

ORDINANCE NO. 10224 (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY CODE TO REPLACE THE TERM DEPARTMENT OF PLANNING AND LAND USE WITH THE TERM DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES

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

Section 1. The Board of Supervisors finds and determines that the County Code should be updated by amending various sections to replace the term “Department of Planning and Land Use” with the term “Department of Planning and Development Services” and the term “DPLU” with the term “PDS”. The Board finds that these amendments are reasonable and necessary for the public health, safety, convenience, and welfare.

Section 2. Section 12.106.5 of the County Code is amended to read as follows:

SEC. 12.106.5. BUILDING INSPECTOR.

The words “Building Inspector”, “County Building Inspector”, “Chief Building Inspector”, “Building Official” or “Director of Building Inspection” shall mean the “Director of Planning and Development Services” and any other person appointed or hired by the Director to perform these functions.

Section 3. Section 12.113.7 of the County Code is amended to read as follows:

SEC. 12.113.7. DIRECTOR OF PLANNING.

The words “Director of Planning” shall mean the “Director of Planning and Development Services”.

Section 4. Section 12.113.8 of the County Code is amended to read as follows:

SEC. 12.113.8. BUILDING INSPECTION.

The words "Building Inspection Department" or "Department of Building Inspection" shall mean "Department of Planning and Development Services".

Section 5. Section 16.206 of the County Code is amended to read as follows:

SEC. 16.206. RECORDING NOTICE OF PROCEEDINGS.

Following service of a Notice and Order to Abate, as specified in Section 16.205, the County Abatement Officer may cause a notice of the initiation of public nuisance abatement proceedings to be recorded in the Office of the County Recorder, which reads substantially as follows:

NOTICE OF INITIATION OF PUBLIC NUISANCE ABATEMENT
PROCEEDINGS

Notice is hereby given that proceedings have been initiated by the County of San Diego under the Public Nuisance Abatement Procedure found at San Diego County Code sections 16.201 et seq. concerning property at (Address). The property is located within San Diego County Assessor's Parcel No. _____.

For information concerning the Public Nuisance Abatement proceedings and how they may impact the property, please contact the Director of Planning and Development Services, County of San Diego, 5510 Overland Avenue, Suite 310, San Diego, CA 92123.

The County Abatement Officer shall cause any recorded notice of the initiation of public nuisance abatement proceedings to be removed when the public nuisance abatement proceedings, including any appeals of the Notice and Order To Abate, and any work necessary to abate the nuisance, have been completed. If work to abate the nuisance is performed at County expense, the notice of the initiation of public nuisance abatement proceedings need not be removed until those costs have been paid or a lien for those costs has been recorded.

Section 6. Section 21.504 of the County Code is amended to read as follows:

SEC. 21.504. ADDITIONAL REASONS FOR APPLICATION DENIAL.

(a) A solicitor's license is subject to sections 21.101-21.117 and any additional conditions in this chapter. In addition to the grounds for denying a new or renewal license provided in sections 21.108 and 21.109 respectively, the Issuing Officer may deny a new or renewal license if the Issuing Officer determines:

(1) The applicant has been convicted of an offense requiring the applicant to register as a sex offender under Penal Code section 290 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of members of the public with whom a solicitor would likely come into contact.

(2) The applicant has been convicted of any offense requiring registration for violation of the Uniform Controlled Substances Act pursuant to Health and Safety Code section 11590 and notwithstanding the time that has elapsed since the conviction the applicant presents a threat to the safety of members of the public with whom a solicitor would likely come into contact.

(3) The applicant is addicted to any substance prohibited by the Uniform Controlled Substances Act (Health and Safety Code Section 11000 et seq.) unless the applicant is enrolled and successfully participating in a drug treatment program approved by the Court.

(b) If the applicant intends to sell or deliver any food and/or beverage item, the Issuing Officer shall not issue the applicant a solicitor's license unless the applicant has been issued a mobile food facility permit from the County Department of Environmental Health. If the applicant intends to set up a temporary stand to sell or deliver any food and/or beverage the Issuing Officer shall not issue the applicant a solicitor's license until the applicant has also obtained clearance from the County Department of Planning and Development Services that the temporary food stand is not prohibited by County zoning regulations.

Section 7. Section 21.603 of the County Code is amended to read as follows:

SEC. 21.603. LICENSE REQUIRED.

It shall be unlawful for a person to operate a junk yard or a motor vehicle wrecking yard in the unincorporated area of the County without obtaining a license from the Issuing Officer. The Sheriff shall be the Issuing Officer for any license required by this chapter. A person may operate a yard that is both a junk yard and motor vehicle wrecking yard, but is only required to obtain one license under this chapter. The license required by this chapter shall be subject to sections 21.101-21.117 of this code and this chapter. No person shall be eligible for a license under this chapter until he obtains a Major Use Permit from the County Department of Planning and Development Services, for the junk yard or motor vehicle wrecking yard, under applicable County zoning regulations.

Section 8. Section 21.2503 of the County Code is amended to read as follows:

SEC. 21.2503. OPERATING CERTIFICATE REQUIRED; APPLICATIONS.

(a) A collective may only operate a collective facility in the unincorporated area of San Diego County if a valid Medical Marijuana Collective Facility Operating Compliance Certificate ("Operating Certificate") has been issued by the Sheriff's Department to a member of the collective.

(b) The procedure for obtaining an Operating Certificate, including appeals of denials and revocations, shall be as set forth in Chapter 1 of the County of San Diego Uniform Licensing Procedure, except as set forth in this chapter and in addition, shall be subject to the specific requirements and regulations set forth in this chapter.

(c) The form of application for an Operating Certificate shall be developed by the Sheriff's Department. At a minimum, the form of application developed by the Sheriff shall require the applicant(s) to provide sufficient information deemed necessary by the Sheriff to make an initial determination that (1) the applicant(s) will be operating a legitimate collective facility in compliance with state law and this ordinance, and (2) the applicant(s) is or are the owner(s) of the property for which the Operating Certificate is sought or have the written permission of the owner(s) of the property for which the license is sought.

(d) As a condition for obtaining an Operating Certificate from the Sheriff, the applicant must show proof that the location has been approved by the Department of Planning and Development Services, Zoning Division, and a building permit (including a tenant improvement permit) has been applied for if required by the California Building Code.

(e) The form of application, which upon completion shall be signed by the applicant(s), shall also require the applicant(s), at a minimum, to make the following express representations:

(1) That no activities prohibited by state law will occur on or at the collective facility with the knowledge of the responsible person(s).

(2) That the collective facility, the collective and its members will comply with all provisions of this chapter and state law pertaining to medical marijuana.

(f) An Operating Certificate issued pursuant to this section shall be valid only for the address for which it was issued.

(g) Section 21.108(c) of the County of San Diego Uniform Licensing Procedure shall not apply to the issuance of Operating Certificates for collective facilities.

(h) The applicant(s) shall provide to the Sheriff along with a completed application and fee for the Operating Certificate, evidence that any required building permit (including a tenant improvement permit) issued by the Department of Planning and Development Services

has passed final inspection and occupancy approval has been issued before the Sheriff's Operating Certificate can be effective.

(i) For purposes of facilitating the provisions of this ordinance, a collective must have a unique identifying name that will be entered onto the application for an Operating Certificate.

(j) The fee for an Operating Certificate shall be as provided in section 21.1901 of the County Code of Regulatory Ordinances.

(k) The application for an Operating Certificate shall designate and identify one or more persons as responsible persons. The designated responsible person(s) shall include the applicant(s).

(l) An Operating Certificate shall not be issued where a responsible party has a felony conviction.

Section 9. Section 21.2505 of the County Code is amended to read as follows:

SEC. 21.2505. OPERATING REQUIREMENTS FOR COLLECTIVE FACILITIES.

(a) The hours of operation of a collective facility shall be no earlier than 8 a.m. and no later than 8 p.m., seven days a week.

(b) No persons under the age of eighteen are allowed at, in or on a collective facility, unless such individual is a qualified patient and accompanied by their licensed attending physician, parent or documented legal guardian.

(c) In order to facilitate verification that a collective facility is operating pursuant to state and local laws, the following records must be maintained at the collective facility at all times and available for inspection by the Sheriff's Department:

(1) A record identifying all current qualified patient members of the collective associated with the collective facility. The record shall identify each qualified patient's designated primary caregiver, the name of the physician providing the recommendation for medical marijuana and shall reflect whether the recommendation is written or oral. The record shall identify the city and county of residence for each qualified patient and his or her primary caregiver.

(2) A record identifying all current primary caregiver members of the collective associated with the collective facility, and the persons for whom they are the designated primary caregiver. The record will show the city and county of residence for all qualified patients and primary caregivers.

(3) A current record of caregiver events for each member of the collective associated with the collective facility. Such record should include, at a minimum, the dates, times, duration, participants and nature of the caregiver event(s). Such record shall not include information protected by federal or state medical information privacy laws.

(4) A record identifying the source or sources of all marijuana currently on the premises of the collective facility or that has been on the premises during the two-year period preceding the current date. The record shall reflect the grower and the address and location of cultivation of the identified marijuana.

(5) All marijuana at the collective facility must at all times be physically labeled with information which, used in conjunction with the record required by section 21.2505(c)(4), will allow for ready identification of the specific collective member who is the source of the marijuana.

(6) All marijuana at the collective facility must at all times be physically labeled with the monetary amount to be charged (or "price" for purposes of this subparagraph only) to a collective member as reimbursement for cost of cultivation, overhead and operating expenses. Marijuana that is stored in bulk, and which is distributed by requested weight amount, shall be labeled with the price-per-ounce. Marijuana that is stored and distributed in fixed weight packages shall be labeled with the price and weight of the marijuana in the package.

(7) Current records of all transactions involving money and/or marijuana occurring in connection with the operation and activities of the collective or the collective facility during the two-year period preceding the current date. Such records must include at a minimum the following information: (a) The names of the persons involved, the person's membership status in the collective associated with the collective facility, and whether they are a qualified patient or a primary caregiver; (b) the amount of cash involved, if any, (c) the amount of marijuana involved, if any, (d) the method of payment if not by cash, and (d) if marijuana was involved, the collective member who was the source of the marijuana.

(8) An agreement, signed by each member of the collective associated with the collective facility and who is a source of marijuana to the collective facility as identified by sections 21.2505(c)(4) and 21.2505(c)(5), that:

(A) within seven days of request by the Sheriff's Department, the member will produce for inspection by law enforcement a record, current to within 48 hours, of costs of cultivation, overhead and operating expenses; and

(B) the location of the cultivation of the marijuana supplied by the member shall be subject to inspection for physical verification by appropriate law enforcement or fire agencies.

The form of the agreement required by this subdivision shall be determined by the Sheriff's Department, and shall require as a minimum the full name, home address, cultivation site address, home and emergency telephone numbers and the agreement required by this section.

(9) A record showing the identification of the responsible persons for the collective by name, home address and telephone number.

(10) A clearly-visible, posted document identifying the names of the responsible persons and their emergency contact telephone numbers.

(d) The total quantity of marijuana located at any collective facility shall not exceed the maximum quantity limits set by state law, as established by statute and court decisions, in relation to the number of qualified patients and primary caregivers that are members of the collective.

(e) All marijuana at a collective facility must have been cultivated at that collective facility or have as its source a member or members of the collective with which the collective facility is associated.

(f) Only marijuana as herein defined is allowed at the collective facility. No food or drink containing marijuana is allowed.

(g) No smoking or any other consumption or ingestion of marijuana is allowed at a collective facility.

(h) Only persons who are members of the collective that is associated with a collective facility shall collectively or cooperatively cultivate, store or exchange marijuana among themselves, or reimburse each other or the medical marijuana collective for cultivation, overhead costs and operating expenses, at the collective facility.

(i) All transactions between or among members of a collective involving the exchange of marijuana and money, the exchange of marijuana and any other thing of value, the exchange of marijuana, or the provision of marijuana by one collective member to another collective member shall occur at the collective facility operated by the collective to which the members belong, except as follows: To the extent allowed by Health & Safety Code § 11362.71 and Health & Safety Code § 11362.765, a member of a collective may transport medical marijuana from the collective facility of the collective to which the member belongs and deliver the medical marijuana to another member of the same collective and may, upon delivery, accept money on behalf of the collective in exchange for the medical marijuana.

(j) Collective facilities shall be available for inspection by the Sheriff, the Director of Planning and Development Services, the fire authority having jurisdiction or their respective authorized representatives, at all times during operating hours and upon reasonable notice during non-operating hours.

(k) A collective facility shall have on its premises, posted in a prominent location, a copy of its Operating Certificate and a document that provides the names, home addresses, home telephone numbers and 24-hour emergency telephone numbers of its operators.

(l) A licensed, uniformed security guard shall be present at a collective facility at all times during hours of operation pursuant to section 21.2505(a).

(m) The provisions of this section do not apply to the following collective facilities:

(1) A collective facility operated by a qualified patient where the amount of marijuana at no time exceeds 1.5 times the amount allowed by state law for a single qualified patient under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

(2) A collective facility operated by a primary care giver where the amount of marijuana at no time exceeds the amount allowed by state law for a single primary care giver under Health & Safety Code section 11362.77, only cultivation occurs, and no exchanges of marijuana or reimbursements for marijuana occur.

Section 10. Section 23.102 of the County Code is amended to read as follows:

SEC. 23.102. REGISTRATION.

(a) Except as provided in section 23.103, an individual who, on behalf of any corporation, firm, organization or individual other than himself attempts to influence any County decision by contacting, personally or by telephone any of the following County officers or employees shall prior to the contact, or within 5 days of the contact, register with the Clerk of the Board of Supervisors as a County legislative advocate:

- (1) Members of the Board of Supervisors
- (2) Members of Planning Commission
- (3) Members of Assessment Appeals Board
- (4) Members of Civil Service Commission
- (5) Members of San Diego County Air Pollution Control District Hearing Board

- (6) Confidential Investigators of the Board of Supervisors
- (7) Board Representatives of the Board of Supervisors
- (8) County Assessor
- (9) Chief Deputy County Assessor
- (10) District Attorney
- (11) Assistant District Attorney
- (12) Sheriff
- (13) Undersheriff
- (14) County Treasurer
- (15) Chief Deputy County Treasurer
- (16) Director of Planning and Development Services
- (17) Director of General Services
- (18) Chief Administrative Officer
- (19) Assistant Chief Administrative Officer
- (20) Members of San Diego County Capital Asset Leasing Corporation (SANCAL)
Board of Directors
- (21) Director of Purchasing and Contracting

(b) An individual representing a firm of which he is a member shall be deemed to be representing an individual other than himself.

(c) The registration requirement imposed by this section shall apply to all individuals conducting the activities described in subsection (a) above. A corporation, firm, or organization employing persons engaged in lobbying activities may not elect to register in its own name.

(d) The Clerk of the Board of Supervisors shall maintain a current list of all individuals registered under this section and update the list at least once a month.

Section 11. Section 36.102 of the County Code is amended to read as follows:

SEC. 36.102. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Abatement and related administrative costs" has the same meaning as the term "administrative and related administrative costs" in Government Code section 38773.2.

(b) "Director" means the Director of the County Department of Planning and Development Services and any person appointed or hired by the Director to administer or enforce this chapter.

(c) "Graffiti" has the same meaning as the term "graffiti or other inscribed material" in Government Code section 38772(d)(2).

(d) "Legal guardian" means a person who is legally vested with the power and charged with the duty of taking care of a minor.

(e) "Minor" has the same meaning as the term "minor" in Government Code section 38772(d)(3).

(f) "Other person" has the same meaning as the term "other person" in Government Code section 38772(d)(3).

(g) "Parent" means a person who is a natural parent, an adoptive parent or a foster parent.

Section 12. Section 36.402 of the County Code is amended to read as follows:

SEC. 36.402. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Ambient noise level" means the composite of existing noise from all sources at a given location and time. Ambient noise is sometimes referred to as background noise.

(b) "Average sound level" means the level in decibels of the mean-square A-weighted sound pressure during a stated time period, with reference to the square of the standard reference sound pressure of 20 micropascals. The "average sound level" is equivalent to the industry standard LEQ.

(c) "A-weighted sound level" means 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.

(d) "Construction equipment" means tools, machinery or equipment including "special construction equipment" defined in the Vehicle Code, used in a construction operation on any construction site.

(e) "Container" means any receptacle, regardless of contents, manufactured from wood, metal, plastic, paper or any other material including but not limited to any barrel, basket, box, crate, tub, bottle, can or refuse container.

(f) "Decibel" means a unit for measuring the amplitude of sound, equal to 20 times the logarithm to the base 10 of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals.

(g) "Disturbing, excessive or offensive noise" means any sound or noise that:

(1) Endangers the health or safety of any person.

(2) Causes discomfort or annoyance to a person of normal sensitivity.

(h) "Emergency work" means work: (1) necessary to restore property to a safe condition following a public calamity, (2) required to protect a person or property from injury or damage or (3) by a public or private utility to restore utility service.

(i) "Impulsive noise" means a single noise event or a series of single noise events, which causes a high peak noise level of short duration (one second or less), measured at a

specific location. Examples include, but are not limited to, a gun shot, an explosion or a noise generated by construction equipment.

(j) "Maximum sound level" means the highest sound level reached when measuring noise with a sound level meter using the A-weighted network and slow time weighting. The "maximum sound level" is equivalent to the industry standard known as L_{MAX} .

(k) "Motor vehicle" means any self-propelled vehicle as defined in the Vehicle Code and includes a mini-bike and a go-cart.

(l) "Noise control officer" means the County Director of the Department of Planning and Development Services or a person appointed or retained by the Director to perform this function.

(m) "Occupied property" means property on which there is a building for which a certificate of occupancy has been issued.

(n) "Off-road recreational vehicle" means a motor vehicle that is being operated other than on a public or private roadway, whether or not the vehicle was designed or intended for off-road use and may include but is not limited to a motorcycle, go-cart, camper, dune buggy, ATV, racecar, automobile, SUV, pick-up truck or truck. A piece of farm equipment or a motor vehicle being used for an agricultural, military, fire, emergency or law enforcement use or by a public or private utility for work on utilities is not an "off-road recreational vehicle."

(o) "Plainly audible" means any sound that can be detected by a person using his or her unaided hearing faculties. As an example, if the sound source under investigation is a portable or personal vehicular sound amplification or reproduction device, the detection of the rhythmic base component of music is sufficient to verify plainly audible sound. The noise control officer need not determine the title, specific words or the artist performing the music.

(p) "Powered model vehicle" means a model airplane, model boat or model vehicle of any type or size not designed for carrying persons or property and which may be propelled other than by manpower or wind power.

(q) "Sound amplifying equipment" means any machine or device used to amplify music, the human voice or any sound and does not include a standard automobile radio when used and heard only by the occupants of the vehicle in which it is installed.

(r) "Sound level" means the weighted sound pressure level obtained using a sound level meter and frequency weighting network as provided in the American National Standards Institute (ANSI) specifications for sound level meters. As used in this chapter, "sound level" means the same as "noise level."

(s) "Sound level meter" means an instrument for the measurement of sound levels, which meets or exceeds the requirements pertinent for a type 1 or type 2 meter in the ANSI specifications for sound level meters, ANSI S1.4-1983 or its latest revision.

(t) "Sound truck" means a "vehicle," as that term is defined in the Vehicle Code that has or uses sound amplifying equipment.

Section 13. Section 51.103 of the County Code is amended to read as follows:

SEC. 51.103. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Awning" means an architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.

(b) "Banner" means a sign usually made of a flexible material that has limited durability, such as paper, cloth or plastic.

(c) "Director PDS" means the Director of the County Department of Planning and Development Services and any other person hired or appointed by the Director to enforce or administer this chapter.

(d) "Director DPW" means the Director of the County Department of Public Works and any other person hired or appointed by the Director to enforce or administer this chapter.

(e) "Marquee" means a permanent roofed structure attached to and supported by a building and includes a sign attached to it.

(f) "Parkway" means the distance measured from the curb face to the property line of a road right of way and includes the area normally set aside for sidewalks.

(g) "Projecting sign" means a sign other than a wall sign, which projects from and is supported by a wall of a building or other structure.

(h) "Road right of way" means the area designated for use as a street, including the travel portion of the street, the shoulders, curbs, gutters and parkways.

(i) "Sign" means a device which displays information with words, colors, shapes, lights or symbols to provide information that identifies, promotes, advertises or provides directions to a business or other organization, an event, an individual, a place, a product or service.

(j) "Street" means a County highway, State highway, other public road or alley, or a private thoroughfare at least ten feet wide that connects with a County highway, State highway, other public road or an alley which provides primary access to an abutting lot.

(k) "Vertical sign" means a sign where the horizontal dimension of the sign is less than its vertical dimension.

Section 14. Section 51.104 of the County Code is amended to read as follows:

SEC. 51.104. BUILDING PERMIT REQUIRED TO CONSTRUCT, ERECT OR INSTALL SIGNS, MARQUEES OR AWNINGS.

(a) It shall be unlawful for a person to construct, erect or install or cause another person to construct, erect or install a sign, marquee or awning or other similar device without a building permit. It shall also be unlawful for a person to commence work to construct, erect or install or cause another person to commence work to construct, erect or install a sign, marquee or awning or other similar device without a building permit.

(b) An applicant for a building permit under this section shall submit an application for the permit on a form provided by the Director PDS. The application shall be accompanied by the permit and plan check fees required by the County Administrative Code and contain all information requested on the form. When required by the Director, the application shall also be accompanied by a plot plan and other plans and information the Director deems necessary to determine whether the project as proposed complies with this code and any other applicable laws and requirements.

Section 15. Section 51.125 of the County Code is amended to read as follows:

SEC. 51.125. REVOCATION OR SUSPENSION OF PERMIT.

(a) The Director PDS and the Director DPW may revoke a permit they issue pursuant to this chapter if the terms of the permit are violated or the person to whom the permit was issued violates this code or any County ordinance applicable to the device for which the permit was issued or when necessary to protect the public health or safety.

(b) The Director DPW may suspend a permit issued pursuant to this chapter for a device that overhangs a road right of way if it interferes with necessary maintenance or construction in a road right of way.

Section 16. Section 51.126 of the County Code is amended to read as follows:

SEC. 51.126. REMOVAL OF SIGN, MARQUEE OR AWNING AFTER REVOCATION OR SUSPENSION OF PERMIT.

If the Director PDS or the Director DPW revokes or suspends a permit pursuant to this chapter, the person to whom the permit was issued shall remove the sign, marquee, awning or other similar device within the time period ordered in the notice of revocation or suspension. Failure to remove the device within the allowed time period is a violation of this chapter.

Section 17. Section 51.130 of the County Code is amended to read as follows:

SEC. 51.130. ENFORCEMENT.

The Director PDS shall enforce this chapter, except that the Director DPW shall enforce all provisions of this chapter that relate to encroachments in a road right of way. The Director PDS may allow the Director DPW to enforce any violation of this chapter the Director PDS enforces, and the Director DPW may allow the Director PDS to enforce any violation of this chapter the Director DPW enforces.

Section 18. Section 51.203 of the County Code is amended to read as follows:

SEC. 51.203. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Outdoor luminaire" means an outdoor illuminating device, outdoor fixture, lamp and other similar device, whether permanently installed or portable, that produces artificial light.

(b) "Class I lighting" means outdoor lighting for an outdoor sales or eating area, vehicle fueling area, assembly or repair area, billboard or other sign, recreational facility or other similar application, where color rendition is important for commercial or safety purposes.

(c) "Class II lighting" means outdoor lighting for commercial, industrial and residential walkways, roadways and parking lots, equipment yards, outdoor security and residential entrance lighting.

(d) "Class III lighting" means outdoor lighting used for decorative effects such as architectural illumination, flag and monument lighting and landscape lighting.

(e) "Building official" means the Director of Planning and Development Services and any person appointed or hired by the Director to administer and enforce this chapter.

(f) "Residential entrance light" means an exterior lighting fixture mounted on a building required by the California Electrical Code or California Building Code to illuminate an outdoor entrance or exit with grade level access.

(g) "Zone A" means the area within a 15 mile radius of the center of the Palomar Observatory and the area within a 15 mile radius of the center of Mount Laguna Observatory.

(h) "Zone B" means all areas within the unincorporated area of the County not included in Zone A.

(i) "Luminaire" means a complete lighting unit, including the lamp, the fixture and other parts.

(j) "Holiday decoration" means an outdoor luminaire that is used only for temporary decorative purposes, to celebrate a specific holiday.

(k) "Fully shielded" means a luminaire constructed in a manner that all light emitted by the fixture, either directly from the lamp or a defusing element, or indirectly by reflection or refraction from any part of the luminaire is projected below the horizontal plane, as determined by photometric test or certified by the manufacturer. Any structural part of the luminaire providing this shielding shall be permanently affixed so that no light is able to be emitted above the horizontal plane.

(l) "Luminous tube lighting" means gas-filled glass tubing which, when subjected to high voltage, becomes luminescent in a color characteristic of the particular gas used, e.g., neon, argon, etc.

(m) "On premises advertising sign" means a sign located on the premises of a facility that is open to the public, that advertises the name of the facility, the product or service the facility offers, the facility's hours of operation or some other fact related to the facility.

Section 19. Section 51.302 of the County Code is amended to read as follows:

SEC. 51.302. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Agricultural building" means a building located on property that allows an agricultural use and the building is used to store items used in a farming operation, including farm products, livestock, machinery or equipment, but is not used for residential purposes or open to the public.

(b) "Centerline" means an imaginary line on a street designated on an official survey, filed map or other document the County has approved that shows the center of a future or existing street.

(c) "Commercial zone" means property on which the Zoning Ordinance allows a commercial use.

(d) "Corner cut-off setback area" means any of the four triangular corner areas that begin 20 feet back from the setback lines of two intersecting streets that are established pursuant to section 51.307 of this chapter.

(e) "County Public Road Standards" (CPRS) means those standards for public roads approved by the Board of Supervisors and on file with the Clerk of the Board of Supervisors.

(f) "Director PDS" means the Director of the County Department of Planning and Development Services or anyone to whom the Director has delegated the authority to perform the Director's duties in this chapter.

(g) "Director DPW" means the Director of the Department of Public Works or anyone to whom the Director has delegated the authority to perform the Director's duties in this chapter.

(h) "Dwelling" means a building or portion of a building used exclusively as a residence. A "dwelling" includes a single-family, two-family, multi-family unit or any other family residential use recognized by the Zoning Ordinance, but does not include a hotel, boarding house or other group residential use identified in the Zoning Ordinance.

(i) "General Plan highway" means a street identified on the Circulation Element of the County General Plan with an established centerline.

(j) "Improvement" means work a person installs or agrees to install as a condition of a permit issued pursuant to this chapter.

(k) "Manufacturing zone" means property on which the Zoning Ordinance allows a manufacturing or industrial use.

(l) "Multiple residential zone" means property on which the Zoning Ordinance allows one of the following building types: "Attached, Three-to-Eight Dwelling Units" or "Multi-Dwelling."

(m) "Road right of way" means the area designated for use as a street, including the travel portion of the street, the shoulders, curbs, gutters, sidewalks, utilities, drainage facilities, traffic signs and any other improvements required by the CPRS.

(n) "Setback line" means an imaginary line on property that is parallel to the centerline of an abutting street that indicates the area on property beyond which erection, construction or placement of a structure is prohibited.

(o) "Street" means a County highway, State highway, other public road or alley, or a private thoroughfare at least ten feet wide that connects with a County highway, State highway, other public road or an alley which affords primary access to an abutting lot.

(p) "Street setback line" is a setback determined by measuring the distance from the centerline.

(q) "Structure" has the same meaning as the term "structure" in the County Building Code and includes a building.

(r) "Zoning setback line" is a setback established by the County Zoning Ordinance.

Section 20. Section 51.315 of the County Code is amended to read as follows:

SEC. 51.315. AGREEMENTS TO SECURE INSTALLATION OF IMPROVEMENTS.

(a) The Director DPW may, with the concurrence of the Director PDS, allow a property owner to enter into one or more of the following agreements in lieu of requiring the property owner to install improvements before the County issues a building permit:

(1) An agreement secured by (A) a bond or bonds by one or more authorized corporate sureties, (B) an irrevocable letter of credit from a banking institution approved by the County or (C) a deposit of funds, negotiable securities or a combination of funds and securities. The Director may reject any security offered to secure an agreement if the Director determines that the security is not adequate to secure completion of the required improvements.

