

ORDINANCE NO. 9569 (NEW SERIES)

AN ORDINANCE AMENDING THE ZONING ORDINANCE
RELATING TO USE PERMITS,
M54 SCREENING, ORDINANCE CROSS-REFERENCES,
CORRECTION OF TYPOGRAPHICAL ERRORS, AND
SECOND DWELLING UNITS ACCESSORY STRUCTURES

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

Section 1. The Board of Supervisors finds and determines that the following amendments will provide a necessary update to certain sections of the County Zoning Ordinance. The amendments made by this Ordinance are intended to remove obsolete language, clarify vague provisions, and resolve minor zoning matters not effectively addressed.

Section 2. Section 7354 is hereby amended to read as follows:

7354 APPLICATION FOR THE GRANTING OF A USE PERMIT.

An application for the granting of a use permit shall be made as follows:

- a. Persons Eligible. The following persons shall be eligible to apply for the granting of a use permit.
 1. A property owner.
 2. A lessee upon written approval of the property owner.
 3. A person authorized to exercise the power of eminent domain.
- b. Required Documents. An application for the granting of a use permit shall be accompanied by the following documents:
 1. A list of the names of all persons having an interest in the application as well as the names of all persons having any ownership interest in the property involved. If any person identified pursuant to this provision is a corporation or partnership, the names of all persons owning more than 10 percent of the shares in the corporation or owning any partnership interest in the partnership shall be listed. If any person identified pursuant to this provision is a non-profit organization or trust, the names of all persons serving as directors of the non-profit organization or as beneficiaries, trustees and trustors of the trust shall be listed.
 2. Complete plans (including a plot plan) and description of the property involved and the proposed use permit. If the use permit will cover only a portion or portions of a lot or parcel, the plot plan shall include a

measurable delineation of the area to which the use permit shall apply. That area shall include all land necessary for the proposed use, together with any open space, non-development areas, or other buffer areas which are necessary to enable making the required findings for use permit approval.

3. Satisfactory evidence of the ability and intention of the applicant to proceed with actual construction work in accordance with the requested use permit within 6 months after it is granted.
 4. The appropriate environmental impact review document, as provided by Section 7610.
 5. In the case of an application for a Mobilehome Park to be pursuant to the Regional Land Use Element Policy 3.8, evidence satisfactory to the Director that the authorization for filing has been obtained as required by any applicable Board Policy.
- c. Application Form, Filing and Fee. An application for the granting or modifying of a use permit shall be made on the prescribed form and shall be filed with whoever has jurisdiction as provided by Section 7352, and shall be accompanied by the fee referenced in Section 7602.

Section 3. Section 7357 is hereby added to The Zoning Ordinance to read as follows:

7357 EFFECT OF USE PERMIT ON OTHER USE OF THE PROPERTY
The granting of a use permit does not limit or preclude the establishment or operation of any uses on the remainder of the lot(s) or parcel(s) outside the boundaries of the use permit as delineated pursuant to Section 7354(b)(2). For the portion of the parcel covered by the use permit, no use shall be allowed within the use permit boundary other than those specified in the use permit. No additional uses, by right or conditionally permitted, shall be allowed within the use permit area without modification of the permit.

Section 4. Section 6706 is hereby amended to read as follows:

6706 REQUIRED FENCES AND WALLS.
The following fences and walls shall be required:

- a. Parking Area.
 1. Fencing Requirement. All parking areas of 5 or more parking spaces, (and driveways serving such parking areas) located on parcels abutting property in any residential zone shall be separated from such abutting property by a solid fence or wall 72 inches in height.
 2. Exceptions. The following are exceptions from the requirements of Paragraph "a.1":

