Zoning Ordinance amended by adoption of Ordinance No. 10261 (N.S.) and Ordinance No. 10262 (N.S.), effective 06-14-13. These Ordinances make additions and amendments to definitions and update and streamline the provisions that regulate small and large wind energy systems. These amendment pages are known as POD-10-007, adopted by the Board of Supervisors on May 15, 2013.

Please substitute these pages in your copy of the Zoning Ordinance by removing the obsolete pages and adding the new pages as follows:

| REMOVE | ADD | SECTION CHANGES/DESCRIPTION |
|------------------------------|------------------------------|--|
| 1019 - Def B (5 pages) | 1019 - Def B (5 pages) | Pagination changes Definition of "A-Weighted Sound Level (dBA)" added Definition of "Background Sound Level (L ₉₀)" added |
| Def. C (2 pages) | Def. C (2 pages) | Definition of "C-Weighted Sound Level (L _{Ceq})" added |
| Def. M - Def. N (3 pages) | Def. M - Def. N (3 pages) | Definition of "Military Operating Area" added Definition of "Nacelle" added |
| Def. P - Def. R (2 pages) | Def. P - Def. R (2 pages) | Definition of "Residual Background Sound Criterion (RBSC _{L90}) for Wind Energy Facilities" added Definition of "Ridgeline" added |
| Def. T - Def. T (1 page) | Def. T - Def. T (1 page) | Definition of "Trellis Tower" added |

| REMOVE | ADD | SECTION CHANGES/DESCRIPTION |
|-----------------------------|-----------------------------|---|
| Def. W - Def. Z (1 page) | Def. W - Def. Z (1 page) | Definition of "Wind Turbine" amended Definition of "Wind Turbine, Large" amended Definition of "Wind Turbine, Medium" deleted Definition of "Wind Turbine, Non-Operational" amended Definition of "Wind Turbine, Small" amended Definition of "Wind Turbine Height" added Definition of "Wind Turbine Tower Height" added Definition of "Zoning Verification Permit" added |
| 1380 (1 page) | n/a | 1380 Medium Wind Turbine System deleted |
| 2990 (1 page) | 2990 (1 page) | Use Matrix Page 1 of 6: 1380 Medium Wind Turbine deleted |
| 6123 - 6123 (2 pages) | 6123 - 6123 (2 pages) | Meteorological Testing Facility amended |
| 6156 (1 page) | 6156 (1 page) | Accessory Uses Encompassed by Principle Use z. Wind Turbine Systems, Small amended |
| 6156 - 6158 (4 pages) | 6156 - 6158 (4 pages) | Ordinance notation added Civic, Commercial, Industrial, or Extractive Use Types b. Small Wind Turbine amended Ordinance notation added |
| 6861- 6862 (1 page) | 6862 (1 page) | Nonconforming Large Wind Turbine Systems deleted Nonconforming Wind Turbines amended |
| 6950 - 6952 (4 pages) | 6950 - 6952 (6 pages) | Renewable Energy added Small Wind Turbine added Large Wind Turbine amended (renumbered) **Note: Solar Energy Systems are also numbered 6952. This will be corrected in the next ordinance amendment. |
| 7355 -7378 (5 pages) | 7355 - 7378 (5 pages) | Findings Required for Certain Use Permits amended Pagination changes |

Upon insertion of these pages, we suggest you fill in the space provided for Update No. 92 inside the front cover of your Zoning Ordinance. This will serve as a record that your copy has been updated. If you have any questions regarding this update, please contact Matthew Schneider at (858) 694-3714.



DARREN GRETHER, Assistant Director
Planning & Development Services

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 6543 (N.S.) adopted 3-2-83)

(Amended by Ord. No. 6983 (N.S.) adopted 7-03-85)

1019 EFFECT OF AMENDMENTS UPON PENDING APPLICATIONS.

- a. Any application for a permit or other approval regulated in any manner by the provisions of this Zoning Ordinance shall only be required to meet the provisions of this Ordinance that were in effect on the date that application was deemed complete. The foregoing provision relates only to individual application(s) regulated by the Zoning Ordinance, not to the overall project (for which several applications may be required).

- b. For purposes of this section, an application is "deemed complete" 30 days following the date it was submitted, unless the applicant has been informed that the application is not complete, or at such earlier date that the County informed the applicant that the application was complete.

(Added by Ord. No. 6134 (N.S.) adopted 7-22-81)

(Amended by Ord. No. 7322 (N.S.) adopted 6-10-87)

(Amended by Ord. No. 7740 (N.S.) adopted 3-28-90)

(Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)

(Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)

1100

DEFINITIONS

1100 TITLE, PURPOSE AND APPLICABILITY.

The provisions of Section 1100 through Section 1199, inclusive, shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of The Zoning Ordinance. The meaning and construction of words and phrases as set forth shall apply throughout The Zoning Ordinance, except where the context of such words or phrases clearly indicates a different meaning or construction. Definitions contained in the Uniform Building Code shall be applicable except when in conflict with definitions contained in The Zoning Ordinance, in which case The Zoning Ordinance definition shall prevail.

1105 GENERAL RULES FOR CONSTRUCTION OF LANGUAGE.

The following general rules of construction shall apply to the textual provisions of The Zoning Ordinance.

- a. Headings. Section and subsection headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any provision of The Zoning Ordinance.
- b. Illustration. In case of any difference of meaning or implication between the text of any provision and any illustration, the text shall control.
- c. Shall and May. "Shall" is always mandatory and not discretionary. "May" is discretionary.
- d. Tenses and Numbers. Words used in the present tense include the future, and words used in the singular include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- e. Conjunctions. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 1. "And" indicates that all connected items or provisions apply.
 2. "Or" indicates that the connected items or provisions may apply single or in any combination.
 3. "Either...or" indicates that the connected items or provisions shall apply single but not in combination.
- f. All public officials, bodies, and agencies to which reference is made are those of the County of San Diego unless otherwise indicated.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

1110 GENERAL TERMS.

- a. "Permitted" means permitted without the requirement for a use permit but subject to all other applicable regulations.
- b. "Department" means the Department of Planning and Development Services.
- c. "Board" or "Board of Supervisors" shall have the same meaning.
- d. "Commission" or "Planning Commission" shall have the same meaning.
- e. "City" means any city in the County of San Diego.
- f. "County" shall mean the County of San Diego.
- g. "Federal" shall mean the Government of the United States of America.
- h. "State" shall mean the State of California.
- i. "Used" includes "arranged for," "designed for," "occupied," or "intended to be occupied for."
- j. "General Plan" means the San Diego County General Plan.
- k. "Director" means the Director of Planning and Development Services.
- l. "Section" means a section of the Zoning Ordinance unless otherwise indicated. Sections of this Ordinance are identified by a four digit number (excluding any suffix or decimals) except that each term defined in the Definitions constitutes a separate section.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 8555 (N.S.) adopted 7-14-95)

(Amended by Ord. No. 8962 (N.S.) adopted 9-23-98)

(Amended by Ord. No. 10222 (N.S.) adopted 9-25-12. Opr. 11-26-12)

Def. A

DEFINITIONS (A)

A-Weighted Sound Level (dBA): The sound level in decibels as measured on a sound level meter using the A-weighted network. The A-weighted network is the network for measuring sound that most closely resembles what the human ear hears. Sound measured using the A-weighted network is designated dBA.

(Added by Ord. No 10262 (N.S.) adopted 5-15-13)

Abutting: Having a common boundary except that parcels having no common boundary other than a common corner shall not be considered abutting.

Accessory Apartment (Elderly/Handicapped/Family Member): A dwelling unit no greater than 640 square feet in floor area, located within or attached to a single detached dwelling, for occupancy by a maximum of two persons, one of whom shall be either 1) 60 years of age or older, 2) handicapped (as defined in the State Health and Safety Code) or 3) a member of the immediate family of the owner (related by blood, marriage or adoption) of the principal dwelling on the site. (Accessory Apartment provisions were repealed by Ord. No. 9982 (N.S.) adopted 04-22-09).

(Added by Ord. No. 6586 (N.S.) adopted 5-18-83)
(Amended by Ord. No. 9982 (N.S.) adopted 4-22-09)

Accessory Building: A portion of a main building or a detached subordinate building located on the same lot as a main building which is devoted exclusively to an accessory use.

Accessory Living Quarters: Living quarters, which may include kitchen facilities, within an accessory building or within the primary dwelling for the sole use of persons employed on the premises and not rented or otherwise used as a separate dwelling. (Accessory Living Quarters provisions were repealed by Ord. No. 9982 (N.S.), adopted 4-22-09).

(Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)
(Amended by Ord. No. 9982 (N.S.) adopted 4-22-09)

Accessory Use: A use customarily incidental and accessory to the principal use of the land or lot, or to a building or other structure located on the same lot as the accessory use.

(Amended by Ord. No. 10204 (N.S.) adopted 3-28-12)

Administrative Permit: A permit which may be granted by the appropriate County officer or body to provide for the accommodation of land uses or structures with special site or design requirements, operational characteristics, or potential adverse effects on surroundings, which are not permitted by right, but which may be approved upon completion of a review process, the making of findings required by ordinance, and where necessary, the imposition of conditions of approval by the permit granting authority. Administrative permits are intended to be utilized in situations where the public welfare does not require a public hearing prior to granting approval for temporary uses or structures, uses and structures having only a minor potential adverse impact on surroundings, or for uses and structures where the public welfare necessitates an expeditious review procedure.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)

Adult Bookstore, Adult Novelty Store Adult Video Store: A commercial establishment which has a significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space for the sale or rental, for any form of consideration, of any one or more of the following:

- a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas";
- b. Instruments, devices or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of the user or others.

As used in this definition, the term "significant or substantial portion" means 25 percent or more.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)
(Amended by Ord. No. 8015 (N.S.) adopted 12-4-91)
(Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)
(Amended by Ord. No. 9827 (N.S.) adopted 1-31-07)

Adult Cabaret: A nightclub, bar, juice bar, theater, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear in a state of semi-nudity (nudity is prohibited per Chapter 18 of the Code of Regulatory Ordinances); or (b) films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas".

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)
(Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)

Def. A

Adult Drive-In Theater: An open lot or part thereof, with appurtenant facilities, devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions, for any form of consideration, to persons in motor vehicles or on outdoor seats, and presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

Adult Entertainment: Any activity which falls within the list of defined terms found at Section 6930 d.

(Added by Ord. No. 8015 (N.S.) adopted 12-4-91)

Adult Motel: A motel, hotel, or similar commercial establishment which: (a) offers public accommodations for any form of consideration and which regularly provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" and which regularly advertise the availability of such material by means of a sign visible from the public right of way or by means of any off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, and (b) offers a sleeping room for rent for a period of less time than ten (10) hours.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)
(Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)

Adult Motion Picture Theater: A commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

Specified Sexual Activities:

1. Sex acts including intercourse, oral copulation, masturbation, or sodomy; or
2. Excretory functions as part of or in connection with any of the activities set forth in 1.

(Added by Ord No. 5840 (N.S.) adopted 7-30-80)
(Amended by Ord. No. 7469 (N.S.) adopted 6-12-02)

Adult Model Studio: Any establishment open to the public where, for any form of consideration or gratuity, figure models who display specified anatomical areas are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons, other than the proprietor, paying such consideration or gratuity. The provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution which meets the requirements established in the Education Code of the State of California for the issuance or conferring of, and is in fact authorized thereunder to issue and confer, a diploma.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

Adult Arcade/Peep Show: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)
(Amended by Ord. No. 9469 (N.S.) adopted 6-12-02)

Adult Motion Picture Theater: An establishment, with a capacity of fifty (50) or more persons, where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material which is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons.

Adult Theater: A theater, concert hall, auditorium or similar establishment, either indoor or outdoor in nature, which, for any form of consideration, regularly features live performances which are distinguished or characterized by an emphasis on specified sexual activities or by exposure of specified anatomical areas for observation by patrons.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

Agricultural Employee: (See Farm Employee)

(Added by Ord. No. 5508 (N.S.) adopted 5-16-79)

Agricultural Homestay: A working farm or ranch on which bedrooms are made available for rent in a farm or ranch house occupied by the farmer or rancher or in a single cabin or other small detached structure measuring no more than 500 square feet and where lodging and overnight sleeping accommodations are provided for a stay of no more than 14 days, either with or without meals.

(Added by Ord. No. 9470 (N.S.) adopted 6-12-02)

Agricultural Tourism (also Agri-tourism or Ag-tourism): The act of visiting a commercial agricultural enterprise for the purpose of enjoyment, education or active involvement in the activities of the farm, ranch or agricultural operation.

(Added by Ord. No. 10204 (N.S.) adopted 3-28-12)

Agricultural Zone: A zone including a use regulation set forth in Sections 2700 through 2799, inclusive.

(Added by Ord. No. 5508 (N.S.) adopted 5-16-79)

Agriculture: Shall mean the production of goods such as food, fibers or feed by the systematic growing and harvesting of plants, animals and other life forms. Typical forms of agriculture include cultivation of land and raising of livestock.

Def. A

(Added by Ord. No. 10003 (N.S.) adopted 8-5-09)

Aircraft: Any contrivance, now known or hereafter invented, used or designed for navigation of or flight in the air. "Aircraft" does not include ultralight vehicle as defined by this ordinance.

(Added by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 7197 (N.S.) adopted 9-10-86)

Airport: Any area of land, water or a structure which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(Added by Ord. 5508 (N.S.) adopted 5-16-79)

Alley: A public or private way permanently reserved as a secondary means of access to abutting property.

Amendment: Any change, modification, deletion, or addition to the wording, text or substance of the Zoning Ordinance, or any change, modification, deletion or addition to the application of the Zoning Ordinance to property within San Diego County, including any alteration in the boundaries of a zone, when adopted by ordinance passed by the Board of Supervisors in the manner prescribed by law.

Anatomical Areas: (See Specified Anatomical Areas)

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

Animal, Large: Limited to bovine animals, sheep, goats, swine, ostriches, emus, llamas and alpacas.

(Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)

Animal Regulations: That element of a zone which indicates, by means of a letter designator, the regulations pertaining to the keeping of animals.