(2) A lien agreement for improvements required by this chapter which enters a lien in favor of the County in an amount that the Director DPW determines will be sufficient to complete the improvements. The lien amount shall be based upon the Director DPW's estimate of the future cost of completing the improvements at the time the County will require the improvements to be constructed. The lien shall be recorded against the property on which construction is proposed and shall not be subordinate to any other lien or encumbrance on the property.

(b) In lieu of an agreement under subsection (a)(1) above, the Director DPW, with the concurrence, may accept an agreement for which adequate security has been furnished, filed with the Clerk of the Board pursuant to Government Code sections 66410 et seq. (Subdivision Map Act) or County Code sections 81.101 et seq.

(c) An agreement under subsection (a) above shall require the improvements to be completed before any person shall occupy any building constructed, erected or altered that is subject to this chapter or within two years from the date of the agreement, whichever comes first. If completion of the improvements secured by a lien in subsection (a)(2) above is not needed to comply with a requirement of the California Environmental Quality Act and the Director DPW determines that it would not be in the public interest to require completion of the improvements within two years, the Director DPW may allow a longer period for the duration of the lien agreement or may allow the agreement to provide that the improvements shall be completed after notice by the County.

Section 21. Section 51.403 of the County Code is amended to read as follows:

SEC. 51.403. DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES TO IMPLEMENT THIS CHAPTER.

The Director of the Department of Planning and Development Services (Director) shall implement this chapter. As used in this chapter, the Director means any person appointed or hired by the Director to implement this chapter.

Section 22. Section 52.102 of the County Code is amended to read as follows:

SEC. 52.102. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Director DEH" means the Director of the Department of Environmental Health and any person appointed or hired by the Director to administer or enforce this chapter.

(b) "Director PDS means the Director of the Department of Planning and Development Services and any person appointed or hired by the Director to administer or enforce this chapter.

(c) "Mobilehome" has the same meaning as the term "mobilehome" in H & S Code section 18008.

(d) "Mobilehome park" has the same meaning as the term "mobilehome park" in H & S Code section 18214.

(e) "Special occupancy park" has the same meaning as the term "special occupancy park" in H & S code section 18862.43.

(f) "Street" has the same meaning as the term "street" in Vehicle Code section 590.

Section 23. Section 52.106 of the County Code is amended to read as follows:

SEC. 52.106. CONSTRUCTION PERMITS AND OPERATING PERMITS.

(a) A permit to construct, reconstruct, alter or modify a mobilehome park required by H & S Code section 18500 or special occupancy park required by H & S Code section 18870 shall be processed by the Director PDS. The permit fee for any of these permits shall be paid to the Director PDS.

(b) No person shall operate a mobilehome park or special occupancy park except as provided in an operating permit issued by the Director DEH. To the extent allowed by State law, the Director may suspend or not renew the operating permit for a mobilehome park if that park has not been operated in substantial compliance with this chapter during the prior permit term.

(c) The fee for a mobilehome park construction permit shall be the applicable fee established pursuant to H & S Code sections 18502 and 18503. The fee for a special occupancy park construction permit shall be the applicable fee established pursuant to H & S Code sections 18870.2 and 18870.4.

(d) The fee for a mobilehome park operating permit shall be the annual operating permit fee established by H & S Code sections 18502 and 18502.5. The fee for a special occupancy park operating permit shall be the applicable fee established pursuant to H & S Code sections 18870.2 and 18870.4.

Section 24. Section 52.202 of the County Code is amended to read as follows:

SEC. 52.202. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Agricultural employee" has the same meaning as the term "agricultural employee" in California Labor Code section 1140.4(b).

(b) "Director DEH" means the Director of the County Department of Environmental Health.

(c) "Director PDS" means the Director of the County Department of Planning and Development Services.

(d) "Installation permit" means the permit issued by the Director PDS that authorizes the installation of a trailer coach regulated by this chapter.

(e) "Trailer coach" means a vehicle designed for human habitation or human occupancy for recreational, industrial, professional or commercial purposes, for carrying property on its own structure or for being drawn by a motor vehicle and includes a camper, camp trailer, house car, mobilehome whose tongue and axle have not been removed, park trailer, recreational vehicle, trailer, trailer coach and travel trailer as these terms are defined in the Health and Safety Code and the Vehicle Code.

Section 25. Section 52.204 of the County Code is amended to read as follows:

SEC. 52.204. DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES TO ENFORCE.

The Director PDS shall enforce this chapter.

Section 26. Section 52.207 of the County Code is amended to read as follows:

SEC. 52.207. USE OR OCCUPANCY ONLY WHEN AUTHORIZED BY THE ZONING ORDINANCE AND PERMIT ISSUED.

(a) No person shall use or occupy a trailer coach in the unincorporated area of the County unless the use or occupancy is authorized by the Zoning Ordinance and the person is in possession of a valid, unexpired trailer coach installation permit issued by the Director PDS.

(b) An applicant for a permit to install a trailer coach shall submit an application on a form provided by the Director PDS and provide additional information when requested by that department. The applicant shall submit with the application the nonrefundable fee, which shall be the same as the fee authorized by 25 CCR section 1020.1 for the installation of a mobilehome.

Section 27. Section 52.201 of the County Code is amended to read as follows:

SEC. 52.210. MANDATORY CONDITIONS.

No person using or occupying a trailer coach located outside a mobilehome park shall:

(a) Fail to comply with all conditions contained in Health and Safety Code section 18550 and all regulations adopted pursuant to that section that apply to a mobilehome or a recreational vehicle located in a mobilehome park.

(b) Erect, construct or maintain an accessory building, structure or external appurtenance used or designed to be used incidental to the use or occupancy of a trailer coach on the site on which the trailer coach is located, except that: (1) an awning, which complies with the requirements of regulations adopted pursuant to Health and Safety Code section 18552 may be attached to a trailer coach and (2) an accessory building or structure allowed on property located in a zone subject to the S-87 Limited Control Use Regulations, may be erected, constructed or maintained on the same property where a trailer coach is located.

(c) Fail to establish a temporary connection to an onsite sewage disposal system which complies with the requirements of Health and Safety Code section 18554 and all regulations adopted pursuant to that section unless the trailer coach the person is occupying is

equipped with self-contained sanitary facilities which the Director DEH has determined are adequate or unless sanitary facilities deemed adequate by the Director DEH are located within 200 feet of where a trailer coach is placed and are available for use by any occupant of the trailer coach. If the sanitary facilities cease being available, continued use or occupancy of a trailer coach on a site is unlawful.

(d) Establish a permanent connection to a water, gas or electricity source or to any sewer system or sewage disposal facility.

(e) Place or maintain a trailer coach at a location on property other than where designated on a plot plan approved by the Director PDS.

(f) Engage in any conduct that violates State Law, this code or the Zoning Ordinance.

(g) Fail to have a Director DEH approved potable or domestic water supply when required by the Director DEH.

Section 28. Section 52.211 of the County Code is amended to read as follows:

SEC. 52.211. ADDITIONAL CONDITIONS.

The Director PDS may approve a trailer coach installation permit subject to additional conditions the Director deems necessary to protect the public health and safety.

Section 29. Section 52.213 of the County Code is amended to read as follows:

SEC. 52.213. REVOCATION OR SUSPENSION.

(a) The Director PDS may revoke an installation permit issued under this chapter if the person to whom the permission was issued is violating any condition of the permit, State law, any other provision of this code or the County Zoning Ordinance. In the alternative, the Director may suspend the permit to give the permittee the opportunity to remedy the violation. If the permittee fails to remedy the violation during the suspension period, the Director may revoke the permit.

(b) It shall be unlawful for any person to use or occupy a trailer coach when the installation permit has been revoked or suspended.

Section 30. Section 52.214 of the County Code is amended to read as follows:

SEC. 52.214. NOTICE OF PROPOSED REVOCATION OR SUSPENSION.

The Director PDS shall give written notice to the permittee that the Director proposes to revoke or suspend the permit. The notice shall be served pursuant to section 11.112 of this code or by posting the property on which the trailer coach is located. The notice shall contain the following information:

(a) Each violation the Director has determined is grounds for revocation or suspension.

(b) Whether the Director proposes to revoke or suspend the permit.

(c) If the Director is proposing to suspend the permit, the period of time for which the permit will be suspended and each corrective action the permittee is required to complete during the period of suspension.

(d) That the revocation or suspension shall be effective 14 days from the date of the notice unless the person requests a hearing in writing within the 14 day period to contest whether a violation has occurred.

(e) The procedure the permittee is required to follow to request a hearing.

Section 31. Section 52.215 of the County Code is amended to read as follows:

SEC. 52.215. HEARING TO CONTEST REVOCATION OR SUSPENSION.

If a permittee requests a hearing pursuant to section 52.214(d) the Director PDS shall transmit the request for a hearing to the Clerk of the Board of Supervisors and request the Clerk assign the matter to a County Hearing Officer pursuant to sections 16.101 et seq. If the permittee requests a hearing the Director PDS shall take no further action on the proposed revocation or suspension until the hearing is completed, except that the Director may retract the proposed revocation or suspension if the Director is satisfied that all violations have been corrected.

Section 32. Section 52.216 of the County Code is amended to read as follows:

SEC. 52.216. ORDER OF REVOCATION OR SUSPENSION.

If the permittee fails to timely request a hearing to contest the revocation or suspension the Director PDS may revoke or suspend the permit on the date provided in the notice served under section 52.214. If a hearing is requested and the hearing officer issues a ruling sustaining the Director's determination that grounds for revocation or suspension exist, the Director may revoke or suspend the permit as provided in the hearing officer's ruling. The Director shall serve a written order of revocation or suspension pursuant to section 11.112 or by posting the property on which the trailer coach is located.

Section 33. Section 66.513 of the County Code is amended to read as follows:

SEC. 66.513. MASSAGE ESTABLISHMENT FACILITIES.

No license to conduct a massage establishment shall be granted unless the facility complies with applicable land use, building code, and zoning requirements for a professional or personal service business at that location. In addition, the facility shall meet the following requirements:

(a) A recognizable and legible sign complying with Division 1 (commencing with Section 51.101) of this Code shall be posted at the main entrance identifying the premises as a massage establishment.

(b) A light level of no less than five (5)-foot candles at any point within the room shall be maintained in each room or enclosure where massage services are performed on patrons.

(c) Any dressing, locker and toilet facilities that are provided shall meet these requirements:

(1) In steam rooms and rooms containing tubs or showers, a waterproof floor covering shall be provided which extends up the walls at least six inches and shall be covered at the floor-wall juncture with at least a 3/8 inch radius. Toilet rooms shall be of similar construction.

(2) Walls of toilet and bathing facilities shall be smooth, waterproof and kept in good repair.

(d) Cabinets shall be provided for the storage of clean linen. Approved containers shall be provided for the storage of all soiled linen.

(e) Minimum ventilation shall be provided in accordance with the Building Code of the County of San Diego. To allow for adequate ventilation in cubicles, rooms and areas provided for patron's use, which are not serviced directly by required window or mechanical systems of ventilation, partitions shall be constructed so that the height of partitions does not exceed seventy-five percent (75%) of the floor-to- ceiling height of the area in which they are located.

(f) All plumbing and electrical installations shall be installed under permit and inspected by the Department of Planning and Development Services Building Inspection and such installations shall be installed in accordance with the Uniform Building Code and the Uniform Plumbing Code.

(g) All walls, ceilings, floors, pools, showers, bathtubs, steam rooms, and all other physical facilities for the establishment must be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms, or steam or vapor cabinets, shower compartments, and toilet rooms, shall be thoroughly cleaned and disinfected each day the business is in operation. Bathtubs shall be thoroughly cleaned and disinfected after each use.

(h) Towels, linens, and sheets of all types and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, linens, and sheets shall not be used for more than one person. Reuse of such linen is prohibited unless the same has been first laundered. Common use of towels or linens is prohibited. Heavy white paper may be substituted for sheets provided that such paper is used once for each person and then discarded into a sanitary receptacle.

(i) All lavatories or wash basins shall be provided with hot and cold running water, soap and single service towels in wall mounted dispensers.

(j) Disinfecting agents and sterilizing equipment shall be provided for any instruments used in performing acts of massage.

(k) Pads used on massage tables shall be covered in a workmanlike manner with durable washable plastic or other acceptable waterproof material.

(l) No exterior entrance to the massage establishment which is regularly used by the public for ingress or egress to such establishment shall be locked during business hours, unless all clients and staff are behind closed doors and no staff are available to assure security for those clients and staff.

(m) All unoccupied rooms and areas of a massage establishment shall be subject to reasonable inspection during hours of the business operation.

(n) A list of services available and the cost of such services shall be posted in an open and conspicuous public place on the premises. The services shall be described in readily understandable language. No owner, operator, responsible managing employee, manager, or

permittee in charge of, or in control of the massage establishment, shall permit, and no massage therapist shall offer to perform any services other than those posted.

(o) With the exception of bathrooms, showers and dressing rooms, no owner, operator, responsible managing employee, manager, or permittee in charge of or in control of any massage establishment shall permit any person in any area within the massage establishment which is used by the patrons or which can be viewed by patrons from such an area, unless the person's specified anatomical areas are fully covered.

(p) No owner, operator, responsible managing employee, manager or permittee in charge of or in control of a massage establishment shall during the course of any service or task associated with the operation of a massage operation permit any person to massage, or intentionally touch the specified anatomical areas of another person.

(q) No owners, operator, responsible managing employee, manager or permittee in charge of or in control of a massage establishment shall permit any massage therapist to be on the premises of a massage establishment during its hours of operation while performing or available to perform any task or service associated with the operation of a massage business, unless the massage therapist is fully covered from a point not to exceed four (4) inches above the center of the kneecap to the base of the neck, excluding the arms, with the following exception: shorts may be worn so long as they extend down the leg a minimum of three (3) inches from the crotch and the body above that point is fully covered to the base of the neck, excluding the arms. The covering, which includes trousers, pants or shorts, will be of an opaque material and will be maintained in a clean and sanitary condition.

(r) A current list of the individuals providing massage services in the massage establishment, and evidence of the organization-issued certificates or transitional massage technician licenses held by those individuals shall be maintained at the massage establishment at all times and shall be made immediately available to the Sheriff for inspection upon request.

Section 34. Section 67.521 of the County Code is amended to read as follows:

SEC. 67.521. DISCRETIONARY LAND USE PERMITS.

a) Upon application for a subdivision map, major use permit, specific plan or specific plan amendment, the Director and affected special purpose district shall review the application and the Water Recycling Plan for the area. Within 20 calendar days of receipt of the application the Director shall transmit to the Department of Planning and Development Services a preliminary determination whether the proposed use of the subject property will be required to be served with recycled water, and/or will be required to include facilities designed to accommodate the use of recycled water. Will serve letters for recycled water service shall be requested from the applicable special purpose district by the applicant. Based upon the Director's determination and the availability of recycled water to the project, use of recycled water and provision of recycled water distribution systems or other facilities for the use of reclaimed water may be required as a condition of approval of the requested permit, plan or amendment.

b) NOTICE OF DETERMINATION. A notice of the basis for the preliminary determination, proposed conditions of approval and schedule for compliance shall be provided to the applicant from the Director or special purpose district prior to approval of the development application.

c) **CONDITIONS OF USE.** The design and operational requirements for the project's recycled water distribution system and schedule for compliance shall be based on the rules and regulations adopted pursuant to Section 67.512, and shall require compliance with both the California State Department of Health Service Wastewater Reclamation Criteria and requirements of the California Regional Water Quality Control Board.

d) **PLAN APPROVAL.** Plans for the recycled and potable water distribution systems for the project shall be reviewed and approved by the Administrator and the appropriate special purpose district.

Section 35. Section 67.703 of the County Code is amended to read as follows:

SEC. 67.703 DEFINITIONS.

The following words shall have the meaning provided in this section. These definitions are to be broadly interpreted and construed to promote maximum conservation and prudent management of the groundwater resources within San Diego County.

Director: The Director of Planning and Development Services.

Groundwater Investigation: A study designed to evaluate geologic and hydrologic conditions, prepared in accordance with standards approved by the Director. The study must be prepared by a California State Registered Geologist or Registered Civil Engineer and be approved by the Director. The Director may require the study to demonstrate the groundwater adequacy of the basin to serve both the project and the entire basin if developed to the maximum density and intensity permitted by the general plan. For residential uses, the study shall assume an annual consumptive use requirement of 0.5 acre-feet (163,000 gallons) of water per dwelling unit. (Consumptive use is the amount of water lost from the groundwater resource due to human use, including evaporation and transpiration (plant use) losses associated with human use.)

Residual Drawdown: The difference between the initial (static) water level before a well test is conducted and the water level after recovery. Projected residual drawdown indicates an aquifer of limited extent and the long-term well yield may be lower than what is indicated in a well test.

Specific Capacity: An expression of the productivity of a well, obtained by dividing the rate of discharge of water (in gallons per minute) from the well by the drawdown (in feet) of the water level in the well.

Water Intensive Use: Any land use that requires a permit listed in Section 67.711 and is not exempt from this ordinance, and that will require more water than 20 acre-feet per year or more than 20,000 gallons per day.

Water Service Agency: Any city, mutual or municipal water district, or any other private or public agency which provides water at retail from either: (1) groundwater resources, to two or more users; or (2) imported water resources. Such water service agency must be in existence prior to the date of submittal of any project relying on service from that agency.

Well Test: The production procedure, reviewed and approved by the Director, by which water is produced from a water well and resulting water levels are monitored. If the results of the testing are inconclusive or improperly conducted, additional testing will be required. (All wells must have a valid San Diego County Health Department well permit prior to construction.)

1. Residential Well Test: A test of a well on property with zoning which permits residential use, or which is for a residential project, shall be conducted by or under the direct supervision of a California State Professional (or Registered) Geologist, who shall conduct all analysis. The Residential Well Test shall meet or exceed all of the following minimum requirements unless the Director has first approved an alternate procedure:
 - a. Well production during the Residential Well Test must be maintained at a rate of no less than three gallons per minute.
 - b. The Residential Well Test must be conducted over a period of at least 24 hours, unless after eight hours of pumping, the measured specific capacity is equal to or greater than 0.5 gallons per minute per foot of drawdown, at which time pumping can be terminated. In addition, all Residential Well Tests must produce at least two full well bore volumes of water (a bore volume is that quantity of water which is stored within the saturated portion of the drilled annulus of the well).
 - c. The analysis of the Residential Well Test must indicate that no residual drawdown is projected (taking into account minor inaccuracies inherent in collecting and analyzing well test data).
 - d. The analysis of the Residential Well Test must also indicate that the amount of drawdown predicted to occur in the well after five years of continual pumping at the rate of projected water demand, will not interfere with the continued production of sufficient water to meet the needs of the anticipated residential use(s).
2. Nonresidential Well Test: A test of a well for a nonresidential project (such as a golf course) shall be in accordance with procedures approved by the Director and may be more extensive than those applicable to a Residential Well Test.

Section 36. Section 67.721 of the County Code is amended to read as follows:

SEC. 67.721 GROUNDWATER IMPACTED BASINS.

- A. Identification and Mapping. Areas within the County which are characterized by one or more of the following groundwater problems shall be known as Groundwater Impacted Basins and shall be identified and mapped:
 1. Low yielding wells having an overall average yield of less than 3 gallons per minute.

2. Basins with previously approved developments at a parcel size smaller than those stated in the table in paragraph A of Section 67.722 and in excess of available water resources.
3. Declining groundwater levels and a measurable groundwater overdraft.

The Groundwater Impacted Basins shall be designated on a map known as the "Groundwater Limitations Map" which shall be adopted by the Board of Supervisors and kept on file with the Clerk of the Board of Supervisors. Prior to adding any area to said map or making any deletions from or revisions to said map, the Board of Supervisors shall hold a public hearing. Notice of such hearing shall be mailed at least 30 days in advance, to the owner (as shown on the latest equalized assessment roll) of any property proposed to be added to or deleted from said map. The Director of Planning and Development Services shall annually review said map and may recommend such revisions as the Director finds appropriate.

- B. Regulations. Any application listed in Section 67.711 for a project within a Groundwater Impacted Basin shall be accompanied by a Groundwater Investigation. In addition, a Well Test shall be performed for each lot proposed to be created by or included within the project. The application shall not be approved unless the approving authority finds that based upon the Groundwater Investigation, groundwater resources are adequate to meet the groundwater demands both of the project and the groundwater basin if the basin were developed to the maximum density and intensity permitted by the General Plan.

Section 37. Section 67.802 of the County Code is amended to read as follows:

SEC. 67.802. DEFINITIONS.

For purposes of this Chapter, the following definitions shall apply:

(a) "Advanced treatment" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(b) "Authorized enforcement official" means the Director of Public Works, the Director of the Department of Planning and Development Services, the Director of Environmental Health, the Agricultural Commissioner, Department of Agriculture, Weights and Measures, or their designees.

(c) "Authorized non-stormwater discharge" means a discharge allowed to enter the stormwater conveyance system or receiving waters in accordance with a permit under the National Pollutant Discharge and Elimination System program.

(d) "Best management practices" (BMPs) shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C. Best management practices may include any type of pollution prevention and pollution control measure that achieves compliance with this chapter.

(e) "Business activity" has the same meaning as those activities or facilities listed in section D.3.b.1 of the California Regional Water Quality Control Board, San Diego Region

Order No. R9-2007-0001, NPDES No. CAS0108758; and also means airplane mechanical repair, maintenance, fueling, or cleaning; motor vehicle (or other vehicle) parking lots and storage facilities; motor vehicle and other vehicle body repair or painting; motor vehicle mechanical repair, maintenance, fueling, or cleaning; boat mechanical repair, maintenance, fueling, or cleaning; botanical or zoological gardens and exhibits; cement mixing or cutting; cemeteries; food facilities, including, but not limited to, restaurants, taverns, markets, booths, mobile vendors, and commissaries; equipment repair, maintenance, fueling, or cleaning; golf courses, parks and other recreational facilities; landscaping; marinas; masonry storage or installation; mobile motor vehicle or other vehicle washing; mobile carpet, drape or furniture cleaning; nurseries and greenhouses; painting and coating; pest control services; pool, spa, and fountain cleaning; portable sanitary toilet servicing; retail or wholesale fueling; animal facilities; building material retail, wholesale, and storage; power washing services; and also means a facility that is involved in manufacturing; oil and gas mining; hazardous waste treatment, storage, or disposal; solid waste disposal (landfills, land application sites, and open dumps); recycling facilities; steam electric- generation; transportation; sewage or wastewater treatment; or is subject to stormwater effluent limitations guidelines, new source performance standards, or toxic Pollutant effluent standards (40 Code of Federal Regulations Subchapter N), as described in the statewide General Industrial Permit (Water Quality Order No. 97-03-DWQ); and also means any commercial, industrial, or institutional use, as described in the County of San Diego Zoning Ordinance, notwithstanding the zone in which the activity or facility is located.

(f) "Detention" means the temporary storage of storm run-off in a manner that controls peak discharge rates and provides some gravity settling of pollutants.

(g) "Detention facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface run-off and gradual release of stored water at controlled rates.

(h) "Development project" means any land disturbance activity, construction or installation of a structure, the creation of impervious surfaces, or land subdivision.

(i) "Discharge", when used as a verb, means to allow pollutants to directly or indirectly enter stormwater, or to allow stormwater or non-stormwater to directly or indirectly enter the stormwater conveyance system or receiving waters, from an activity or operations which one owns or operates. When used as a noun, "discharge" means the pollutants, stormwater or non- stormwater that are discharged.

(j) "Discharger" means any person or entity engaged in activities or operations or owning facilities, which will or may result in pollutants entering stormwater, the stormwater conveyance system, or receiving waters or the owners of real property on which such activities, operations or facilities are located, except that a local government or public authority is not a discharger as to activities conducted by others in public rights of way.

(k) "Environmentally sensitive area" means impaired water bodies, as defined by the federal Clean Water Act, section 303(d) areas designated as Areas of Special Biological Significance or with the RARE beneficial use by the SWRCB in the Water Quality Control Plan for the San Diego Basin (1994 and amendments), areas designated as preserves for species-protection purposes by the State of California or a local government, and pre-approved mitigation areas identified in agreements between the County and state or federal natural resources agencies.

(l) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, and technological factors as determined in the sole discretion of the County.

(m) "Illicit connection" means a pipe, facility, or other device connected to the stormwater conveyance system or receiving waters, which has not been authorized by the County; or a permitted/authorized pipe, facility, or other device, which conveys unauthorized discharges.

(n) "Impervious surface area" means the ground area covered or sheltered by an impervious surface, measured in plan view. For example, the "impervious surface area" for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

(o) "Infiltration BMPs" means any treatment BMP designed primarily to percolate water into the subsurface. These include infiltration trench, infiltration basin, dry wells, permeable pavements without an under-drain, and sub-surface reservoir beds without an under-drain. BMPs that have some incidental infiltration but which are designed primarily to retain water or to treat water, such as bioretention, filter strips, permeable pavements with an under-drain, or vegetated/rock swales are not infiltration BMPs.

(p) "Land disturbance activity" means any activity, whether or not a stormwater management plan or County permit or approval is required, that moves soils or substantially alters the land such as grading, digging, cutting, scraping, stockpiling or excavating of soil; placement of fill materials; paving, pavement removal, exterior construction; substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing; clearing or road-cutting associated with geotechnical exploration and assessment, percolation testing, or any other activity that is a condition of a permit application; or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Land disturbance activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, emergency construction activities required to protect public health and safety; or tilling or cultivating land exclusively for the purpose of growing plants or animals, provided that all disturbed material remains on the same site, the tilling or cultivating will not block or divert any natural drainage way, and the land to be tilled or cultivated has been in agricultural production for at least one of the preceding five years.

(q) "Maximum extent practicable" (MEP) shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(r) "Natural drainage" means a drainage consisting of native soils such as a natural swale or topographic depression which gathers or conveys run-off to a permanent or intermittent watercourse or waterbody.

(s) "Non-stormwater" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(t) "Performance standard" means a requirement under this chapter that specifies a result that must be achieved (e.g., "minimize impervious surface area" or "do not impair receiving water quality") without specifying the means that must be used to achieve that result.

(u) Pollutant: means any agent introduced to stormwater or non-stormwater through human activity that may cause, potentially cause, or contribute to the degradation of water quality such that public health, the environment, or beneficial uses of waters may be affected.

The term includes dredged spoil, rock, sand, or silt (excluding sediment, silt, or substances in quantities which would enter stormwater from a natural undeveloped watershed); solid waste, sewage, garbage, or medical waste; wrecked or discarded equipment; radioactive materials; industrial waste; fecal coliform, fecal streptococcus, and enterococcus bacteria and other pathogens that pose a threat to human health; volatile organic carbon, surfactants, oil and grease, petroleum hydrocarbons, total organic carbon, lead, copper, chromium, cadmium, silver, nickel, zinc, cyanides, phenols, and biocides; and any contaminant which can significantly degrade the quality of receiving waters by altering pH, total suspended or settleable solids, biochemical oxygen demand, chemical oxygen demand, nutrients, or temperature.

(v) "Pollution prevention" means the practices and processes that reduce or eliminate the generation of pollutants such as the use of smaller quantities of toxic materials or substitution of less toxic materials; changes to production processes to reduce waste; decreases in waste water flows; recycling of wastes as part of the production process; segregation of wastes, and treatment of wastes on site to decrease volume or toxicity.

(w) Priority development project means:

(1) a new development project that falls within any of the following categories:

(A) Residential subdivisions of 10 or more dwelling units. This category includes single-family homes, multi-family homes, condominiums, and apartments.

(B) Commercial developments greater than one acre. This category is any development on private land that is not for heavy industrial or residential uses where the land area for development is greater than one acre. The category includes: hospitals; laboratories and other medical facilities; municipal facilities; educational institutions; recreational facilities; commercial nurseries; multi-apartment buildings; car wash facilities; mini-malls and other business complexes; shopping malls; hotels; office buildings; public warehouses; automotive dealerships; airfields; and other light industrial facilities.

(C) Heavy industry developments greater than one acre. This category includes: manufacturing plants, food processing plants, metal working facilities, printing plants, and fleet, such as buses or trucks storage areas.

(D) Automotive repair shops. This category is a facility that is described in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5541, 7532-7534, or 7536-7539.

(E) Restaurants. This category is any food establishment that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC code 5812), where the land area for development is greater than 5,000 square feet. Restaurants where land development is less than 5,000 square feet shall meet all SUSMP requirements except for structural treatment BMP, numeric sizing criteria requirement, and hydromodification requirement.