- i. The required fence or wall shall be 42 inches in height where said fence or wall abuts a front yard on adjacent property or that portion of any side or rear yard on adjacent property wherein the height of a fence or wall is limited to 42 inches.
 - ii. Where the finished grade of a parking area is more than 72 inches below the finished grade of adjacent property, no fence or wall is required except as necessary for the safety of persons. Where there are variations in the finished grade adjacent to the lot, these same requirements shall apply and the fence or wall shall be designed in such a way as to have a functional and aesthetic transition while protecting adjoining residential property from the lights and noise of vehicular traffic.
 - iii. The officer or body having jurisdiction over a Use Permit, Variance, Site Plan, Administrative Permit, or Building Permit may waive or modify the requirements of Paragraphs "a.1" and "a.2" if the officer or body finds that the placement of structures and other factors prevent the lights and noise of vehicular traffic from adversely affecting abutting residential property at least to the same degree as the required fence or wall.
- b. **Parking Areas in Planned Developments.** In planned developments, all open off-street parking areas shall be screened from view of nearby residents by hedges or other dense landscaping.
- c. **Open Sales, Display and Storage Areas.** All open sales, display and storage areas in the commercial zones and in zones subject to the M50, M52 and M54 Use Regulations shall be enclosed by a view-obscuring fence or wall not less than 72 inches high. This requirement shall not apply to the following commercial use types:
 1. Agricultural Sales (Retail nursery only)
 2. Automotive and Equipment: Cleaning
 3. Automotive and Equipment: Sales/Rental, Heavy Equipment
 4. Automotive and Equipment: Sales/Rental, Light Equipment
 5. Eating and Drinking Establishments
 6. Gasoline Sales provided that the use complies with Section 2980 – Limitation 12.
- d. **Mobilehome Parks and Planned Developments With Mobilehomes.** Each mobilehome park and planned development containing mobilehomes shall be

entirely enclosed at its exterior boundaries by a decorative, view-obscuring fence or wall, or by decorative screening or landscaping plants and/or materials; provided, however, that said fence, wall screening or landscaping when located within a front yard shall be constructed at or behind the required setback.

- e. Scenic Areas. In zones subject to the Scenic Area Regulations commencing at Section 5200, potentially unsightly features shall be screened from view by a view-obscuring fence or wall or by decorative screening or landscaping plants and/or materials in accordance with the provisions of an approved Site Plan.

Section 5. Section 2372 is hereby amended to read as follows:

2372 PERMITTED USES

The following use types are permitted by the C37 Use Regulations:

- a. Civic Use Types.

- Administrative Services
- Ambulance Services
- Child Care Center
- Clinic Services
- Community Recreation
- Cultural Exhibits and Library Services
- Essential Services
- Fire Protection Services (see Section 6905)
- Group Care
- Law Enforcement Services
- Lodge, Fraternal and Civic Assembly
- Minor Impact Utilities
- Parking Services
- Postal Services
- Religious Assembly
- Small Schools

- b. Commercial Use Types

- Administrative and Professional Services
- Agricultural and Horticultural Sales (all types)
- Agricultural Services
- Animal Sales and Services: Grooming
- Animal Sales and Services: Veterinary (Small Animals)
- Automotive and Equipment: Cleaning
- Automotive and Equipment: Fleet Storage
- Automotive and Equipment: Parking
- Automotive and Equipment: Repairs, Heavy Equipment
- Automotive and Equipment: Repairs, Light Equipment
- Automotive and Equipment: Sales/Rentals, Farm Equipment
- Automotive and Equipment: Sales/Rentals, Heavy Equipment

Automotive and Equipment: Sales/Rentals, Light Equipment
Automotive and Equipment: Storage, Recreational Vehicles and Boats
Building Maintenance Services
Building Equipment, Sales and Services
Business Support Services
Communication Services
Construction Sales and Services (see Section 6300)
Convenience Sales and Personal Services
Eating and Drinking Establishments
Financial, Insurance and Real Estate Services
Food and Beverage, Retail Sales
Funeral and Interment Services: Undertaking
Gasoline Sales
Laundry Services
Medical Services
Participant Sports and Recreation: Indoor
Personal Services, General
Repair Services, Consumer
Research Services
Retail Sales: General
Retail Sales: Specialty
Spectator Sports and Entertainment (all types)
Transient Habitation: Lodging
Wholesaling, Storage and Distribution: Mini-Warehouses (See Sections 1550(a) and 6300 for standards)

c. Industrial Use Types.

Custom Manufacturing (see Sections 1610 and 6300 for standards)

d. Agricultural Use Types.

Horticulture (All Types)
Tree Crops
Row and Field Crops

Section 6. Section 7060 is hereby amended to read as follows:

7060 DECISION AND NOTICE

a. Action. Upon completion of his review and evaluation of an application for an Administrative Permit, the administering agency shall either:

1. Make such findings or other determination as is required by the pertinent sections of The Zoning Ordinance and approve the application, or