(Added by Ord. No. 8166 (N.S.) adopted 10-21-92)

Animal, Small: Poultry, rabbits, chinchillas, hamsters, and other small domesticated animals other than a large animal or specialty animal.

Animal, Specialty: Including, but not limited to, fish, furbearing animals, wild or undomesticated animals, amphibians, insects and birds, other than large or small animals.

Animal Waste Processing: The processing of animal waste and byproducts including but not limited to animal manure, animal bedding waste, a similar byproduct of an animal raising agricultural operation, for use as a commercial fertilizer or soil amendment and including composting operations.

Apartment Hotel: A building or portion thereof designed for or containing both individual guest rooms or suite of rooms and dwelling units.

Approach-Departure Path: The flight track of a helicopter as it approaches or departs from the helicopter facility's designated take-off and landing area.

(Added by Ord. No. 7058 (N.S.) adopted 10-30-85)

Aquaculture: A form of agriculture devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and fresh water.

(Added by Ord. No. 7630 (N.S.) adopted 05-23-89)

Attached: (See Building Type; Nonresidential)

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

Attached, Three to Eight Dwelling Units: (See Building Type, Residential)

Attic Story: Any story situated wholly or partly in the roof, so designated, arranged or built as to be used for business, storage, or habitation. An attic story shall be counted as a story.

Automobile Wrecking: The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of 5 or more motor vehicles which for a period exceeding 30 days have not been capable of operating under their own power, and from which parts have been or are to be removed for reuse or sale shall constitute prima facie evidence of an automobile wrecking yard.

DEFINITIONS (B)

Background Sound Level (L_{90}): The sound level that is exceeded for 90 percent of the total measurement period as described in the current edition of Quantities and Procedures for Description and Measurement of Environmental Sound by the American National Standard Institution. Background Sound Level may be measured relative to A-weighting or C-weighting, in which case it would be denoted as L_{A90} and L_{C90} , respectively.

(Added by Ord. No. 10262 (N.S.) adopted 5-15-13)

Barn: A building used for the shelter of livestock raised on the premises, the storage of agricultural products produced or consumed on the premises, or the storage and maintenance of farm equipment and agricultural supplies used for the agricultural operations on the premises.

Base Units: The number of dwelling units proposed for a housing development, exclusive of the density bonus units. The number of base units cannot exceed the maximum allowable residential density.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Def. B

Basement: Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

(Amended by Ord. No. 6134 (N.S.) adopted 7-22-81)

Bed and Breakfast Home: A single-family dwelling in which more than two bedrooms are made available for rent on a less than weekly basis to provide lodging, including overnight sleeping accommodations and breakfast.

(Added by Ord. No. 7160 (N.S.) adopted 6-18-86)

(Amended by Ord. No. 7363 (N.S.) adopted 8-19-87)

(Amended by Ord. No. 7515 (N.S.) adopted 7-13-88)

Bedroom: Attached room which is intended, arranged, or designed to be occupied by one or more persons primarily for sleeping purposes and shall have an area of not less than 70 square feet or be less than 7 feet in any dimension with a closet opening on it or within it.

(Added by Ord. No. 6134 (N.S.) adopted 7-22-81)

Bicycle Space: An area that is permanently reserved and maintained for parking one bicycle either in an open rack or an enclosed structure or locker.

(Added by Ord. No. 5976 (N.S.) adopted 1-28-81)

(Amended by Ord. No. 6940 (N.S.) adopted 4-10-85)

Bird: An avian species other than poultry.

(Added by Ord. No. 5786 (N.S.) adopted 6-4-80)

(Amended by Ord. No. 6268 (N.S.) adopted 4-14-82)

Block: All property fronting upon one side of a street between intersecting and intercepting streets, or between a street and a right-of-way, waterway, terminus of dead end street, or city boundary. An intercepting street shall determine only the boundary of the block on the side of the street which it intercepts.

Bluff: A scarp or steep face of rock, decomposed rock, sediment or soil resulting from erosion, faulting, folding, filling or excavation of the land mass. The bluff may be simple planar or curved surface or it may be steplike in section.

(Amended by Ord. No. 5329 (N.S.) adopted 12-13-78)

Building Type: The development designator intended to regulate the structural types and arrangements of buildings, and the arrangement of uses within them.

Building Type, Mixed Residential-Nonresidential: That group of building types comprising the following:

1. **Limited:** A structure or structures containing one or more dwelling units in any vertical or horizontal arrangement and in which principal nonresidential use types are located only at the ground level, or at any level below the ground level of the building or structure.
2. **Unlimited:** A structure or structures containing one or more dwelling units in any vertical or horizontal arrangement and in which principal nonresidential use types may be located on any level of the building or structure.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

Building Type, Nonresidential: That group of building types comprising the following:

1. **Detached:** A building, freestanding and structurally separated from other buildings, located on a lot or building site which may be occupied by other buildings.
2. **Attached:** Two or more main buildings placed side-by-side so that some structural parts are touching one another, located on a lot or building site or portion thereof which may be either occupied or unoccupied by other main buildings.

Building Type, Residential: That group of building types comprising the following:

1. **Single Detached:** One dwelling unit, freestanding and structurally separated from any other dwelling unit or building, located on a lot or building site which is unoccupied by any other dwelling unit.
2. **Double Detached:** (See Duplex).
3. **Semi-Detached:** One dwelling unit, which is placed side-by-side and touching another dwelling unit or its garage, both of which are located on separate lots or building site unoccupied by any other dwelling unit.
4. **Duplex:** Two dwelling units placed side-by-side, which may be attached or detached, both of which are on a lot or building site which is unoccupied by any other dwelling unit.
5. **Triplex:** A multiple dwelling limited to three dwelling units arranged side-by-side or vertically so that some structural parts are touching one another, but freestanding and structurally separated from any other dwelling units, all of which dwelling units are located on a lot or building site which is unoccupied by any other dwelling unit.

Def. B

6. Stacked: Dwelling units arranged vertically so that one dwelling unit is placed above or below the other. The number of dwelling units shall not exceed the number permitted by the same building designator for other types of residential buildings.
7. Attached, Three to Eight Dwelling Units: 3 to 8 dwellings placed side-by-side so that some structural parts are touching one another, located on separate lots which are unoccupied by any other dwelling units.
8. Multi-Dwelling: A structure or structures containing a total of 3 or more dwelling units in any vertical or horizontal arrangement on a single lot or building site.

(Amended by Ord. No. 5768 (N.S.) adopted 6-4-80)

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

(Amended by Ord. No. 6940 (N.S.) adopted 4-10-85)

Bulk Reverse Vending Machine: A grouping of reverse vending machines occupying more than 50 square feet, designed to accept more than one container at a time and paying by weight instead of by container.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

Business or Commerce: The purchase, sale or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit; the management of office buildings, offices, recreational or amusement enterprises; or the maintenance and use of offices, structures and premises by professions and trades rendering services; or the use or leasing of land for promotion, display, or sales of mobilehomes or for the limitation of consumer choice as to services or products to be used in any mobilehome park to any one seller or group of sellers.

(Amended by Ord. No. 5612 (N.S.) adopted 10-10-79)

DEFINITIONS (C)

C-Weighted Sound Level (L_{Ceq}): The sound level in decibels as measured on a sound level meter using the C-weighting network. The C-weighting network measures sound that contains large low-frequency components. Sound measured using the C-weighting network is designated dBC.

(Added by Ord. No. 10262 (N.S.) adopted 5-15-13)

Cabana: A portable, demountable, or permanent room enclosure or other building erected or constructed for the use of the occupant of the mobilehome for human occupancy.

Cabaret: (See Adult Cabaret)

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

Cable Television (CATV) System: Any facility which, in whole or in part, receives directly or indirectly from the air and amplifies or otherwise modifies electronic or microwave signals transmitting programs broadcast by one or more television stations and/or originates or purchases programs or electronic or microwave signals and distributes such signals or any of them by wire or cable to subscribing members of the public who pay for such service.

California Coastal Zone: That portion of the Coastal Zone described in Section 30103 of the California Coastal Act of 1976 (Public Resources Code Section 20000 et seq.) which is within the unincorporated territory of the County of San Diego.

(Added by Ord. No. 6743 (N.S.) effective 1-11-85)

Caretaker: A person who takes care of a parcel or building.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

Cargo Container: Any portable, reusable container generally referred to as a sea cargo container or cargo container and primarily designed or used for transporting freight by commercial transportation. When used for any purpose other than transporting freight a Cargo Container is a structure.

(Added by Ord. No. 9844 (N.S.) adopted 4-18-07)

Carnival or circus: A use meeting the definition of these terms as set forth in Section 21.2401(a) of the San Diego County Code.

(Added by Ord. No. 10035 (N.S.) adopted 1-27-10)

Carport: A type of garage which is a roofed structure, or a portion of a building, open on 2 or more sides primarily for the parking of automobiles belonging to the occupants of the property.

(Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)

Cat: A feline that has reached the age of 4 months.

Categorical Exemption: Certain classes of projects found by the Secretary for Resources of the State of California not to have substantial adverse effects on the environment, and thus are exempt from the EIR requirement.

Cellar: That portion of a building between floor and ceiling which is wholly or partly below grade (as defined in these regulations) and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

Cemetery: Land used or intended to be used for the burial of one or more dead human bodies or cremated remains thereof, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

(Amended by Ord. No. 7850 (N.S.) adopted 1-16-91)

Def. C

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.

(Added by Ord. No. 9958 (N.S.) adopted 12-10-08)

Certified Recycling Facility: A recycling facility which has been certified by the California Department of Conservation as meeting the requirements of the California Beverage Container and Litter Reduction Act of 1986.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

Chimney: A hollow shaft containing one or more passages vertical or nearly so, for conveying products of combustion.

Child Care Center: A state-licensed facility of any capacity other than a family day care home for children in which less than 24 hour per day nonmedical care and supervision is provided for children in a group setting.

(Added by Ord. No. 6782 (N.S.) adopted 5-16-84)

Child Care Facility: A child day care facility other than a family day care home including, but not limited to, infant centers, preschools, extended day care facilities, and school age child care centers.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Civic Plaza: Property owned by a public or non-profit civic organization for purposes of accommodating the public in the conduct of outdoor events of general community interest including, but not limited to, assemblages of persons for: hobby shows; club meetings; the display and/or sale of art and craft objects; farmer's market, home-grown agricultural products only; and, passive recreational uses.

(Added by Ord. No. 8581 (N.S.) adopted 9-20-95)

Clinic: Any place, establishment or institution which operates under the name or title of clinic, dispensary, health center, medical center, or any other work or phrase of like or similar import, either independently or in connection with any other purpose, for the purpose of furnishing at the place, establishment, or institution, advice, diagnosis, treatment, appliances or apparatus, to persons not residing or confined in the place, establishment, or institution, and who are afflicted with bodily or mental disease or injury.

DEFINITIONS (M)

Main Building: A building or structure which is devoted primarily to a principal use or uses; or, the only building on a lot or building site.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

Major Use Permit: (See Use Permit, Major)

Manufactured Home: (See Mobilehome)

(Added by Ord. No. 6215 (N.S.) adopted 1-13-82)

Manufacturing Zone: A zone including a use regulation set forth in Sections 2500 through 2599, inclusive.

(Added by Ord. No. 5508 (N.S.) adopted 5-16-79)

Market Rate Unit: A dwelling unit that is not a reserved unit.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Marijuana Dispensary - Non-Medical (Not Authorized Under State Law): Any store, office, business, building, property or other facility in or from which marijuana is sold, given, traded, supplied, bartered, consumed, raised, processed, stored, used, cultivated, possessed, or transported by any person other than a person authorized to possess or cultivate marijuana for the personal medical purposes of the qualified patient, pursuant to the provisions of the Compassionate Use Act of 1996 (Health and Safety Code Sections 11362.5 and following) and the Medical Marijuana Program Act (Health and Safety Code Sections 11362.7-11362.83). Persons authorized to possess or cultivate marijuana for the personal medical purposes of the qualified patient include persons, who under state law, are: (i) qualified patients, (ii) primary caregivers of qualified patients, or (iii) such patients and caregivers who associate to collectively or cooperatively cultivate marijuana for medical purposes.

(Added by Ord. No. 10062 (N.S.) adopted 6-30-10)

Massage Parlor: An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the State of California.

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

(Amended by Ord. No. 9935 (N.S.) adopted 4-23-08)

Def. M

Master Antenna Television (MATV) System: A facility as described in Cable Television (CATV) System, but differentiated from the definition of a (CATV) System by virtue of (a) serving fewer than 50 subscribers, or (b) serving only the residents of an apartment dwelling under common ownership and consisting of not more than two buildings, or (c) providing service without charge.

Materials Recovery Facility: A facility that accepts source-separated or commingled recyclable materials, usually in an enclosed building, from collection facilities and the public; processes the materials into resalable condition, and markets the materials to companies for reuse. The end-products are materials recovered through the process. A materials recovery facility is considered to be a General Industrial use type and as such is permitted in the same locations and under the same conditions as other general industrial uses.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

Maximum Allowable Residential Density: The density calculated under Section 4115 of the Zoning Ordinance. If the density allowed under the Zoning Ordinance is inconsistent with the density allowed under the land use element of the general plan, the general plan density shall prevail.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Meteorological Testing (MET) Facility: A tower with or without guy wires and any other equipment with a component, such as an anemometer or SODAR device, to measure meteorological phenomena, such as wind speed, wind direction, air pressure, rain, snow or sun exposure. A MET Facility shall not include a Wind Turbine.

(Added by Ord. No. 9971 (N.S.) adopted 02-25-09)

Mezzanine or Mezzanine Floor: An intermediate floor placed in any story or room. When the total area of any such Mezzanine Floor exceeds 33 1/3 percent of the total floor area in that room, it shall be considered as constituting an additional story. The clear height above or below a Mezzanine Floor construction shall be not less than 7 feet. An enclosed Mezzanine shall be counted as a story.

(Amended by Ord. No. 7048 (N.S.) adopted 10-09-85)

Military Operating Area: A three dimensional airspace designated for military training and transport activities that has a defined floor (minimum altitude) and ceiling (maximum altitude) above mean sea level.