(F) All hillside development greater than 5,000 square feet. This category is defined as any development which creates 5,000 square feet of impervious surface which is located in an area with known erosive soil conditions and where the development will grade on any natural slope that is 25% or greater.

(G) Environmentally sensitive areas. This category is any development located within or directly adjacent to or discharging directly to an environmentally sensitive area (where discharges from the development or redevelopment will enter receiving waters within the environmentally sensitive area), which either creates 2,500 square feet of impervious surface on

a proposed project site or increases the area of imperviousness of a proposed project site to 10% or more of its naturally occurring condition. For purposes of this definition, "directly adjacent" means situated within 200 feet of the environmentally sensitive area and "discharging directly to" means outflow from a drainage conveyance system that is composed entirely of flows from the subject development or redevelopment site, and not commingled with flows from adjacent lands.

(H) Parking lots 5,000 square feet or more or with 15 or more parking spaces and potentially exposed to urban run-off. Parking lot is defined as a land area or facility for the temporary parking or storage of motor vehicles used personally, for business, or for commerce.

(I) Street, roads, highways, and freeways. This category is the construction of any paved surface which is 5,000 square feet or greater used for the transportation of automobiles, trucks, motorcycles, and other vehicles.

(J) Retail gasoline outlets (RGOs). This category is a retail establishment that sells gasoline and is 5,000 square feet or greater in size or encounters 100 average daily trips or more per day.

(2) A redevelopment project that creates, adds or replaces at least 5,000 square feet of impervious surfaces to a developed site described in section 67.802(w)(1).

(3) All other pollutant generating development projects that result in the disturbance of one acre or more of land and include housing subdivisions of 10 or more dwelling units

(4) Projects located in the areas east of the Pacific/Salton Divide are not considered priority development projects.

(x) "Public improvement projects" shall have the same meaning as defined in the Labor Code or Public Contract Code.

(y) "Rainy season" means from October 1 through April 30.

(z) "Receiving waters" shall mean Waters of the State as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(aa) "Redevelopment" means creation, addition, or replacement of impervious surface on an already developed site. Examples include the expansion of building footprints, road widening, the addition or replacement of a structure, and creation or addition of impervious surfaces. Replacement of existing impervious surfaces includes any activity that is not part of a routine maintenance activity where impervious material(s) are removed exposing underlying soil during construction. Redevelopment does not include trenching and resurfacing associated with utility work, resurfacing and reconfiguring surface parking lots and existing roadways, new sidewalk construction, pedestrian ramps, or bike lane on existing roads; and routine replacement of damaged pavement, such as pothole repair.

(bb) "Residential discharger" means the occupant, real property owner(s), manager, caretaker, or association board officer of a single-family dwelling, a multiple-family dwelling, mobile home park, condominium complex, or board-and-care house, or other housing structure.

(cc) "Source control BMP" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(dd) "Stormwater conveyance system" means private and public drainage facilities other than sanitary sewers within the unincorporated area of San Diego County by which urban run-off may be conveyed to receiving waters, and includes but is not limited to roads, streets,

constructed channels, aqueducts, storm drains, pipes, street gutters, inlets to storm drains or pipes, or catch basins.

(ee) "Stormwater management" means the use of structural (treatment control) or non-structural (source control) BMPs that are designed to reduce urban run-off pollutant loads, discharge volumes, and/or peak discharge flow rates or velocities. When applied to the County or another municipality, stormwater management also includes planning and programmatic measures.

(ff) "Stormwater management plan" means a plan, submitted on a County form or in a County approved format with an application for a County permit or other County approval, identifying the measures that will be used for stormwater and non-stormwater management during the permitted activity.

(gg) "Stormwater BMP implementation plan" means a document which meets the requirements for a total maximum daily load (TMDL) study, and is submitted and approved by the San Diego Regional Water Quality Control Board.

(hh) "Stormwater pollution prevention plan" (SWPPP) means an approved site-specific plan that (1) identifies and evaluates sources of pollutants associated with activities that may affect the quality of stormwater discharges and authorized non-stormwater discharges from a facility or site, and (2) identifies and implements site-specific BMPs to reduce to the MEP or to prevent pollutants in stormwater or authorized non-stormwater discharges.

(ii) "SUSMP standard urban stormwater mitigation plan for land development projects and public improvement projects" means the SUSMP standard urban stormwater mitigation plan for land development projects and public improvement projects adopted by the County Board of Supervisors on November 13, 2002, as it may thereafter be revised by the Director, Department of Public Works.

(jj) "Treatment control BMP" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

(kk) Tributary to an impaired water body means a facility or activity is tributary to an impaired water body if urban run-off from that facility or activity enters (1) the stormwater conveyance system at a place and in a manner that will carry pollutants for which that water body is impaired in that discharge to the impaired water body; (2) a flowing stream that will carry pollutants for which that water body is impaired in that discharge to the impaired water body; or (3) an ephemeral stream that reaches the impaired water body during storm events and that will carry pollutants for which that water body is impaired from the facility or activity to the impaired water body during such storm events.

(ll) "Water quality standards" shall have the same meaning as defined in California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Attachment C.

Section 38. Section 68.503 of the County Code is amended to read as follows:

SEC. 68.503. UNLAWFUL TO DEPOSIT SOLID WASTE IN PUBLIC OR PRIVATE PLACES.

(a) It shall be unlawful and is a public nuisance for a person to place, deposit or bury or employ another person to place, deposit or bury, any solid waste as defined in section

68.502(jj), on the right of way of any street or highway, any park or campgrounds or on any public or private property, unless the property is a solid waste facility regulated under the California Public Resources Code, or the property contains a receptacle for temporarily depositing solid waste and the solid waste is properly deposited in the receptacle. It shall also be unlawful and a public nuisance for the owner or occupier of private property who knows that solid waste has been unlawfully placed, deposited or buried on property they own or occupy to allow the solid waste to remain on that property.

(b) The Directors of the Departments of Public Works, Planning and Development Services, Environmental Health, Parks and Recreation and Agriculture, Weights and Measures shall have enforcement authority to enforce this section, within their areas of responsibility.

Section 39. Section 68.707 of the County Code is amended to read as follows:

SEC. 68.707. DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES TO ENFORCE.

The Director of Planning and Development Services shall enforce this Chapter.

Section 40. Section 68.708 of the County Code is amended to read as follows:

SEC. 68.708. DETERMINATION OF DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES.

The Director of Planning and Development Services shall determine whether or not a person is accumulating junk in such manner as to constitute a violation of this Chapter. In making such determination the Director of Planning may consider the nature, size and extent of the accumulation; the length of time the accumulation has been permitted to remain; whether, and to what extent, the accumulation is detrimental to the public health, safety and welfare; and whether any unusual conditions exist that would render the disposal of such junk in a lawful manner a hardship.

Section 41. Section 68.709 of the County Code is amended to read as follows:

SEC. 68.709. NOTICE OF VIOLATION.

If the Director of Planning and Development Services determines that an accumulation of junk exists in violation of this Chapter, he or she shall declare a public nuisance and issue a Notice and Order to Abate in accordance with the Uniform Public Nuisance Abatement Procedure contained in Chapter 2, Division 6, Title 1 (commencing with Section 16.201) of this Code.

Section 42. Section 68.709 of the County Code is amended to read as follows:

SEC. 71.101. DEFINITIONS.

(a) "BUILDING OR STRUCTURE". In addition to the meaning ordinarily ascribed thereto, "building or structure" includes any machine, implement, device, tree, derrick, stage or other setting, lumber, sash or door, structural steel, pipe bend, dynamo, transformer, generator, punch, agitator, object or thing having a width of more than eight feet, other than any implement of husbandry or any special mobile equipment, as defined in the Vehicle Code of the State of California, having a width of 10 feet or less. The term also includes a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum permitted by said Vehicle Code.

(b) "COMMERCIAL DRIVEWAY" means any driveway that is not a "residential driveway" as defined in this section.

(c) "COUNTY HIGHWAY" means a County highway as defined in Streets and Highways Code Section 25 of a highway maintained by a County service area.

(d) "DRIVEWAY" means a commercial driveway.

(e) "HIGHWAY" means any public highway, public street, public way, or public place in the unincorporated territory of the County, either owned by the County or dedicated to the public for purpose of travel.

(f) "MOVING CONTRACTOR" means any person who moves or causes to be moved any building or structure over, upon, along or across any highway.

(g) "PERSON" means any person defined by Section 12.115 of this Code and shall also include the United States, this State, this County, including all departments and bureaus thereof except the Department of Public Works of this County.

(h) "RESIDENTIAL DRIVEWAY" means any driveway serving any property which is used solely as a private residence consisting of one, two, or three dwelling units including farms or ranches which are not used as retail outlets.

(i) "DIRECTOR" means the Director of Department of Public Works of this County, and the Director of Planning and Development Services as ex-officio Director of Department of Public Works as to residential driveway permits only.

(j) "TOTAL NUMBER OF TIRE INCHES" means that number calculated by adding the respective tire sizes as specified by manufacturer of all tires resting upon the surface of the highway.

(k) "VEHICLE CODE" means the Vehicle Code of the State of California.

(l) "WIDTH" means that dimension measured at right angles to the anterior-posterior axis of the conveyance upon which the building or structure or portion thereof is or is to be loaded or moved, or to the median line of the highway over which the same is being or is to be moved.

(m) "ENCROACHMENT" means any tower, pole, poleline, pipe, pipeline, driveway, private road, fence, billboard, stand or building, or any structure or object of any kind or character not particularly mentioned herein, which is placed in, under or over any portion of the highway.

(n) "TERMINAL" means a facility at which freight is consolidated to be shipped and where full load consignments may be off-loaded or at which the vehicle combinations are regularly maintained, stored or manufactured.

(o) "INTERSTATE TRUCK" means a tractor semi or a set of doubles with unlimited length as regulated by Vehicle Code 35401.5(a)(1) and (2).

Section 43. Section 72.76 of the County Code is amended to read as follows:

SEC. 72.76. USE OF ROADWAY DESIGN FEATURES TO PROHIBIT ENTRY TO, OR EXIT FROM A COUNTY HIGHWAY.

Roadway Design Features such as islands, curbs, and permanent or intermittent traffic barriers may be used to prohibit entry to, or exit from, or both, from any County Highway in such a manner as to help implement or to be consistent with the circulation element of the County General Plan.

(a) Roadway Design Features, as set forth above, that would prohibit existing through traffic on a County Highway may be allowed on a local County Highway when determined by the Board to protect public health and safety, however such features shall be prohibited on circulation element roads.

(b) Any request for a Roadway Design Feature that would prohibit existing through traffic either permanently, intermittently or in one direction on a local County Highway shall be approved by the Board. If the request for the Roadway Design Feature is not:

- (1) Part of a Board approved roadway improvement plan,
- (2) An intermittent barrier, or
- (3) A barrier prohibiting through traffic in one direction,

a one foot strip of roadway right-of-way perpendicular to the centerline of the road shall be vacated to the abutting property owners. The requestor, at their cost, shall apply for the vacation and this vacation shall follow the Road Opening or Closure (Vacation) procedure as presently administered by the Department of Planning and Development Services. An intermittent barrier may be used during a specified period to prohibit through traffic on a local County Highway. A permanent barrier may be used to prohibit through traffic in one or both directions on a local County Highway.

(c) (1) Any barrier that has been previously approved by the Board pursuant to Section 942.5 of the Streets and Highways Code may remain in place upon a determination by the Board pursuant to subdivision (f) of Vehicle Code Section 21101 that the barrier is needed to protect public health and safety.

(2) Prior to action by the Board, the Planning Commission upon request of the Road Commissioner, shall make a recommendation to the Board as to whether an existing barrier should remain or be removed.

(3) The Road Commissioner shall file a request with the Planning Commission for its recommendation for each existing barrier.

(4) 10 days public notice of hearing by first class mail shall be given of any meeting of the Planning Commission or the Board with regard to an existing barrier to: (1) the local planning group or sponsor group, (2) any person who requests mailed notice in writing at least 30 days before the meeting date. Failure to receive notice, however, shall not invalidate any recommendation of the Planning Commission or determination of the Board.

(d) This section constitutes rules and regulation for the use of Roadway Design Features on County Highways as authorized under Section 21101 of the California Vehicle Code.

Section 44. Section 74.102 of the County Code is amended to read as follows:

SEC. 74.102. ENCROACHMENT PERMIT REQUIRED.

Any use of public road right-of-way for a sidewalk cafe shall require an encroachment permit issued by the Department of Public Works pursuant to the provisions of Title 7, Division 1, Chapter 6 of this Code. Said encroachment permit shall comply with the development criteria for sidewalk cafes set forth in Section 74.104 of this Code and conditions made a part thereof. Issuance of an encroachment permit shall be conditioned upon obtaining: (1) an administrative permit from the Department of Planning and Development Services for a Sidewalk Cafe and, (2) any Food Establishment Permit required by Title 6, Division 1, Chapter 1, Article 2 of the Code and in accordance with Chapter 4, Division 22 of the California Health and Safety Code.

Section 45. Section 74.106 of the County Code is amended to read as follows:

SEC. 74.106. TERM OF SIDEWALK CAFE ENCROACHMENT PERMIT.

All Sidewalk Cafe Encroachment Permits shall have an indefinite term, but shall be subject to termination at any time or 30 days prior written notice upon the determination of the Director, Department of Public Works that one or more of the conditions or provisions of the permit have been violated or that a change of circumstances has occurred which warrants or requires such termination. The Director, Department of Public Works shall also notify the Department of Planning and Development Services which shall initiate action to revoke the applicable administrative permit pursuant to Section 7074 of the Zoning Ordinances.

Section 46. Section 74.107 of the County Code is amended to read as follows:

SEC. 74.107. AMENDMENT TO SIDEWALK CAFE REGULATIONS.

These regulations are subject to rescission or amendment at any time by the County Board of Supervisors. No person or entity shall as a result of adoption of these sidewalk cafe regulations be entitled to the issuance of a permit and any and all permits shall be granted or denied, rescinded or modified at the discretion of the Director, Department of Public Works; Director, Department of Planning and Development Services; Department of Environmental Health; Planning Commission; or the Board of Supervisors without liability of any kind whatsoever. Furthermore, no person shall have any vested interest in maintaining permitted improvements in the event it is determined to modify or terminate any such permit.

Section 47. Section 75.102 of the County Code is amended to read as follows:

SEC. 75.102. ESTABLISHMENT OF CENTER LINES.

The center line of a street shall be as follows:

(a) The center line of the street as shown on a final subdivision map or a final parcel map filed in accordance with the Subdivision Map Act (Division 2, Title 7 of the California Government Code), a record of survey map filed pursuant to Section 11535(c) of the Business and Professions Code, a record of survey map filed according to and prior to the repealed (Statutes 1955, c. 1593, p. 2890) of Section 11575 of the Business and Professions Code or a road survey map prepared by and filed in the office of the Director, Department of Public Works.

(b) If no such map is filed or if there is an ambiguity within or between such maps, the center line of the street shall be established by the Director Department of Public Works with the concurrence of the Director, Department of Planning and Development Services after notice and hearing pursuant to Section 75.106.

(c) In the event that the center line of a street has not been established according to (a) or (b) above or that the map filed as in (a) above does not show a center line, then until such time as the center line is established pursuant to subsection (a) or (b) hereof it is presumed that the center line is a line equidistant between the exterior right of way lines of the street.

Section 48. Section 75.103 of the County Code is amended to read as follows:

SEC. 75.103. CHANGE OF EXISTING CENTER LINES.

No established center line shall be changed except by a new subdivision map or a resubdivision map filed in accordance with the Subdivision Map Act, by a new record of survey map filed pursuant to Section 11535 and Chapter 15 of Division 3 of the Business and Professions Code, by a new road survey map prepared by and filed in the office of the Director, Department of Public Works, or by the Director, Department of Public Works with the concurrence of the Director, Department of Planning and Development Services after notice and hearing pursuant to Section 75.106. An established center line shall not be deemed changed by the vacation of a part of the right of way on either or both sides thereof, or by the widening of the right of way on either or both sides thereof.

Section 49. Section 75.104 of the County Code is amended to read as follows:

SEC. 75.104. APPEAL -- DECISION BY BOARD.

If the Director Department of Public Works and the Director, Department of Planning and Development Services do not concur on the establishment or change of the center line of a street, or if they do concur but a person authorized to appeal by Section 75.105 submits to the Director, Department of Public Works a written notice of appeal from their decision prior to the eleventh day following the date said decision is filed in the office of the Director, Department of Public Works, then the Board of Supervisors shall determine the establishment or change of such

center line after notice and hearing pursuant to Section 75.106. The decision of the Board of Supervisors shall be final.

Section 50. Section 75.105 of the County Code is amended to read as follows:

SEC. 75.105. PERSONS AUTHORIZED TO APPEAL.

The following persons, and no others, are authorized to appeal from the decision of the Director, Department of Public Works and the Director, Department of Planning and Development Services: persons owning real property adjoining the portion of the street for which the center line is proposed to be established or changed; and persons owning real property that adjoins said street and is within 300 feet of the portion thereof for which the center line is to be established or changed and is not separated from such portion by an intersecting street.

Section 51. Section 78.102 of the County Code is amended to read as follows:

SEC. 78.102. DEFINITIONS.

(a) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks. Vehicle includes the component parts of such device. Vehicle includes registered and unregistered vehicles.

(b) "Abandoned Vehicle" includes:

(1) Any vehicle or part that is parked, stored or left on public or private property in such inoperable or neglected condition that the owner's intention to relinquish all rights or interests in it may be reasonably concluded.

(2) Any vehicle or part that is wrecked, dismantled or inoperative, and that is parked, stored, or left on public or private property, except as provided in Section 78.104 of this division.

(3) Any vehicle left, parked, resting or otherwise immobilized on any highway or public right of way which lacks an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely on the highway.

(c) "Public Nuisance Vehicle" means any abandoned vehicle, or any vehicle or part that is wrecked, dismantled or inoperative, that is left on public or private property, and that creates a condition tending to reduce the value of private property, promotes blight and deterioration, invites plundering, creates fire hazards, constitutes an attractive nuisance endangering the health and safety of minors, harbors rodents and insects, or jeopardizes health, safety and general welfare.

(d) "Wrecked Vehicle" means any vehicle that is damaged to such an extent that it cannot be operated safely upon the highway.

(e) "Dismantled Vehicle" means any vehicle that is partially or wholly disassembled.

(f) "Inoperative Vehicle" means any motor vehicle that cannot be moved under its own power.

(g) "Highway" means a way or place of whatever nature open to the use by the public for purposes of vehicular travel. Highway includes street. Highway includes County maintained as well as non-County maintained public highways.

(h) "Designated Employee" means those employees of the Department of Planning and Development Services whose duties include enforcement of this division. Designated employee includes the Director of the Department of Planning and Development Services.

(i) "Hearing Officer" means the County Abatement Board as defined in the Uniform Public Nuisance Abatement Procedure, Chapter 2, Division 6, Title 1 (commencing with Section 16.201) of this Code.

(j) "Officer" means a peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any employee of the Sheriff's Department or California Highway Patrol designated to enforce the provisions of this division.

(k) "Cost of Abatement" means all costs incurred in the abatement and removal of a vehicle or part including, but not limited to, hearing costs, staff costs, legal costs, overhead, administration, appeal costs, assessment confirmation hearing costs, towing and removal costs, and costs of storage and sale.

(l) "Uniform Public Nuisance Abatement Procedure" means Chapter 2, Division 6, Title 1 (commencing with Sec. 16.201) of the San Diego County Code of Regulatory Ordinances.

(m) "Public Property" includes highways.

Section 52. Section 78.109 of the County Code is amended to read as follows:

SEC. 78.109. ENFORCEMENT, ADMINISTRATION BY DIRECTOR OF PLANNING AND DEVELOPMENT SERVICES.

The Director of Planning and Development Services, designated employees, and any officer are responsible for enforcing the provisions of this division. Designated employees, pursuant to Penal Code Section 830.12, and any officer shall have the power to issue citations for any violations of the provisions of this division and of Vehicle Code Section 22523. No individual shall exercise the power to issue citations without first meeting the minimum training requirements of Penal Code Section 832(a). The Director of Planning and Development Services shall administer the provisions of the division.

Section 53. Section 79.101 of the County Code is amended to read as follows:

SEC. 79.101. STREET NAMES.

(a) The Director of Planning and Development Services, hereafter in this Division referred to as the Director shall be the Coordinator of Street Names and shall prepare and maintain for public inspection a Procedures Manual for street naming and street address numbering. The Director may appoint others to maintain records and carry out the responsibilities of this Division.

(b) The Director may name and change the name of County highways and may require the naming of public or private streets and provide for the numbering of individual buildings and properties on such streets as needed to maintain an orderly system of street naming and house numbering.

Section 54. Section 81.102 of the County Code is amended to read as follows:

SEC. 81.102. DEFINITIONS.

Terms used in this division that are defined in the SMA but not defined in this division shall have the same meaning as in the SMA. The following definitions shall apply to this division:

(a) "Access restriction easement" means a permanent easement a property owner dedicates to the County that prohibits any person from obtaining access to a road or right-of-way adjacent to the property.

(b) "Adjustment plat" means a drawing filed with the Director as part of the application process for a lot line adjustment adjusting the boundaries between two to four adjoining parcels, where land taken from one parcel is added to an adjoining parcel, but does not create any additional parcels.

(c) "Average daily trips, ADT" means the average total number of motor vehicle trips per day to and from a location.

(d) "Basis of bearings" means the source of uniform orientation of all measured bearings shown on a map using the California Coordinate System of 1983, Zone 6, established by Public Resources Code sections 8801 et seq.

(e) "Bicycle route" means a facility where the main form of travel is by bicycle.

(f) "Cable lines" means electronic cable, conduit and their appurtenances which distribute television signals or telephone or internet connections.

(g) "CEQA" means the California Environmental Quality Act, Public Resources Code sections 21000 et seq.

(h) "Certificate of compliance" means a document the County issues pursuant to Government Code section 66499.35 identifying real property and signifying that the division of the real property complies with applicable provisions of the SMA and this division.

(i) "Conservation subdivision" means a residential subdivision design that improves preservation of environmental resources in a balance with planned densities and community character subject to applicable Community Plans, the Zoning Ordinance, Subdivision Ordinance, Resource Protection Ordinance and Groundwater Ordinance.

(j) "County fire official" means a person designated by the Director to implement and enforce the County Fire Code.

(k) "DEH" means the Department of Environmental Health.

(l) "Designated remainder parcel" means a unit of land a subdivider designates pursuant to Government Code section 66424.6 which is not divided for the purpose of sale, lease or financing and is designated on a tentative map or tentative parcel map at the time the subdivider files the map.

(m) "Director" means the Director of Planning and Development Services or a person the Director designates to implement or enforce this division.

(n) "Director DEH" means the Director of the Department of Environmental Health or a person the Director DEH designates to implement or enforce this division.

(o) "Director DPW" means the Director of Public Works or a person the Director designates to implement or enforce this division.

(p) "Director DPR" means the Director of Parks and Recreation or a person the Director DPR designates to implement or enforce this division.

(q) "PDS" means the Department of Planning and Development Services.

(r) "DPR" means the Department of Parks and Recreation.

(s) "DPW" means the Department of Public Works.

(t) "Environmental resource" means natural habitats, sensitive species, sensitive habitat lands, wetlands, floodplains, significant prehistoric/historic sites, and/or agricultural lands.

(u) "Feasible" has the same meaning as the term "feasible" in Government Code section 66473.1(e).

(v) "Lease" means an agreement for the use of real property that creates a landlord-tenant relationship between the parties to the lease and includes a written or oral agreement. In addition to an agreement that creates a tenancy for a specific term, a lease also includes an agreement that creates a tenancy at will or a month-to-month tenancy.

(w) "Lot" means a unit of land and may also be referred to in this division as a "parcel."

(x) "Lot area" means the same as the term "Lot Area, Net" as defined in the County Zoning Ordinance.

(y) "Major subdivision" means a subdivision creating five or more lots or units not counting a "designated remainder parcel," as defined in this chapter, as one of the five or more lots.

(z) "Major transmission facilities, mains and lines" means electrical transmission lines with 64,000 volts capacity or more, gasoline or oil transmission lines six inches or more in diameter, natural gas mains six inches or larger in diameter, sewer outfall or transmission mains thirteen inches or larger in diameter, water transmission mains fourteen inches or larger or telephone long distance and trunk communication facilities.

(aa) "Minor subdivision" means a subdivision creating four or fewer lots or units not counting a "designated remainder parcel," as defined in this chapter as one of the four or fewer lots.

(bb) "Parcel map" means a map required by Government Code sections 66426(f) or 66428 prepared in compliance with Government Code sections 66444 et seq.

(cc) "Road" has the same meaning as the term "street" as defined in this chapter.

(dd) "San Diego County Standards" refers to those standards and specifications on file in the Office of the Clerk of the Board of Supervisors (Clerk) as Attachment C with Resolution No. 99-186 (6-30-99 (8)) (San Diego County Standards for Private Roads) and Document Number 0775217 (5-1-12 (13, CR29)) (Public Roads Standards); provided, however, that with respect to development within the "Country Town" area of the Borrego Springs Planning Area, the standards and specifications contained in the "Community Right-of-Way Development Standards - Country Town Area of the Borrego Springs Planning Area" on file with the Office of the Clerk as Document Number 740149 (4-10-91 (6)), and with respect to development within the San Dieguito Planning Area, the standards and specifications contained in the "Community Right-of-Way Development Standards - Country Town Sphere of the San Dieguito Planning

Area" on file with the Office of the Clerk as Document Number 750029(a) (6-6-92 (9)), and with respect to development within the Fallbrook Community Development Area, the standards and specifications contained within the "Fallbrook Community Right-of-Way Development Standards for Public Roads" on file with the Office of the Clerk as Document Number 761748 (12-14-94 (1)), and with respect to development within the Julian Community Planning Area, the standards and specifications contained in the "Community Right-of-Way Development Standards: Julian Historic District and Julian Community Planning Area" on file with the Office of the Clerk as Document Number 0768777 (3-6-02 (17)), and with respect to development within the Valley Center Community Planning Area, the standards and specifications contained within the "Valley Center Community Right-of-Way Development Standards" on file with the Office of the Clerk as Document Number N/A shall also apply and shall supersede the aforementioned documents to the extent of any conflict between them.

(ee) "SMA" means the Subdivision Map Act of the State of California contained in Government Code sections 66410 et seq.

(ff) "Street" means a County highway, State highway, other public road or alley, or a private thoroughfare at least ten feet wide that connects with a County highway, State highway, other public road, private road or an alley which affords primary access to an abutting lot.

(gg) "Subdivision" means the division by any subdivider of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized County assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing or any purpose, whether immediate or future, except for leases of agricultural land for agricultural purposes. Property shall be considered as contiguous units, even if it is separated by roads, streets, utility easement or railroad rights-of-way, but a freeway, as defined in Streets and Highways Code section 23.5 shall not be considered a road or street for the purpose of interpreting this section. "Subdivision" includes a condominium project, as defined in Civil Code section 1351(f), a community apartment project, as defined in Civil Code section 1351(d) or the conversion of five or more existing dwelling units to a stock cooperative, as defined in Civil Code section 1351(m).

(hh) "Tentative map" means a map prepared for the purpose of showing the design and improvement of a proposed major subdivision and the existing conditions in and around it.

(ii) "Tentative parcel map" means a map prepared for the purpose of showing the design and improvement of a proposed minor subdivision and the existing conditions in and around it.

(jj) "Through lot" means a lot having frontage on two parallel streets or a lot that is not a corner lot that has frontage on two streets, each of which may provide access to the lot.

Section 55. Section 81.105 of the County Code is amended to read as follows:

SEC. 81.105. SUBDIVISIONS CONVERTING EXISTING RESIDENTIAL AND NON-RESIDENTIAL DEVELOPMENTS TO CONDOMINIUMS.

(a) An applicant to convert an existing residential or non-residential development to condominiums shall submit a tentative map for five or more units or a tentative parcel map for four or fewer units. As used in this section, an existing residential or non-residential development means a development that has received a final certificate of occupancy. The

subdivision map shall indicate all sub-lots including common-held sub-lots. If the project is to be an air space condominium, a one-lot subdivision is required.

(b) A tentative subdivision map involving conversion to condominiums of any existing residential or non-residential building, other than a residential mobilehome development, shall have conditions which:

(1) Bring the development into conformance with current Zoning Ordinance requirements for a new development except that Zoning Ordinance section 4115 dealing with "Computation of Permitted Dwelling Units" shall only apply if the tentative map or tentative parcel map proposes additional dwelling units.

