

ORDINANCE NO. 9698 (New Series)

AN ORDINANCE TO AMEND SECTION 86.101 OF THE COUNTY CODE TO AUTHORIZE THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS TO ISSUE HABITAT LOSS PERMITS IN CONNECTION WITH THE REVIEW OF GRADING AND IMPROVEMENT PLANS.

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

Section 1. The Board of Supervisors finds and determines that it is necessary to revise the following provisions pertaining to Habitat Loss Permit issuance authorization. The amendments pertaining to Habitat Loss Permit issuance authorization will add the Director of Public Works to officials that can issue Habitat Loss Permits for private land development projects, when the Department receives and reviews grading or improvement plans for project approvals that will require the issuance of a Habitat Loss Permit before work can commence.

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Section 2. Section 86.101 of the San Diego County Code is hereby 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 Land Use; 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 3. **Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in a newspaper of general circulation published in the County of San Diego.

Section 4. **Operative Date.** This Ordinance shall be operative on February 14, 2005.

PASSED, APPROVED AND ADOPTED this 15th day of December, 2004.