(Added by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

Mini-Mobilehome Park: A mobilehome park subject to the regulations of Sections 6530 through 6544, inclusive.

(Added by Ord. No. 5612 (N.S.) adopted 10-10-79)

Minor Deviation: A slight increase or decrease in size, height or scope of a proposed project from the original approved permit decision and associated plans of an Administrative Permit, Variance, Site Plan or Use Permit which is considered in substantial conformance with the original approved project or latest approved modification.

(Added by Ord. No. 10204 (N.S.) adopted 3-28-12)

Minor Use Permit: (See Use Permit, Minor)

Mobilehome: A structure designed and equipped to contain not more than two dwelling units to be used with or without a permanent foundation, and which is in excess of 8 feet in width or in excess of 40 feet in length. Mobilehome, as used herein, is further defined in Section 18211 of the Health and Safety Code and includes Manufactured Home as defined in Section 18007 of the Health and Safety Code.

(Amended by Ord. No. 5717 (N.S.) adopted 3-19-80)

(Amended by Ord. No. 6215 (N.S.) adopted 1-13-82)

(Amended by Ord. No. 6372 (N.S.) adopted 6-09-82)

Mobilehome Lot: An area or tract of land or portion of a mobilehome park or mobilehome subdivision designated or used for the occupancy of one mobilehome.

(Amended by Ord. No. 5717 (N.S.) adopted 3-19-80)

(Amended by Ord. No. 6215 (N.S.) adopted 1-13-82)

Mobilehome On a Private Lot: A mobilehome which has been placed on a permanent foundation system pursuant to the Mobilehome on Private Lot Regulations.

(Amended by Ord. No. 5717 (N.S.) adopted 3-19-80)

(Amended by Ord. No. 6215 (N.S.) adopted 1-13-82)

Mobilehome Park: An area or tract of land where 2 or more mobilehome lots are rented or leased or held out for rent or lease to accommodate mobilehomes for human habitation; provided that mobilehome park does not include:

- a. premises on which any trailer coaches are parked for inspection and sale;
- b. premises on which there is one trailer coach occupied by the owner thereof pursuant to a valid temporary occupancy permit issued by the Department of Environmental Health; or
- c. premises on which all trailer coaches are used exclusively either to provide farm employee housing or as a farm labor camp.

(Amended by Ord. No. 5612 (N.S.) adopted 10-10-79)

(Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)

Mobilehome Park, Standard: A mobilehome park subject to the regulations of Section 6510 through 6524, inclusive.

(Added by Ord. No. 5612 (N.S.) adopted 10-10-79)

Def. M

Mobilehome Subdivision: Any area or tract of land where two or more lots are created in accordance with applicable provisions of Division 1, Title 8 of the County Code of Regulatory Ordinances for the exclusive use of mobilehomes and their accessory uses.

(Added by Ord. No. 6215 (N.S.) adopted 1-13-82)

Mobile Recycling Unit: A motor vehicle or trailer, licensed by the Department of Motor Vehicles which is used for the collection of recyclable materials. A mobile recycling unit also means the bins, boxes or containers transported by trucks, vans, or trailers, used for the collection of recyclable materials.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

Model Home: A dwelling unit temporarily used for display purposes as an example of dwelling units available or to be available for sale or rental for the first time in a particular subdivision or other residential development which may be comprised of one-family, two-family or multiple dwellings, or a combination thereof. "Model Home" shall include examples of factory-built housing which may not necessarily be available in or related to a particular development.

Moderate-Income Family: (See Household, Moderate Income)

(Added by Ord. No. 5781 (N.S.) adopted 6-4-80)
(Amended by Ord. No. 10068 (N.S.) adopted 8-4-10)

Moderate-Income Household: (See Household, Moderate Income)

(Amended by Ord. No. 10068 (N.S.) adopted 8-4-10)

Motion Picture Theater: (See General Motion Picture Theater)

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

Multiple-Residential Zone: A residential zone in which 3 or more units are allowed on a legal parcel.

(Added by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)
(Amended by Ord. No. 6940 (N.S.) adopted 4-10-85)

DEFINITIONS (N)

Nacelle: Wind turbine component which typically houses internal mechanical and electrical parts, such as generators, gearboxes, drive trains, and brake assembly.

(Added by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

Negative Declaration: A notice issued by the appropriate San Diego County granting authority stating that a proposed project will not have substantial adverse effects on the environment.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

Net Lot Area: (See Lot Area, Net)

(Amended by Ord. No. 6855 (N.S.) adopted on 10-10-84)

Nonconforming Structure: A building, structure or facility, or portion thereof, which was lawfully erected or altered or maintained, but which, because of the application of this ordinance to it, no longer conforms to the specific regulations applicable to the zone in which it is located.

Nonconforming Use: The use of a building, structure, or site, or portion thereof, which was lawfully established and maintained, but which, because of the application of this ordinance to it, no longer conforms to the specific regulations applicable to the zone in which it is located.

Nonoperating Vehicles, Storage of: (See Storage of Nonoperating Vehicles)

Nudity: Devoid of an opaque covering which covers the genitals, vulva, pubis, pubis symphysis, pubic hair, buttocks, natal cleft, perineum, anus, anal region, or pubic hair region of any person or any portions of the breast at or below the upper edge of the areola thereof of any female.

(Added by Ord. No. 7106 (N.S.) adopted 3-19-86)

Nudist Facility: Any privately operated facility where nudity is permitted in common areas excluding sexually segregated restrooms or showers.

(Added by Ord. No. 7106 (N.S.) adopted 3-19-86)

Def. O

DEFINITIONS (O)

One-Hundred-Year Flood: (See Flood, One-Hundred-Year)

Open: (See Enclosure)

Open Space: (See Usable Open Space)

Open Space Easement: An easement established pursuant to Section 51050 or Section 51080 of the Government Code or an easement which ensures the permanent retention of land in open space.

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.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

Principal Use(s): The primary use(s) for which land or a building is or may be intended, occupied, maintained, arranged or designed.

Private Garage: An accessory building or an accessory portion of the main building, designed and/or used for the shelter or storage of vehicles owned or operated by the occupants of the main building.

Psychiatric Facility: An institution in which care or treatment is given to persons suffering from mental illness, disease, disorder or ailment. Such facilities include, but are not limited to, psychiatric hospitals, day treatment hospitals, long term care facilities, resident treatment centers, family homes (mentally ill), alcoholism, hospital, and facility for admission of drug addicts all as defined in Article 2 of Subchapter 1 of the Title 9 of the California Administrative Code.

Public Active Park/Playground/Recreational Area: An outdoor area, along with its incidental buildings and structures, at least part of which is designed, developed, and intended for organized sport or athletic activities and/or other activities or events to which groups of people greater than the family unit might be attracted as participants or spectators.

(Added by Ord. No. 8340 (N.S.) adopted 12-15-93)

Public Garage: A building other than a private or parking garage in which specific spaces or stalls are rented to individual members of the public for the shelter or storage of private automobiles and other forms of private transportation or recreational vehicles, and which may include as a use incidental thereto, the storage of personal effects and personal household articles.

Public Park/Playground/Recreational Area: An outdoor area, along with its incidental buildings and structures, owned and/or operated by a public agency or a non-profit organization, which is designed, developed and intended to provide one or more recreational opportunities to the general public. Public Park/Playground/Recreational Area includes the following: Public Passive Park/Recreational Area, and Public Active Park/Playground/Recreational Area.

(Added by Ord. No. 8340 (N.S.) adopted 12-15-93)

Public Passive Park/Recreational Area: An outdoor area, along with minimal incidental buildings and structures, designed, developed and intended for low intensity passive recreational use by individuals, families, or small groups. Public Passive Park/Recreational Areas may be of any size and may include wilderness, ecological or natural preserves.

(Added by Ord. No. 8340 (N.S.) adopted 12-15-93)

Public Stable: A stable used for the riding and performing of horses by other than the occupants of the premises or their nonpaying guests, but excluding boarding or breeding stables.

DEFINITIONS (R)

Rap Parlor: (See Massage Parlor)

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)

Recreational Vehicles: A motorhome, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, with a living area less than 200 square feet, excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures, bath and toilet rooms.

Def. R

Recycling Collection Facility, Drop-Off: A facility consisting of bins, boxes, or other suitable receptacles for the acceptance (by donation) of recyclable materials from the public. In Residential Zones and Special Purpose Zones, the total capacity of collection receptacles shall not exceed 192 cubic feet.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

Recycling Facility: A facility or portion of any premises used for the collection and/or processing of recyclable materials as that term is defined in this ordinance. Recycling facilities may include reverse vending machines, bulk reverse vending machines, mobile recycling units, kiosk type units and free-standing containers operated or placed in accordance with the standards established by this ordinance. Processing in a recycling facility may include baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding and cleaning. A recycling facility does not include storage containers or non-mechanical processing activity located on the premises of a residential use, or storage and processing activity located on the premises of a commercial or manufacturing use which is solely for the recycling of material generated by that residential property, business or manufacturer.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

Recyclable Material: Reusable material including but not limited to metals, glass, plastic and paper, which are intended for reuse, remanufacture, or reconstitution for sale or reuse. Recyclable material does not include refuse or hazardous materials. Recyclable material may include clean (uncontaminated) used motor oil and oil filters collected and transported in accordance with Section 25250.11 and 25143.2(b)(4) of the California Health and Safety Code.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

Refuse Disposal Site: An area devoted to the disposal of refuse, including incineration, reduction, or dumping of ashes, garbage, combustible or noncombustible garbage or refuse, offal or dead animals.

Reserved Unit: A dwelling unit that will be reserved for sale or rent to, and affordable to, very low, low, or moderate income households or reserved for sale or rent to qualifying senior citizen residents.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Residential Zone: A zone including a use regulation set forth in Sections 2100 through 2299, inclusive.

(Added by Ord. No. 5508 (N.S.) adopted 5-16-79)

Residual Background Sound Criterion (RBSC_{L90}) for Wind Energy Facilities: The Background Sound Level measured relative to A-weighting (L_{A90}) plus 5 dBA.

(Added by Ord. No. 10262 (N.S.) adopted 5-15-13)

Rest Home: Any place or institution which makes provision for bed care or for chronic or convalescent care for one or more persons exclusive of relatives, who by reason of illness or physical infirmity are unable to care for themselves; but in which no persons suffering from contagious or communicable disease are kept and in which no surgical or other primary treatments such as are customarily provided in sanitariums or hospitals are performed. Rest homes shall include all places defined in Title 17 of the California Administrative Code and licensed as nursing or convalescent homes.

Reverse Vending Machine: An automated mechanical device which occupies less than 50 square feet; accepts at least one or more types of empty beverage containers, including but not limited to aluminum cans, glass and plastic bottles; and issues a cash refund or redeemable credit slip with a value not less than the container's redemption value, as determined by the State. A reverse vending machine may sort and process containers mechanically provided that the entire process is enclosed within the machine.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

Ridgeline: The plateau or maximum elevation which extends along the top of Steep Slope Lands. A Ridgeline may increase or decrease in elevation as it extends along the top of Steep Slope Lands.

(Added by Ord. No. 10261 (N.S.) adopted 5-15-13)

(Added by Ord. No. 10262 (N.S.) adopted 5-15-13)

Right-of-Way: An area or strip of land, either public or private, on which an irrevocable right of passage has been recorded for the use of vehicles or pedestrians or both.

Riparian Habitat: An environment associated with the banks and other land adjacent to freshwater bodies, rivers, streams, creeks, estuaries, and surface-emergent aquifers (such as springs, seeps, and oases). Riparian habitat is characterized by plant and animal communities which require high soil moisture conditions maintained by transported freshwater in excess of that otherwise available through local precipitation.

(Added by Ord. No. 7630 (N.S.) adopted 05-23-89)

DEFINITIONS (S)

Schedule: A list or table of standards pertinent to certain aspects regulated by the Animal Regulations or the Development Regulations. A particular standard or combination of standards prescribed by a schedule is referenced by a designator in the Animal Regulations or the Development Regulations.

(Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)

School: An institution of learning for minors, whether public or private, which offers instruction in those courses of study required by the California Education Code or which is maintained pursuant to standards set by the State Board of Education. This definition includes a kindergarten, elementary school, junior high school, senior high school, or any special institution of learning under the jurisdiction of the State Department of Education, but does not include a trade, vocational or professional institution or an institution of higher education, including a community or junior college, college or university.

Def. S

(Added by Ord. No. 5840 (N.S.) adopted 7-30-80)
(Amended by Ord. No. 6983 (N.S.) adopted 7-03-85)
(Amended by Ord. No. 10095 (N.S.) adopted 12-8-10)

School, Trade: A facility that provides instruction and practical training in skilled trades or labor on a post-secondary level, including but not limited to construction; truck driving; mechanics; heavy equipment operation; and similar technical schools that are not subject to the standards set by the State Board of Education and not otherwise defined as a college. This use shall be considered Major Impact Service and Utilities use type when any instruction or training is conducted outside of an enclosed building, regardless of the number of students.

(Added by Ord. No. 10095 (N.S.) adopted 12-8-10)

School, Vocational: An institution of learning, other than a college, which provides specific job or vocation related training to be pursued as a career, including art, barber/beauty, business, fashion design, language, nursing, or other certification or degree programs, which are conducted entirely within an enclosed building.

(Added by Ord. No. 10095 (N.S.) adopted 12-8-10)

Secondhand Merchandise/Goods: Used common household items including clothing, personal effects, households furnishings, appliances, and office equipment and furnishings.

Secondary Use: A purpose for which land or a building is or may be intended, occupied, maintained, arranged, or designed, which is less visible, prominent, or important than the principal use(s) on the same lot or parcel. A secondary use may, but need not be an accessory use to the principal use(s).

Semi-Detached: (See Building Type, Residential)

Semi-Open: (See Enclosure)

Senior Citizen: A person 62 years of age or older or 55 years of age or older in a senior citizen housing development as defined in California Civil Code Section 51.3.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Senior Citizen Housing Development: A residential development that is reserved for senior citizens and consists of at least 35 dwelling units as defined in California Civil Code Section 51.3.