(2) Bring all structures on the site into conformance with the requirements of the County Building, Plumbing, Electrical, Mechanical and Fire Codes as they were modified and in effect in San Diego County at the time the structures were constructed and with the requirements of those codes in effect at the time the tentative map or tentative parcel map is approved with regard to all of the following items:

(A) Interior fire sprinklers.

(B) Smoke detectors.

(C) Railings, guardrails and handrails.

(3) Require the subdivider to obtain a compliance survey from the Building Division of PDS confirming that the requirements in subsection (2) have been complied with.

(4) Require individual meters for gas and electric metering for each unit.

(5) Require enclosures to screen trash and recycling storage areas. These areas shall be enclosed with a solid masonry wall or solid wooden fences. This wall or fence shall be at least five feet high.

Section 56. Section 81.515 of the County Code is amended to read as follows:

SEC. 81.515. DESIGNATED REMAINDER PARCEL STATEMENT.

All final maps that include a designated remainder parcel shall include a statement on the face of the map advising that prior to the sale of the designated remainder parcel the seller shall obtain a certificate of compliance approved by the Department of Planning and Development Services.

Section 57. Section 81.708 of the County Code is amended to read as follows:

SEC. 81.708. SUBDIVIDER'S OBLIGATION TO COMPLETE IMPROVEMENTS.

(a) Whenever the subdivider is required to construct or install improvements as a condition of approval of a parcel map for a minor subdivision, the requirements for the construction or installation of the improvements shall be noticed on the parcel map. The subdivider, if allowed, shall also execute a covenant of improvement requirements, which shall specify all improvements the subdivider is required to construct or install and shall be recorded with the County Recorder.

(b) The Director DPW may require the subdivider to enter into a written agreement to construct all or part of the required improvements and require the subdivider to post security to guarantee performance. In that case, the subdivider shall provide security that complies with section 81.408, except that the subdivider shall not be allowed to post security under section 81.408(a)(1) unless the amount of security for performance exceeds \$25,000. The subdivider shall complete construction or installation of the improvements before the County issues any permit or other grant of approval for the development of the parcels being created by the subdivision. In the alternative, the subdivider and the Director DPW may enter into an agreement for the subdivider to construct or install all improvements by a specified date.

(c) An agreement entered into between the subdivider and the Director DPW to defer the completion of improvements until after the Director PDS issues a building permit shall only be for road improvements. An agreement to defer improvements shall be subject to the following requirements:

(1) The agreement shall provide that the subdivider shall complete all road improvements and obtain approval from the Director DPW before the Director PDS issues approval for the final building inspection for any building to be constructed, placed or erected on the property to be subdivided.

(2) The subdivider shall provide security for the agreement that complies with section 81.408.

(3) The subdivider shall enter into a separate right of entry agreement with the County that gives the County the right to enter the property during normal business hours to inspect the improvements. The right of entry agreement shall also provide that if the subdivider fails to complete the improvement as required the County shall have the right to enter and complete the improvements at the subdivider's expense.

Section 58. Section 81.1106 of the County Code is amended to read as follows:

SEC. 81.1106. APPLICATION TO REMAND RELINQUISHED ACCESS RIGHTS.

(a) A person may submit an application to the Director DPW to remand access rights to a public street that were relinquished when a final map or parcel map was recorded or when any other document was recorded pursuant to this division. Within two working days after an application has been filed the Director DPW shall transmit a copy of the application to the Director PDS. Within 20 days after receipt of the application the Director PDS shall forward PDS's recommendation to the Director DPW.

(b) The Director DPW shall make a preliminary decision to approve, conditionally approve or disapprove the application within 45 days after the application is filed. Before making the final decision, the Director DPW shall hold a public hearing to consider the application and shall provide notice of the public hearing as provided in Government Code section 66451.3. Notices required to be delivered by U.S. mail shall be mailed at least 15 days before the public hearing and shall include the preliminary decision.

(c) The applicant requesting a remand of relinquished access rights shall have the burden of establishing all of the following:

(1) The proposed remand would not create a safety hazard for pedestrian or vehicular traffic.

(2) It is feasible to obtain access to the affected public street for which remand is requested in a manner consistent with applicable County ordinances, policies and standards.

(3) The proposed remand would not adversely affect uses adjacent to the affected public street.

(4) The remand would not result in a use of the property that does not substantially comply with the conditions of the approved subdivision where the affected street is located.

(d) The applicant, a County officer or any person who opposed the decision either in writing or in person at the public hearing may appeal the Director DPW's decision to the Planning Commission by filing an appeal with the Director DPW within 10 days of the Director DPW's decision. The Planning Commission shall hold a notice public hearing by providing notice as required in subsection (b). The decision of the Planning Commission shall be final.

Section 59. Section 82.202 of the County Code is amended to read as follows:

SEC. 82.202. DECISION-MAKING BODY.

"Decision-making body" means the Board of Supervisors, Planning Commission, the Zoning Administrator, or the Director of Planning and Development Services.

Section 60. Section 82.202.5 of the County Code is amended to read as follows:

SEC. 82.202.5. DIRECTOR.

"Director" means the Director of Planning and Development Services of the County of San Diego.

Section 61. Section 84.210 of the County Code is amended to read as follows:

SEC. 84.210. VARIANCES.

In the event the Building Inspector refuses to issue a building a permit because of the provisions of this chapter he shall inform the applicant of the reason for such refusal and of his right to apply for a variance. Any person aggrieved by such refusal of the Building Inspector to issue a building permit may apply to the Planning Commission for a variance to authorize the encroachment sought. The Department of Planning and Development Services shall inform the Director of Transportation whenever such an application is made. Upon being so informed the Director of Transportation shall forthwith review the variance application and within 90 days report thereon to the Planning Commission. The hearing on said variance application shall be set as soon as practical following receipt of said report.

Section 62. Section 85.301 of the County Code is amended to read as follows:

SEC. 85.301. LICENSE REQUIRED.

No land located within any precise section of the Land Use Master Plan of San Diego County shall be used for an airport or airstrip or for the landing or take-off of any aircraft except in compliance with the zoning regulations covering said land and unless a license therefor has been issued by the Director of Planning and Development Services.

Section 63. Section 86.101 of the County Code is amended to read as follows:

SEC. 86.101. DEFINITIONS.

For purposes of this chapter, the following words and phrases shall have the following meanings:

(a) **Biological Assessment:** A field survey which evaluates the quality of the habitat and assesses the presence or absence of the coastal California gnatcatcher, and which is performed in accordance with guidelines established by the U.S. Fish and Wildlife Service.

(b) **Director:** The Director of Planning and Development Services; or the Director of Public Works for habitat loss permits associated with grading or improvement plans reviewed by the Department of Public Works in connection with the issuance of a permit or approval.

(c) **Habitat Loss Permit:** A permit issued by the Director authorizing the disturbance or removal of coastal sage scrub whether or not occupied by the California gnatcatcher.

(d) **Mitigation Plan:** A plan proposed by the applicant for a Habitat Loss Permit which will result in no net loss of coastal sage scrub habitat value as defined by the U.S. Fish and Wildlife Service and the California Department of Fish and Game and which is consistent with the NCCP Conservation Guidelines and Process Guidelines. The plan shall identify a funding source and shall provide a form of security acceptable to the Director to ensure that the plan will be accomplished.

(e) **NCCP Conservation Guidelines and Process Guidelines:** Those documents entitled "Southern California Coastal Sage Scrub Natural Community Conservation Planning Conservation Guidelines" and "Southern California Coastal Sage Scrub Natural Community Conservation Planning Process Guidelines," both dated November, 1993, which are on file with the Clerk of the Board of Supervisors as Document No. 758984. Said documents are referred to as the "State's NCCP Conservation and Process Guidelines" by the special rule promulgated by the U.S. Fish and Wildlife Service for the coastal California Gnatcatcher under Section 4(d) of the Endangered Species Act of 1973, published at Section 17.41(b) of Part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations.

Section 64. Section 86.202 of the County Code is amended to read as follows:

SEC. 86.202. CONTENTS AND FORM OF DEFENSE AND INDEMNIFICATION AGREEMENT.

If the Board of Supervisors decides to require a defense and indemnification agreement from the project owner and/or applicant, the defense and indemnification agreement shall contain provisions and be in a standard form approved by the Board. On a case-by-case basis, the Board of Supervisors may determine to require security from the project owner and/or applicant. A determination to require security shall only be made by the Board of Supervisors, and shall not be made by any other decision maker. If the Board requires security, it shall establish the form and amount of the security, as well as the time the security is to be provided to the County. The Director of Planning and Development Services shall be authorized to execute the defense and indemnification agreement for the County of San Diego.

Section 65. Section 86.503 of the County Code is amended to read as follows:

SEC. 86.503. EXEMPTIONS.

- (a) This Chapter shall not apply to the following:
- (1) Any project which is exempt from CEQA.
 - (2) The adoption or amendment of the General Plan.
 - (3) The adoption or amendment of any Ordinance, including but not limited to the Zoning Ordinance.
 - (4) Any Take Authorization Area approved by the Board of Supervisors and the Wildlife Agencies as part of the County Subarea Plan, as shown on Attachment B of Document No. 0769999 on file with the Clerk of the Board or any approved Habitat Loss Permit issued pursuant to 16 U.S.C. Sec. 1533 (d).
 - (5) Any project for which and to the extent that a Vesting Tentative Map approved prior to October 22, 1997 or a Public Benefit Agreement approved prior to October 22, 1997, confers vested rights under County Ordinance or State law to proceed with development notwithstanding the enactment of this Chapter. Projects subject to this exemption must comply with all provisions of State and Federal law.
 - (6) Any project for which the Board of Supervisors has determined that application of this Ordinance would result in the applicant being deprived of all reasonable economic use of the property in violation of Federal or State Constitutional prohibitions against the taking of property without just compensation.
 - (7) Brushing and Clearing on existing parcels 10 acres and under in size containing a dwelling unit as of October 22, 1997.
 - (8) A public facility or public project, determined to be essential by the County, including but not limited to a County Park or County recreational facility, provided that the County decision making body considering an application for such a project makes the following findings:
 - a) The facility or project is consistent with the County General Plan, the MSCP Plan and Subarea Plan, as approved by the Board of Supervisors;
 - b) All feasible mitigation measures have been incorporated into the facility or project, and there are no feasible, less environmentally damaging locations, alignments or non-structural alternatives that would meet project objectives;

- c) Where the facility or project encroaches into a wetland or floodplain, mitigation measures are required that result in a net gain in wetland and/or riparian habitat;
- d) Where the facility or project encroaches into steep slopes, native vegetation will be used to revegetate and landscape cut and fill areas;
- e) No mature riparian woodland is destroyed or reduced in size due to otherwise allowed encroachments; and
- f) All Critical Populations of Sensitive Plant Species Within the MSCP Subarea, (Attachment C of Document No. 0769999 on file with the Clerk of the Board); Rare, Narrow Endemic Animal Species Within the MSCP Subarea, (Attachment D of Document No. 0769999 on file with the Clerk of the Board); Narrow, Endemic Plant Species Within the MSCP subarea, (Attachment E of Document No. 0769999 on file with the Clerk of the Board); and San Diego County Sensitive Plant Species, as defined herein will be avoided as required by, and consistent with, the terms of the Subarea Plan.

(9) Any sand, gravel or mineral extraction project provided that the authority considering an application for such project makes the following findings and the following mitigation measures are required as conditions of any use permit approved for such project:

- a) The facility or project is consistent with the County General Plan, the MSCP Plan, and the Subarea Plan as approved by the Board of Supervisors;
- b) All feasible mitigation measures have been incorporated that meet the standards for mitigation required by CEQA and the State Surface Mining and Reclamation Act of 1975;
- c) Any wetland buffer area shall be restored to protect environmental values of adjacent wetlands;
- d) In a floodplain, reclamation shall result in a net gain in functional wetlands and riparian habitat in or adjacent to the area of extraction;
- e) Native vegetation shall be used on steep slope lands to revegetate and landscape cut areas and fill areas in order to substantially restore the original habitat value, and slopes shall be graded to produce contours and soils which reflect a landform that is consistent with the approved Reclamation Plan;
- f) Mature riparian woodland may not be destroyed or reduced in size due to sand, gravel and mineral extraction; and
- g) All Critical Populations of Sensitive Plant Species Within the MSCP Subarea, (Attachment C of Document No. 0769999 on file with the Clerk of the Board); Rare, Narrow Endemic Animal Species Within the MSCP Subarea, (Attachment D of Document No. 0769999 on file with the Clerk of the Board); Narrow Endemic Plant Species Within the MSCP subarea, (Attachment E of Document No. 0769999 on file with the Clerk of the Board); and San Diego County Sensitive Plant Species, as defined herein will be avoided as required by, and consistent with, the terms of the Subarea Plan.

Use of the extraction area after reclamation shall be subject to all requirements of this Chapter.

(10) Agriculturally related clearing within the MSCP Subarea, provided that such grading and clearing meets all the following requirements:

- a) The land is not located within the Preapproved Mitigation Area shown on the Wildlife Agencies' Preapproved Mitigation Map, Attachment F of Document No. 0769999 on file with the Clerk of the Board.

b) The applicant has farmed the land during three of the last five years and intends to retain the land in agriculture for the next five years or the applicant intends to establish an agricultural operation on the particular parcel of land within one year and to retain the land in agriculture for at least ten years.

c) The land is not located within a floodplain.

An applicant for an agricultural clearing project meeting these requirements shall provide evidence in writing of the facts that support a) - c) above. In addition, the number of acres and location of the land for which the exemption is sought shall be provided. As part of the application the applicant shall sign an agreement to maintain the land in agriculture for the applicable holding period set forth in (10)b).

(11) Parcels ten acres and under in size zoned for single family residential uses shall be allowed to conduct clearing without complying with the provisions of this Chapter in the following circumstances. To qualify for this exemption, a finding must be made that the clearing will not interfere with the assembly of the Multiple Species Conservation Plan Preserve according to the terms of the MSCP Plan and the Subarea Plan. The total number of acres cleared per parcel may not exceed the amounts set forth below.

a) Parcels located within the Pre-Approved Mitigation Area shown on Attachment F of Document No. 0769999 on file with the Clerk of the Board, that are ten acres and under in size and zoned for single family residential uses may clear a total of two acres without complying with the terms of this Chapter. Clearing required pursuant to applicable fire safety regulations shall not be counted in computing the number of acres cleared.

b) Parcels located outside the Pre-Approved Mitigation Area that are ten acres and under in size and zoned for single family residential uses may clear a total of five acres without complying with the terms of this Chapter. Clearing required pursuant to applicable fire safety regulations shall not be counted in computing the number of acres cleared.

c) Projects which qualify for this exemption shall provide the following information to the Department of Planning and Development Services:

- 1) The location of the parcel to be cleared.
- 2) The zoning of the parcel to be cleared.
- 3) The size of the parcel to be cleared.
- 4) The number and location of the number of acres to be

cleared.

(12) Fuel management for fire protection, fire prevention, control or suppression purposes when authorized or required in writing by the fire authority having jurisdiction consistent with the Memorandum of Understanding between the Fish and Wildlife Service of the United States Department of the Interior, the California Department of Fish and Game, the California Department of Forestry, the San Diego County Fire Chiefs' Association and the Fire District's Association of San Diego County.

(b) Certificates of Participation. Projects which have received their discretionary approvals from the County prior to November 22, 1997 may, at the option of the project proponent apply for Certificates of Participation using the process set forth below:

The County shall review such applications to determine if the project conforms to the standards of the County Subarea Plan and this Chapter. If the review results in a determination that the project conforms to those standards, the County will issue draft Findings of Conformance for a 45-day review period by the Wildlife Agencies. Unless written objections related to the Findings of Conformance are received from the Wildlife Agencies by the end of

the 45-day review period, the County will issue the Certificate of Participation. If the County finds that the proposed project does not meet the standards set forth in the Subarea Plan and this Chapter, the project proponent will be informed of the deficiencies and proper procedures for achieving and assuring conformance to the requirements.

Section 66. Section 86.504 of the County Code is amended to read as follows:

SEC. 86.504. ADMINISTRATIVE PROCESS AND EVALUATIONS.

(a) Application: Projects required to submit an Environmental Initial Study, pursuant to the San Diego County CEQA Guidelines, Article 5, Section 5.2, shall submit to the Department of Planning and Development Services a vegetation map prepared by a biological consultant chosen from the County's list of biological consultants, or proof, to the satisfaction of the Director, that no vegetation exists on the site. When review of the vegetation map indicates that the site is likely to support Sensitive Species, County staff may require preparation of a species survey report prepared by a biological consultant chosen from the County's list of biological consultants. County staff will inform the applicant of the need to prepare such a species survey report within 30 days from the date of submission of the vegetation map. The report shall indicate the presence or absence of any Sensitive Species, and its location and numbers. The studies required pursuant to this Section shall be performed using the latest protocols approved by the Wildlife Agencies at the time of submission of the application.

Section 67. Section 86.506 of the County Code is amended to read as follows:

SEC. 86.506. HABITAT BASED MITIGATION.

(a) Mitigation Requirements. The following section specifies the process for determining mitigation requirements for sensitive habitats:

(1) Determination Whether Land Qualifies as Biological Resource Core Area. The impact site and the mitigation site shall be evaluated to determine if either or both sites qualify as a Biological Resource Core Area.

a) The impact site is a Biological Resource Core Area if it meets one or more of the following criteria:

i) The land is shown as preapproved mitigation area on the wildlife agencies' preapproved mitigation map, (Attachment F of Document No. 0769999 on file with the Clerk of the Board);

ii) The land is located within an area of habitat which contains biological resources that support or contribute to the long-term survival of Sensitive Species, which determination is based upon a biological analysis approved by the Director, and is adjacent or contiguous to preserved habitat that is within the preapproved mitigation area on the wildlife agencies' preapproved mitigation map (Attachment F of Document No. 0769999 on file with the Clerk of the Board);

iii) The land is part of a regional linkage/corridor. A regional linkage/corridor is either:

A. Land which contains topography which serves to allow for the movement of all sizes of wildlife and is used by wildlife, including large animals on a regional scale; and contains adequate vegetation cover providing visual continuity so as to encourage the use of the corridor by wildlife; or

B. It has been identified as the primary linkage/corridor between the northern and southern regional populations of the California gnatcatcher in the population viability analysis for the California gnatcatcher, MSCP Resource Document Volume II, Appendix A-7 (Attachment I on file with the Clerk of the Board as Document No. 0769999).

iv) The land is shown on the Habitat Evaluation Map (Attachment J of Document No. 0769999 on file with the Clerk of the Board) as Very High or High and links significant blocks of habitat, except that land which is isolated or links small, isolated patches of habitat and land that has been affected by existing development to create adverse edge effects shall not qualify as Biological Resource Core Area;

v) The land consists of or is within a block of habitat greater than 500 acres in area of diverse and undisturbed habitat that contributes to the conservation of Sensitive Species;

vi) The land contains a high number of Sensitive Species and is adjacent or contiguous to surrounding undisturbed habitats, or contains soil derived from the following geologic formations which are known to support Sensitive Species:

- A. gabbroic rock;
- B. metavolcanic rock;
- C. clay;
- D. coastal sandstone.

b) The mitigation Site is a Biological Resource Core area if it meets one or more of the criteria listed below. A vegetation map of the proposed mitigation site may be required to determine whether the criteria are met.

i) The land is part of a conservation bank recognized by the Wildlife Agencies as contributing to a HCP/NCCP Plan and located within the MSCP Subarea Boundary Map Area; or

ii) The land meets any or all of the criteria identified in Section 86.506 above.

(2) **Determination of Tier on Impact Site.** Based on the information in the vegetation map prepared pursuant to Section 85.504, the tier level of the impact site shall be identified in accordance with the List of San Diego County Vegetation Communities and Tier Levels Within the MSCP (Attachment K of Document No. 0769999 on file with the Clerk of the Board).

(3) **Determination of Tier on Mitigation Site.** The tier level of the mitigation site shall be identified in accordance with the List of San Diego County Vegetation Communities and Tier Levels Within the MSCP (Attachment K on file with the Clerk of the Board as Document No. 0769999). Mitigation for impacts to vegetation communities within the MSCP Subarea shown on the MSCP Boundary Map (Attachment A of Document No. 0769999 on file with the Clerk of the Board) shall occur in vegetation communities within the MSCP Subarea; however, if mitigation is not feasible (capable of being accomplished with a reasonable amount of effort

and cost) within the MSCP Subarea, mitigation may occur on land covered by another approved MSCP subarea plan. Mitigation outside the MSCP Subarea will only be allowed when an applicant has demonstrated a good faith effort to mitigate within the MSCP Subarea and has shown that such mitigation is not feasible, to the satisfaction of the Director of the Department of Planning and Development Services. Mitigation shall be within a habitat tier equal to or greater than the impact site with two exceptions:

a) Mitigation may be out of tier if mitigation credits are acquired from a mitigation bank located within the MSCP Subarea, and use of the credits is consistent with Board of Supervisors Policy I-117 (Attachment L of Document No. 0769999 on file with the Clerk of the Board).

b) Mitigation must be in-kind for the following types of habitat: Southern Maritime Chaparral, Maritime Succulent Scrub, and vegetation communities specified under the category "Wetlands" in Tier I, the List of San Diego County Vegetation Communities and Tier Levels Within the MSCP (Attachment K of Document No. 0769999 on file with the Clerk of the Board).

(4) Determination of the Mitigation Ratio. Using the Table of Mitigation Ratios (Attachment M of Document No. 0769999 on file with the Clerk of the Board), determine the mitigation ratio by locating the tier of the vegetation community to be impacted, based on whether the impact site and mitigation site are Biological Resource Core Areas.

Section 68. Section 86.508 of the County Code is amended to read as follows:

SEC. 86.508. DEFINITIONS.

For the purposes of this Chapter, the following words and phrases shall have the following meanings. These definitions are to be broadly interpreted and construed to provide maximum protection to the environmentally sensitive lands and resources protected by this Chapter.

(a) "Biological Resource Core Area" shall mean land that qualifies as an integral component of a viable regional ecosystem according to the criteria and procedure set out in Section 86.506.

(b) "Clearing" refers to the removal of natural vegetation by any means, including brushing and grubbing.

(c) "Clerk of the Board" shall mean the Clerk of the Board of Supervisors.

(d) "Corridor" is a specific route that is used for movement and migration of species. A corridor may be different from a "Linkage" because it represents a smaller or more narrow avenue for movement.

(e) "Critical Populations of Sensitive Plant Species" shall mean those populations of plant species listed on Attachment C of Document No. 0769999 on file with the Clerk of the Board.

(f) "Director" shall mean the Director of Planning and Development Services.

(g) "Edge Effects" shall mean indirect impacts to a preserve area caused by the existence of development adjacent to the preserve area.

(h) "Essential Public Facility or Project" shall mean any structure or improvement necessary for the provision of services for the health, safety and welfare of the public, which

must be located in the particular location to serve its purpose and for which no less environmentally damaging location, alignment, or non-structural alternative exists.

(i) "Floodplain" shall mean an area of land that would be inundated by a flood with a probability of occurring once in 100 years. These areas are identified in the report "County of San Diego Floodplain Maps" approved by the Board of Supervisors.

(j) "HCP/NCCP Plan" shall mean a Habitat Conservation Plan ("HCP") approved pursuant to 16 U.S.C. Section 1539(a)(2)(A) and the plan developed in accordance with the Natural Communities Conservation Act, Cal. Fish and Game Code Section 2800 and following, also referred to as an NCCP.

(k) "In-kind Mitigation" shall mean mitigation with the same species or vegetation community classification as the site being impacted.

(l) "Linkage" shall mean an area of land which supports or contributes to the long-term movement of wildlife and genetic material.

(m) "Mature Riparian woodland" shall mean a grouping of sycamores, cottonwoods, willows and/or oak trees having substantial biological value where at least ten of the trees have a diameter of six inches or greater.

(n) "Narrow Endemic Plant Species" shall mean those plant species listed on Attachment E of Document No. 0769999 on file with the Clerk of the Board.

(o) "Native Vegetation" shall mean Vegetation composed of plants which naturally occur in the San Diego region and were not introduced directly or indirectly by humans. Native vegetation may be found in, but is not limited to, marshes, native grasslands, coastal/inland sage scrub, chaparral, woodlands, forests and other vegetation communities.

(p) "Natural Vegetation" shall mean those vegetation communities included in Tiers I, II and III on the List of San Diego County Vegetation Communities and Tier Levels (Attachment K of Document No. 0769999 on file with the Clerk of the Board). Non-Native grassland shall be included under this definition because it is a naturalized community which provides habitat for a number of native and some sensitive species of plants and animals.

(q) "Rare, Narrow Endemic Animal Species" shall mean those species or subspecies that are listed on Attachment D of Document No. 0769999 on file with the Clerk of the Board.

(r) "Sensitive Plant Species" shall mean those plants which meet the following criteria:

Group A = Plants that are rare, threatened or endangered in California and elsewhere; or

Group B = Plants that are rare, threatened or endangered in California but more common elsewhere; or

Group C = Plants which may be quite rare, but need more information to determine their true rarity status; or

Group D = Plants of limited distribution and are uncommon, but not presently rare or endangered.

(s) "Sensitive Species" shall mean:

(1) Those species that are included on generally accepted and documented lists of plants and animals of Endangered, threatened, candidate or of special concern by the Federal Government, or State of California;

(2) Those species listed on Attachment C, Critical Populations of Sensitive Plant Species within the MSCP Subarea, Attachment D, Rare, Narrow Endemic Animal Species, Attachment E, Narrow Endemic Plant Species, Attachment K, San Diego County Vegetation

Communities and Tier levels within the MSCP, and Sensitive Plant Species as defined by this Chapter.

(3) Those species that meet the definition of "Rare or Endangered Species" under Section 15380 of the State CEQA Guidelines.

(t) "Significant Population" shall mean a group or groups of sensitive species, wherever located, the loss of which would substantially reduce the likelihood of the survival and recovery of the species.

(u) "Subarea Plan" shall mean an HCP/NCCP plan prepared by the County and reviewed and approved by the Wildlife Agencies and the Board of Supervisors, to implement the Multiple Species Conservation Program within the County's jurisdictional boundaries.

(v) "Take Authorization Area" shall mean the areas designated on the map attached hereto and marked Attachment B of Document No. 0769999 on file with the Clerk of the Board.

(w) "Urban Area" shall mean an area consisting of one or more dwelling units per acre.

(x) "Watershed" shall mean all surface area that drains toward a vernal pool.

(y) "Wildlife Agencies" shall mean the United States Fish and Wildlife Service and the California Department of Fish and Game.

(z) "Disturbed Land" shall mean land that does not have habitat value for native species as a result of activities permitted by law. Habitat that is the result of natural processes and succession may not be considered disturbed land.

Section 69. Section 86.602 of the County Code is amended to read as follows:

SEC. 86.602. DEFINITIONS.

For the purposes of this Chapter, the following words and phrases shall have the following meanings. These definitions are to be broadly interpreted and construed to provide maximum protection to the environmentally sensitive lands and resources protected by this Chapter.

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

(b) "Ecosystem": A system made up of a community of organisms and its interrelated physical and chemical environment.

(c) "Environmentally Sensitive Lands": These lands shall consist of wetlands, floodplains, steep slope lands, sensitive habitat lands, and lands containing significant prehistoric and historic sites as defined by this Section.

(d) "Essential Public Facility or Project": Any structure or improvement necessary for the provision of public services, which must be located in the particular location to serve its purpose and for which no less environmentally damaging location, alignment, or non-structural alternative exists.

(e) "Feasible": Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, and technological factors. Infeasibility must be supported by substantial evidence developed through a good faith effort to investigate alternatives that would result in less adverse impacts. A substantial

modification to the configuration of a development, or reduction in density or intensity, would not be considered infeasible unless supported by the above factors.

(f) "Filed": For the purposes of this Chapter, an application is "filed" on the date that a complete and pending application is filed with the County of San Diego and the required fees paid therefore, as follows:

(1) For projects served by public sewer, upon the filing of the application with the agency authorized to grant the ultimate permit or approval; or

(2) For projects not served by public sewers, upon the filing of the application for review by the Department of Health Services; provided, that within 180 days of said filing, an application for the ultimate permit or approval is filed.

(g) "Fill": Any material or substance which is deposited, pushed, dumped, pulled, or otherwise transported or moved to a new location for the purpose of elevating an area above the floodplain. Examples of fill materials include but are not limited to earth, excavated or dredged materials, sand, gravel, rock, asphalt, refuse and concrete rubble.