2. Notify the applicant of the changes and modifications required for approval of the application, or
3. Deny the Administrative Permit. The administrative agency shall deny the permit if:
 - i. The permit cannot be conditioned by adequate requirements to insure compliance with applicable regulations, or
 - ii. The application for the permit cannot reasonably be modified to conform to the applicable requirements.
- b. Time Period. Within 60 days of receipt of a complete application for an administrative permit, the administering agency shall take such action as is specified in subsection a. of this section. The 60 day time period may be extended with the written consent of the applicant. Such application shall be deemed complete pursuant to Section 65943 of the Government Code, 30 days after submittal to the Department unless, prior to that date, either:
 1. The applicant is notified in writing that the application is complete, in which case the 60 day processing period specified in this subsection shall begin to run from the date of such written notice, or
 2. The applicant is notified in writing that the application is incomplete, which notice shall state with particularity the defects or omissions in the application, in which case the 60 day processing period specified in this subsection shall not begin to run until the date all requested information has been submitted to the Department.
- c. Notice to Property Owners. When required by applicable sections of The Zoning Ordinance, the applicant shall either obtain and submit to the Director on a form provided by the Director written consent for issuance of the administrative permit from all owners of contiguous property (including owners of parcels or lots across any street or alley from the site) or shall provide notice materials (as specified by the Director) with the permit application which shall be used by the Department to notify contiguous property owners of the receipt of said application. If required by applicable sections of the Zoning Ordinance, notice shall be given beyond such owners of contiguous property to any additional owners within the specified distance of the subject property.
- d. Public Hearing. A public hearing shall not be held unless the administering agency determines that such hearing would be in the best interest of the County, or, if required by applicable sections of The Zoning Ordinance, where a hearing is requested by the applicant or other affected person.
- e. Referral to Immigration and Naturalization Service. Applications filed pursuant to Section 4830 requesting to reduce the 150 foot setback along the International Border shall be referred to the local office of the Immigration and Naturalization Service. In the event the INS expresses an intent to acquire all or part of the subject property the administering agency shall defer final action on the

application for six months or until such time as the INS completes acquisition or abandons acquisition proceedings, whichever time period is less.

- f. **Defense of Lawsuits.** As a condition of approval of an Administrative Permit for which an application was filed (as defined in Zoning Ordinance Section 1019b.) before January 4, 2003, the applicant shall: (1) defend, indemnify and hold harmless the County, its agents, officers and employees from any claim, action or proceeding against the County, its agents, officers or employees to attack, set aside, void or annul the Administrative Permit or any of the proceedings, acts or determinations taken, done or made prior to such decision grant such permit; and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees may be required by a court to pay as a result of such approval. At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any obligation imposed by this condition. Each applicant seeking approval of any Administrative Permit, for which an application was filed (as defined in Zoning Ordinance Section 1019b) on or after January 4, 2003, shall be subject to the defense and indemnification provisions found at Chapter 2 (commencing at section 86.201) of Division 6 of Title 8 of the San Diego County Code.
- g. Notwithstanding the above, Administrative Permits for Adult Entertainment Establishments shall be governed by the requirements specified in Section 6930.

Section 7. Section 6156 is hereby amended to read as follows:

6156 **RESIDENTIAL AND AGRICULTURAL USE TYPES**

Subject to the restrictions and limitations specified, the following accessory buildings and uses shall be permitted in zones where Residential and Agricultural Use Types are permitted:

a-w [No change]

- x. **Second Dwelling Units.** In zones where the Family Residential use type is allowed by right, a second dwelling unit is permitted on a lot containing an existing single family detached residence, or to be constructed concurrently with a primary single family detached residence, provided the following requirements are complied with:

- 1. The second dwelling unit shall either be attached to the primary unit, wholly or partially integrated into the primary unit, or detached from the primary unit. The second unit may be attached to another permitted accessory building, except for those accessory units or other accessory buildings specified in paragraph 4, 5, or 6 below.

2-4 [No Change]

5. Second dwelling units with a living area exceeding 640 square feet shall provide two additional off-street parking spaces. Second dwelling units with a living area not exceeding 640 square feet shall provide one additional off-street parking space. Said additional parking spaces shall not be in tandem with existing spaces. If establishment of the second dwelling unit involves a garage conversion, replacement covered off-street parking shall be provided concurrently. If the required off-street parking is to be provided in a garage or carport attached to the second dwelling unit, such garage or carport shall not exceed 480 square feet of gross floor area. No other garages or carports shall be attached to a detached second dwelling unit.
6. The living area of a second unit shall not exceed 30 percent of the living area of the existing unit, up to a maximum floor area of 1,200 square feet, except pursuant to paragraph 12 below. However, a second unit of up to 400 square feet is permitted even if that figure exceeds 30 percent of the size of the primary dwelling. No other habitable space shall be attached to a detached second dwelling.

7-13 [No Change]

y-zz [No Change]

Section 8. Effective Date. The Ordinance shall take effect and be in force thirty days after the date of its passage, and before the expiration of fifteen days after its passage, a summary shall be published once with the names of the members voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED, AND ADOPTED this 9th day of July, 2003.