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Sensitive Habitat Lands: Land which supports unique vegetation communities, or the habitats of rare or endangered species or subspecies of animals or plants as defined by Section 15380 of the State California Environmental Quality Act (CEQA) Guidelines (14 Cal. Admin. Code Section 15000 et seq.) (Unique Vegetation Community refers to associations of plant species which are rare or substantially depleted due to development. These may contain rare or endangered species, but other species may be included because they are unusual or limited due to a number of factors, for example: (a) they are only found in the San Diego region; (b) they are a local representative of a species or association of species not generally found in San Diego County; (c)

Swap Lot: A building, structure, enclosure lot or other area into which persons are admitted to display, exchange, barter, sell or bargain for new or used merchandise. carried on in a swap lot.

Swimming Pool: Any confined body of water exceeding 2 feet in depth and located either above or below the existing finished grade of the site, designed, used or intended to be used for swimming, bathing or therapeutic purposes.

DEFINITIONS (T)

Take-off and Landing Area: That area of any helicopter facility where the helicopter actually lands and takes off, and includes the touch down area.

(Added by Ord. No. 7058 (N.S.) adopted 10-30-85)

Trade School: (See School, Trade)

(Added by Ord. No. 10095 (N.S.) adopted 12-8-10)

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.

(Amended by Ord. No. 9958 (N.S.) adopted 12-10-08)

Transient Habitation Unit: Living quarters intended exclusively for occupation by transient persons. A transient habitation unit may include a hotel or motel room or suite of rooms, a cabin or a campground space.

Transitional Housing: Shall have the meaning prescribed in Health and Safety Code 50675.2(h). The design of the structures determines Family Residential or Group Residential Use Type.

(Added by Ord. No. 10035 (N.S.) adopted 1-27-10)

Tree: A perennial woody plant with one or more well defined stems or trunks which, at maturity, is largely kept clear of leaves and branches at least 5 feet above grade.

(Added by Ord. No. 7735 (N.S.) adopted 3-13-90; operative 10-01-90)

Trellis Tower: A structure made of interwoven pieces of wood, metal or synthetic material to support an object, such as a wind turbine or antenna array.

(Added by Ord. No. 10261 (N.S.) adopted 5-15-13)

(Added by Ord. No. 10262 (N.S.) adopted 5-15-13)

Triplex: (See Building Type; Residential Triplex)

(Added by Ord. No. 5508 (N.S.) adopted 5-16-79)

Def. U

DEFINITIONS (U)

U-Pick or Pick-Your-Own Operations: A Commercial Agriculture operation such as a farm, orchard or grove where the customers themselves harvest the products grown on-site.

(Added by Ord. No. 10204 (N.S.) adopted 3-28-12)

Ultralight Vehicle: A powered or unpowered vehicle that is defined and described in Federal Aviation Regulations (FAR), Part 103, promulgated by the United States Government, Department of Transportation (DOT), Federal Aviation Administration (FAA), as that regulation is presently written or as it may be amended.

(Added by Ord. No. 7197 (N.S.) adopted 9-10-86)

Unit, Base: (See Base Units)

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Unit, Density Bonus: (See Density Bonus Unit)

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Unit, Market Rate: (See Market Rate Unit)

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Unit, Reserved: (See Reserved Unit)

(Added by Ord. No. 10068 (N.S.) adopted 8-4-10)

Unlimited: (See Building Type, Mixed Residential-Nonresidential)

Usable Open Space: One or more open areas adjacent to residential uses, the purpose of which is to provide an outdoor area designed for outdoor living and recreation, and which is located at, below, or above grade.

Usable Open Space, Group: Usable open space intended for common use by occupants of a development, either privately owned and maintained or dedicated to a public agency, normally including swimming pools, recreation courts, patios, open landscaped areas, and greenbelts with pedestrian walkways and equestrian and bicycle trails. Group usable open space does not include off-street parking and loading areas or driveways.

Usable Open Space, Private: Usable open space intended for use of occupants of one dwelling unit, normally including yards, decks, and balconies.

Use: The purpose for which land or a building is occupied, arranged, designed or intended, or for which land or a building is or may be occupied or maintained.

Use, Accessory: (See Accessory Use)

(Added by Ord. No. 6857 (N.S.) adopted 10-10-84. Opr. 1-1-85)

Wind Turbine: A device which converts the kinetic energy of wind into a usable form of electric energy. A wind turbine may consist of a tower, turbine, support structures, electrical wires, guy wires and other related equipment.

(Added by Ord. No. 6857 (N.S.) adopted 10-10-84. Opr. 1-1-85)

(Amended by Ord. No. 9971 (N.S.) adopted 02-25-09)

(Amended by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

Wind Turbine, Large: A wind turbine with or without a tower, which has a rated capacity of more than 50 kilowatts, that generates electricity for use on or off the same lot on which the turbine is located. Large Wind Turbine shall be classified as a Major Impact Services and Utilities use type.

(Added by Ord. No. 7117 (N.S.) adopted 4-23-86)

(Amended by Ord. No. 10073 (N.S.), adopted 9-15-10)

(Amended by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

Wind Turbine, Non-operational: A wind turbine that is mechanically inoperable or otherwise no longer converting the kinetic energy of wind into a usable form of electric energy.

(Added by Ord. No. 7117 (N.S.) adopted 4-23-86)

(Amended by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

Wind Turbine, Small: A wind turbine with or without a tower, which has a rated capacity of not more than 50 kilowatts that generates electricity primarily for use on the same lot on which the wind turbine is located.

(Added by Ord. No. 7117 (N.S.) adopted 4-23-86)

(Amended by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

Wind Turbine Height: The distance from existing grade at the base of the tower to the highest point of the turbine blade when in use.

(Added by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

Wind Turbine Tower Height: The distance from existing grade at the base of the wind turbine tower to the top of the tower excluding the nacelle and turbine blades.

(Added by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

Wood Waste: Lumber and wood products but excluding painted wood, wood treated with chemicals, and pressure treated wood.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

Def. W

Wood and Green Waste Composting Facility: A facility where wood and/or green waste decompose in a controlled environment into compost, soil amendment or other products. A composting facility may employ mechanical equipment to turn the piles and provide aeration. Composting may be conducted within an enclosed building or in the open such as in windrow composting. Backyard composting by homeowners and composting of material generated by an agricultural operation for the purpose of mulching or soil amendment on property in the same ownership as that where composting takes place shall not be considered a Wood and Green Waste Composting Facility. The composting of municipal sewage sludge shall also not be considered a Wood and Green Waste Composting Facility even if such composting operation utilizes wood or green waste.

(Added by Ord. No. 8058 (N.S.) adopted 4-15-92)

DEFINITIONS (Y)

Yard: An open, unoccupied space, other than a court, unobstructed from the ground to the sky, except as otherwise provided by this ordinance, on the lot on which a building is situated.

Yard, Front: The yard between a front lot line or lines and the line defined by the required front yard setback.

Yard, Rear: The yard between a rear lot line or lines and the line defined by a required rear yard setback.

Yard, Side: The yard between a side lot line or lines and the line defined by a required side yard setback, extending from the front to the rear yard.

Yard, Side, Exterior: A side yard abutting a street.

Yard, Side, Interior: A side yard other than an exterior side yard.

DEFINITIONS (Z)

Zone: A mapped area to which a uniform set of regulations applies, or a uniform set of regulations described by a use designator, an animal designator, a development designator, and an optional special area designator.

(Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)

Zoning Verification Permit: A ministerial permit issued by the Department of Planning and Development Services for purposes of verifying that a particular use or structure complies with all applicable Zoning Ordinance regulations.

(Added by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

6120 GOVERNMENT SERVICE USES.

The temporary use of buildings on private land to provide government service uses classified as Major Impact Services and Utilities may be permitted through the issuance of an Administrative Permit in compliance with the following provisions:

- a. **Occupancy.** The temporary occupancy of buildings for government service uses shall be by the United States, the State or other governmental agency which is otherwise exempt from regulation by The Zoning Ordinance when utilizing their own property.
- b. **Location.** Government service uses may be permitted in zones subject to the C36, C37, C38 or C40 Commercial Use Regulations.
- c. **Duration.** The period of operation of government service uses shall not exceed five years.
- d. **Noticed Hearing and Findings Required.** No Administrative Permit for temporary government service uses may be issued unless notice has been given in accordance with the provisions of Section 7605b. and the findings made as set forth in Section 7358.

(Added by Ord. No. 7109 (N.S.) adopted 4-02-86)

6121 TEMPORARY USE OF PUBLIC SCHOOL SITES FOR COMMUNITY RECREATION, PARK AND PLAYGROUND PURPOSES.

Property owned by a public school district and designated by the district as a school site may, prior to construction of actual school facilities, be used on a temporary basis for park and playground purposes provided the following conditions are met:

- a. **Types of Uses.** Uses shall be limited to athletic and recreational activities, particularly for children, whether or not such activities are organized.
- b. **Term of Allowed Temporary Use.** The temporary use of a public school site shall not exceed four years unless a major use permit has been approved for such use. The four year period shall run continuously from the first commencement of use under this section.
- c. **Hours of Operation.** Activities, including setup and preparation, shall not begin prior to 8:00 a.m. nor shall they continue later than 8:00 p.m. Monday through Saturday, and 9:00 a.m. till 6:00 p.m. on Sunday.
- d. **Parking.** Adequate off-street parking and/or alternative means of transportation shall be provided, such that allowed activities do not result in a need for on-street parking.
- e. **Operation and Maintenance.** The school district owning or controlling the site in question shall be responsible for operating and maintaining the site and its facilities so that there are no adverse impacts on the public health, safety or neighborhood character. The District shall keep the site clean and well maintained at all times.
- f. **Permanent Structures.** No building permits shall be issued for permanent structures for the accommodation of any temporary uses, except for fences or restroom facilities that comply with the other requirements of this ordinance.

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- g. All activities at the site shall comply with the County Code of Regulatory Ordinances regarding Noise Control. No amplified sound shall be allowed.
- h. District Rules. The public school district shall adopt policies, rules and regulations concerning use of this section, prior to permitting any use pursuant to this section.

(Added by Ord. No. 7693 (N.S.) adopted 11-29-89)

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.

(Added by Ord. No. 9958 (N.S.) adopted 12-10-08)

6123 METEOROLOGICAL TESTING FACILITY

A Meteorological Testing (MET) Facility is permitted as a temporary use if the following requirements are met:

- a. An Administrative Permit must be obtained in accordance with the Administrative Permit Procedure commencing at Section 7050 except as specified in subsection 6123.I below. The following findings must be made prior to approval of an Administrative Permit:
 - 1. The location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:
 - i. Harmony in scale, bulk, coverage and density;
 - ii. The availability of public facilities, services and utilities;
 - iii. The harmful effect, if any, upon desirable neighborhood character;
 - iv. The generation of traffic and the capacity and physical character of surrounding streets;

- v. The suitability of the site for the type and intensity of use or development which is proposed; and to
 - vi. Any other relevant impact of the proposed use;
2. The impacts, as described in paragraph "a.1" of this section, and the location of the proposed use will be consistent with the San Diego County General Plan; and
 3. The requirements of the California Environmental Quality Act have been complied with.
- b. Location. A MET Facility is prohibited on property subject to the S81 Use Regulations.
 - c. Notification. Notice shall be provided pursuant to Section 7060c.
 - d. Setback. The MET Facility shall be set back from all property lines and roads by a minimum of the distance equal to the height of structure (tower, equipment, etc.) or the applicable setback requirements of the zone, whichever is greater. The setback requirements of the zone shall apply to all components of the MET Facility including, but not limited to, a tower, guy wires, guy wire anchors and any other related equipment.
 - e. Minimum Spacing. The MET Facility shall be located at least 500 feet from any other MET Facility.
 - f. Area of Disturbance. The MET Facility shall not disturb an area more than is necessary for the base of a tower, the guy wire anchors, other authorized equipment for the Facility and/or an access road. The equipment may include sonar equipment. The entire area of disturbance shall be clearly shown on the plans.
 - g. Size. The MET Facility may include one temporary structure other than a tower or a sonar equipment trailer. The temporary structure is limited to 120 square feet in size including fencing and noise attenuation walls and may be used to store equipment for the MET Facility.
 - h. Illumination. No exterior lights are allowed on a MET Facility except as required by the Director, the Federal Aviation Administration or other government agency.
 - i. Height. The MET Facility shall be less than 200 feet in height.
 - j. Duration. The MET Facility shall not operate for more than three years from the date of approval of the Administrative Permit unless the Director grants an extension. The Director may grant an extension of time upon the applicant submitting written justification for the continued use of the facility and filing for a modification of the Administrative Permit pursuant to Section 7072. A MET Facility approved by a Use Permit may operate for the time period specified in the Use Permit. The MET Facility shall be removed within 30 days of the expiration of the three-year period specified in the Administrative Permit or the time period specified in the Use Permit.

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- k. Security. The operator shall provide security in the form and amount determined by the Director to ensure removal of the MET Facility. The security shall be provided to DPLU prior to building permit issuance. Once the MET Facility has been removed from the property pursuant to a demolition permit to the satisfaction of the Director, the security may be released to the operator of the MET Facility.
- l. A MET Facility that complies with the height designator in the height schedule of the zone in which the facility is located, is allowed with a Zoning Verification Permit if the facility meets the requirements of subsections b, d, e, f, g, h, and k of this section. The MET Facility shall be removed within three years of the Zoning Verification Permit approval date.
- m. A MET Facility shall comply with all applicable fire code requirements. If a provision of section 6123 is inconsistent with an applicable fire code requirement, the fire code requirement shall take precedence.