(h) "Floodplain": The relatively flat area of low lands adjoining and including the channel of a river, stream watercourse, bay, or other body of water which is subject to inundation by the flood waters of the 100 year frequency flood as shown on floodplain maps approved by the Board of Supervisors.

(i) "Floodplain Fringe": The area within the floodplain that is not in the floodway.

(j) "Floodway": All land, as determined by the Director of Public Works, which meets the following criteria:

(1) The floodway shall include all areas necessary to pass the 100 year flood without increasing the water surface elevation more than 1 foot (or, in the case of San Luis Rey River, San Dieguito River, San Diego River, Sweetwater River, and Otay River, upon adoption by the Board of Supervisors of revised floodplain maps which so specify, the increase shall be no more than 2/10ths of 1 foot).

(2) The floodway shall include all land area necessary to convey a ten-year flood without structural improvements.

(3) To avoid creating erosion and the need for channelization, rip-rap or concrete lining, the floodway will not be further reduced in width when the velocity at the floodway boundary is six feet per second or greater.

(4) Floodways are determined by removing equal conveyance (capacity for passing flood flow) from each side unless another criterion controls.

(k) "Mature Riparian Woodland": A grouping of sycamores, cottonwoods, willows and/or oak trees having substantial biological value, where at least ten of the trees have a diameter of six inches or greater.

(l) "Native Vegetation": Vegetation composed of plants which originated, developed, or were produced naturally in the San Diego region and were not introduced directly or indirectly by humans. Native vegetation may be found in but is not limited to marshes, native grasslands, coastal/inland sage scrub, woodlands, and forests.

(m) "Riparian Habitat": An environment associated with the banks and other land adjacent to freshwater bodies, rivers, streams, creeks, estuaries, and other 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.

(n) "Sensitive Habitat Lands": Land which supports unique vegetation communities, or the habitats of rare or endangered species or sub-species 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.), including the area which is necessary to support a viable population of any of the above species in perpetuity, or which is critical to the proper functioning of a balanced natural ecosystem or which serves as a functioning wildlife corridor.

"Unique vegetation community" refers to associations of plant species which are rare or substantially depleted. 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; or (c) they are outstanding examples of the community type as identified by the California Department of Fish and Game listing of community associations.

(o) "Significant Prehistoric or Historic Sites": Sites that provide information regarding important scientific research questions about prehistoric or historic activities that have scientific, religious, or other ethnic value of local, regional, State, or Federal importance. Such locations shall include, but not be limited to:

(1) Any prehistoric or historic district, site, interrelated collection of features or artifacts, building, structure, or object either:

(aa) Formally determined eligible or listed in the National Register of Historic Places by the Keeper of the National Register; or

(bb) To which the Historic Resource ("H" Designator) Special Area Regulations have been applied; or

(2) One-of-a-kind, locally unique, or regionally unique cultural resources which contain a significant volume and range of data and materials; and

(3) Any location of past or current sacred religious or ceremonial observances which is either:

(aa) Protected under Public Law 95-341, the American Indian Religious Freedom Act or Public Resources Code Section 5097.9, such as burial(s), pictographs, petroglyphs, solstice observatory sites, sacred shrines, religious ground figures, or

(bb) Other formally designated and recognized sites which are of ritual, ceremonial, or sacred value to any prehistoric or historic ethnic group.

(p) "Steep Slope Lands": All lands having a slope with natural gradient of 25% or greater and a minimum rise of 50 feet, unless said land has been substantially disturbed by previous legal grading. The minimum rise shall be measured vertically from the toe of slope to the top of slope within the project boundary.

(q) "Wetland":

(1) Lands having one or more of the following attributes are "wetlands":

(aa) At least periodically, the land supports a predominance of hydrophytes (plants whose habitat is water or very wet places);

(bb) The substratum is predominantly undrained hydric soil; or

(cc) An ephemeral or perennial stream is present, whose substratum is predominately non-soil and such lands contribute substantially to the biological functions or values of wetlands in the drainage system.

(2) Notwithstanding paragraph (1) above, the following shall not be considered "Wetlands":

(aa) Lands which have attribute(s) specified in paragraph (1) solely due to man-made structures (e.g., culverts, ditches, road crossings, or agricultural ponds), provided that the Director of Planning and Development Services determines that they:

- (i) Have negligible biological function or value as wetlands;
- (ii) Are small and geographically isolated from other wetland systems;
- (iii) Are not vernal pools; and,
- (iv) Do not have substantial or locally important populations of wetland dependent sensitive species.

(bb) Lands that have been degraded by past legal land disturbance activities, to the point that they meet the following criteria as determined by the Director of Planning and Development Services:

- (i) Have negligible biological function or value as wetlands even if restored to the extent feasible; and,
- (ii) Do not have substantial or locally important populations of wetland dependent sensitive species.

(Note: Activities on lands not constituting "Wetlands" because of this paragraph (2) may still be subject to mitigation, avoidance and permitting requirements pursuant to the California Environmental Quality Act or other applicable County, state and federal regulations.)

(r) "Wetland Buffer": Lands that provide a buffer area of an appropriate size to protect the environmental and functional habitat values of the wetland, or which are integrally important in supporting the full range of the wetland and adjacent upland biological community. Buffer widths shall be 50 to 200 feet from the edge of the wetland as appropriate based on the above factors. Where oak woodland occurs adjacent to the wetland, the wetland buffer shall include the entirety of the oak habitat (not to exceed 200 feet in width).

Section 70. Section 86.603 of the County Code is amended to read as follows:

SEC. 86.603. RESOURCE PROTECTION STUDY AND FINDINGS.

(a) Application of Regulations. Prior to approval of any of the following types of discretionary applications, a Resource Protection Study must be completed and the approving authority shall make a finding that the use or development permitted by the application is consistent with the provisions of this Chapter:

- Tentative Parcel Maps
- Tentative Maps
- Revised Tentative Parcel Maps and Revised Tentative Maps
(Review shall exclude areas unaffected by the proposed revisions)
- Expired Tentative Parcel Maps and Expired Tentative Maps
- Rezoning (excluding those applying the Sensitive Resource Area designator and those which have been initiated by the County)
- Major Use Permits
- Major Use Permit Modifications
(Review shall exclude areas unaffected by the proposed Modifications)
- Certificates of Compliance filed pursuant to Sections 81.616.1 or 81.616.2 of this Code (Excluding condominium conversions)

Site Plans (excluding those statutorily or categorically exempt from review under the CEQA and those required by a Sensitive Resource Area Designator)

Administrative Permits (excluding those statutorily or categorically exempt from review under the CEQA and those for clearing)

Vacations of Open Space Easements

This Chapter shall not apply to existing single-family parcels except when an application for one of the above discretionary applications is required, nor to time extensions for any of the above permits.

This Chapter shall apply to any applications filed on or after August 10, 1988 for Tentative Map, Tentative Parcel Map, Revised Tentative Map and Revised Tentative Parcel Map, Rezone, Major Use Permit, Major Use Permit Modification, and Site Plan. In addition, this Chapter shall apply to any application for Vacation of Open Space Easement filed on or after March 24, 1989; and to any application for an Expired Map, Certificate of Compliance, or Administrative Permit filed on or after June 30, 1989.

Where any portion of a parcel contains environmentally sensitive lands, this Chapter shall be applicable to the portions of the parcel containing the sensitive lands, and to the remainder of the parcel only to the extent necessary to achieve the purpose and intent of this Chapter.

(b) Resource Protection Study Requirements. A Resource Protection Study submitted shall be accompanied by a plot plan and any such information, maps, plans, documentation, data and analyses as may be required by the Director of Planning and Development Services. It shall also be accompanied by payment of the fee prescribed in San Diego County Administrative Code Section 362. A Resource Protection Study may be processed concurrently with the associated discretionary permit application.

In order to determine if a parcel contains steep slopes, a slope analysis shall be prepared as part of the Resource Protection Study. The analysis must be completed by a qualified person such as a registered or licensed architect, landscape architect, engineering geologist, land surveyor, or civil engineer based upon a topographic map using ten foot contour intervals or less. The slope analysis shall show the slope categories for the entire property in acres, as required by the Director of Planning and Development Services. Said categories may include the following depending upon the property's plan designation:

Less than 25% slope

25% and greater up to 50% slope

50% and greater slope

(c) Actions to Protect Environmentally Sensitive Lands. If the Resource Protection Study identifies the presence of environmentally sensitive lands, one or more of the following actions may be required as a condition of approval for the discretionary permit:

(1) Apply open space easements to portions of the project site that contain sensitive lands;

(2) Rezone the entire project site through the application of a special area designator for sensitive lands; or

(3) Other actions as determined by the decision-making body.

Section 71. Section 86.604 of the County Code is amended to read as follows:

SEC. 86.604. PERMITTED USES AND DEVELOPMENT CRITERIA.

Within the following categories of sensitive lands, only the following uses shall be permitted and the following development standards and criteria shall be met provided, however, that where the extent of environmentally sensitive lands on a particular legal lot is such that no reasonable economic use of such lot would be permitted by these regulations, then an encroachment into such environmentally sensitive lands to the minimum extent necessary to provide for such reasonable use may be allowed:

(a) Wetlands. The following permitted uses shall be allowed:

(1) Aquaculture, provided that it does not harm the natural ecosystem.

(2) Scientific research, educational or recreational uses, provided that they do not harm the natural ecosystem.

(3) Removal of diseased or invasive exotic plant species as identified and quantified in writing by a qualified biologist and approved in writing by the Director of Planning and Development Services, and removal of dead or detached plant material.

(4) Wetland creation and habitat restoration, revegetation and management projects where the primary goal is to restore or enhance biological values of the habitat, and the activities are carried out pursuant to a written management/enhancement plan approved by the Director of Planning and Development Services.

(5) Crossings of wetlands for roads, driveways or trails/pathways dedicated and improved to the limitations and standards under the County Trails Program, that are necessary to access adjacent lands, when all of the following conditions are met:

(aa) There is no feasible alternative that avoids the wetland;

(bb) The crossings are limited to the minimum number feasible;

(cc) The crossings are located and designed in such a way as to cause the least impact to environmental resources, minimize impacts to sensitive species and prevent barriers to wildlife movement (e.g., crossing widths shall be the minimum feasible and wetlands shall be bridged where feasible);

(dd) The least-damaging construction methods are utilized (e.g., staging areas shall be located outside of sensitive areas, work shall not be performed during the sensitive avian breeding season, noise attenuation measures shall be included and hours of operation shall be limited so as to comply with all applicable ordinances and to avoid impacts to sensitive resources);

(ee) The applicant shall prepare an analysis of whether the crossing could feasibly serve adjoining properties and thereby result in minimizing the number of additional crossings required by adjacent development; and

(ff) There must be no net loss of wetlands and any impacts to wetlands shall be mitigated at a minimum ratio of 3:1 (this shall include a minimum 1:1 creation component, while restoration/ enhancement of existing wetlands may be used to make up the remaining requirements for a total 3:1 ratio).

(b) Wetland Buffer Areas. In the wetland buffer areas, permitted uses shall be limited to the following uses provided that there is no overall decrease in biological values and functions of the wetland or wetland buffer:

(1) Improvements necessary to protect adjacent wetlands.

(2) All uses permitted in wetland areas.

(c) Floodways. The development of permanent structures for human habitation or as a place of work shall not be permitted in a floodway. Uses permitted in a floodway shall be limited to agricultural, recreational, and other such low-intensity uses provided, however, that no

use shall be permitted which will substantially harm the environmental values of a particular floodway area. Mineral resource extraction shall be permitted subject to an approved Major Use Permit and Reclamation Plan, provided that mitigation measures are required which produce any net gain in the functional wetlands and riparian habitat.

Modifications to the floodway must meet all of the following criteria:

(1) Concrete or rip-rap flood control channels are allowed only where findings are made that completion of the channel is necessary to protect existing buildings from a current flooding problem. Buildings constructed after the enactment of this Ordinance shall not be the basis for permitting such channels.

(2) Modification will not unduly accelerate the velocity of water so as to create a condition which would increase erosion (and related downstream sedimentation) or would be detrimental to the health and safety of persons or property or adversely affect wetlands or riparian habitat.

(3) In high velocity streams where it is necessary to protect existing houses and other structures, minimize stream scour, or avoid an increase in the transport of stream sediment to downstream wetlands and other environmentally sensitive habitat areas, grade control structures, and other erosion control techniques, including the use of rip-rap, that are designed to be compatible with the environmental setting of the river, may be permitted. The use of rip-rap shall be allowed only when there is no other less environmentally damaging alternative feasible.

(d) Floodplain Fringe. All uses permitted by zoning and those that are allowable in the floodway are allowable in the floodplain fringe, when the following criteria are met:

(1) Fill shall be limited to that necessary to elevate the structure above the elevation of the floodway and to permit minimal functional use of the structure (e.g., fill for access ramps and drainage). If fill is placed in the floodplain fringe, the new bank of the creek shall be landscaped to blend with the natural vegetation of the stream and enhance the natural edge of the stream.

(2) Any development below the elevation of the 100 year flood shall be capable of withstanding periodic flooding.

(3) The design of the development shall incorporate the findings and recommendation of a site-specific hydrologic study to assure that the development: (aa) will not cause significant adverse water resource impacts related to quality or quantity of flow or increase in peak flow to downstream wetlands, lagoons and other sensitive habitat lands; and (bb) neither significantly increases nor contributes to downstream bank erosion and sedimentation of wetlands, lagoons or other sensitive habitat lands.

(4) Lot configurations shall be designed in such a manner as to minimize encroachment into the floodplain. The proposed development shall be set back from the floodway boundary a distance equal to 15% of the floodway width (but not to exceed 100 feet), in order to leave an appropriate buffer area adjacent to the floodway. The setback may be greater if required by subparagraph (6) below.

Following review of a site-specific flood analysis, the floodplain setback required by this paragraph may be reduced by the Director of Planning and Development Services or the applicable hearing body, upon making all of the following findings:

(aa) Practical difficulties, unnecessary hardship, or results inconsistent with the general purposes of this Chapter would result from application of the setback; and

(bb) The reduction in setback will not increase flood flows, siltation and/or erosion, or reduce long-term protection of the floodway, to a greater extent than if the required setback were maintained; and

(cc) The reduction in setback will not have the effect of granting a special privilege not shared by other property in the same vicinity; and

(dd) The reduction in setback will not be materially detrimental to the public health, safety, or welfare, or injurious to the property or improvement in the vicinity in which the property is located; and

(ee) The reduction in setback will not be incompatible with the San Diego County General Plan.

(5) Where appropriate, flowage and/or open space easements shall be used to ensure future development will not occur in the floodplain.

(6) In areas where the Director of Public Works has determined that the potential for erosion or sedimentation in the floodplain is significant, all proposed development shall be set back from the floodway so that it is outside the Erosion/Sedimentation Hazard Area shown on County floodplain maps. Development will only be allowed in the Erosion/Sedimentation Hazard Area when the Director of Public Works approves a special study demonstrating that adequate protection can be achieved in a manner that is compatible with the natural characteristics of the river.

(7) If the subject floodplain fringe land also constitutes wetlands, wetland buffer areas, steep slope lands, sensitive habitat lands or significant prehistoric or historic site lands, the use restrictions herein applicable to such areas shall also apply.

(e) Steep Slope Lands.

(1) Density Formula. When a parcel is located within a plan designation which bases lot size on slopes, the number of lots and/or number of dwelling units shall be in conformance with the General Plan Land Use Element.

A Planned Residential Development, lot area averaging, conservation subdivision or cluster development shall be required to use the density allowed a standard subdivision using this density formula.

Projects obtaining a density bonus, pursuant to Section 4120 of the Zoning Ordinance, are subject to the above density formula.

(2) Project Design and Open Space to Protect Steep Slopes. In designing lot configuration on steep slope lands in all land use designations, parcels shall be created in a manner which minimizes encroachment onto steep slope lands. Where 10% or more of a lot contains steep slope lands, that portion of the lot containing such lands shall be placed in an open space easement unless the lot is equal to or greater than 40 acres or a sensitive resource area designator has been applied to that lot pursuant to the Zoning Ordinance.

The open space easement shall not include any area of encroachment within the limits of the encroachment table (2)(aa). The terms of the open space easement shall provide for sufficient encroachments necessary for access, clearing, and all exceptions to the encroachment limitations identified in (2)(bb) and 2(cc). New agricultural operations will also be allowed in such open space easements with approved grading or clearing permits, provided any other type of sensitive lands present are protected as required by the applicable sections of this Chapter.

(aa) For all types of projects, the maximum encroachment that may be permitted into steep slope lands shall be as set forth in the following table. This encroachment may be further reduced due to environmental concerns or other design criteria.

Twenty-Five Percent Slope Encroachment Allowance	
Percentage of Lot in Steep Slope Lands	Maximum Encroachment Allowance as Percentage of Area in Steep Slope Lands
75% or less	10%
80%	12%
85%	14%
90%	16%
95%	18%
100%	20%

(bb) Notwithstanding the provisions of paragraph (aa) above, the following types of development shall be allowed on steep slope lands and shall not be subject to the encroachment limitations set forth above:

(i) All public roads identified in the Mobility Element of the County General Plan or adopted community or subregional plans, provided that findings are made by the hearing body approving the application that no less environmentally damaging alternative alignment or non-structural alternative measure exists.

(ii) Local public streets or private roads and driveways which are necessary for primary or secondary access to the portion of the site to be developed on steep slope lands of less than 25%, provided no less environmentally damaging alternative exists. The determination of whether or not a proposed road or driveway qualifies for an exemption, in whole or in part, shall be made by the Director of Planning and Development Services based upon an analysis of the project site.

(iii) Public and private utility systems, provided that findings are made that the least environmentally damaging alignment has been selected. However, septic systems are not included in this exemption unless Department of Health Services has certified that no grading or benching is required.

(iv) Areas with native vegetation, which are cleared or trimmed to protect existing or proposed structures in potential danger from fire, provided that the area of such clearance is the minimum necessary to comply with applicable fire codes or orders of fire safety officials and that such slopes retain their native root stock or are planted with native vegetation having a low fuel content, and provided further that the natural landform is not reconfigured.

(v) Trails for passive recreational use according to approved park plans.

(vi) On any lot created on or before August 10, 1988, a maximum disturbed area of 20% of the entire lot, or sufficient area to accommodate 3,000 square feet of building footprint (whichever is greater) shall be permitted to provide for reasonable use of existing lots.

(vii) Any on-going existing agricultural operation, such as the cultivation, growing and harvesting of crops and animals. Land left fallow for up to four years

shall be considered to be an existing agricultural operation. An on-going existing agricultural operation does not include uses located within the agricultural operation that are not in themselves related to agriculture.

(cc) Additional encroachment into steep slopes may be permitted for tentative maps and tentative parcel maps which propose a Planned Residential Development, lot area averaging, conservation subdivision or cluster development when design considerations include encroachment into steep slopes in order to avoid impacts to significant environmental resources that cannot be avoided by other means, provided no less environmentally damaging alternative exists. The determination of whether or not a tentative map or tentative parcel map qualifies for additional encroachment shall be made by the Director of Planning and Development Services based upon an analysis of the project site.

(3) Waiver of Open Space Easement. The steep slope open space easement requirement may be waived when the authority considering an application listed at Section 86.603(a) above makes the following findings:

(aa) The slope is an insignificant visual feature and isolated from other landforms, or surrounding properties have been developed on steep slopes such that this project would be considered "infill"; and

(bb) The property is zoned for 0.5 acre lots or smaller at the time the application was made, or a concurrent Rezone has been filed; and

(cc) The greater encroachment is consistent with the goals and objectives of the applicable community plan; and

(dd) Site Plan review is required to ensure consistency of design with these regulations.

(f) Sensitive Habitat Lands. Development, grading, grubbing, clearing or any other activity or use damaging to sensitive habitat lands shall be prohibited. The authority considering an application listed at Section 86.603(a) above may allow development when all feasible measures necessary to protect and preserve the sensitive habitat lands are required as a condition of permit approval and where mitigation provides an equal or greater benefit to the affected species.

(g) Significant Prehistoric or Historic Sites. Development, trenching, grading, clearing and grubbing, or any other activity or use damaging to significant prehistoric or historic site lands shall be prohibited, except for scientific investigations with an approved research design prepared by an archaeologist certified by the Society of Professional Archaeologists.

Section 72. Section 86.605 of the County Code is amended to read as follows:

SEC. 86.605. EXEMPTIONS.

This Chapter shall not apply to the following:

(a) Any project for which and to the extent that a vesting Tentative Map approved prior to August 10, 1988, or a Public Benefit Agreement approved prior to June 30, 1989, confers vested rights under County ordinance or State or Federal law to proceed with development notwithstanding the enactment of this Chapter, or its predecessor Ordinances Nos. 7521, 7549, 7595, 7596, 7631, 7685, 7739, 7968 and 9842 (all N.S.).

(b) All or any portion of a Specific Plan which has at least one Tentative Map or Tentative Parcel Map approved prior to August 10, 1988, provided that the Planning Commission or, on appeal, the Board of Supervisors, makes the following findings at a noticed public hearing:

(1) The applicant has, with regard to the portion sought to be exempted, prior to August 10, 1988, incurred substantial public facilities or infrastructure expenditures and performed substantial grading or construction of physical improvements to serve the portion outside of the approved map in good faith.

(2) If there are located wetlands or floodplains or riparian habitat on the portion sought to be exempted, that (aa) none of said lands is affected directly or substantially by the project, or (bb) that measures have been taken which avoid development on said lands. This Chapter shall also not apply to any amendment to such Specific Plan meeting the above requirements, and which does not increase the density of the Specific Plan and which is in closer conformity to this Chapter with respect to the preservation of environmentally sensitive lands, nor to any amendment to a Specific Plan which is required by a condition of a Specific Plan approved prior to August 10, 1988, in order to apply for a Tentative Map or use permit for an area within the Specific Plan, provided such area has previously been found to satisfy the requirements of this section. This Chapter shall also not apply to any Specific Plan or portion thereof for which these findings were made and for which a determination of exemption was granted from the Interim Sensitive Lands Ordinance (Ordinance Nos. 7521, 7549, 7595 and 7596 (all N.S.)).

(c) Any essential public facility or project, or recreational facility which includes public use when the authority considering an application listed at Section 86.603(a) above makes the following findings:

(1) The facility or project is consistent with adopted community or subregional plans;

(2) All possible mitigation measures have been incorporated into the facility or project, and there are no feasible less environmentally damaging location, alignment, or non-structural alternatives that would meet project objectives;

(3) Where the facility or project encroaches into a wetland or floodplain, mitigation measures are required that result in any net gain in the wetland and/or riparian habitat;

(4) Where the facility or project encroaches into steep slopes, native vegetation will be used to revegetate and landscape cut and fill areas; and

(5) No mature riparian woodland is destroyed or reduced in size due to otherwise allowed encroachments.

(d) Any sand, gravel or mineral extraction project, provided that the following mitigation measures are required as a condition of a Major Use Permit approved for such project:

(1) Any wetland buffer area shall be restored to protect environmental values of adjacent wetlands;

(2) In a floodplain, any net gain in functional wetlands and riparian habitat shall result in or adjacent to the area of extraction;

(3) Native vegetation shall be used on steep slope lands to revegetate and landscape cut and fill areas in order to substantially restore the original habitat value, and slopes shall be graded to produce contours and soils which reflect a natural landform which is consistent with the surrounding area; and

(4) Mature riparian woodland may not be destroyed or reduced in size due to sand, gravel or mineral extraction.

Use of the extraction area after reclamation shall be subject to all conditions of this Chapter.

(e) Any project for which the Board of Supervisors has determined that application of this Ordinance would result in the applicant being deprived of all reasonable economic use of property in violation of Federal or State Constitutional prohibitions against the taking of property without just compensation.

(f) Any project located within the Upper San Diego River Improvement Project's redevelopment area boundaries.

(g) Any project for which the Director of the Department of Planning and Development Services has determined in writing that it can be seen with certainty that either no environmentally sensitive lands exist on the property, or that all environmentally sensitive lands on the property are assured of being protected by a prior permit to the same standards as those contained in this Chapter.

(h) Any project located within a Specific Plan, within the Urban Limit Line, and within an approved Revitalization Action Plan established prior to August 10, 1988, where the Board of Supervisors finds that an amendment to that Specific Plan makes the project more clearly conform to this Chapter and where there is a public benefit beyond the boundaries of the project and it is found that the project will revitalize and/or stimulate revitalization of the community.

(i) Any project located within the approximately 22,500 acre property known as "Otay Ranch", if determined to be consistent with a Comprehensive Resource Management and Protection Program which has been adopted by the Board of Supervisors for the "Otay Ranch".

(j) The continuation of any on-going existing agricultural operation, such as the cultivation, growing and harvesting of crops and animals. Land left fallow for up to four years shall be considered to be an existing agricultural operation.

(k) (With reference only to the definitions of "floodplain", "floodplain fringe", and "floodway" and the provisions of Section 86.604 (c) and (d) of this Chapter). Any modification to the floodplain, floodplain fringe, or floodway pursuant to a project within the community of Jacumba when the following findings are made:

(1) The project is located within a Specific Planning Area or Country Town boundary.

(2) The project will result in a socio-economic benefit through the revitalization of an existing community.

(3) The project will result in alleviation of flood danger to existing structures in Jacumba, and the means for funding all required flood improvements and obtainment of rights-of-way has been secured.

(4) Any flood control improvements will not adversely affect significant wetland and riparian habitats and will create any net gain in such habitats.

(5) Except as expressly exempted herein, the project shall be in conformance with the County General Plan, the Zoning Ordinance, and other applicable regulations or policies of the County at the time an application is filed with the County.

(l) Any project within the approximately 468-acre property known as the Harmony Grove Village Specific Plan Area, if determined to be consistent with a Comprehensive Resource Management and Protection Program which has been adopted by the Board of Supervisors for the Harmony Grove Specific Plan Area.

(m) Any project which is only subject to this Chapter because it is on land which contains wetlands, and those wetlands would not exist under natural conditions, but are the result of, and sustained by an artificial transient water source (e.g. agricultural irrigation runoff) and the Director of Planning and Development Services determines that it is assured that the water source will not continue to be available to support wetland vegetation. While such lands are not required to be placed in an open space easement, any direct project related impacts that will occur as a result of the development shall be mitigated a minimum ratio of 3:1 (this shall include a minimum 1:1 creation component, while restoration/enhancement of existing wetlands may be used to make up the remaining requirements for a total 3:1 ratio).

Section 73. Section 86.606 of the County Code is amended to read as follows:

SEC. 86.606. ENFORCEMENT.

(a) Authority. The Director of Planning and Development Services (hereinafter, the "Director") shall have the authority to enforce all provisions of this Chapter. The Director may enter any property or premises for the purpose of determining compliance with this Chapter. Whenever the Director determines that a violation of Section 86.604 has occurred, he or she may order work to be stopped and/or repairs or corrections to be made, by serving written notice on the owner, permittee or any person engaged in the doing or causing such violation, and such persons shall immediately stop such violation until authorized by the Director in writing to proceed.

(b) Violations - Criminal Penalties. Any person violating any provision of Section 86.604 shall be deemed guilty of a misdemeanor. Each day or portion of a day that any person violates or continues to violate Section 86.604 constitutes a separate offense and may be charged and punished without awaiting conviction of any prior offense. Any conviction of a misdemeanor under this Chapter shall be punishable by imprisonment in the County jail not exceeding six months, or by a fine not exceeding \$1,000, or by both. Paying a fine or serving a jail sentence shall not relieve any person from responsibility for correcting any condition which violates any provision of this Chapter.

(c) Violations - Public Nuisance. Any building or structure erected, constructed, altered or maintained, or any use of or activity conducted upon property contrary to the provisions of Section 86.604 shall be, and the same is hereby declared to be, unlawful and a public nuisance. The public nuisance may be abated in accordance with the Uniform Public Nuisance Abatement Procedures contained in Chapter 2, Division 6, Title 1 (commencing with Section 16.201) of this Code or in any other manner provided by law, including: upon order of the Board of Supervisors, the County Counsel is authorized to commence necessary proceedings provided by law to abate, remove and/or enjoin such public nuisance.

(d) Administrative Remedies. The Director may pursue the administrative remedies set forth at Division 8 of Title 1 of this Code, including the issuance of administrative citations pursuant to Chapter 1 (commencing with Section 18.101) of said Division 8.

(e) Injunctive or Declaratory Relief. In addition to or in lieu of other remedies specified in this Chapter, any violation of Section 86.604 may be enforced by a judicial action for injunctive or declaratory relief.

