

ORDINANCE NO. 9428 (NEW SERIES)

**AN ORDINANCE AMENDING THE SAN DIEGO COUNTY REGULATORY
CODE OF ORDINANCES SUBDIVISION ORDINANCE RELATING TO THE
PROCESSING OF ENVIRONMENTAL SUBDIVISIONS AND PROVIDING FOR
THE WAIVER OF FEES FOR SUCH SUBDIVISIONS**

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

Section 1. The Board of Supervisors finds and determines that the California Legislature has created a mechanism whereby land may be subdivided for biotic and wildlife purposes. Such environmental subdivisions are authorized by section 66418.2 of the Government Code and can be useful in implementing the County of San Diego's Open Space and Multiple Species Conservation Program. The waiver of fees for processing an environmental subdivision provides an incentive for a non-profit conservation group to acquire lands that have high biotic and wildlife habitat values and subdivide them for the purpose of natural resource preservation and protection of the environment. This ordinance sets forth a process by which a subdivider may create an environmental subdivision, and provides for a waiver of fees and waiver of a parcel map for processing such subdivisions in the County of San Diego.

Section 2. Section 81.215 is added to the San Diego County Code to read as follows:

**Section 81.215 WAIVER OF FEES FOR PROCESSING ENVIRONMENTAL
SUBDIVISION**

Upon written request of an applicant, the Director may waive all fees, as set forth in this Chapter, if the Director makes the following findings:

1. The application is for an environmental subdivision as defined in section 81.1400;
2. The environmental subdivision will conserve habitat that is important to the success of the County's Open Space and/or Multiple Species Conservation Program; and

Section 3: Section 81.616 of the San Diego County Code is hereby amended to read as follows:

Section 81.616. WAIVER OF PARCEL MAP

Other provisions of this division to the contrary notwithstanding, the requirement that a parcel map be prepared, filed with the Director of Public Works and recorded may be waived provided a finding is made by the Director, or on appeal by the Planning Environmental Review Board or the Board of Supervisors, that the proposed subdivision complies with the requirements as to area, improvement and design, flood and water drainage control, appropriate improved public roads, sanitary disposal facilities, water supply availability, environmental protection, and other requirements of this division and the Subdivision Map Act.

An applicant for a subdivision pursuant to this section shall pay the fee prescribed by Section 81.207 for tentative parcel maps and shall file an application and request for parcel map waiver which shall contain sufficient information in the opinion of the Director to enable the Director, or on appeal the Planning Environmental Review Board or the Board of Supervisors, to make the findings required by this section. The following types of subdivision are hereby deemed to comply with the findings required by this section for waiver of the parcel map unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates such a parcel map:

- (a) A minor subdivision wherein each resulting lot or parcel contains a gross area of forty (40) acres or more, or each of which is a quarter-quarter section or larger; provided, however, that the requirement that each resulting lot or parcel contain a gross area of 40 acres or more or be a quarter-quarter section or larger may be modified pursuant to Section 81.614 of this chapter to the extent that no such lot or parcel is smaller than 20 acres in gross area and the average gross area of all resulting lots or parcels equals 40 acres or more;
- (b) A minor subdivision only for the purpose of leasing the lots resulting from such subdivision;
- (c) A major subdivision as specified in Section 81.505 of this division.
- (d) An environmental subdivision, as specified in Section 81.1400 of this Division.

Minor subdivisions wherein dedications or improvements are required by the Director, or on appeal the Planning Environmental Review Board or the Board of Supervisors, as a condition of approval are hereby deemed not to comply with the findings required by this section for waiver of the parcel map.

The processing of any application pursuant to this section shall be subject to the same time requirements and appeal procedures as are provided in this division for tentative parcel maps. In any case where waiver of the parcel map is granted by the Director, or on appeal by the Planning Environmental Review Board or Board of Supervisors, the Director shall cause to be filed for record with the County Recorder a certificate of compliance pursuant to Chapter 11 of this division.

Section 4: Chapter 14, Section 81.1400 is hereby added to Division 1 of Title 8 of the San Diego County Code to read as follows:

(a) "Environmental subdivision" means a subdivision of land pursuant to this division for biotic and wildlife purposes that meets all of the findings specified in subdivision (b).

(b) Prior to approving or conditionally approving an environmental subdivision, the Director shall find each of the following:

(1) That factual biotic or wildlife data, or both, are or will be available to the local agency approving the environmental subdivision to support the application for approval.

(2) That provisions have been made for the perpetual maintenance of the property as a biotic or wildlife habitat, or both, in accordance with the conditions specified by any local, state, or federal agency.

(3) That an easement will be recorded in the county to ensure compliance with the conditions specified by any local, state, or federal agency. The easement shall contain a covenant with a county, city, or nonprofit organization running with the land in perpetuity, that the landowner shall not construct or permit the construction of improvements except those for which the right is expressly reserved in the instrument. This reservation shall be not inconsistent with the purposes of this section and shall not be incompatible with maintaining and preserving the biotic or wildlife character, or both, of the land.

(4) The real property is at least 20 acres in size, or it is less than 20 acres in size, but is contiguous to other land that would also qualify as an environmental subdivision and the total combined acreage would be 20 acres or more.

(5) The environmental subdivision is consistent with the General Plan.

(c) Notwithstanding subdivision (a) of Government Code Section 66411.1, any improvement, dedication, or design required by the Director, or any other local agency, as a condition of approval of an environmental subdivision shall be solely for the purposes of ensuring compliance with the conditions required by the local, state, or federal agency.

(d) After recordation of an environmental subdivision, a subdivider may only abandon an environmental subdivision by reversion to acreage pursuant to Article 1 of Chapter 6 of Division 2 (commencing with Section 66499.11) of the Government Code if the local agency finds that all of the following conditions exist:

(1) None of the parcels created by the environmental subdivision has been sold or exchanged.

(2) None of the parcels is being used, set aside, or required for mitigation purposes pursuant to this section.

(3) Upon abandonment and reversion to acreage pursuant to this subdivision, the easement for biotic and wildlife purposes is extinguished.

(e) If the environmental subdivision is abandoned and reverts to acreage pursuant to subdivision (d), all local, state, and federal requirements shall apply. Fees shall not be waived for reversions to acreage.

(f) This section shall apply only upon the written request of the landowner at the time the land is divided. This section is not intended to limit or preclude subdivision by other lawful means for the mitigation of impacts to the environment, or of the land devoted to these purposes, or to require the division of land for these purposes.

(g) Notwithstanding any other provision of law, no legislative body shall approve or conditionally approve a subdivision pursuant to this section on or after January 1, 2003, unless authorized pursuant to Government Code section 66418.2.

Section 5: 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 this 16th day of January, 2002.