(Added by Ord. No. 9971 (N.S.) adopted 02-25-09)

(Amended by Ord. No. 10204 (N.S.) adopted 3-28-12)

(Amended by Ord. No. 10261 (N.S.) adopted 5-15-13)

6124 TEMPORARY OUTDOOR SALES.

Temporary outdoor sales, incidental to the existing commercial uses on the site, may be allowed in compliance with all of the following provisions:

- a. Seasonal sales of pumpkins or Christmas trees. The establishment of a temporary sales lot for the seasonal sale of pumpkins or Christmas trees associated with a recognized holiday is allowed subject to all of the following:
 - 1. Location. The sales lot area shall be located on a paved site with an existing commercial or industrial development within the C34, C35, C36, C37, C40, C42, M52, M54, M58 Use Regulations, or in designated commercial developments in planned developments or specific plans, unless otherwise prohibited. Sales lots are not allowed on vacant properties.
 - 2. Duration. The period of operation shall be between October 1 and October 31 for the sale of pumpkins and between Thanksgiving and December 26 for Christmas trees. The facility shall be removed and the premises cleared of all debris and restored to the condition prior to the establishment of the sales event within 10 days after the required end of the sale.
 - 3. Size. The sales lot area shall not exceed 10 percent of the parking area or 10,000 square feet, whichever is less and shall be located most distant from the existing commercial buildings on the property when feasible, to maintain customer parking closest to the buildings. No handicap accessible parking spaces shall be obstructed.
 - 4. Fencing. Temporary fencing up to six feet in height around the sales lot area is allowed, providing the fencing location complies with the Section 6708.

- c. Notice shall be provided pursuant to Section 7060 c. No hearing is required unless requested by the applicant or other affected person pursuant to Section 7060 d.
13. Prior to issuance of a building permit for a second dwelling unit, the owner of the property upon which the second dwelling unit is to be located shall submit a notarized and recorded copy of an agreement between the owner and the County of San Diego on a form supplied by the Department. Said agreement shall state that the owner understands and will abide by the requirements of this subsection, other applicable provisions of this Ordinance, and that said agreement is binding on all successors in interest to the subject property as long as the second dwelling unit is used or maintained for use as a separate dwelling unit.

See subsection ii. for an illustrative matrix comparing Second Dwelling Units and Guest Living Quarters.

- y. Family Day Care Home For Children, Large (9 to 14 children). A large family day care home for children is a permitted accessory use upon issuance of an Administrative Permit provided the following conditions are complied with:
 - 1. No such large family day care home for children may be located closer than 500 feet from any other lot containing a large family day care home for children with an Administrative Permit approved by the County of San Diego. The 500-foot distance shall be measured in a straight line connecting the closest points on the lot lines and without regard for intervening structures.
 - 2. The plot plan for a family day care home for children shall show sufficient information to determine the following:
 - i. At least one on-site parking space will be available for any assistant provider or caregiver not a resident of the subject family day care home.
 - ii. Adequate provision will be made to reduce noise impacts on surrounding properties through measures or a combination of measures such as solid fencing six feet in height with or without landscaping around outside activity areas or location of an adequately sized outside activity area a suitable distance away from adjacent dwellings. Adequacy of outside activity areas shall be determined by considering the size of the area provided outside of the required sideyard setbacks and by considering the distance to noise sensitive receptors.

- iii. There exists an adequate area on-site for temporary parking of a least two automobiles where children may be safely loaded and unloaded, or such area will be provided. This designated loading and unloading area shall remain free and clear of parked cars during hours of operation of the large family day care home.
 - iv. The large family day care home meets the standards and requirements established by the State Fire Marshall as enforced by the local fire authority having jurisdiction over the home.
3. Notice shall be provided pursuant to Section 7060 c. Notwithstanding the Administrative Permit Procedures at Section 7060.d, no hearing is required unless requested by the applicant or other affected person.
- The applicant or other affected person may appeal the decision as provided by the Administrative Appeal Procedure commencing at Section 7200. The appellant shall pay the cost, if any, of the appeal.
- 4. Every Administrative Permit approved pursuant to this section shall contain a condition that no sound amplification device be permitted in outdoor activity areas.
 - 5. For large family day care homes served by on-site wastewater systems the Director of Environmental Health shall certify the adequacy of the on-site wastewater system for the proposed use.
 - 6. No Administrative Permit shall be required for a large family day care home which qualifies for exemption under Section 1596.792 of the State Health and Safety Code.
- z. Small Wind Turbine. A small wind turbine shall be allowed in accordance with the Renewable Energy Regulations commencing at Section 6951.

(Amended by Ord. No. 6782 (N.S.) adopted 5-16-84)
 (Amended by Ord. No. 6855 (N.S.) adopted 10-10-84)
 (Amended by Ord. No. 6857 (N.S.) adopted 10-10-84. Opr. 1-1-85)
 (Amended by Ord. No. 6924 (N.S.) adopted 2-20-85)
 (Amended by Ord. No. 6983 (N.S.) adopted 7-03-85)
 (Amended by Ord. No. 7048 (N.S.) adopted 10-09-85)
 (Amended by Ord. No. 7110 (N.S.) adopted 4-02-86)
 (Amended by Ord. No. 7117 (N.S.) adopted 4-23-86)
 (Amended by Ord. No. 7160 (N.S.) adopted 6-18-86)
 (Amended by Ord. No. 7220 (N.S.) adopted 10-22-86)
 (Amended by Ord. No. 7306 (N.S.) adopted 5-20-87)
 (Amended by Ord. No. 7363 (N.S.) adopted 8-19-87)
 (Amended by Ord. No. 7432 (N.S.) adopted 1-06-88)
 (Amended by Ord. No. 7515 (N.S.) adopted 7-13-88)
 (Amended by Ord. No. 7576 (N.S.) adopted 1-11-89)
 (Amended by Ord. No. 7740 (N.S.) adopted 3-28-90)
 (Amended by Ord. No. 7743 (N.S.) adopted 3-28-90)
 (Amended by Ord. No. 7768 (N.S.) adopted 6-13-90)
 (Amended by Ord. No. 7790 (N.S.) adopted 08-01-90. This ordinance will expire on August 31,
 1993, unless extended in connection with GPA 93-02)
 (Amended by Ord. No. 7817 (N.S.) adopted 9-26-90)
 (Amended by Ord. No. 8050 (N.S.) adopted 4-8-92)
 (Amended by Ord. No. 8058 (N.S.) adopted 4-15-92)
 (Amended by Ord. No. 8086 (N.S.) adopted 6-16-92)
 (Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)
 (Amended by Ord. No. 8271 (N.S.) adopted 6-30-93)
 (Amended by Ord. No. 8409 (N.S.) adopted 6-1-94)
 (Amended by Ord. No. 8502 (N.S.) adopted 3-1-95)
 (Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)
 (Amended by Ord. No. 8599 (N.S.) adopted 10-11-95)
 (Amended by Ord. No. 8698 (N.S.) adopted 7-17-96)
 (Amended by Ord. No. 8805 (N.S.) adopted 6-4-97)
 (Amended by Ord. No. 8897 (N.S.) adopted 3-18-98)
 (Amended by Ord. No. 9156 (N.S.) adopted 6-14-00)
 (Amended by Ord. No. 9377 (N.S.) adopted 8-8-01)
 (Amended by Ord. No. 9470 (N.S.) adopted 6-12-02)
 (Amended by Ord. No. 9569 (N.S.) adopted 7-9-03)
 (Amended by Ord. No. 9596 (N.S.) adopted 9-17-03)
 (Amended by Ord. No. 9690 (N.S.) adopted 12-15-04)
 (Amended by Ord. No. 9935 (N.S.) adopted 4-23-08)
 (Amended by Ord. No. 9958 (N.S.) adopted 12-10-08)
 (Amended by Ord. No. 9982 (N.S.) adopted 4-22-09)
 (Amended by Ord. No. 10003 (N.S.) adopted 8-5-09)
 (Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)
 (Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)
 (Amended by Ord. No. 10073 (N.S.) adopted 9-15-10)
 (Amended by Ord. No. 10095 (N.S.) adopted 12-8-10)
 (Amended by Ord. No. 10162 (N.S.) adopted 8-3-11)
 (Amended by Ord. No. 10204 (N.S.) adopted 3-28-12)
 (Amended by Ord. No. 10222 (N.S.) adopted 9-25-12. Opr. 11-26-12)
 (Amended by Ord. No. 10261 (N.S.) adopted 5-15-13)

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. The outdoor seating area shall be limited in size as follows:
 - (a) In Eating and Drinking Establishments to no more than 200 square feet or 25 percent of the establishment's indoor floor area, whichever is greater.
 - (b) In Food and Beverage Retail Sales uses (e.g., bakeries, markets, etc.) to no more than 25 percent of the establishment's indoor floor area or 1000 square feet, whichever is less. However, any such Food and Beverage Retail Sales use that otherwise qualifies under Section 6158 a.1. may have an outdoor seating area of 200 square feet.

- ii. The outdoor seating area shall be located at least 50 feet from areas zoned with the RS, RR, RMH, or A70 use regulations.
- iii. Required zone setbacks shall be observed. Required parking and parking lot landscaping shall be provided for the outdoor seating area.
- iv. The outdoor seating area shall not be used as an entertainment area. Sound amplification devices shall be limited to devices that are necessary to provide low-level background music. Noise levels shall comply with the County Noise Ordinance. Any outdoor lighting shall comply with Section 6324 of The Zoning Ordinance.
- v. If the seating area is proposed within the public right-of-way, then the requirements of Section 6158a.2. below shall also be met.
- vi. When located in an area subject to the Community Design Review Area Regulations, or other applicable special area regulations, the Site Plan review and all other requirements of those regulations shall apply to outdoor café seating.
- vii. Required Minor Use Permits, where applicable, shall be obtained and shall provide for accessory outdoor seating.
- viii. Outdoor café seating areas located adjacent to pedestrian thoroughfares shall leave a minimum width of eight feet completely open at all times between the outdoor seating area and the edge of the pedestrian thoroughfare to accommodate pedestrian traffic.

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.

- 2. Sidewalk Cafés Within the Public Right-of-Way. Sidewalk cafés within public right-of-way shall be a permitted accessory use upon issuance of an Administrative Permit provided the conditions listed below in this subsection are complied with. If the sidewalk café is proposed within the commercial and industrial zones listed in Section 6158a.1. above, then the conditions of that section shall also apply.

- i. The sidewalk café shall be conducted accessory to a legally established Food and Beverage Retail Sales or Eating and Drinking Establishment use type.
 - ii. An encroachment permit for a sidewalk café shall be obtained from the Department of Public Works.
 - iii. The operation of a sidewalk café shall meet applicable requirements of the Department of Environmental Health.
 - iv. Notice shall be provided pursuant to Section 7060 c.
 - v. The hours of operation shall be limited to the hours of operation of the associated Eating or Drinking Establishment or Food and Beverage Retail Sales use.
 - vi. Notwithstanding Section 6158 a.1., no sound amplification device, musical instrument or sound reproduction device shall be operated or used with a sidewalk cafe within the public right-of-way and any outdoor lighting shall comply with Section 6324.
 - vii. A finding shall be made that the sidewalk cafe will not adversely affect the neighborhood nor be detrimental to persons residing, visiting or working in the area.
- b. **Small Wind Turbine.** A small wind turbine shall be allowed in accordance with the Renewable Energy Regulations commencing at Section 6951.
 - c. **Mobilehome dwelling as a secondary use.**
 - d. **Community Use of Private Schools.** Meetings or events shall be permitted as a use accessory to a private school unless otherwise expressly prohibited by a use permit authorizing the private school. Such meetings and events shall meet the following criteria:
 - (1) The meeting or event is conducted by a nonprofit organization from the community or neighborhood area in the vicinity of the school, and
 - (2) Not more than three such meetings or events shall occur within any given week.
 - (3) Hours of operation. No meeting or event shall begin prior to 8:00 a.m. nor continue later than 10:00 p.m. when inside a building or 8:00 p.m. when outside a building.

- (4) **Parking.** No onstreet parking shall be utilized, and attendance shall be limited to a number which is accommodated by offstreet parking provided by the private school.
- (5) **Traffic.** The meeting or event shall not increase congestion of nearby streets to the extent that normal traffic circulation is significantly impeded.
- (6) **Noise.** The meeting or event shall not cause noise in excess of the applicable noise standards contained in the County Code of Regulatory Ordinances.

e. **Recycling of salvaged concrete, asphalt and rock.**

It has been recognized by the County of San Diego and the State of California that recycling of materials such as used concrete, asphalt and rock is essential to effective solid waste management and protection of public and private open space from illegal disposal of solid waste. Because of the high priority the public assigns to recycling of these materials, the following special procedure has been created to assist in the expansion of this activity in conjunction with related mining and processing land uses.

Persons having an approved Major Use Permit for a mining and processing land use, or having an established mining and processing land use that is legally nonconforming and located in a zone where it could be permitted by Major Use Permit, as of March 26, 1992, may apply for the Administrative Permit described below, provided the application and required fees have been submitted to the Department not later than March 27, 1997.

In conjunction with mining and processing use types, where rock crushing, asphalt production and/or concrete batching are occurring, recycling and processing of salvaged concrete, asphalt and rock shall be a permitted accessory use upon issuance of an Administrative Permit, pursuant to the following:

1. A plot plan showing existing and proposed operations onsite shall be approved by the Director.
2. All proposed operations shall conform to the restrictions and conditions of the use permit regulating the project site, if one is present, except as otherwise specified herein.
3. No increase in the size of the mining and processing site shall be authorized by this permit.
4. Environmental review of the proposed accessory use shall be required, except that said review may be waived by the Director if it is determined that no additional traffic, noise, stockpiling of materials, or mechanical processing, at the site, is requested.