(f) Civil Penalties. As part of a civil action filed by the County to enforce provisions of this Chapter, a court may assess a maximum civil penalty of \$2,500 per violation of this Chapter for each day during which any violation of any provision of this Chapter is committed, continued, permitted or maintained by such person(s). In determining the amount of any civil liability to be imposed pursuant to this Chapter, the superior court shall take into consideration the nature, circumstances, extent, and gravity of the violation or violations, whether any discharge caused by the violation is susceptible to cleanup or abatement, and, with respect to the violator, the ability to pay, the effect on ability to continue in business, the extent of any advantage gained by an unfair business practice, any voluntary cleanup efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

(g) Cost Recovery. In addition to other penalties and remedies permitted in this section, the following may be awarded without monetary limitations in any civil action: costs to investigate, inspect, monitor, survey, or litigate; costs to place or remove soils or erosion control materials; costs to correct any violation; and costs to end any adverse effects of a violation; compensatory damages for losses to the County or any other plaintiff caused by violations; and/or restitution to third parties for losses caused by violations.

(h) Site Restoration. Whenever the Director determines that a violation of Section 86.604 has occurred, he or she may order that the site be restored to the condition it was in previous to the violation. Restoration ordered may include revegetation of the site with species of plants identical to or serving biological resource values as close as possible to those of the vegetation which existed on the site prior to the violation. If the Director determines that restoration to such previous condition would result in a condition which is unsafe or does not conform to this division or other applicable laws, or is otherwise impractical, the Director may order restoration to such other condition as he or she determines to be as close as practical to the site's previous condition; provided however, that the Director shall require that any adverse environmental impacts which resulted from the violation be mitigated to at least the same extent as would have been required if the impacts occurred as a result of a development project application which was required to comply with the California Environmental Quality Act, the Biological Mitigation Ordinance and other County regulations. Such an order for restoration may require that the restoration work be performed pursuant to plans which the permittee, owner or other responsible person(s) is directed to prepare and submit for the Director's approval. Failure to submit such plans within the time specified in the order for restoration shall constitute a violation of this Chapter. The order may require that permits required by applicable laws or regulations be obtained for the restoration work, including compliance with all requirements for obtaining such permits. The order for restoration may require that adequate security be provided to the Director, to assure completion of the restoration work. The order for restoration may impose time deadlines for performance of certain acts. Failure to timely implement or otherwise comply with an order for restoration shall constitute a violation of this Chapter.

Section 74. Section 86.702 of the County Code is amended to read as follows:

SEC. 86.702. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Automatic irrigation controller" means an automatic timing device used to remotely control valves that operate an irrigation system. Automatic irrigation controllers schedule irrigation events using either evapotranspiration (weather-based) or soil moisture sensor data.

(b) "Building permit" means a permit issued by the County Building Department authorizing the permit holder to among other things, erect, construct, enlarge, alter, repair or improve a building or structure.

(c) "Certified landscape irrigation auditor" means a person certified to perform landscape irrigation audits by an accredited academic institution, a professional trade organization or other accredited certification program.

(d) "Cool season grass" means a type of grass that remains green in the winter months.

(e) "Developer" includes a developer's partner, associate, employee, consultant, trustee or agent or any other person who has any other business or financial relationship with the developer.

(f) "Director PDS" means the means the Director of Planning and Development Services or anyone whom the Director has appointed or hired to administer or enforce this chapter.

(g) "Discretionary permit" means any permit requiring a decision making body to exercise judgment prior to its approval, conditional approval or denial.

(h) "Estimated total water use" (ETWU) means the estimated total water use in gallons per year for a landscaped area.

(i) "ET adjustment factor" (ETAF) means a factor that when applied to reference evapotranspiration, adjusts for plant water requirements and irrigation efficiency, two major influences on the amount of water that is required for a healthy landscape.

(j) "Evapotranspiration rate" means the quantity of water evaporated from adjacent soil and other surfaces and transpired by plants during a specified time period. "Reference evapotranspiration" (ET_o) means a standard measurement of environmental parameters which affect the water use of plants. ET_o is expressed in inches per day, month, or year and is an estimate of the evapotranspiration of a large field of four-inches to seven-inches tall, cool season grass that is well watered. Reference evapotranspiration is used as the basis of determining the MAWA so that regional differences in climate can be accommodated.

(k) "Grading" means any importation, excavation, movement, loosening or compaction of soil or rock.

(l) "Hardscape" means any durable surface material, pervious or non-pervious.

(m) "Hydrozone" means a portion of the landscape area having plants with similar water needs. A hydrozone may be irrigated or non-irrigated.

(n) "Invasive plant species" means species of plants not historically found in California that spread outside cultivated areas and may damage environmental or economic resources.

(o) "Irrigation audit" means an in depth evaluation of the performance of an irrigation system conducted by a certified landscape irrigation auditor. An irrigation audit includes, but is not limited to, inspection, system tune-up, system test with distribution uniformity or emission uniformity, reporting overspray or runoff that causes overland flow and preparation of an irrigation schedule.

(p) "Irrigation efficiency" means the measurement of the amount of water beneficially used divided by the water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices.

(q) "Landscaped area" means an area with outdoor plants, turf and other vegetation. A landscaped area includes a water feature either in an area with vegetation or that stands alone. A landscaped area may also include design features adjacent to an area with vegetation when allowed under section 86.714. A landscaped area does not include the footprint of a building, decks, patio, sidewalk, driveway, parking lot or other hardscape that does not meet the criteria in section 86.714. A landscaped area also does not include an area without irrigation designated for non-development such as designated open space or area with existing native vegetation.

(r) "Licensed landscape contractor" means a person licensed by the State of California as a specialty contractor in the C-27 category, to construct, maintain, repair, install or subcontract the development of a landscape system.

(s) "Landscape design manual" means the manual, approved by the Director of Planning and Development Services that establishes specific design criteria and guidance to implement the requirements of this chapter.

(t) "Low head drainage" means a sprinkler head or other irrigation device that continues to emit water after the water to the zone in which the device is located has shut off.

(u) "Low volume irrigation" means the application of irrigation water at low pressure through a system of tubing or lateral lines and low volume emitters such as drip lines or bubblers.

(v) "Mass grading" means the movement of more than 5000 cubic yards of soil by mechanical means to alter the topographic features of a site.

(w) "Maximum applied water allowance" (MAWA) means the maximum allowed annual water use for a specific landscaped area based on the square footage of the area, the ETAF and the ETo.

(x) "Mulch" means an organic material such as leaves, bark, straw, compost or inorganic mineral materials such as rocks, gravel or decomposed granite left loose and applied to the soil surface to reduce evaporation, suppress weeds, moderate soil temperature or prevent soil erosion.

(y) "Overspray" means the water from irrigation that is delivered outside an area targeted for the irrigation and makes contact with a surface not intended to be irrigated.

(z) "Pervious" means any surface or material that allows the passage of water through the material and into underlying soil.

(aa) "Plant factor" means a factor that when multiplied by the ETo, estimates the amount of water a plant needs.

(bb) "Public water purveyor" means a public utility, municipal water district, municipal irrigation district or municipality that delivers water to customers.

(cc) "Recycled water" means waste water that has been treated at the highest level required by the California Department of Health Services for water not intended for human consumption. "Tertiary treated recycled water" means water that has been through three levels of treatment including filtration and disinfection.

(dd) "Runoff" means water that is not absorbed by the soil or landscape to which it is applied and flows from the landscaped area.

(ee) "Special landscaped area" means an area of the landscape dedicated to edible plants, an area irrigated with recycled water or an area dedicated to play such as a park, sports field or golf course where turf provides a playing surface.

(ff) "Subsurface irrigation" means an irrigation device with a delivery line and water emitters installed below the soil surface that slowly and frequently emit small amounts of water into the soil to irrigate plant roots.

(gg) "Transitional area" means a portion of a landscaped area that is adjacent to a natural or undisturbed area and is designated to insure that the natural area remains unaffected by plantings and irrigation installed on the property.

(hh) "Turf" means a groundcover surface of cool season or warm season mowed grass. Annual bluegrass, Kentucky bluegrass, perennial ryegrass, red fescue and tall fescue are cool season grasses. Bermuda grass, kikuyu grass, seashore paspalum, St. Augustine grass, zoysias grass and buffalo grass are warm season grasses.

(ii) "Water feature" means a design element where open water performs an aesthetic or recreational function. A water feature includes a pond, lake, waterfall, fountain, artificial streams, spa and swimming pool where a public water purveyor within the San Diego County Water Authority or the Borrego Water District provides water for the feature. Constructed wetlands used for on-site wastewater treatment or stormwater best management practices are not water features.

(jj) "WUCOLS" means Water Use Classification of Landscape Species and refers to the most recent version of the Department of Water Resources publication authored by the University of California Cooperative Extension.

Section 75. Section 86.704 of the County Code is amended to read as follows:

SEC. 86.704. OUTDOOR WATER USE AUTHORIZATION.

(a) No person who constructs a project subject to section 86.703(a) shall use water for irrigation or a water feature without the authorization required by this chapter.

(b) A person constructing a project subject to section 86.703(a) shall obtain a water use authorization to provide water to a landscaped area as follows:

(1) A person applying for a building permit for a single family residence shall obtain a water use authorization from the County as part of the permitting process.

(2) A person applying for a discretionary permit shall submit a landscape concept plan with the discretionary permit application. As used in this chapter, a landscape concept plan means a drawing of the site where the project will be located that includes a representation of the site features, proposed plantings areas and the proposed method and type of irrigation.

(3) A person issued a discretionary permit shall obtain a water use authorization as part of the permitting process for each building permit for each project segment that requires installation of a water meter or connection to an existing water meter.

(c) A water use authorization issued by the County shall establish the allowed MAWA for property on which a project that is subject to this chapter is located.

(d) Once the County establishes the MAWA for a property, no person who obtains water for the property from a public water purveyor in the unincorporated area of the County

shall exceed the MAWA on that property, unless the County agrees to modify the MAWA, as provided in section 86.721.

(e) Any person may examine the water use authorization establishing the MAWA for a property at the Department of Planning and Development Services during normal business hours.

Section 76. Section 86.705 of the County Code is amended to read as follows:

SEC. 86.705. ADMINISTRATION, ENFORCEMENT AND LANDSCAPE MANUAL.

(a) The Director PDS shall administer and enforce this chapter, except that the Director PDS may refer an application for a water use authorization to the Director of Public Works or the Director of General Services for processing.

(b) The Director PDS shall prepare a landscape design manual that provides guidance to applicants on how to comply with the requirements of this chapter. The manual shall also provide guidance for a person with an existing landscaped area on how to increase water use efficiency and avoid wasting water.

Section 77. Section 86.709 of the County Code is amended to read as follows:

SEC. 86.709. LANDSCAPING AND IRRIGATION PLAN.

(a) The landscaping and irrigation plan required by section 86.707(c)(2) shall be prepared by a landscape architect, civil engineer or architect licensed by the State of California. A homeowner of a single family residence required to submit a landscape and irrigation plan may have a licensed landscape contractor prepare the landscaping and irrigation plan if the homeowner has contracted with that contractor to install the landscaping and irrigation pursuant to the plan.

(b) The landscaping and irrigation plan shall contain the following information:

(1) A list of all vegetation by common and botanical plant name which exists in the proposed landscaped area. The plan shall state what vegetation will be retained and what will be removed.

(2) A list of all vegetation by common and botanical plant name which will be added to each landscaped area. The plan shall include the total quantities by container size and species. If the applicant intends to plant seeds, the plan shall describe the seed mixes and applicable germination specifications.

(3) A detailed description of each water feature that will be included in the landscaped area.

(4) The plan shall be accompanied by a drawing showing on a page or pages, the specific location of all vegetation, retained or planted, the plant spacing and plant size, natural features, water features and hardscape areas. The drawing shall include a legend listing the common and botanical plant name of each plant shown on the drawing.

(5) The location, type and size of all components of the irrigation system that will provide water to the landscaped area, including the controller, water lines, valves, sprinkler heads, moisture sensing devices, rain switches, quick couplers, pressure regulators and backflow prevention devices.

(6) The static water pressure at the point of connection to the public water supply and the flow rate in gallons, the application rate in inches per hour and the design operating pressure in pressure per square inch for each station.

(7) The MAWA for the plan, including the calculations used to determine the MAWA. The calculations shall be based on the formula in section 86.712.

(8) The ETWU for the plan, including the calculations used to determine the ETWU. The calculations shall be based on the formula in section 86.713.

(9) A statement signed under penalty of perjury by the person who prepared the plan that provides, "I am familiar with the requirements for landscape and irrigation plans contained in the County Landscape Water Conservation Regulations, in Title 8, Division 6, Chapter 7. I have prepared this plan in compliance with those regulations. I certify that the plan implements those regulations to provide efficient use of water."

(c) The landscape and irrigation plan shall be designed as follows:

(1) All plants shall be grouped in hydrozones and the irrigation system shall be designed to deliver water to hydrozones based on the moisture requirements of the plant grouping. A hydrozone may mix plants of moderate and low water use, and mix plants of high water use with plants of moderate water use, but no high water use plants shall be allowed in a low water use hydrozone. A high water use hydrozone may, however, provide for some low water use plants if the low water use plants are of a type that are likely to thrive and flourish with the additional water. The plan shall also demonstrate how the plant groupings accomplish the most efficient use of water.

(2) The irrigation system shall be designed to prevent standing water and any condition such as runoff, overspray and low-head drainage where irrigation water flows or sprays onto areas not intended for irrigation. The plan shall also demonstrate how grading and drainage techniques promote healthy plant growth and prevent standing water, erosion and runoff.

(3) The plan shall provide for use of mulch as follows:

(A) A minimum two inch layer of mulch shall be applied on all exposed soil surfaces in each landscaped area except in turf areas, creeping or rooting ground covers or direct seeding applications where mulch is contraindicated.

(B) Stabilizing mulch shall be applied on slopes.

(C) The mulching portion of a seed/mulch slurry in hydro-seeded applications shall comply with subsection (B) above.

(D) Highly flammable mulch material, such as straw or small or mini size wood chips, shall not be used in a "Hazardous Fire Area," as that term is defined in the County Fire Code.

(4) The plan shall identify the type and amount of mulch for each area where mulch is applied.

(5) On a project other than a single family residence, the plan shall identify recreational areas.

(6) The plan shall identify areas permanently and solely dedicated to edible plants.

(7) The plan shall identify each area irrigated with recycled water, gray water and other non-potable water.

(8) The plan shall identify any soils amendments and their type and quantity.

(9) The plan shall demonstrate that landscaping when installed and at maturity will be positioned to avoid obstructing motorists' views of pedestrian crossings, driveways, roadways and other vehicular travel ways. If the landscaping will require maintenance to avoid obstructing motorist's views, the plan shall describe the maintenance and the frequency of the proposed maintenance.

(10) The plan shall avoid the use of landscaping with known surface root problems adjacent to a paved area, unless the plan provides for installation of root control barriers or other appropriate devices to control surface roots.

(11) The plan shall provide that any slope greater than 25 percent will be irrigated with an irrigation system with a precipitation rate of .75 inches per hour or less to prevent runoff and erosion. As used in this chapter, 25 percent grade means one foot of vertical elevation change for every four feet of horizontal length. An applicant may employ an alternative design if the plan demonstrates that no runoff or erosion will occur.

(12) The plan shall provide that all wiring and piping under a paved area that a vehicle may use, such as a parking area, driveway or roadway, will be installed inside a PVC conduit.

(13) The plan shall provide that irrigation piping and irrigation devices that deliver water, such as sprinkler heads, shall be installed below grade if they are within 24 inches of a vehicle or pedestrian use area. The Director PDS may allow on-grade piping where landform constraints make below grade piping infeasible.

(14) That plan shall provide that only low volume or subsurface irrigation shall be used to irrigate any vegetation within 24 inches of an impermeable surface unless the adjacent impermeable surfaces are designed and constructed to cause water to drain entirely into a landscaped area.

(15) The plan shall provide that plants in a transitional area consist of a combination of site adaptive and compatible native and non-native species. The plan shall also provide that no invasive plant species shall be introduced or tolerated in a transitional area. The irrigation in a transitional area shall be designed so that no overspray or runoff shall enter an adjacent area that is not irrigated.

(16) The plan shall demonstrate compliance with best management practices required by sections 67.801 et seq. (Watershed Protection, Stormwater Management and Discharge Control regulations).

(17) The plan shall address fire safety issues and demonstrate compliance with State and County requirements for defensible space around buildings and structures and shall avoid the use of fire prone vegetation.

(18) The irrigation system shall provide for the installation of an easily accessible manual shutoff valve as close as possible to the water supply. Additional manual shutoff valves shall be installed between each zone of the irrigation system and the water supply.

(19) The irrigation system shall provide that irrigation for any landscaped area will be regulated by an automatic irrigation controller.

(20) The irrigation system shall be designed to meet or exceed an average landscape irrigation efficiency of 0.71.

(d) The landscaping and irrigation plan shall describe each automatic irrigation controller the system uses to regulate the irrigation schedule and whether it is a weather based system or moisture detection system. The plan shall depict the location of electrical service for the automatic irrigation controller or describe the use of batteries or solar power that will power valves or an automatic irrigation controller.

Section 78. Section 86.710 of the County Code is amended to read as follows:

SEC. 86.710. GRADING DESIGN PLAN.

(a) The grading design plan required by section 86.707(c)(4) shall be prepared by a landscape architect, civil engineer or architect licensed by the State of California. A homeowner of a single family residence required to submit a grading design plan may have a licensed landscape contractor prepare the grading design plan if the homeowner has contracted with that contractor to do the work covered by the plan. The grading design plan shall comply with following requirements:

(1) The grading on the project site shall be designed for the efficient use of water by minimizing soil erosion, runoff and water waste, resulting from precipitation and irrigation.

(2) The plan shall show the finished configurations and elevations of each landscaped area including the height of graded slopes, the drainage pattern, pad elevations, finish grade and any stormwater retention improvements.

(b) If the project applicant has submitted a grading plan with the application for the project the Director PDS may accept that grading plan in lieu of the grading design plan required by this section, if the grading plan complies with subsection (a) above.

Section 79. Section 86.718 of the County Code is amended to read as follows:

SEC. 86.718. PROJECTS WITH MODEL HOMES.

A person who obtains a permit to construct a single family residential development that contains a model home shall provide a summary of this chapter prepared by the Director PDS to each adult visitor that visits a model home. If an adult visitor is accompanied by one or more adults during the visit only one set of written materials is required to be provided. Each model home shall provide an educational sign in the front yard of the model home visible and readable from the roadway that the home faces that states in capital lettering at least two inches high, "THIS MODEL HOME USES WATER EFFICIENT LANDSCAPING AND IRRIGATION."

Section 80. Section 86.721 of the County Code is amended to read as follows:

SEC. 86.721. MODIFICATION OF OUTDOOR WATER USE AUTHORIZATION.

(a) A person may submit an application to modify the outdoor water use authorization required by this chapter on a form provided by the Director PDS.

(b) An applicant requesting modification of an authorization for a single family residence where the total landscaped area after modification is less than 5,000 square feet shall comply with section 86.706.

(c) An applicant requesting modification of an authorization other than the type of project in subsection (b) above, shall comply with sections 86.707 - 86.711.

Section 81. Section 86.722 of the County Code is amended to read as follows:

SEC. 86.722. CERTIFICATE OF COMPLETION.

Each person issued a water use authorization who has installed approved landscaping and irrigation, other than a single family residence with a total landscaped area less than 5,000 square feet shall submit:

(a) A certificate of completion on a form provided by the Director PDS within 10 days after installation, verifying that the landscaping and irrigation were installed as allowed in the approved landscape and irrigation plan, that all approved soil amendments were implemented and the installed irrigation system is functioning as designed and approved. The certificate of completion shall be signed under penalty of perjury by the person to whom the water use authorization has been issued and by a California licensed, landscape architect, civil engineer or architect. Where the water use authorization has been issued to a single family homeowner with a landscaped area of 5,000 square feet or more who hired a licensed landscape contractor to install the landscaping and irrigation, the certificate shall be signed under penalty of perjury by the homeowner and the contractor.

(b) An irrigation schedule that complies with section 86.723 that describes the irrigation times and water usage for the project

(c) A landscape and irrigation system maintenance schedule that complies with section 86.724.

(d) A soil management report that complies with section 86.708(b) if the applicant did not submit the report with the landscape documentation package.

Section 82. Section 86.729 of the County Code is amended to read as follows:

SEC. 86.729. APPEAL.

A person whose application for a water use authorization or for modification of a water use authorization is denied may appeal the denial to the Planning Commission by making a written request for the appeal to the Director PDS within 10 days of the denial. The Planning Commission shall consider the matter within 45 days after the appeal is filed. The 45-day period may be extended upon written consent of the appellant. The Planning Commission's decision shall be final.

Section 83. Section 87.101 of the County Code is amended to read as follows:

SEC. 87.101. RESPONSIBILITIES OF OWNERS, PERMITTEES AND OTHERS.

(a) General. It shall be unlawful for any owner, permittee or other person to perform or cause to be performed any grading or clearing on any property contrary to any provision of this Division, or to use or maintain such property in an unlawfully graded or cleared condition, or to commit any other act prohibited by this Division. This prohibition shall apply to any person operating grading or clearing equipment or otherwise performing work for hire, only if that person knowingly participates in activity prohibited by this Division. An owner shall be considered to have caused any grading, clearing or prohibited act on the property under the owner's dominion and control, and shall be responsible for the correction of any violation of any provision of this Division, including a violation which occurred prior to the owner's acquisition thereof which continues after such acquisition.

(b) Hazardous Conditions. The owner of the property upon which an excavation, embankment or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the County Official to do so, shall within the period specified in such notice, repair or eliminate such excavation, embankment or fill so as to eliminate the hazard and be in conformance with the requirements of this Division.

(c) Compliance With Plans and Requirements. All permits issued under this Division shall be presumed to include the provision that the permittee and his or her agent, contractors and employees, shall carry out the proposed work in accordance with the approved plans and specifications, where such approval is required, and in compliance with any applicable storm water pollution prevention plan (SWPPP) prepared and maintained pursuant to federal or state requirements or a County directive, and in compliance with all the requirements of the permit and this Division. Failure to carry out the work in accordance with approved plans and specifications, any applicable SWPPP, and in compliance with all the requirements of the permit and this Division shall be a violation of this Division.

(d) Storm Damage Precautions. The owner, the permittee, and all persons performing any grading operations shall remove all loose dirt from the grading site and provide adequate erosion control or drainage devices, debris basins, or other safety devices and take all safety precautions reasonably necessary to protect persons and property. All such persons shall put into effect all safety precautions which in the opinion of the County Official are necessary.

(e) Maintenance of Protective Devices. The owner of any property on which a fill or excavation has been made, the permittee pursuant to a permit granted under the provisions of this Division, or any other person or agent in control of such property, shall maintain in good condition and repair all retaining walls, cribbing, drainage structures or means and other protective devices and planting shown in the approved plans and specifications or in the record plans filed pursuant to Section 87.425 or required by the permit. Facilities dedicated for use by the public and accepted for such use by a public agency are excepted.

(f) Protection of Utilities and Adjacent Property. During grading operations the permittee shall be responsible for the prevention of damage to any public utilities or services. This responsibility applies within the limits of grading and along any routes of travel of equipment. Notwithstanding the minimum standards set forth in this Division, the permittee is responsible for the prevention of damage to adjacent property and no person shall excavate on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, or

any other public or private property without supporting and protecting such property from settling, cracking, or other damage which might result. In the event that, during the grading operation, expansive soil is found within either two feet of the finished lot grade or three feet of the finished floor grade of any area intended or designed to be used as the location of a building, the applicant shall either: (1) remove the expansive soil and replace it with non-expansive soil properly compacted, to a depth of three feet; or (2) install a foundation which either conforms to the San Diego County Standard Foundation System For Single Family Dwellings (on file with the Department of Planning and Development Services) or has been approved and signed by a licensed civil engineer.

(g) Truthful Statements. Owners, permittees, soils engineers, engineers serving as Permit Compliance Engineers, and others filing reports or providing official information to the County pursuant to this Division shall cooperate with and provide truthful and correct information to the County Official relating to the enforcement of this Division. Any falsification or misrepresentation made to the County concerning compliance with this Division, including any voluntary disclosures and including any report that is so deficient or incomplete as to cause misunderstanding, and any withholding of information required to be submitted by or pursuant to this Division, is a violation of this Division.

(h) Compliance with Federal and State Requirements. Any violation of an applicable federal or state-issued Storm Water Permit, or any failure to conform to an applicable storm water pollution prevention plan (SWPPP) prepared pursuant to such a permit or pursuant to this division or Chapter 8 of Division 7 of Title 6 of the San Diego County Code, or any failure to comply with storm water-related provisions of a County-issued grading permit or of a grading plan prepared to secure such a permit, is also a violation of this division. Potentially applicable federal or state-issued Storm Water Permits and requirements include but may not be limited to: the state Industrial Activities Storm Water General Permit (State Water Resources Control Board (SWRCB) Order 97-03-DWQ, National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000001); the state General Permit for Construction Activities Associated With Construction Activities (SWRCB Order 99-08-DWQ, NPDES General Permit No. CAS000002); the State Ocean Plan, Inland Surface Waters Plan, or Enclosed Bays and Estuaries Plan; the State Comprehensive Water Quality Control Plan for the San Diego Basin; any applicable U.S. Environmental Protection Agency or state-issued multi-sector, group, or general permit; and the stormwater-related provisions of any NPDES permit or state-issued Waste Discharge Requirements permit issued to a specific facility, each as it now exists or may hereafter be amended or superseded.

(i) Permits and Compliance. Neither the issuance of a grading permit, clearing permit, watercourse permit, or reclamation plan under the provisions of this division, nor the compliance with any provisions or condition thereof, nor compliance with federal or state requirements, shall relieve any person from any liability or responsibility for compliance with this Division or responsibility or liability otherwise imposed by law for damage to person or property.

Section 84. Section 87.102 of the County Code is amended to read as follows:

SEC. 87.102. ENFORCEMENT AUTHORITY OF COUNTY OFFICIAL.

(a) General. The County Official and each agent or deputy thereof who is assigned to duties which include the enforcement of this Division, and any peace officer, are authorized to enforce the provisions of this Division, including the activities set forth in this section below.

(b) Directors of Public Works and Planning and Development Services. The Director of Public Works and the Director of Planning and Development Services shall each generally have enforcement authority relating to work done pursuant to, or compliance with, a permit issued by the respective Director, acting as the "County Official" in the areas specified in Section 87.803. Enforcement authority relating to work or activities conducted without the necessary permit having been obtained, is given to the Director of Public Works in cases involving work or activities subject to Chapter 6 (Watercourses) of this Division, and to the Director of Planning and Development Services in all other cases.

(c) Inspections. The County Official may enter any property or premises subject to this Division for the purpose of determining compliance with this Division.

(d) Order to Stop or Repair Work. Whenever the County Official determines that any existing excavation, embankment or fill endangers or adversely affects the safety, use or stability of any public or private property, or that any work is being done contrary to the provisions of this Division or other laws implemented through the enforcement of this Division, he or she may order work to be stopped and/or repairs or corrections to be made, by serving written notice on the owner, permittee or any person engaged in the doing or causing such work to be done, and such persons shall immediately stop such work until authorized by the County Official in writing to proceed.

(e) Notice of Violation. The County Official may issue and enforce Notices of Violation and Notices of Ineligibility For Land Development, pursuant to this Division.

(f) Site Restoration. The County Official may order the site of illegal grading or clearing to be restored, pursuant to Section 87.110 below.

(g) Administrative Remedies. The County Official may pursue the Administrative Remedies set forth at Division 8 of Title 1 of this Code, including the issuance of Administrative Citations pursuant to Chapter 1 (commencing with Section 18.101) of said Division 8.

(h) Arrests and Citations. The County Official shall have the power to make arrests for violations of this Division and State laws which he or she has a duty to enforce, and to issue citations for such violations. Any person so arrested who does not demand to be taken before a magistrate may instead be cited in the manner prescribed in Chapter 5C (commencing with Section 853.5) of Title 3, Part 2 of the Penal Code. The County Official may arrest an owner without warrant whenever they have reasonable cause to believe that the person arrested has committed a violation of this Division, provided that the officer or employee making the arrest shall have completed a course of training that meets the minimum standards prescribed by the Commission on Peace Officer Standards and Training as prescribed by Section 832(a) of the Penal Code. An officer or employee making an arrest under this Section shall follow the citation-release procedures prescribed by the Penal Code.