5. Upon determination pursuant to environmental review of no significant environmental impact, or that such impact(s) will be mitigated to below a level of significance, the following increases or changes in operational limitations may be authorized in connection with the recycling operation:
- a) Additional average daily one-way truck trips up to 10 percent of the number authorized under the Major Use Permit, or when unspecified in the use permit or when there is no use permit, up to 10 percent of the average daily one-way truck trips of the existing operation;
 - b) Additional onsite stockpiling of material of up to 25 percent of that authorized under the Major Use Permit, or when unspecified in the use permit or when there is no use permit, up to 25 percent of the amount typical to the existing operation; and
 - c) Replacement or additional equipment, only as may be necessary to adapt the existing operation to the recycling function.
- Any changes or increases in the existing authorized operations beyond those specified above shall require modification of the existing Major Use Permit or approval of a new Major Use Permit.
- f. A Drop-off Recycling Facility shall be permitted as an accessory use in all zones where Civic, Commercial, Industrial or Extractive Use Types are permitted.
- g. A Small Recycling Collection Facility shall be permitted as an accessory use in all zones where Civic Use Types are permitted.
- h. Columbarium with Religious Assembly.
1. A Columbarium may be a permitted accessory use to a Religious Assembly Use Type upon approval of a Major Use Permit for the Religious Assembly Use Type and the Columbarium in use regulations where a Major Use Permit is required for the Religious Assembly Use Type.
 2. A Columbarium may be a permitted accessory use to a Religious Assembly Use Type upon approval of a Modification of the Major Use Permit that authorized the Religious Assembly Use Type.
 3. A Columbarium may be a permitted accessory use to a Religious Assembly Use Type upon issuance of a Minor Use Permit in use regulations where a Religious Assembly Use Type is permitted by right, or by Site Plan approval.
- i. Storage of Emergency Supplies for Disaster Preparedness. The storage of emergency supplies for disaster preparedness shall comply with the following provisions:
1. Storage shall be allowed on properties that are owned by the County of San Diego or other public agency.
 2. Storage area shall be secure and shall be in compliance with all applicable regulations of this Zoning Ordinance, including but not limited to Site Plan requirements (if applicable), setbacks and enclosure requirements.

3. Storage may be allowed within a cargo container which complies with the requirements of Section 6162.

(Amended by Ord. No. 6134 (N.S.) adopted 7-22-81)
 (Amended by Ord. No. 6855 (N.S.) adopted 10-10-84)
 (Amended by Ord. No. 6857 (N.S.) adopted 10-10-84. Opr. 1-1-85)
 (Amended by Ord. No. 6924 (N.S.) adopted 2-20-85)
 (Amended by Ord. No. 7117 (N.S.) adopted 4-23-86)
 (Amended by Ord. No. 7692 (N.S.) adopted 11-29-89)
 (Amended by Ord. No. 8034 (N.S.) adopted 2-26-92)
 (Amended by Ord. No. 8058 (N.S.) adopted 4-15-92)
 (Amended by Ord. No. 8185 (N.S.) adopted 12-16-92)
 (Amended by Ord. No. 8581 (N.S.) adopted 9-20-95)
 (Amended by Ord. No. 9013 (N.S.) adopted 3-17-99)
 (Amended by Ord. No. 9151 (N.S.) adopted 5-10-00)
 (Amended by Ord. No. 9958 (N.S.) adopted 12-10-08)
 (Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)
 (Amended by Ord. No. 10204 (N.S.) adopted 3-28-12)
 (Amended by Ord. No. 10222 (N.S.) adopted 9-25-12. Opr. 11-26-12)
 (Amended by Ord. No. 10261 (N.S.) adopted 5-15-13)

6160 MANUFACTURING AND INDUSTRIAL ZONES.

Single-family dwellings or a single mobilehome shall be permitted as follows in zones subject to the M50, M52, M54, M58, and S82 Use Regulations:

- a. Caretaker or Superintendent. On a lot or building site with a permitted industrial use, and occupied exclusively by a caretaker or superintendent of such industrial use and his family; or
- b. Farm Owner or Operator. On a lot or building site having a net area of at least 5 acres which is being farmed, and occupied exclusively by the owner or operator thereof; or
- c. Kennel Owner or Operator. On a lot or building site with a kennel, and occupied exclusively by the owner or operator thereof and his family.

6162 CARGO CONTAINERS.

- a. No cargo container shall be allowed in any area designated as a Historic/Archaeological Landmark or District or an area designated as a Special Historic District, except as provided in Section d and e below.
- b. A cargo container may be allowed in areas zoned for residential and agricultural uses if it meets the following restrictions:
 1. It is located on property so as to comply with all building setbacks.
 2. It is only used for storage.
 3. There is a legal primary use on the property where it is located.
 4. There are no violations of the Zoning Ordinance or the San Diego County Code of Regulatory Ordinances on the property where it is located.

5. The exterior is painted a solid color pursuant to a list of colors approved by the Director and the color selected matches as closely as possible with the surrounding natural environment.
6. The square footage of the cargo container when added to the square footage of accessory structures on the property does not exceed the maximum allowable square footage for accessory structures under section 6156 g.
7. On sites where the primary use of the property is residential the following additional restrictions shall apply:
 - (i) A cargo container shall only be allowed if it is not visible from any roadway that runs along the parcel.
 - (ii) On sites of less than 2 acres of net lot area: (A) the footprint of a cargo container shall not exceed 320 square feet in area, (B) only one cargo container is allowed and (C) the total time the site can have a cargo container located on it during any 5 year period is 180 days.
- c. A cargo container may be allowed in areas zoned for commercial and industrial uses for storage purposes only if there is a legal primary use on the property where it is located and required parking is not impacted.
- d. Cargo containers are allowed on private property in all zones temporarily to store building materials and/or construction tools during construction pursuant to an active building permit.
- e. Notwithstanding Section 6852, a cargo container that was lawfully on private property before April 18, 2007 may be allowed to continue as a nonconforming use for two years. This section shall not be construed to authorize any cargo container that was illegally placed, maintained or used before the effective date of this paragraph.
- f. Cargo containers are allowed on County-owned property and property owned by a public agency when used exclusively for the storage of emergency supplies for disaster preparedness, pursuant to Section 6158.i. Cargo containers must conform to the requirements of paragraph b.5, above.

(Added by Ord. No. 9844 (N.S.) adopted 4-18-07)
(Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)

6862 NONCONFORMING WIND TURBINES.

- a. A nonconforming wind turbine, or a series of wind turbines, which meets the definition of "Wind Turbine, Non-Operational" in Section 1110 shall be removed within 60 days of becoming non-operational at the property owner's expense, and the site shall be restored to a condition compatible with surrounding properties as determined by the Director. Upon written request by the Department of Planning and Development Services, the owner of a property on which a nonconforming wind turbine is located shall provide documentation to the satisfaction of the Director that the Director may use to determine the operational status of the wind turbine.

(Added by Ord. No. 7220 (N.S.) adopted 10-22-86)

(Amended by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

6863 EXISTING CUSTOM MANUFACTURING OPERATIONS

Any existing custom manufacturing operation located in the A70, A72, S90 or S92 Zone meeting the definition of the "Custom Manufacturing Use Type" as set forth in this ordinance at Section 1610 and as determined by the Director may continue operation after September 13, 1991. However, the Nonconforming Regulations commencing at Section 6850 shall apply to such operations.

(Added by Ord. No. 7964 (N.S.) adopted 8-14-91)

(Amended by Ord. No. 10162 (N.S.) adopted 8-3-11)

6864 EXISTING GROUNDWATER EXTRACTION OPERATIONS

Any existing activity meeting the definition of a "Groundwater Extraction Operation", as determined by the Director, shall be considered a nonconforming use and may continue said operations after May 8, 1992. However, the Nonconformity Regulations commencing at Section 6850 shall apply to such operation.

(Added by Ord. No. 8050 (N.S.) adopted 4-8-92)

6950 RENEWABLE ENERGY

The provisions of Section 6950 thru 6959 shall be known as the Renewable Energy Regulations. The purpose of these provisions is to prescribe reasonable standards and procedures for the installation and operation of Solar Energy Systems and Wind Turbines.

(Added by Ord. No. 6857 (N.S.) adopted 10-10-84. Opr. 1-1-85)

(Amended by Ord. No. 7117 (N.S.) adopted 4-23-86)

(Amended by Ord. No. 9596 (N.S.) adopted 9-17-03)

(Amended by Ord. No. 10073 (N.S.) adopted 9-15-10)

(Amended by Ord. No. 10261 (N.S.) and Ord. No. 10262 (N.S.) adopted 5-15-13)

6951 SMALL WIND TURBINE

Small wind turbines shall comply with the following provisions:

- a. A maximum of three small wind turbines is allowed on a legal lot as an accessory use to the primary use of the lot in accordance with the following requirements:
 1. Setbacks. The following setback requirements apply:
 - i. A small wind turbine shall be setback from all private road easements and public roads by a minimum of the distance equal to the wind turbine height or the applicable setback requirements of the zone, whichever is greater. The wind turbine shall also be setback from all property lines by a minimum of the distance equal to the wind turbine height, the applicable setback requirement of the zone or 30 feet, whichever is greater. The wind turbine shall also meet the fire code setback requirements.
 - ii. No part of the wind turbine shall be closer than 300 feet or five times the turbine height, whichever is greater, from the following:
 - a. Electric power transmission towers and lines.
 - b. Blue line watercourse(s) or water bodies as identified on the current United States Geological Survey Topographic Map as posted on the United States Geological Survey website
 - c. Significant roost sites for bat species as identified on the Small Wind Turbine Constraints map dated October 12, 2012 on file with the department of Planning and Development Services based on data from the California Natural Diversity Database and San Diego Natural History Museum Maps.
 - d. Recorded open space easements and designated preserve areas.
 - e. Riparian vegetation as identified on the County Wetland Vegetation Map dated October 12, 2012.

- iii. No part of a wind turbine shall be closer than 4,000 feet from a known golden eagle nest site. Parcels within 4,000 feet of known golden eagle nest sites are identified on the Small Wind Turbine Constraints Map dated October 12, 2012 on file with the Department of Planning and Development Services and based on data provided by the U.S. Fish and Wildlife Service.
2. Area of Disturbance. A small wind turbine shall not result in an area of ground disturbance (including grading, clearing, brushing, or grubbing) during installation that is larger than a 25 foot radius around the base of a tower, and an access path to the tower that is a maximum of four feet wide. The entire area of disturbance shall be clearly defined on the plans submitted for Zoning Verification Permit review.
3. Barriers. Public access to a small wind turbine shall be restricted through the use of a fence with locked gates or non-climbable towers.
4. Noise. A small wind turbine shall comply with the applicable sound level limits in the Noise Ordinance, County Code section 36.401 et seq.
5. Height. The wind turbine height may exceed the height limit of the zone in accordance with section 4620.j, but shall not exceed 80 feet.
6. Lighting. A small wind turbine shall not include any exterior lights unless required by law.
7. Turbine Certification. A small wind turbine shall be listed on the May 23, 2012, California Energy Commission, List of Eligible Small Turbines. A small wind turbine that is not on this list may be used only if the Director determines that the turbine will generate the amount of energy stated in the manufacturer's specifications (i.e., the rated capacity is accurate).
8. Historic Resources. A small wind turbine shall not be located on a parcel listed in the National Register of Historic Places or the California Register of Historical Resources.
9. Ridgelines. A small wind turbine tower shall not be located on a ridgeline, and the turbine blades shall not exceed the height of the ridgeline in an area within 150 feet of the ridgeline.
10. Design. A small wind turbine shall meet the following design criteria:
 - i. Trellis. Use of trellis style towers is prohibited.
 - ii. Guy -Wires. Use of guy-wires is prohibited; turbine towers shall be self supporting.

- iii. **Tower Base.** The entire area within 10 feet of the base of a turbine tower shall be cleared of all vegetation and shall be covered with gravel, mulch or other similar material to prevent the growth of vegetation.
 - iv. **Power lines.** All power lines connecting turbine towers and/or generators to a structure(s) shall be installed underground.
 - v. **Safety.** A small wind turbine shall be equipped with manual and automatic over speed controls.
 - vi. **Non-Operational.** Except for periods of maintenance, a small wind turbine that meets the definition of "Wind Turbine, Non-Operational" in Section 1110 shall be removed from the site within 180 days from the date of becoming non-operational. Upon written request by the Department of Planning and Development Services, the owner of the property on which a turbine is located shall provide documentation to the satisfaction of the Director that the Director may use to determine the operational status of the small turbine.
11. **Military Operating Areas.** The Department of Planning and Development Services shall provide written notice to the appropriate branch of the United States military prior to the issuance of a Zoning Verification Permit for a small wind turbine located in a Military Operating Area. The notice shall include a description of the location and height of the proposed small wind turbine.
 12. **Pre-Approved Mitigation Area.** A small turbine is allowed on a legal lot designated as Pre-Approved Mitigation Area within the boundaries of the Multiple Species Conservation Program Subarea Plan only with an Administrative Permit. An Administrative Permit may be approved for a maximum of three small wind turbines if all of the requirements of subsection "a" of this section are met and the cumulative rated capacity of the turbine(s) does not exceed 50 kilowatts. Subsections 6951.b and 6951.c below do not apply to lots designated as Pre-Approved Mitigation Area within the boundaries of the Multiple Species Conservation Program Subarea Plan.
- b. Up to two additional small wind turbines (five total) are allowed when all wind turbines comply with the requirements of subsection "a" above and all turbines:
 1. Meet the height limit of the zone; and
 2. Are mounted on an existing permitted structure, such as an accessory structure, allowed pursuant to the Accessory Use Regulations in section 6150.

6951

- c. An Administrative Permit may be approved for more than three tower-mounted small wind turbines or more than five roof-mounted small wind turbines if all of the requirements of subsection "a" of this section are met and the cumulative rated capacity of all of the turbines does not exceed 50 kilowatts.
- d. The cumulative rated capacity of all small wind turbines on a single legal lot shall not exceed 50 kilowatts.
- e. Before a building permit is issued for a small wind turbine, the applicant shall obtain a Zoning Verification Permit to verify that each small wind turbine complies with the requirements listed in Section 6951.
- f. A small wind turbine shall comply with all applicable fire code requirements. If a provision of subsection 6951.a is inconsistent with an applicable fire code requirement, the fire code requirement shall take precedence.

(Added by Ord. No. 7117 (N.S.) adopted 4-23-86)
(Amended by Ord. No. 9596 (N.S.) adopted 9-17-03)
(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)
(Amended by Ord. No. 10073 (N.S.) adopted 9-15-10)
(Amended by Ord. No. 10220 (N.S.) adopted 8-8-12)
(Amended by Ord. No. 10222 (N.S.) adopted 9-25-12. Opr. 11-26-12)
(Amended by Ord. No. 10261 (N.S.) adopted 5-15-13)

6952. LARGE WIND TURBINE

Any number of large wind turbines may be allowed as a Major Impact Services and Utilities use type with a Major Use Permit approved in accordance with the Use Permit Procedure commencing at Section 7350 and subject to the following requirements:

- a. Lot size and status. The lot on which the large wind turbine(s) is to be located shall be at least five acres in size and shall be a legal lot.
- b. Location. The lot shall be located in a wind resources area shown on the Wind Resources Map approved by the Board of Supervisors on May 15, 2013 and on file at the Clerk of the Board of Supervisors as document number _____.
- c. Setbacks. The minimum setbacks listed below shall apply. All setbacks shall be measured from the property line to the closest point on the base or support structure of each tower.
 - 1. From private road easements, open space easements, conservation easements and public roads, the minimum setback shall be a distance equal to 1.1 times the wind turbine height.