(i) Non-Liability. The County Official or any employee charged with the enforcement of this Division, acting in good faith and without malice for the County in the discharge of his duties, shall not thereby render himself or herself liable personally and he or she is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or by reason of any act or omission in the discharge of his duties. Any suit brought against the County Official or employee, because of such act or

omission performed by him or her in the enforcement of any provisions of this Division, shall be defended by the legal department of the County until final termination of the proceedings.

Section 85. Section 87.109 of the County Code is amended to read as follows:

SEC. 87.109. NOTICE OF INELIGIBILITY FOR LAND DEVELOPMENT.

(a) If the County Official believes that grading or clearing has been done in violation of this Division, he or she may deliver to the owner of the property upon which the grading occurred a Notice of Intent to File a Notice of Ineligibility for Land Development with the Departments of Planning and Development Services and Public Works. The notice of intent shall be either served upon the owner personally or be both mailed (via certified mail, return receipt requested) to the owner at the address shown on the most recent tax assessment records and posted on the property. The notice of intent shall state the County Official's intention to file the Notice of Ineligibility for Land Development, and shall fix a location, time and date (which shall not be less than fifteen days after the delivery of the notice), at which the County Official will hold a hearing at which the owner may submit to the County Official written comments or reasons why a Notice of Ineligibility for Land Development should not be filed. The County Official shall hold the hearing at the appointed time, shall consider any information provided by the owner, and shall determine whether a violation occurred, whether it has been remedied, and whether to file a Notice of Ineligibility for Land Development.

(b) If the County Official files a Notice of Ineligibility for Land Development, and for so long as said notice remains in effect, no application for a building permit, administrative permit, site plan, use permit, variance, tentative parcel map, tentative map, parcel map or final map or any other permit for the development of the subject property shall be approved. All such applications shall be denied, and the County Official receiving such an application shall not be required to undertake further review of the application. The "subject property" shall be deemed to include the lot or parcel on which the violation occurred, together with all adjacent parcels owned by the same person or entity or which are part of a common plan of development. The Notice of Ineligibility for Land Development shall remain in effect until the County Official files a "Release of Notice of Ineligibility for Land Development," which the County Official shall file when he or she determines that a grading or clearing permit as required by this Division has been obtained for the grading or clearing, and that the grading or clearing has been completed, inspected and approved in writing by the County Official as being in compliance with the requirements of this Division.

Section 86. Section 87.203 of the County Code is amended to read as follows:

SEC. 87.203. ISSUANCE OF GRADING PERMIT.

(a) Upon application signed by the owner of the property, the County Official shall issue a grading permit where the County Official determines that:

(1) The proposed grading substantially complies with grading plans or improvement plans approved pursuant to Section 87.204 through 87.208;

(2) Any conditions imposed upon such grading or improvement plan approval, which are required to be completed or performed prior to grading permit issuance, have been satisfied;

(3) The grading permit application was filed not more than 24 months following the approval of grading plans or improvement plans, or within the duration of a renewal of that period pursuant to paragraph (c) below, and for minor grading permits issued by the Department of Planning and Development Services the plan review for the associated dwelling or accessory building pursuant to Section 87.206(a)(9) must be active;

(4) The grading permit fee specified in Chapter 3 of this Division has been paid;

(5) An Agreement conforming to Section 87.215 has been signed and submitted, for purposes of providing the County with a Right of Entry for Inspection, and Indemnification;

(6) The Agreement and Cash Deposit have been submitted, if required by Section 87.304; and

(7) For Major Grading (Section 87.208), the application is accompanied by an "Acknowledgment to Employ Consultants" form which shall list the Permit Compliance Engineer as required by Sec. 87.420, the Soils Engineer and the Engineering Geologist (if required), and a signed "Acceptance of Employment by Consultants" form for each consultant. The owner shall be responsible for notifying the County Official of any change in the consultants listed on the "Acknowledgment to Employ Consultants" form.

(b) Notwithstanding paragraph (a), where the approval of plans occurred prior to May 9, 2003, the application for a grading permit shall be evaluated based upon the criteria applicable under Sections 87.204 through 87.208; and where federal or state wildlife protection agencies identify newly discovered concerns with impacts to resources that were not known at the time of grading plan or improvement plan approval, the County Official may defer issuance of a grading permit until those agencies' requirements have been complied with.

(c) The 24 month period referenced in paragraph (a)(3) may be renewed by the County Official one time for an additional 24 months, if he or she determines that no significant changes in the work are proposed, environmental review documentation has been appropriately updated and, in the case of major grading, none of the criteria requiring denial under Section 87.211 exist. Notwithstanding the foregoing, the 24 month period shall not be renewed in violation cases, where the application has been filed to correct work done in violation of this Division (including work done without obtaining a grading permit).

(d) Once issued, the grading permit shall authorize only the work shown on the approved grading plans, which shall be deemed to be incorporated into the grading permit, for a period of 36 months following the date of permit issuance, after which time the permit shall expire and be of no further force or effect. All work authorized by the grading permit, including the matters required by Sections 87.425 (Completion of Work -- Final Reports) and 87.426 (Notification of Completion), shall be completed within 36 months.

(e) On the effective date of this subsection, a grading permit issued on or after August 21, 2007 and before August 21, 2009 that was issued for 24 months shall automatically be extended for an additional 12 months to make the expiration date 36 months from the original issue date.

(f) When requested by a permittee, the County Official shall grant a one time extension, up to an additional 12 months for a permit in subsection (d) or subsection (e) if the County Official determines that:

- (1) No significant changes in the work are proposed;
- (2) For a permit issued before August 21, 2009 the permittee has provided a statement that due to economic reasons, the permittee has not been able to complete at least 30 percent of the total volume of earthwork. For a permit issued after August 21, 2009, substantial progress has been made towards completing the approved grading, in that at least 30 percent of the total volume of earthwork has been completed; and
- (3) The estimates of the costs of the work for purposes of Section 87.304 have been updated to current costs at the time of extension.

(g) Upon application by the owner, the County Official shall approve a modification to a grading permit, provided that:

- (1) A grading plan or improvement plan change has been approved for the modification pursuant to Section 87.204(c);
- (2) The proposed grading, as modified, substantially complies with grading plans or improvement plans approved pursuant to Section 87.204 through 87.208;
- (3) The grading permit application was filed not more than 24 months following the approval of grading plans or improvement plans, or within the duration of a renewal of that period pursuant to paragraph (c);
- (4) The grading permit modification fee specified in Chapter 3 of this Division has been paid; and
- (5) Appropriate amendments have been entered into, if required by the County Official, for the Agreement relating to a Right of Entry for Inspection and Indemnification pursuant to Section 87.215, and the Agreement and Cash Deposit if required by Section 87.304.

A modification to a grading permit shall have no effect on the period of time within which grading shall be completed.

Section 87. Section 87.206 of the County Code is amended to read as follows:

SEC. 87.206. MINOR GRADING.

(a) Requirements For All Minor Grading. Proposed grading shall be considered "Minor Grading" if it:

- (1) will not result in cut slopes steeper than one and one-half horizontal to one vertical, exclusive of benches and roundings;
- (2) will not result in an exposed fill slope steeper in average slope than two horizontal to one vertical exclusive of benches and roundings;
- (3) will be protected and conducted so that runoff water leaving the premises will not contain sand, silt or other debris;
- (4) complies with the requirements of Sections 87.404 and 87.405 regarding fill compaction and preparation of the ground;
- (5) includes the following drainage protections: will not result in the ponding of water on or above cut or fill slopes or damage from surface waters to the face of any

excavation or fill; includes drainage facilities which will carry surface waters to the nearest practical street, storm drain or other watercourse; any area designed for buildings has a minimum of a one percent grade toward the approved drainage disposal area; all swales and ditches have a minimum grade of two percent and a minimum depth of one foot; and the point at which any drainage facility discharges onto natural ground shall be protected from erosion;

(6) includes installation and maintenance of ground cover or other planting which will protect against erosion and instability, on the face of all cut and fill slopes in excess of three feet in vertical height; such planting is to commence as soon as slopes are completed on any portion of the site and is to be maintained so that 70 percent of the plantings are established on all slopes during construction and established prior to final approval of the grading;

(7) complies with Title 6, Division 7, Chapter 8 of this code;

(8) conforms to the setbacks stated in Section 87.412(a) and (b);

(9) is to prepare the land for the construction of a single or two-family dwelling or accessory structures;

(10) complies with either paragraph (b) or (c) below;

(11) complies with Section 87.213 regarding grading within the "MSCP Subarea" (as defined in Section 87.803);

(12) is not for land development or borrow operation purposes where denial would be required by paragraphs (b) or (g) of Section 87.211 if major grading were involved;

(13) either will not involve waters, rivers, streams or lakes, as referenced in Section 87.214, or the applicant has submitted documentation of compliance with the requirements of that section;

(14) is accompanied by a statement signed by the owner, as to the proposed use of the graded area; and

(15) is described by grading plans or improvement plans which include the following:

(aa) vicinity sketch,

(bb) property lines,

(cc) the location of all structures in the area to be graded, including those on adjacent properties if within fifteen feet of the property line,

(dd) contour lines showing the topography of the existing ground, with a maximum contour interval of five feet;

(ee) the quantity of excavation and fill involved;

(ff) elevations, dimensions, location, extent and slopes of all proposed grading,

(gg) the setbacks from all structures and property lines as stated in Section 87.412;

(hh) all areas proposed to be subjected to any "Land Disturbance Activity" (as that term is defined in Section 67.803 of this Code);

(ii) all drainage devices, walls, cribbing, dams, stormwater protection best management practice devices or other protective devices to be constructed, including all temporary construction erosion and sediment control devices;

(jj) a map of the drainage area of the land tributary to the site;

(kk) dust control measures sufficient to comply with Section 87.428;

(ll) the location, extent and square footage of the total area to be cleared of vegetation; and

(mm) all watercourses located on the site.

(b) Minor Grading or Improvement Plans Under Jurisdiction of Director of Planning and Development Services. The Director of Planning and Development Services may approve grading plans or improvement plans for Minor Grading if he or she determines that the proposed grading complies with paragraph (a) above and:

(1) does not exceed 2,500 cubic yards and will not require more than 200 cubic yards of import or export;

(2) is on a single lot, or within an access easement serving such lot;

(3) will not be on or across or affect any surface water body and will not require the construction of any drainage structures or facilities except for berms, swales, brow ditches or driveway culverts, except that a driveway crossing a water body serving a drainage area of 25 acres or less may be allowed; and

(4) will not have a cut or fill bank in excess of 20 feet measured vertically from the toe of the slope to the top of the slope.

The Director of Planning and Development Services may decline to process, and instead refer to the Director of Public Works for processing under paragraph (c) below, any application where the complexity of grading operations, potential conflict with existing or proposed easements, drainage or storm water issues, unusual soil types or conditions, or potential existence of any of the circumstances requiring denial under Section 878.211, make it more appropriate that the application be subject to the more involved review required by paragraph (c).

(c) Minor Grading Plans Under Jurisdiction of Director of Public Works. The Director of Public Works may approve grading plans or improvement plans for Minor Grading if he or she determines that the proposed grading complies with paragraph (a) above and:

(1) The proposed grading does not exceed a total of 5,000 cubic yards;

(2) The proposed grading is on a lot or adjacent lots under the same ownership, or within access easements serving such lots;

(3) The proposed grading will not be on or across or affect any surface water body, except that a driveway crossing a water body serving a drainage area of 25 acres or less may be allowed;

(4) The proposed grading will not have a cut or fill bank in excess of 25 feet measured vertically from the toe of the slope to the top of the slope;

(5) The application sets forth the estimated start and completion dates and estimated cost;

(6) The grading plans are stamped and signed by a registered civil engineer; and

(7) A calculation is included, showing that the estimated runoff of the area served by any existing or proposed drains can be accommodated by the carrying capacity of such drains.

Section 88. Section 87.208 of the County Code is amended to read as follows:

SEC. 87.208. GRADING PLANS OR IMPROVEMENT PLANS FOR MAJOR GRADING.

(a) Grading not covered by Sections 87.205, 87.206 or 87.207 shall be known as "Major Grading." The County Official may approve grading plans or improvement plans for major grading, if he or she determines that:

- (1) The proposed grading conforms to all requirements of this Division;
- (2) Denial is not required by Section 87.211;
- (3) Sections 87.212, 87.213 and 87.214, regarding specified sensitive areas, have been complied with;
- (4) The proposed grading complies with Title 6, Division 7, Chapter 8 of this code; and
- (5) If the area to be graded includes a watercourse, the proposed grading conforms to Chapter 6 of this Division.

(b) Grading plans or improvement plans for major grading shall be approved and signed by a registered civil engineer. The plans shall show or be accompanied by the following:

- (1) A vicinity sketch or other data adequately indicating the site location;
- (2) Property lines of the site on which the work is to be performed;
- (3) Location of any buildings or structures on the site where the work is to be performed, and the location of any building or structure on land of adjacent property owners which is within the fifteen feet of the site;
- (4) Topographical contour lines adequate to show the topography of the existing ground;
- (5) Elevations, dimensions, location, extent, and slopes of all proposed grading, shown by contours or other means;
- (6) The quantity of excavation and fill involved, estimated starting and completion dates and the estimated cost;
- (7) All drainage devices, walls, cribbing, dams, stormwater protection best management practice devices or other protective devices to be constructed in connection with, or as part of, the proposed work, including all temporary construction erosion and sediment control devices, all watercourses located on the site, a map showing the drainage area of land tributary to the site, the estimated runoff of the area served by any drains, and calculations of the carrying capacity of such drains;
- (8) The following shall be required for grading which will require the use of groundwater and for grading to be done during a time when the San Diego County Water Authority declares that a drought is in effect:

(aa) Information demonstrating to the satisfaction of the County Official the source (imported potable water, reclaimed water or groundwater) and amount of water available to be used in grading operations, including a statement from the applicable public agency or other party supplying the water specifying the dates when temporary service shall commence and when temporary service shall cease. The applicant shall specify the timing and duration of water needed to complete each phase of the project;

(bb) A short-term plan for erosion control and for slope stabilization where necessary which, in the opinion of the County Official, can be accomplished with the amount of water demonstrated to be available to the project; and

(cc) Except for grading on projects for which the Director of Planning and Development Services has approved a landscape plan, a long-term plan for erosion control and for slope stabilization where necessary to the satisfaction of the County Official;

- (9) A statement of the purpose for which the proposed grading is to be done;

(10) Information demonstrating to the satisfaction of the County Official that the applicant is satisfying Chapter 8 (commencing with Section 67.801) of Division 7 of Title 6 of this Code;

(11) The names and addresses of all owners of property located within 300 feet of the exterior boundaries of the property to be graded, taken from the latest equalized assessment roll or such other records of the County Assessor or Tax Collector as contain more recent information;

(12) Dust control measures sufficient to comply with Section 87.428;

(13) The location, extent and square footage of the total area to be cleared of vegetation;

(14) All areas proposed to be subjected to any "Land Disturbance Activity" (as that term is defined in Section 67.803 of this Code); and

(15) Such other information or data as may be required by the County Official.

(c) Prior to approving the grading plans or improvement plans, the County Official shall provide notice to each of the persons identified in the application as being owners of property located within 300 feet of the exterior boundaries of the property to be graded. Said notice shall be sent via United States mail and shall inform the addressee of the following:

(1) The receipt of the application and the official number or name of the application;

(2) A basic description of the location of the property upon which grading is proposed and the nature of the grading operation;

(3) The manner in which more information concerning the application may be obtained;

(4) That the County Official will consider any comments concerning the application which the addressee desires to submit, provided that they are submitted in writing and received no later than a date stated in the notice, which date shall be no sooner than 15 days after the notice was sent. The County Official shall consider any such comments received by the stated date prior to making a decision whether to approve the application.

Section 89. Section 87.213 of the County Code is amended to read as follows:

SEC. 87.213. GRADING WITHIN MSCP SUBAREA.

No grading plans or improvement plans shall be approved, if the land upon which the proposed grading is to be performed is designated as within the "MSCP Subarea" (as defined in Section 87.803), unless the plans are accompanied by a written certification from the Director of Planning and Development Services that the Biological Mitigation Ordinance has been complied with.

Section 90. Section 87.301 of the County Code is amended to read as follows:

SEC. 87.301. FEES AND DEPOSITS FOR PLAN CHECKING, APPLICATION REVIEW, AND GRADING INSPECTION.

At the time of filing the following applications, the following fees or deposits shall be paid to the County Official:

(a) Grading Plans or Improvement Plans for Major Grading (Section 87.208): The actual costs to the County of examining and approving Grading Plans or Improvement Plans, or plan changes, including review under the California Environmental Quality Act, the review of any required reports, compliance with project conditions, and the preparation of all necessary documents, shall be paid by the applicant. At the time of submitting a grading or improvement plan to the County Official for examination and approval, the subdivider shall deposit with the County Official, a sum sufficient to cover actual costs as prescribed by the Board of Supervisors.

(b) Grading Plans or Improvement Plans for Agricultural Grading (Section 87.205), Minor Grading Under Department of Public Works Review (Section 87.206(c)) or Grading for a Project With a Previous Discretionary Land Use Approval (Section 87.207):

(1) Intake Screening. The actual costs to the County of application intake screening for project impacts for agricultural grading, minor grading under review by the Department of Public Works, or grading associated with a project with a previous discretionary approval, including the review of any plans or reports, comparing project to public information, and the preparation of all necessary documents, shall be paid by the applicant. At the time of submitting a grading or improvement plan for examination and approval, the applicant shall deposit with the County Official, a sum sufficient to cover actual costs as prescribed by the Board of Supervisors.

(2) Plan Review. The actual costs to the County of examining and approving Grading Plans or Improvement Plans, or plan changes, including review under the California Environmental Quality Act, for grading referenced in paragraph (1), including the review of any plans or reports and the preparation of all necessary documents, shall be paid by the applicant. At the time of submitting a grading or improvement plan, or application for plan change, for examination and approval, the applicant shall deposit with the County Official, a sum sufficient to cover actual costs as prescribed by the Board of Supervisors.

(c) Grading Plans or Improvement Plans for Minor Grading Under Department of Planning and Development Services (Section 87.206(b)). For grading plan or improvement plan review, or plan change review, for a grading permit to be issued for projects subject to Section 87.206(b), the applicant shall pay to the County Official a fee in an amount as prescribed by the Board of Supervisors in Section 362.1 of the San Diego County Administrative Code.

(d) Grading Permits:

(1) For each grading permit or permit modification issued for projects subject to Section 87.206(b) (Minor grading under review by the Department of Planning and Development Services), the applicant shall pay to the County Official a fee in an amount as prescribed by the Board of Supervisors in Section 362.1 of the San Diego County Administrative Code.

(2) For all grading permits not covered under paragraph (1) above, all costs associated with grading permit application processing and permit issuance are included in the cost of checking grading plans or improvement plans. There is no separate fee or deposit for issuance of the grading permit.

(e) Structural Review. Where the plans or specifications provide for the construction of drainage structures or facilities (other than standard terrace drains and similar facilities), including retaining walls and sprinkler irrigation systems, or when such plans include proposals for granting drainage and appurtenant easements to the San Diego County Flood Control District,

the applicant shall deposit amounts estimated by the County Official appropriate to pay for the County's actual cost of checking the plans and specifications, preparing the documents for the drainage and appurtenant easements, and inspecting the construction.

(f) Clearing Permits. For all clearing permits applied for pursuant to Chapter 5 of this Division, the applicant shall pay to the County Official both: (1) an "Environmental Action CEQA Processing" fee or deposit, in the amount specified in Section 362.1 of the San Diego County Administrative Code; and (2) a clearing permit review fee in the amount specified in Section 362.1 of the San Diego County Administrative Code.

(g) Deposit Refund or Increase. Where a deposit has been made, if the County's actual cost is less than the amount deposited, the excess shall be refunded. If any deposit is insufficient to pay all the County's actual costs, the permittee, upon demand of the County Official, shall deposit an additional amount deemed sufficient by the County Official to complete the work. If the permittee fails or refuses to pay such additional amount, the County Official may cease further work relating to the application, refuse approval of the plans or issuance of a grading permit until the amount is paid in full, or, if a permit is already issued, consider the grading incomplete and pursue proceedings to revoke the grading permit in accordance with Section 87.216.

Section 91. Section 87.702 of the County Code is amended to read as follows:

SEC. 87.702. DEFINITIONS.

Whenever the following words are used in this chapter, they have the following meanings:

(a) "DEPARTMENT" means the Department of Planning and Development Services of the County of San Diego.

(b) "DIRECTOR OF CONSERVATION" means the Director of the Department of Conservation within the California Resources Agency.

(c) "SMARA" means the Surface Mining and Reclamation Act of 1975 (Public Resources Code, Section 2710 et seq.).

(d) "SMGB" means the State Mining and Geology Board.

(e) "SURFACE MINING" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, surface work incident to an underground mine, borrow pitting, streambed skimming, and the segregation and stockpiling of mined materials and recovery of same. Surface mining shall include, but is not limited to: (i) inplace distillation or retorting or leaching; (ii) the production and disposal of mining waste; and (iii) prospecting and exploratory activities.

Section 92. Section 87.707 of the County Code is amended to read as follows:

SEC. 87.707. AGREEMENT, RIGHT OF ENTRY AND FINANCIAL ASSURANCE.

(a) No surface mining shall be conducted pursuant to a Major Use Permit or pursuant to a vested nonconforming right unless prior to commencement an Agreement has been entered into whereby the operator agrees to reclaim the land in accordance with the Reclamation Plan and which allows the County to enter the property to correct any landscaping or irrigation system deficiencies, any unsafe condition, or any breach of provisions of the Major Use Permit and/or Reclamation Plan.

(b) The Agreement shall authorize the County or any person authorized by the County to enter the property at a mutually agreeable time and after having given the mining operator or permittee a minimum 24 hour notice, to perform an inspection at least once each calendar year, as mandated by the State, or follow-up inspections as a result of the once a year inspections. The Agreement shall also authorize the County or any person authorized by the County to enter the property at any reasonable time to investigate any suspected violation of any condition of the Major Use Permit or Reclamation Plan and/or for emergency abatement of hazardous conditions. Said Agreement shall be executed by the permittee, the owner of the property and by holders of any lien upon the property which could ripen into a fee, other than government entities. The permittee shall provide acceptable evidence of title showing all existing legal and equitable interests in the property. The Director of Planning and Development Services is hereby authorized to execute and accept the Agreement on behalf of the County. The Agreement shall be recorded before any mining is done.

(c) The Agreement shall be secured by financial assurances as follows:

(1) Pursuant to Section 2773.1 of SMARA, financial assurances shall be provided in an amount as specified in subsection (d), to assure that the site is reclaimed in accordance with the requirements of the approved Reclamation Plan. The assurance shall be made payable to the Director of Planning and Development Services and the California Department of Conservation and may take the form of surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurance adopted by the State Mining and Geology Board, which the County reasonably determines will be readily available to pay for reclamation in accordance with the surface mining operation's approved Reclamation Plan.

(2) The County Official may also require that additional, separate security be provided pursuant to Section 7362.a of the Zoning Ordinance, to insure the performance of conditions of a major use permit for a surface mining operation or a reclamation plan, other than the obligation to reclaim the site in accordance with the Reclamation Plan.

(d) The financial assurances required by paragraph (c)(1) shall be in an amount equal to the estimated cost to reclaim, in accordance with the requirements of the approved Reclamation Plan, all disturbed, unreclaimed lands and all acreage expected to be disturbed in the forthcoming year, to a condition that will not constitute a danger to the public health or safety and that will provide for the type of reclamation required in the Reclamation Plan. The surface mining operator or permittee shall provide an estimate of the cost of reclamation prepared by a state-registered civil engineer. All financial assurances shall be forwarded to the California Department of Conservation for review at least 45 days prior to County approval. The Director of Planning and Development Services shall review all financial assurance estimates and shall approve those that are sufficient. The estimate must be submitted not later than July 1st of each year. If the operator or permittee does not submit this estimate by the required deadline, the County may calculate an estimate of assurance. The staff time spent calculating this estimate will be charged against the inspection deposit. The financial assurance shall be provided to the

County within 60 days of notification of the Director of Planning and Development Services' approval of the financial assurance amount.

(e) The amount specified in paragraph (d) shall be adjusted annually to account for new lands disturbed or expected to be disturbed in the forthcoming year by surface mining operations, inflation, and reclamation of lands accomplished in accordance with the approved Reclamation Plan. In no event shall the amount of assurance required be construed as a limitation on the liability of the permittee.

(f) The surface mining operator or permittee, and the surety(ies) providing financial assurances, shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the County in causing any and all work covered by the assurances to be done. When reclamation has been completed in accordance with the approved Reclamation Plan, financial assurances pursuant to paragraph (c)(1) above shall no longer be required and shall be released, upon written notification by the County, which shall be forwarded to the surface mining operator or the permittee and the Director of Conservation. Financial assurances provided pursuant to paragraph (c)(2) above shall be released and returned upon completion of the covered work or performance of applicable conditions. In the case of a cash deposit, any unused portion thereof shall be refunded to the surface mining operator or permittee.

(g) The County must be notified no less than 180 days prior to cancellation of any financial assurance. The County may seek the forfeiture of such financial assurance if new assurance is not posted at least 30 days prior to the expiration of the financial assurance.

(h) If a mining operation is sold or ownership is transferred to another person, the existing financial assurances shall remain in force and shall not be released by the lead agency until new financial assurances are secured from the new owner and have been approved by the County.

(i) The County Official is authorized to terminate and release the Agreement and the right of entry, and to execute all documents necessary to effectuate such termination and release, upon determining that all required reclamation work and other obligations of the Agreement have been completed to the County Official's satisfaction.

Section 93. Section 87.803 of the County Code is amended to read as follows:

SEC. 87.803. DEFINITIONS.

Whenever the following words are used in this Division they shall have the following meanings:

(1) "AGRICULTURAL OPERATIONS" or "AGRICULTURAL PRODUCTION" shall mean routine and ongoing commercial operations associated with a farm, grove, dairy, or other agricultural business, and shall include:

(a) The cultivation and tillage of the soil; crop rotation; fallowing for agricultural purposes; the production, cultivation, growing, replanting and harvesting of any agricultural commodity including viticulture, vermiculture, apiculture, or horticulture;

(b) The raising of livestock, fur bearing animals, fish, or poultry, and dairying;

(c) Any practices performed by a farmer on a farm as incident to or in conjunction with those farming or grove operations, including the preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market; and

(d) Ordinary pasture maintenance and renovation and dry land farming operations consistent with rangeland management and soil disturbance activities.

All such activities must be consistent with the economics of commercial agricultural operations and other similar agricultural activities. The final determination of a qualifying use shall be made by the County Official.

(2) "BEDROCK" is the solid undisturbed rock in place either at the ground surface or beneath surficial deposits of gravel, sand or soil.

(3) "CERTIFY" or "CERTIFICATION" shall refer to a signed written statement that the specific inspections and tests where required have been performed and that such tests comply with the applicable requirements of this Division.

(4) "CIVIL ENGINEER" is an engineer duly registered by the State of California to practice in the field of civil engineering.

(5) "CLEARING" shall mean the removal or destruction of natural vegetation by any means, including brushing and grubbing.

(6) "COMPACTION" shall mean densification of a soil or rock fill by mechanical or other acceptable procedures.

(7) "COUNTY OFFICIAL" shall generally mean the Director of Public Works or his or her authorized representative, except that it shall mean the Director of Planning and Development Services or his or her authorized representative when used in any of the following contexts:

- (a) minor grading pursuant to Section 87.206 (b);
- (b) clearing pursuant to Chapter 5 of this Division;
- (c) surface mining pursuant to Chapter 7 of this Division; or
- (d) exercise of enforcement authority given to the Director of Planning and

Development Services under Section 87.102.

(8) "COUNTY STORMWATER STANDARDS MANUAL" shall mean the manual adopted by Ordinance No. 9426 (N.S.) as Appendix A to the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance (San Diego County Code Section 67.801 and following).

(9) "CUT" shall have the same meaning as "excavation."

(10) "EMBANKMENT" shall have the same meaning as "fill."

(11) "ENGINEERING GEOLOGIST" is a geologist duly registered by the State of California and certified in "Engineering Geology" by the State.

(12) "ENGINEERING GEOLOGY" is the application of geological data and principles to engineering problems dealing with naturally occurring rock and soil for the purpose of assuring that geological factors are recognized and adequately interpreted in engineering practice.

(13) "EROSION" shall mean the process by which the ground surface is worn away by the action of water or wind.

(14) "EXCAVATION" shall mean any act by which soil, sand, gravel or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and shall include the conditions resulting therefrom.

(15) "EXPANSIVE SOIL" is any soil which swells more than 3 percent when prepared and tested in accordance with the test prescribed by Chapter 6 or other equivalent test approved by the County Official.

(16) "FILL" shall mean deposits of soil, sand, gravel, rock or other materials placed by man.

(17) "FINISH GRADE" is the final grade or elevation of the ground surface conforming to the proposed design.

(18) "FLOOD PLAIN" means a land area in and adjoining a river, stream, watercourse, ocean, bay or lake, which is likely to be flooded.

(19) "FLOOD PLAIN FRINGE" means all that land lying within the 100-year flood plain that is not within a floodway, where a floodway has been defined.

(20) "FLOODWAY" means the channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood. The selection of the floodway shall be based on the principle that the area chosen for the floodway must be designed to carry the waters of the 100-year flood, without increasing the water surface elevation of that flood more than one foot at any point. "100-YEAR FLOOD" means a flood estimated to occur on an average of once in 100 years (one percent probability of occurrence each year) which is determined from an analysis of historical flood and rainfall records and computed in accordance with the San Diego County Flood Control District Design and Procedure Manual approved by the Board of Supervisors on May 19, 1970, and filed with the Clerk of the Board of Supervisors as Document Number 427201 and as amended by the Board of Supervisors on July 8, 1975, and filed with the Clerk of the Board of Supervisors as Document Number 506917.

(21) "GRADING" is any excavating or filling or combination thereof and shall include the land in its excavated or filled condition.

"AGRICULTURAL GRADING" is grading which meets the requirements of Section 87.205 and is not exempt under Section 87.202(d). "MINOR GRADING" is grading which meets the requirements of Section 87.206. "PREVIOUSLY APPROVED PROJECT GRADING" is grading which meets the requirements of Section 87.207. "MAJOR GRADING" is grading which is governed by Section 87.208. In calculating the quantities of grading, soil to be removed and replaced for purposes of conditioning and compaction shall not be included.

(22) "GRADING PLANS" are plans for proposed grading work, which contain the matters required by Section 87.204 through 87.208 of this Division.

(23) "IMPROVEMENT PLANS" are plans for road or drainage improvements which are presented to the County for approval, which also show grading work associated with such road or drainage improvements. "Improvement plans" include plans which accompany a subdivision improvement agreement and other agreements entered into with the County which require the construction of improvements.

(24) "LANDSCAPE ARCHITECT" shall mean a landscape architect registered by the State of California.

(25) "MSCP Subarea" shall mean that area shown as the "County of San Diego MSCP Subarea" on the map referenced in Section 86.502 of this Code.

(26) "MAJOR SLOPE" shall mean any constructed slope which is greater than fifteen feet in vertical height measured from toe of slope to brow of slope as illustrated in San Diego County Design Standard DS-10 and DS-11 on file with the San Diego County Engineer.

(27) "MINOR SLOPE" shall mean any constructed slope which is not a major slope.

(28) "NATURAL GROUND SURFACE" shall mean the ground surface in its original state before any grading, excavation or filling.

(29) "OWNER" shall mean any person who is the owner of, has a possessory interest in, has possession or control of, or occupies, real property. The County of San Diego is not a "person" (See Section 12.115 of this Code) and shall not be considered an "OWNER" of real property for purposes of this Division, even if it is the holder of an open space easement, drainage easement, flowage easement, development restriction easement or other interest less than fee title, and regardless of whether it exercises or enforces its rights under such easement or interest.

(30) "PERMITTEE" shall mean any person to whom a permit is issued pursuant to this division.

(31) "PERSON" shall have the meaning assigned in Section 12.115 of this Code.

(32) "SITE" is any lot or parcel of land or combination of contiguous lots or parcels of land where grading is performed or permitted.

(33) "SLOPE" shall mean the inclined exposed surface of a fill, excavation or natural terrain.

(34) "SOIL" is all earth material of whatever origin that overlies bedrock and may include the decomposed zone of bedrock which can be excavated readily by mechanical equipment.

(35) "SOIL ENGINEER" shall mean a person who meets the qualifications stated in Section 6736.1 of the Professional Engineers Act (Business and Professions Code Section 6700 and following).

(36) "STRUCTURAL ROCK FILLS" shall mean fills constructed predominantly of rock materials for the purpose of supporting structures.

(37) "VERTICAL HEIGHT" shall be the measurement from the toe of the slope to a point projected horizontally from the top of the slope.

(38) "WATERCOURSE" means any surface water body (including any arroyo, canal, channel, conduit, creek, culvert, ditch, drain, gully, ravine, reservoir, river, stream, wash, waterway or wetland), in which waters from a tributary drainage area of 100 acres or larger flow in a definite direction or course, either continuously or intermittently, and any area adjacent thereto which is subject to inundation from a 100-year flood.

Section 94. Section 810.102 of the County Code is amended to read as follows:

SEC. 810.102. DEFINITIONS.

Words used herein that are defined in Title 8, Division One of the Code of Regulatory Ordinances but not specifically defined in this Chapter shall have the same meaning as is given to them in Title 8, Division One of the Code of Regulatory Ordinances. Any zoning matters referred to herein shall have the same meaning as is ascribed to them in the Zoning Ordinance. Whenever the following words are used in this Chapter, they shall have the meaning ascribed to them in this section.

(a) "Active Recreational Uses" means recreation facilities occurring on level or gently sloping land (maximum 10%) restricted for park and recreation purposes in a planned development which are designed to provide individual or group activities of an active nature

common to local parks in San Diego County, including, but not limited to, open lawn, sports fields, court games, swimming pools, children's play areas, picnic areas, recreation buildings, dance slabs, and recreational community gardening. Active Recreational Uses do not include natural open space, nature study areas, open space for buffer areas, steep slopes, golf courses, riding and hiking trails, scenic overlooks, water courses, drainage areas, water bodies (lakes, ponds, reservoirs), marinas and boating areas, parking areas, and archaeology areas.

(b) "Approving Body" means the Planning Commission or the Board of Supervisors as the case may be.

(c) "Development" means a subdivision, mobilehome park or construction or installation of a dwelling. Development does not include: (1) Subdivisions created for industrial or commercial purposes, (2) Transient habitation resort services for which occupancy is limited to 90 days for any person in any 12 month period pursuant to Sections 6400 through 6449, inclusive, of the Zoning Ordinance, or cabin or motel units which are not to be used as primary residences and which are to be constructed within and primarily to serve Federal, State or County parks or forest, (3) Recreational Trailer Parks, Temporary Trailer Parks, or Travel Trailer Parks as those terms are defined in the Mobilehome Parks Act; (4) Condominium projects or stock cooperatives, as defined in Title 8, Division One of the Code of Regulatory Ordinances, which consist of the subdivision of air-space in an existing apartment building which is more than five (5) years old when no new dwelling units are added.

(d) "Director", unless otherwise specified, means the Director of the Department of Planning and Development Services of the County of San Diego.

(e) "Dwelling" means a building or portion thereof used for residential purposes, including one-family, two-family and multiple dwellings, and shall also mean mobilehome, and mobilehome sites or spaces in mobilehome parks.

(f) "Dwelling Unit" means one or more rooms in a dwelling or multiple dwelling or apartment hotel used for occupancy by one family (including servants and employees of such family) for living or sleeping purposes, and having only one (1) kitchen.

(g) "Family" means an individual, or two (2) or more persons related by blood or marriage, or a group of not more than five (5) persons, excluding servants, who are not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

(h) "Neighborhood and Community Park or Recreational Purposes" means local parks as defined in the Recreation Element of the San Diego County General Plan - 1990 including mini parks (playlots and vest pocket parks), neighborhood parks, and community parks; and shall also mean the types of facilities common to local parks when they occur in a regional park and are available to serve the recreational needs of residents within the local park service radius as defined in the standards for park and recreation facilities in the Recreation Element.

(i) "Recreational Community Gardening" means the land and facilities in a planned development for the cultivation of plant material, not for sale, by persons other than, or in addition to, the owner of such land.

Section 95. Section 810.306 of the County Code is amended to read as follows:

SEC. 810.306. DEFINITIONS.

Whenever the following words are used in this chapter, they shall have the meaning ascribed to them in this section.

(a) "Development" means all construction for which a building permit or other permit is required.

(b) "Director" means the Director of the Department of Planning and Development Services of the County of San Diego.

(c) "Other permits" means major and minor use permits.

(d) "Clerk" means the Clerk of the Board of Supervisors of the County of San Diego.

(e) "Fire Agency" and "Agency" means any special district providing fire protection services within the unincorporated area of the County. "Fire Agency" also includes the County when providing fire protection services through a County Service Area.

(f) "Facilities and Equipment" means any long-term capital facilities and equipment used by a fire agency for fire suppression or emergency medical services including station construction, station expansion and fire or emergency medical apparatus.

(g) "Administrator" means the Director of the County Department designated by the Chief Administrative Officer to facilitate Annual Report review.

Section 96. Section 812.204 of the County Code is amended to read as follows:

SEC. 812.204. DEFINITIONS.

As used in this Chapter, the following words have the following definitions:

(a) Trail: a right-of-way that has been dedicated to and accepted by the County and that is for non-motorized recreation and transportation, such as riding horses, bicycling, hiking and walking. A trail is usually located away from roads in a natural environment, such as an area preserved as open space, and may be located on either public, semi-public or private land.

(b) Pathway: a trail located in or adjacent to a public road right-of-way.

(c) Official trail sign: a sign approved by the Department of Parks and Recreation or Department of Public Works related to the trail or pathway.

(d) County Official: the Director of Parks and Recreation, the Director of Public Works or the Director of Planning and Development Services or their respective agents, deputies or designees.

Section 97. Section 91.1.103 of the County Code is amended to read as follows:

SEC. 91.1.103. DEPARTMENT OF PLANNING AND DEVELOPMENT SERVICES TO ADMINISTER AND ENFORCE.

The Director of the County Department of Planning and Development Services shall be responsible to administer and enforce this chapter and may appoint members of the Department and hire outside contractors to assist. The Director and any person appointed or hired by the Director to administer and enforce this chapter shall be referred to as the "building official."

Section 98. Section 91.1.105 of the County Code is amended to read as follows:

SEC. 91.1.105. PERMITS.

(a) Except as provided in section 91.1.105.2, no person shall erect, construct, enlarge, alter, repair, maintain, move, improve, remove, convert or demolish a building or structure regulated by this chapter without a separate permit for each building or structure, issued by the building official. This section shall not be construed to require separate permits for a dwelling and auxiliary buildings or structures on the same property which are described in a building permit application, plot plan and other drawings.

(b) No person shall construct a residential driveway and no person shall cause or allow a residential driveway to be constructed on property owned or controlled by the person without having obtained a permit as provided in this chapter. A person shall not be required to obtain a separate permit for a residential driveway ancillary or accessory to the construction of a single family dwelling or duplex.

(c) No person shall do any grading, for which a grading permit is required, without a grading permit issued as provided in Title 8, Division 7 of this code. When the grading permit is issued by the building official a building permit shall be obtained to cover all retaining walls, drainage structures and related items (other than standard terrace drains and similar facilities). The building permit fee shall be based on the total valuation of the retaining walls, drainage structures and related items.

(d) No permits shall be issued for construction on a site where a grading permit is required until the rough grading has been inspected and approved, acceptable compaction and other soil reports have been approved and until all plan check fees required under this code have been paid.

(e) No permit shall be issued on a site where grading or public improvements installation work is being performed subject to the approval of the Director of Public Works until the Director of Public Works notifies the Director of Planning and Development Services in writing that the grading or public improvement work has been satisfactorily completed.

Section 99. Section 91.1.113.2 of the County Code is amended to read as follows:

SEC. 91.1.113.2. BUILDING CONSTRUCTION ADVISORY BOARD OF APPEALS.

This section establishes a Building Construction Advisory Board of Appeals (BCA Board) consisting of five members. The Building Industry Association of San Diego County shall appoint two members and one alternate, the President of the San Diego Chapter of the International Code Council shall appoint two members and one alternate and the Director of the San Diego County Department of Planning and Development Services shall appoint one member with one alternate. Three members shall constitute a quorum for the transaction of business and three affirmative votes shall be necessary to render a decision. The San Diego County Department of Planning and Development Services appointee shall act as the secretary of the BCA Board. The BCA Board shall adopt reasonable rules and regulations for conducting its review and shall render decisions and findings in writing to the Director of Planning and Development Services, with a copy to the appellant. The BCA Board's decision shall make a

recommendation to the Director of Planning and Development Services, advising whether the decision appealed from should be upheld or modified. The Director of Planning and Development Services shall consider the BCA Board's recommendation and provide a final decision in writing to the appellant, within 15 days of receipt of the BCA Board's recommendation.

Section 100. Section 91.1.001 of the County Code is amended to read as follows:

SEC. 96.1.001. ADOPTION OF COUNTY AMENDMENTS TO THE CALIFORNIA FIRE CODE.

Every three years the State of California adopts a new California Fire Code, as part of the California Building Standards Code (CBSC). Under Health and Safety Code section 17958 the CBSC becomes effective as to the County of San Diego 180 days after publication by the California Building Standards Commission. Pursuant to Health and Safety Code sections 17958.5 and 17958.7 a county may adopt modifications or changes to the CBSC that are reasonably necessary because of local climatic, geological and topographical conditions. In this chapter the County adopts modifications and changes to the Fire Code portion of the CBSC that are reasonably necessary because of the County's climatic, geological and topographical conditions.

The County adopts as the County Fire Code, for the unincorporated area of the County, the following: the 2007 Fire Code portion of the CBSC, including appendices to Chapters 1 & 4 and appendices B, F & H, the 2006 International Fire Code (IFC) and the National Fire Protection Association Standards 13, 13-R & 13-D, 2002 Editions, together with the County's amendments in this chapter. To determine which of these codes governs in any particular case, code amendments adopted by the State of California shall take precedence over the 2006 IFC and the 2006 IFC shall be used for those code sections not adopted by the State. Amendments the County adopts shall take precedence over both the 2006 IFC and 2007 CBSC provisions.

This County Fire Code is adopted for the protection of the public health and safety. It includes definitions, requirements for permits and inspection for installing or altering systems, regulations for the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, equipment use and maintenance of buildings and structures, including the installation, alteration or repair of new and existing fire protection systems and their inspection and provides penalties for violation of this code. It shall apply to all new construction and to any alterations, repairs, or reconstruction, except as otherwise provided for in this chapter.

Nothing in this chapter shall interfere with or impede the authority of the Department of Planning and Development Services as authorized by the Board of Supervisors.

Section 101. Section 96.1.004 of the County Code is amended to read as follows:

SEC. 96.1.004. RESPONSIBILITY FOR ENFORCEMENT.

- (a) The Sheriff shall be responsible for enforcing Chapter 33 of the California Fire Code, which deals with explosives and fireworks.
- (b) All other portions of the County fire code shall be enforced as follows:
 - (1) By the Department of Planning and Development Services, under the supervision of the County Chief Fire Inspector, also referred to as the County Fire Marshal, in all unincorporated areas of the County which are outside a fire protection district.
 - (2) For areas in a fire protection district, by the district fire chief.

Section 102. Section 96.1.202 of the County Code is amended to read as follows:

SEC. 96.1.202. DEFINITIONS.

Section 202 of the California Fire Code is revised by adding or modifying the following definitions:

COUNTY SERVICE AREA (CSA). A service area formed pursuant to California Government Code sections 25210.1 et seq. to provide fire protection, emergency medical services or other government services.

DISTANCE MEASUREMENT. All specified or referenced distances are measured along the ground, unless otherwise stated.

FIRE AUTHORITY HAVING JURISDICTION (FAHJ). The designated entity providing enforcement of fire regulations as they relate to planning, construction and development. The FAHJ may also provide fire suppression and other emergency services.

FIRE CHIEF. The fire chief is one of the following:

- (a) The person appointed by the Director of the Department of Planning and Development Services to serve as fire chief in the unincorporated areas not within a fire protection district.
- (b) The chief officer of a fire protection district.
- (c) The Sheriff when enforcing Chapter 33 within the unincorporated areas not within a fire protection district.

FIRE CODE OFFICIAL. In the unincorporated areas of the County and not within a fire protection district, a person appointed by the Fire Warden of the San Diego County Fire Authority to administer and enforce this chapter. In a fire protection district, the fire chief or any person appointed by the chief to administer and enforce this chapter.

FIRE DEPARTMENT. Any regularly organized fire department, fire protection district, fire company, or legally formed volunteer fire department registered with the County of San Diego regularly charged with the responsibility of providing fire protection to a jurisdiction.

FIRE HAZARD. Any condition or conduct which: (a) increases or may increase the threat of fire to a greater degree than customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire or (b) may obstruct, delay, hinder or interfere with the operations of the fire department or the egress of occupants in the event of fire.

FIRE PROTECTION DISTRICT. Any fire protection district created under State law and any water district providing fire protection services.

FUEL MODIFICATION ZONE. A strip of land where combustible vegetation has been thinned or modified or both and partially or totally replaced with approved fire-resistant and/or

irrigated plants to provide an acceptable level of risk from vegetation fires. Fuel modification reduces the radiant and convective heat on a structure and provides valuable defensible space for firefighters to make an effective stand against an approaching fire front.

HAZARDOUS FIRE AREA. Any geographic area mapped by the State or designated by a local jurisdiction as a moderate, high or very high fire hazard area or which the FAHJ has determined is a hazardous fire area, because the type and condition of vegetation, topography, weather and structure density increase the probability that the area will be susceptible to a wildfire.

HIGH-HAZARD GROUP H. High-hazard Group H occupancy includes, among others, the use of a building or structure or a portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard in quantities in excess of quantities allowed in control areas constructed and located as required in section 2703.8.3. Hazardous uses are classified in Groups H-1, H-2, H-3, H-4 and H-5 and shall comply with this chapter and the requirements of section 415 of the California Building Code.

Exceptions: The following shall not be classified in Group H, but shall be classified in the occupancy that they most nearly resemble:

1. Buildings and structures that contain not more than the maximum allowable quantities per control area of hazardous materials as shown in Tables 2703.1.1(1) and 2703.1.1(2), provided that the buildings are maintained as provided with this chapter.
2. Buildings utilizing control areas in compliance with section 2703.8.3 that contain not more than the maximum allowable quantities per control area of hazardous materials as shown in Tables 2703.1.1(1) and 2703.1.1(2).
3. Wholesale and retail sales and storage of flammable and combustible liquids in mercantile occupancies conforming to Chapter 34 of the California Fire Code.
4. Closed piping systems containing flammable or combustible liquids or gases utilized for the operation of machinery or equipment.
5. Cleaning establishments that utilize combustible liquid solvents having a flash point of 140°F (60°C) or higher in closed systems employing equipment listed by an approved testing agency, provided that this occupancy is separated from all other areas of the building by 1-hour fire barriers constructed in compliance with section 706 of the California Building Code or 1-hour horizontal assemblies constructed in accordance with section 711 of the California Building Code, or both.
6. Cleaning establishments that utilize a liquid solvent having a flash point at or above 200°F (93°C).
7. Liquor stores and distributors without bulk storage.
8. Refrigeration systems.
9. The storage or utilization of materials for agricultural purposes on the premises.
10. Stationary batteries utilized for facility emergency power, uninterrupted power supply or telecommunication facilities, provided that the batteries are provided with safety venting caps and ventilation is provided in accordance with the California Mechanical Code.
11. Corrosives contained in household or personal products or commonly used building materials, in their original retail packaging.
12. Display and storage of nonflammable solid and nonflammable or noncombustible liquid hazardous materials in quantities not exceeding the maximum allowable quantity per control area in Group M or S occupancies complying with section 2703.8.3.5.

13. The storage of black powder, smokeless propellant and small arms primers in Groups M and R-3 and special industrial explosive devices in Groups B, F, M and S, provided the storage conforms to the quantity limits and requirements of this chapter.

HIGH-RISE BUILDING. As used in this code:

1. "Existing high-rise structure" means a high-rise structure, the construction of which is commenced or completed prior to July 1, 1974.
2. "High-rise structure" means every building of any type of construction or occupancy having floors used for human occupancy located more than 55 feet above the lowest floor level having "building access," as defined in California Building Code, section 403.1.2, except buildings used as hospitals as defined in Health and Safety Code section 1250.
3. "New high-rise structure" means a high-rise structure, the construction of which commenced on or after July 1, 1974.

RESPONSE TIME. The elapsed time from the fire department's receipt of the first alarm to when the first fire unit arrives at the scene.

STRUCTURE. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some manner.

Section 103. Section 96.1.4702 of the County Code is amended to read as follows:

SEC. 96.1.4702. DEFINITIONS.

Section 4702 of the California Fire Code is revised to read:

SECTION 4702

DEFINITIONS

Sec. 4702.1 General. For the purposes of this chapter, certain terms are defined as follows:

BUILDING OFFICIAL means the Director of the Department of Planning and Development Services or any person appointed or hired by the Director to administer or enforce the County's planning and construction standards. The building official duties shall include plan checking, inspections and code enforcement.

CDF DIRECTOR means the Director of the California Department of Forestry and Fire Protection.

COMBUSTIBLE VEGETATION means material that in its natural state will readily ignite, burn and transmit fire from native or landscape plants to any structure or other vegetation. Combustible vegetation includes dry grass, brush, weeds, litter or other flammable vegetation that creates a fire hazard.

DEFENSIBLE SPACE is an area either natural or man-made, where material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur.

FIRE PROTECTION PLAN (FPP) is a document prepared for a specific project or development proposed for the wildland-urban interface fire area that describes ways to minimize and mitigate the fire problems created by the project or development, with the purpose of reducing impact on the community's fire protection delivery system.

FIRE HAZARD SEVERITY ZONES are geographical areas designated pursuant to California Public Resources Code sections 4201 through 4204 and classified as Very High, High and

Moderate in State Responsibility Areas or as Local Agency Very High Fire Hazard Severity Zones designated pursuant to California Government Code sections 51175 through 51189.

The California Code of Regulations, Title 14, Section 1280 entitles maps of these geographical areas as "Maps of the Fire Hazard Severity Zones in the State Responsibility Area of California."

FUEL BREAK is an area, strategically located for fighting anticipated fires, where the native vegetation has been permanently modified or replaced so that fires burning into it can be more easily controlled. Fuel breaks divide fire-prone areas into smaller areas for easier fire control and to provide access for fire fighting.

LOCAL AGENCY VERY HIGH FIRE HAZARD SEVERITY ZONE means an area designated by a local agency upon the recommendation of the CDF Director pursuant to Government Code sections 51177(c), 51178 and 51189 that is not a State Responsibility Area and where a local agency, city, county, city and county, or district is responsible for fire protection.

OPEN SPACE EASEMENT means any right or interest in perpetuity or for a term for years in open-space land, as that term is defined in Government Code sections 51065(a), acquired by the County, a city or a nonprofit organization where the instrument granting the right or interest imposes restriction on use of the land, to preserve the land for public use or enjoyment of the natural or scenic character of the land.

OPEN SPACE PRESERVE means open-space land, as that term is defined in Government Code section 65560(b), for the preservation of natural resources, managed production of resources, outdoor recreation, public health and safety, buffer for a military installation or the protection of cultural resources.

SLOPE is the variation of terrain from the horizontal; the number of feet, rise or fall per 100 feet, measured horizontally, expressed as a percentage.

STATE RESPONSIBILITY AREA means lands that are classified by the Board of Forestry pursuant to Public Resources Code section 4125 where the financial responsibility of preventing and suppressing forest fires is primarily the responsibility of the State.

TREE CROWN means the primary and secondary branches growing out from the main stem, together with twigs and foliage.

WILDFIRE is any uncontrolled fire spreading through vegetative fuels that threaten to destroy life, property, or resources as defined in Public Resources Code sections 4103 and 4104.

WILDFIRE EXPOSURE is one or a combination of radiant heat, convective heat, direct flame contact and burning embers being projected by vegetation fire to a structure and its immediate environment.

WILDLAND-URBAN INTERFACE FIRE AREA is a geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code Sections 4201 through 4204 and Government Code Sections 51175 through 51189, or other areas designated by the enforcing agency to be at a significant risk from wildfires.

Section 104. Section 96.1.4703 of the County Code is amended to read as follows:

SEC. 96.1.4703. FIRE PROTECTION PLAN.

Section 4703 of the California Fire Code is revised to read:

SECTION 4703

FIRE PROTECTION PLAN

Sec. 4703.1 When required. The Department of Planning and Development Services or the fire protection district may require an applicant for a parcel map, subdivision map, specific plan or major use permit for any property located in a wildland-urban interface fire area to submit a Fire Protection Plan (FPP) as part of the approval process.

Sec. 4703.2 Content. The FPP shall consider location, topography, geology, aspect, combustible vegetation (fuel types), climatic conditions and fire history. The plan shall address the following in terms of compliance with applicable codes and regulations including but not limited to: water supply, vehicular and emergency apparatus access, travel time to nearest serving fire station, structural ignitability, structure set back, ignition-resistive building features, fire protection systems and equipment, impacts to existing emergency services, defensible space and vegetation management.

The FPP shall be prepared as prescribed in the County of San Diego Land Use and Environment Group "Guidelines for Determining Significance and Report Format and Content Requirements for Wildland Fire and Fire Protection" document.

Section 105. Section 96.1.APP.105.8 of the County Code is amended to read as follows:

SEC. 96.1.APP.105.8. NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH REQUIRE PERMITS.

Appendix Chapter 1, section 105.8 is added to the California Fire Code to read:

Sec. 105.8 New materials, processes or occupancies which require permits. The fire code official may determine, after allowing affected persons an opportunity to be heard, that a material, process or occupancy not listed in this code shall require a permit, in addition to those now enumerated in this code. In that case, the fire code official shall prepare a list of any additional material, process or occupancy that shall require a permit and post the list in a conspicuous place in the Department of Planning and Development Services, Building Division. Any interested person may obtain a copy of the list.

Section 106. Section 96.1.APP.108 of the County Code is amended to read as follows:

SEC. 96.1.APP.108. APPEALS.

Appendix Chapter 1, section 108 of the California Fire Code is revised to read:

Sec. 108.1 Appeals procedure for the County Fire Code. This section establishes appeal procedures from a County fire code official's order, decision or determination.

Sec. 108.1.1 Appeals of decisions regarding building permits. A project applicant may appeal a County fire code official's determination granting, denying or imposing conditions on an application for a building permit by filing an appeal in writing with the

Regional Fire Appeals Board (Appeals Board). Within 30 days of the filing of the appeal the Appeals Board shall make factual findings and issue a written recommendation to the County Building Official on whether the County fire code official's determination should be upheld, modified or overturned. A copy of the recommendation shall be provided to the applicant. The County Building Official shall act on the Appeals Board's recommendation and issue a written decision to the parties within 15 days of receipt of the Appeals Board's recommendation. The Building Official's decision shall be final.

Sec. 108.1.2 Appeals of decisions regarding discretionary permits. A project applicant may appeal a County fire code official's determination relating to the application of this code to an application for a discretionary permit by filing an appeal in writing with the Appeals Board. Within 30 days of receipt of the appeal the Appeals Board shall review the County fire code official's determination, make factual findings and issue a recommendation to uphold, overrule or modify the determination. The Appeals Board shall provide its recommendation to the party that filed the appeal, the County fire code official and the Department of Planning and Development Services. The Appeals Board's recommendation shall be presented to the County decision-making body when it considers the application for the discretionary permit.

Sec. 108.1.3 Regional Fire Appeals Board. This section establishes a Regional Fire Appeals Board consisting of five members. The Appeals Board shall consist of the following:

- One representative from the San Diego County Fire Districts Association.
- One fire marshal from the unincorporated area of the County.
- One operational chief officer from CAL FIRE.
- One representative from the Department of Planning and Development Services, who has not been involved in previous decisions on the project.
- One representative from a fire district.

Three members shall constitute a quorum for the transaction of business and three affirmative votes shall be necessary to render a decision. A representative from the San Diego County Fire Authority shall act as secretary of the Appeals Board. The Appeals Board shall adopt reasonable rules and regulations for conducting its review.

Section 107. This ordinance shall be implemented on November 26, 2012.

Section 108. This ordinance shall take effect and be in force thirty days after its passage and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Commerce a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 25th day of September, 2012.