2. From all property lines and existing residences or buildings occupied by civic use types, the minimum setback shall be a distance equal to 1.1 times the wind turbine height.
3. Additional setbacks may be required to meet the Noise Ordinance, County Code section 36.401 et seq. and/or the noise requirements in subsection "f" below.
4. Setback Reduction. If the noise levels resulting from a proposed large turbine exceed the requirements of Noise Ordinance, County Code section 36.401 et seq., and/or the noise requirements in subsection "f" below, the setback requirements in subsections 6952.c.2 and 3 may be reduced in accordance with the following provisions:
 - i. A minimum setback equal to 1.1 times the wind turbine height shall be maintained from all existing residences or buildings occupied by civic use types, private road easements, open space easements, conservation easements and public roads; and
 - ii. The applicant has submitted to the Department of Planning and Development Services a document titled, "Consent to Reduce Setbacks" from the owner of each property affected by the proposed setback reduction. The Consent to Reduce Setbacks shall identify the affected property, the owner of the affected property, the property line(s) to which the reduced setback would apply, the reduced setback distance to which the property owner consents and shall include any other information specified by the Director. The property owner's signature shall be acknowledged. The Consent to Reduce Setbacks shall meet the requirements of state law for a recordable document and will be recorded by the Department of Planning and Development Services with the San Diego County Recorder's Office if the provisions of section 6952c.4 are met.
 - iii. If the adjoining property that would be affected by a setback reduction is not subject to the County's land use regulations, the applicant shall submit documentation to the satisfaction of the Director that the adjoining property owner does not object to the setback reduction. Section 6952.c.4.i shall apply, but section 6952c.4.ii shall not apply.
5. Notwithstanding of the setbacks listed in subsections 1, 2, 3, and 4 above, wind turbines located on land subject to the Tule Wind Energy Project Major Use Permit (3300 09-019 (MUP)) shall comply with the following setback requirements:

- i. From any existing residence or buildings occupied by civic use types, four (4) times wind turbine height, when measured from center of turbine to residence or building occupied by civic use type; and
 - ii. From any adjacent property line of a property owner that is participating in the project, 101% of the blade length, when measured from center of turbine to property line: unless either (i) written consent signed by the owner(s) of each lot or parcel affected by the proposed setback reduction is obtained or (ii) the lot or parcel affected by the proposed setback is owned by the Bureau of Land Management or other state or federal agency that participated in the preparation of the EIR/EIS for the Tule Wind Energy Project; and
 - iii. From any adjacent property line of a property owner that is not participating in the project, 131% of the wind turbine height, when measured from center of turbine to property line; unless either (i) written consent signed by the owner(s) of each lot or parcel affected by the proposed setback reduction is obtained or (ii) the lot or parcel affected by the proposed setback is owned by the Bureau of Land Management or other state or federal agency that participated in the preparation of the EIR/EIS for the Tule Wind Energy Project; and
 - iv. From the edge of public road right-of-way, 131% of the wind turbine height, when measured from center of turbine; and
 - v. From the edge of transmission line easement or right-of-way, 101% of turbine tip height, when measured from center of turbine.
- d. **Barriers.** Public access to a large wind turbine shall be restricted through the use of a fence with locked gates, non-climbable towers or other suitable measures.
- e. **Signs.** A warning sign containing only a telephone number and an address for emergency calls and informational inquiries shall face each vehicular access point to the turbine. Individual signs shall be between five and 16 square feet in size.
- f. **Noise.** The following noise provisions shall apply:
1. **Acoustical Study.** The applicant shall prepare and submit an acoustical study. The study shall be conducted by a County-approved acoustical consultant and shall demonstrate that (a) each large wind turbine complies with all applicable sound level limits in the Noise Ordinance, County Code section 36.401 et seq.; and (b) the C-weighted sound level from each large wind turbine while operating does not exceed the Residual Background Sound Criterion for Wind Energy Facilities by more than 20 decibels as both sound levels are measured at each property line of the lot on which the large turbine is located.

2. **Noise Waiver.** An increase in the C-weighted sound level limit specified in subsection 6259.f.1 for one or more turbines may be approved as part of the Major Use Permit for turbines located within the designated Noise Waiver Area on the Wind Resources Map in accordance with the following provisions:
 - i. The large wind turbine complies with all other applicable sound level limits in the Noise Ordinance, County Code section 36.401 et seq.; and
 - ii. The decision maker finds that the higher C-weighted sound limit is acceptable due to specific economic, social, technological or other benefits that will result from approval of the Major Use Permit and implementation of the Proposed Project,
3. **Pure Tone.** If the sound from a large wind turbine while operating contains a steady or intermittent pure tone, such as a whine, screech or hum, the applicable standards for noise set forth in County Code section 36.404 shall be reduced by five dBA. A "pure tone" exists if one-third of the octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of sound pressure levels of the two contiguous one-third octave bands by five dBA for center frequencies of 500 Hz or more, by eight dBA for center frequencies between 160 Hz and 400 Hz, or by 15 dBA for center frequencies less than or equal to 125 Hz.

The Tule Wind Energy Project approved on August 8, 2012 in Major Use Permit 3300 09-019 authorizes the development of five wind turbines and related facilities and improvements. These wind turbines are exempt from this Section 6952.f.3. If this Major Use Permit is modified to add additional turbines, section 6952.f.3 shall apply to the additional turbines, but the five wind turbines and related facilities and improvements included in Major Use Permit 3300 09-019 approved on August 8, 2012 shall remain exempt from section 6952.f.3.

4. **Compliance Review.** A Major Use Permit for a large turbine shall be conditioned to require the submittal of a compliance report to the Department of Planning and Development Services once every two years (from the date of approval of the Use Permit) that demonstrates, to the satisfaction of the Director, that the use meets the requirements of section 6952 and all applicable noise related conditions of the Major Use Permit. The compliance report shall describe any complaints filed with the County during the previous two year period and all corrective actions taken if the use was found to be out of compliance with the requirements of section 6952 and/or the applicable noise related Major Use Permit conditions. As a result of this review, the Director shall determine that the use is in compliance with the requirements of this section and the applicable noise related Major Use Permit conditions or that the Major Use Permit shall be subject to review by the Planning Commission. If the Planning Commission finds that the use no longer complies with the requirements of section 6952 and/or the applicable noise related conditions of the Major Use Permit, the Planning Commission may initiate modification or revocation of the permit in accordance with section 7382.c.

- g. **Height.** A large wind turbine shall comply with Federal Aviation Administration height requirements and day and night marking requirements and shall not create an airport hazard or interfere with military or emergency services aviation operations, such as aerial firefighting
- h. **Turbine Description.** The Major Use Permit shall include the following information:
1. The wind turbine manufacturer(s), model(s), power rating(s) and blade dimensions.
 2. The tower manufacturer and model.
 3. The Director may authorize the use of different turbines and towers than those specified in the Major Use Permit if the Director determines that the different turbines and towers would cause the same or fewer impacts compared to the turbines and towers listed in the Major Use Permit. A request to use different turbines and/or towers under this subsection shall not require approval of a Major User Permit Modification under section 7358.
- i. **Manufacture Specifications.** An application for a Major Use Permit for one or more large wind turbine(s) shall include a copy of the manufacturer's specifications for each proposed wind turbine. The application may include multiple manufacturers' specifications.
- j. **Nonoperational Wind Turbine.** Except for periods of maintenance, a large wind turbine that meets the definition of "Wind Turbine, Non-Operational" in Section 1110 for 180 consecutive days shall be decommissioned in accordance with the plan specified in subsection 2 below.
1. **Operational Data.** Upon written request by the Department of Planning and Development Services, the Permittee of a Major Use Permit for a large wind turbine shall provide data to the satisfaction of the Director to allow the Director to determine the operational status of the large wind turbine.
 2. **Decommissioning Plan.** The applicant shall prepare and submit a decommissioning plan to the Director for his review and approval. The plan shall provide for the removal of all components of each large wind turbine and the restoration of the site to a condition compatible with surrounding properties within 180 days of the start of the decommissioning period. The decommissioning period begins after a wind turbine has been non-operational for 180 consecutive days as specified in subsection 6952j above.

3. **Secured Agreement.** The applicant shall also enter into a secured agreement with the County that requires the decommissioning plan to be implemented and completed. The terms and conditions of the agreement shall be to the satisfaction of the Director and subject to the review and approval of County Counsel. The Director is authorized to sign the agreement on behalf of the County. The security provided with the agreement shall be in an amount sufficient to cover the County's costs, as determined by the Director, to implement and complete the decommissioning plan in case the owner or operator fails to implement and/or complete the plan. The security shall be in a form approved by the Director. Typical forms of security include a surety bond, irrevocable letter of credit or trust funds. The security shall remain in effect for the entire time that the large wind turbine is operational and for any additional time until the decommissioning has been completed in accordance with the decommissioning plan.
4. **Building Permit.** No building permit for any component of a large wind turbine may be issued until the Director approves the decommissioning plan, signs the secured agreement and accepts the security.
- k. **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 and shall be subject to all the provisions of the Zoning Ordinance which apply to Major Use Permits for purpose of modification or revocation.
- l. **Design.** When a Major Use Permit authorizes more than one large wind turbine, all of the large wind turbines subject to the Major Use Permit shall be uniform in color and tower and turbine design (pole, nacelle, etc.). In addition if there are existing large wind turbines on a lot that abuts the lot on which proposed large wind turbines would be located, the color and tower and turbine design of the proposed large wind turbines shall be uniform with that of the existing large wind turbines. Tower and turbine design does not include turbine height which may vary.
- m. **Property Maintenance.** Except for periods of maintenance the property on which a large turbine is located shall be kept clean of turbine parts and or debris associated with the turbine operation.

(Added by Ord. No. 10262 (N.S.) adopted 5-15-13. Formerly 6951)

6952 **SOLAR ENERGY SYSTEM**

- a. **Solar Energy System, Onsite Use shall be permitted as follows:**
 1. A photovoltaic solar energy system for onsite use shall be allowed as an accessory use to all Agricultural, Civic, Commercial, Industrial and Residential use types in all zones in accordance with the following requirements:
 - i. **Setback.** A System shall meet all of the main building setback requirements of the zone or comply with Section 4835.f.

- ii. Height. A System shall meet the height limit of the height designator of the zone, except when allowed to extend not more than 5 feet above the highest point of the roof, in accordance with Section 4620.i.
- iii. Solar Panel Description. The panel manufacturer and model shall be specified as part of the building permit.
- iv. Special Area Regulations: Photovoltaic solar energy systems for onsite use subject to a Special Area Designator must comply with the applicable Special Area Regulations provisions of Sections 5000 through 5999.

b. Solar Energy System, Offsite Use shall be permitted as follows:

- 1. A photovoltaic solar energy system for offsite use with a project area of less than 10 acres shall be allowed with an Administrative Permit in all zones in accordance with the Administrative Permit Procedure commencing at Section 7050. The following findings must be made prior to approval of an Administrative Permit:
 - (a.) That the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:
 - i. Harmony in scale, bulk, coverage and density;
 - ii. The availability of public facilities, services and utilities;
 - iii. The harmful effect, if any, upon desirable neighborhood character;
 - iv. The generation of traffic and the capacity and physical character of surrounding streets;
 - v. The suitability of the site for the type and intensity of use or development which is proposed; and to
 - vi. Any other relevant impact of the proposed use; and
 - (b.) That the impacts, as described in paragraph "b.1.(a.)" of this section, and the location of the proposed use will be consistent with the San Diego County General Plan; and
 - (c.) That the requirements of the California Environmental Quality Act have been complied with; and
 - (d.) That the applicant has provided the County with an owner consent letter demonstrating to the satisfaction of the Director that the operator of the Solar Energy System is authorized to use the property for a Solar Energy System, unless the operator owns the land upon which the Solar Energy System will be located.

2. A photovoltaic solar energy system for offsite use with a project area of 10 acres or more, or a combination of parcels with a combined area of 10 acres or more is a Major Impact Service and Utility in all zones and shall require a Major Use Permit permitted in accordance with the use permit procedure commencing at section 7350. The use permit conditions shall include the requirements in subsection a. and subsection 3. of this Section.

3. All other types of a solar energy systems or solar power plants including concentrating solar power plants, parabolic troughs, concentrating linear fresnel reflectors, stirling solar dish, or a solar power tower are a Major Impact Service and Utility in all zones and shall require approval of a Major Use Permit in accordance with section 7350 and the following requirements on any parcel of land:
 - (a.) Setback. A system or plant shall meet all of the setback requirements of the zone.

 - (b.) Height. A system or plant of more than 200 feet in height is required to comply with Federal Aviation Administration safety height requirements.

 - (c.) Visual. The following measures shall be followed in order to minimize the visual impact of the project:
 - i. Removal of existing vegetation shall be minimized.

 - ii. Internal roads shall be graded for minimal size and disruption.

 - iii. Any accessory buildings shall be painted or otherwise visually treated to blend with the surroundings.

 - iv. A structure shall be non-reflective in all areas possible to blend with the surroundings.

 - (d.) Security. The operator shall provide a security in the form and amount determined by the Director to ensure removal of the Solar Energy System. The security shall be provided to DPLU prior to building permit issuance. Once the Solar Energy System has been removed from the property pursuant to a demolition permit to the satisfaction of the Director, the security may be released to the operator of the Solar Energy System.

4. Special Area Regulations: Photovoltaic solar energy systems for offsite use subject to a Special Area Designator must comply with the applicable Special Area Regulations provisions of Sections 5000 through 5999.

(Added by Ord. No. 10072 (N.S.), adopted 9-15-10)

6960 NUDIST FACILITIES.

All nudist facilities and the conversion of any use or structure to a nudist facility, shall require the application, and granting of a Major Use Permit for the entire facility. In addition, such nudist facilities shall be located and screened in such a manner that no nude person can be seen from outside the facility's boundaries.

(Added by Ord. No. 7106 (N.S.) adopted 3-19-86)

4. The appropriate environmental impact review document, as provided by Section 7610.
- c. Application Form, Filing and Fee. The application shall be made on the prescribed form and shall be filed with whomever has jurisdiction as provided by Section 7352, and shall be accompanied by the fee referenced in Section 7602.

(Amended by Ord. No. 6924 (N.S.) adopted 2-20-85)
 (Amended by Ord. No. 7048 (N.S.) adopted 10-09-85)
 (Amended by Ord. No. 9569 (N.S.) adopted 7-09-03)
 (Amended by Ord. No. 9958 (N.S.) adopted 12-10-08)
 (Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)
 (Amended by Ord. No. 10068 (N.S.) adopted 8-4-10)

7355 MAJOR USE PERMIT REVIEW IN COMMUNITY OR SUBREGIONAL PLAN AREAS WITH COMMUNITY DESIGN REVIEW PROGRAMS.

In community or subregional plan areas with community design review programs, applications for major use permits or major use permit modifications, for the following uses, shall be referred to the appropriate Community Design Review Board for advisory design review recommendation:

Planned developments; standard mobilehome parks; mini-mobilehome parks; civic, fraternal or religious assembly; administrative services; clinic services; community recreation facilities; cultural exhibits and library services; group care; child care centers; and major impact services and utilities.

(Added by Ord. No. 7935 (N.S.) adopted 6-19-91)
 (Amended by Ord. No. 10035 (N.S.) adopted 1-27-10)

7356 HEARING AND NOTICE.

All applications for granting or modifying a use permit and all actions to revoke or modify a use permit shall be heard at a public hearing scheduled and noticed as required by Section 7603, and 7605, respectively.

7357 EFFECT OF USE PERMIT ON OTHER USE OF THE PROPERTY

The granting of a use permit does not limit or preclude the establishment or operation of any uses on the remainder of the lot(s) or parcel(s) outside the boundaries of the use permit as delineated pursuant to Section 7354.b.2. For the portion of the parcel covered by the use permit, no use shall be allowed within the use permit boundary other than those specified in the use permit except as specified in Section 6106 of the Zoning Ordinance. No additional uses, by right or conditionally permitted, shall be allowed within the use permit area without modification of the permit. If, subsequent to the granting of a use permit, the use(s) authorized thereby become permitted uses through a zoning amendment, or the holder of the use permit desires to terminate the use permit, the holder of the use permit may request, and the Director may approve, termination of the use permit. Upon such termination, the terms and conditions of the use permit shall no longer be applicable to that property or to the use thereof.

(Added by Ord. No. 9569 (N.S.) adopted 7-09-03)
 (Amended by Ord. No. 9935 (N.S.) adopted 4-23-08)
 (Amended by Ord. No. 10095 (N.S.) adopted 12-8-10)

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7358 FINDINGS REQUIRED.

Before any use permit may be granted or modified, it shall be found:

- a. That the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:
 1. Harmony in scale, bulk, coverage and density;
 2. The availability of public facilities, services and utilities;
 3. The harmful effect, if any, upon desirable neighborhood character;
 4. The generation of traffic and the capacity and physical character of surrounding streets;
 5. The suitability of the site for the type and intensity of use or development which is proposed; and to
 6. Any other relevant impact of the proposed use; and
- b. That the impacts, as described in paragraph "a" of this section, and the location of the proposed use will be consistent with the San Diego County General Plan.
- c. That the requirements of the California Environmental Quality Act have been complied with.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 5786 (N.S.) adopted 6-4-80)
(Amended by Ord. No. 6924 (N.S.) adopted 2-20-85)
(Amended by Ord. No. 8457 (N.S.) adopted 10-5-94)
(Amended by Ord. No. 10068 (N.S.) adopted 8-4-10)

7359 FINDINGS REQUIRED FOR PARTICULAR USE PERMITS.

Before a use permit may be granted or modified for a "Specific Hazardous Waste Facility Project" as defined in Health and Safety Code Section 25199.1 or a "Large Wind Turbine" as defined in Section 1110, the following provisions shall be met:

- a. Specific Hazardous Waste Facility Project. In addition to the findings required by Section 7358, it shall be found that the proposed facility complies with the following siting criteria documents of the County of San Diego Hazardous Waste Management Plan 1989-2000, all of which documents are on file with the Clerk of the Board of Supervisors as Exhibit A to Ordinance No. 8093 (N.S.):
 1. Section E, entitled "Local and Regional Facility Needs", of Chapter IX, entitled "Siting and Permitting of Hazardous Waste Facilities" (Pages IX-35 through IX-37);

2. Appendix IX-A, entitled "Siting Criteria For Evaluating Hazardous Waste Management Facility Siting Proposals in San Diego County", and
 3. Appendix IX-B, entitled "'General Areas' For Siting Hazardous Waste Management Facilities."
- b. Large Wind Turbine. In lieu of the findings required by Section 7358, it shall be found that the location, size and design of the proposed large wind turbine project will not adversely affect or be materially detrimental to the surrounding community with consideration given to:
1. The physical suitability of the site for the type and intensity of the wind turbine project which is proposed;
 2. Any harmful effect from the wind turbine project on desirable neighborhood character;
 3. The availability of public facilities, services and utilities to serve the wind turbine project;
 4. The generation of traffic and the capacity and physical character of surrounding streets;
 5. The requirements of the California Environmental Quality Act;
 6. The wind turbine project's contribution to the renewable energy and sustainability goals of the San Diego region; and
 7. The San Diego County General Plan.

(Added by Ord. No. 6924 (N.S.) adopted 2-20-85)
 (Amended by Ord. No. 8093 (N.S.) adopted 6-17-92)
 (Amended by Ord. No. 10068 (N.S.) adopted 8-4-10)
 (Amended by Ord. No. 10262 (N.S.) adopted 5-15-13)

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.

7360

- 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.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

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.
- e. **Monitoring compliance.** Every permittee of a use permit shall allow the Director to conduct periodic inspections of the property for which a use permit has been granted to ensure that the permittee is complying with the use permit conditions. Inspections under this section are in addition to any inspections authorized under Section 7702. As used in this section, "permittee" also means the permittee's employees, agents, tenants, heirs, assignees and successors. The frequency of the periodic inspections shall be at the discretion of the Director, but shall not occur more often than once every twelve months. The Director shall give the permittee written notice at least 24 hours before any

inspection under this section. No permittee shall refuse to permit inspection of the property covered by the use permit after the requisite notice has been given. No inspector, however, shall conduct any inspection authorized by this section if permission to inspect is refused. If permission to inspect is refused, the inspector may obtain an inspection warrant pursuant to California Code of Civil Procedure sections 1822.50 et seq. to conduct any inspection authorized by this section. If an inspector determines during a periodic inspection that the permittee is not in compliance with any use permit condition, the Director may authorize follow-up inspections more frequently than once every twelve months until the Director is satisfied that the permittee is complying with all use permit conditions.

- f. Notices under paragraph e. Notices shall either be served personally or by United States mail. Notices served by mail shall allow five business days for delivery.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
 (Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
 (Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)
 (Amended by Ord. No. 9756 (N.S.) adopted 2-1-06)

7363 DEFENSE OF LAWSUITS.

As a condition of approval of a Major Use Permit, Minor Use Permit, use permit modification, or use permit extension for which an application was filed (as defined in Zoning Ordinance Section 1019 b.) before January 3, 2003, the applicant shall: (1) defend, indemnify and hold harmless the County, its agents, officers or employees from any claim, action or proceeding against the County, its agents, officers or employees to attack, set aside, void or annul the major use permit, minor use permit, use permit modification or use permit extension or any of the proceedings, acts or determinations taken, done or made prior to such decision; and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees may be required by a court to pay as a result of such approval. At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any obligation imposed by this condition. The County shall notify the applicant promptly of any claim or action and cooperate fully in the defense. Each applicant seeking approval of any Major Use Permit, Minor Use Permit, use permit modification, or use permit extension, for which an application was filed (as defined in Zoning Ordinance Section 1019 b.) on or after January 3, 2003, shall be subject to the defense and indemnification provisions found at Chapter 2 (commencing at section 86.201) of Division 6 of Title 8 of the San Diego County Code.

(Added by Ord. No. 7782 (N.S.) adopted 07-25-90)
 (Amended by Ord. No. 9517 (N.S.) adopted 12-04-02)

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.

(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
 (Amended by Ord. No. 6761 (N.S.) adopted 4-25-84)
 (Amended by Ord. No. 9674 (N.S.) adopted 9-22-04)

7366

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, 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 Development Services 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 Development Services, 5510 Overland Avenue, Suite 310, San Diego, CA 92123.
- 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.

7366

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)
(Amended by Ord. No. 6215 (N.S.) adopted 1-13-82)
(Amended by Ord. No. 6506 (N.S.) adopted 1-5-83)
(Amended by Ord. No. 6654 (N.S.) adopted 9-21-83)
(Amended by Ord. No. 7048 (N.S.) adopted 10-09-85)
(Amended by Ord. No. 7878 (N.S.) adopted 3-6-91)
(Amended by Ord. No. 7979 (N.S.) adopted 10-02-91)
(Amended by Ord. No. 8166 (N.S.) adopted 10-21-92)
(Amended by Ord. No. 8409 (N.S.) adopted 6-01-94)
(Amended by Ord. No. 8425 (N.S.) adopted 7-13-94)
(Amended by Ord. No. 9548 (N.S.) adopted 4-9-03)
(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)
(Amended by Ord. No. 9958 (N.S.) adopted 12-10-08)
(Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)
(Amended by Ord. No. 10222 (N.S.) adopted 9-25-12. Opr. 11-26-12)

7368 USE PERMITS TO BE RECORDED AND PROVIDE CONSTRUCTIVE NOTICE

Upon the approval of a use permit becoming final and effective, the Director shall cause a copy thereof to be filed with the San Diego County Recorder. The use permit to be recorded shall set forth the names of all owners of the property subject to the use permit. The recording of a use permit shall provide constructive notice to all purchasers, transferees, or other successors to the interests of the owners named in the use permit, of the rights and obligations created by the use permit.

(Added by Ord. No. 10006 (N.S.) adopted 9-16-09)

7370 NUISANCE.

The granting or modification of a use permit shall not authorize or legalize the maintenance of any private or public nuisance.

(Amended by Ord. No. 5508 (N.S.) adopted 5-16-79)

7372 DISCONTINUANCE.

Each use permit granted pursuant to these provisions shall expire and become null and void at the expiration of one year after the purpose for which it was granted shall have been discontinued or abandoned.

(Amended by Ord. No. 6467 (N.S.) adopted 11-10-82)

(Amended by Ord. No. 9690 (N.S.) adopted 12-15-04)

7374 EXPIRATION.

Each valid unrevoked and unexpired use permit shall expire and become null and void at the time specified in the permit. If no time is specified, then the use permit shall expire two years after granting unless construction and/or use of the property in reliance on the permit has commenced prior to its expiration; provided, however, that the period within which such construction and/or use must be commenced may be extended as provided by Section 7376.

Notwithstanding the above, if the use permit is issued in conjunction with the approval of a subdivision map pursuant to the County Subdivision Ordinance, the use permit shall remain in full force and effect for the duration of the tentative approval for that subdivision map (including all extensions of that tentative map) and, if the subdivision map does not receive final approval, expire upon expiration of the tentative approval. If the subdivision map receives final approval, the use permit shall expire three years after recordation of the final or parcel map unless construction and/or use of the property in reliance of the permit has commenced prior to its expiration; provided, however, that the period within which such construction and/or use must be commenced may be extended as provided by Section 7376 and provided further, that construction complies with zoning regulations in effect at the time of construction.

(Amended by Ord. No. 6155 (N.S.) adopted 9-15-81)

(Amended by Ord. No. 6164 (N.S.) adopted 9-22-81)(Supersedes Ord. No. 6155 (N.S.))

(Amended by Ord. No. 7740 (N.S.) adopted 3-28-90)

(Amended by Ord. No. 8897 (N.S.) adopted 3-18-98)

(Amended by Ord. No. 10095 (N.S.) adopted 12-8-10)

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.

(Amended by Ord. No. 6031 (N.S.) adopted 4-22-81)

(Amended by Ord. No. 6519 (N.S.) adopted 1-26-83. Opr. 3-1-83)

(Amended by Ord. No. 6783 (N.S.) adopted 5-16-84)

(Amended by Ord. No. 9676 (N.S.) adopted 9-22-04)

7378

7378 APPLICATION FOR MODIFICATION OF A USE PERMIT.

- a. Any person holding a use permit may apply for a modification by complying with Section 7354.c. For the purposes of this section, the modification of a use permit may include modification of the terms of the permit itself or the waiver or alteration of conditions imposed pursuant to Section 7362. Sections 7000 through 7019 and 7356 through 7366, inclusive, shall apply to the application for the modification of a use permit.
- b. Notwithstanding the provisions of paragraph "a" above or any other provision of The Zoning Ordinance, upon the filing of an application to modify 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 modify a Tentative Map or Tentative Parcel Map or a resolution approving the same, the Director may modify or conditionally modify such permit pursuant to the procedure specified in the Subdivision Ordinance for acting upon such map modifications. 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.
- c. In the event the requested modification or waiver relates to a condition which was initially imposed by action of an appellate body, the authority have jurisdiction over such modification or waiver shall consider the following:
 1. The reason(s) why subject condition was initially imposed.
 2. The reason(s) why subject condition should be modified or waived.
 3. The relationship of modification or waiver to the reason(s) the condition was initially imposed.
 4. Any related impact, direct or indirect, which the requested modification or waiver would have on the subject property or surrounding properties.
 5. Alternative measures proposed to mitigate deleterious impacts, if any, caused by the requested modification or waiver.

(Amended by Ord. No. 6031 (N.S.) adopted 4-22-81)
(Amended by Ord. No. 7048 (N.S.) adopted 10-09-85)
(Amended by Ord. No. 10006 (N.S.) adopted 9-16-09)