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AN ORDINANCE AMENDING THE SAN DIEGO COUNTY REGULATORY CODE RELATING TO ZONING AND LAND USE REGULATIONS TO UPDATE AND CLARIFY THE PROCESS, UPDATE DEFINITIONS AND TERMS, ESTABLISH THAT THE DIRECTOR OF THE DEPARTMENT OF PARKS AND RECREATION (DPR) WILL DETERMINE AND CONCUR WHETHER THERE IS THE NECESSARY ROUGH PROPORTIONALITY BETWEEN THE REQUIRED DEDICATION AND THE IMPACTS OF OR BENEFITS TO THE PROPOSED SUBDIVISION UNDER SECTION 81.402 (U), TO PROVIDE GREATER CLARITY AND MINOR GRAMMATICAL EDITS, AND RELATED ACTIONS

(Clean)

ORDINANCE NO. (NEW SERIES)

AN ORDINANCE AMENDING THE SAN DIEGO COUNTY REGULATORY CODE RELATING TO ZONING AND LAND USE REGULATIONS TO UPDATE AND CLARIFY THE PROCESS, UPDATE DEFINITIONS AND TERMS, ESTABLISH THAT THE DIRECTOR OF THE DEPARTMENT OF PARKS AND RECREATION (DPR) WILL DETERMINE AND CONCUR WHETHER THERE IS THE NECESSARY ROUGH PROPORTIONALITY BETWEEN THE REQUIRED DEDICATION AND THE IMPACTS OF OR BENEFITS TO THE PROPOSED SUBDIVISION UNDER SECTION 81.402 (U), TO PROVIDE GREATER CLARITY AND MINOR GRAMMATICAL EDITS, AND RELATED ACTIONS

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

Section 1. Purpose.

The Board of Supervisors finds and determines that the amendments made by this ordinance are intended to implement to zoning and land use regulations to update and clarify the process, update definitions and terms, establish that the Director of the Department of Parks and Recreation (DPR) will determine and concur whether there is the necessary rough proportionality between the required dedication and the impacts of or benefits to the proposed subdivision under section 81.402 (u), to provide greater clarity and minor grammatical edits, and related actions.

Section 2. Section 81.201 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 81.201. APPLICANT TO PAY ALL DEPOSITS AND FEES ESTABLISHED BY THE BOARD.

(a) When an applicant submits an application or a request pursuant to this division, the applicant shall include with the application or request all deposits and fees the Board of Supervisors (Board) establishes for that application or request.

(b) A County department shall bill its costs against an applicant's deposit. An applicant shall be liable to the County for any department's costs in excess of an applicant's deposits.

(c) Whenever a County department's costs or projected costs exceed an applicant's deposit the department shall notify the applicant to make an additional deposit.

(d) No application for a map shall proceed to an initial hearing before the advisory agency if any of the applicant's deposit accounts has a deficit or if the applicant has not paid any additional deposit required by a County department.

Section 3. Section 81.402 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 81.402. DEDICATION AND ACCESS.

No tentative map filed pursuant to this division shall be approved unless the map and its proposed conditions satisfy the following requirements:

(a) Where the property to be subdivided is located in an area identified in the County General Plan Land Use Element as Village Residential 2.9, 4.3, 7.3, 10.9, 15, 20, 24 or 30, a major subdivision shall provide access by one of the following:

- (1) Public roads dedicated in accordance with the San Diego County Standards.

(2) Private road easements at least 40 feet wide in accordance with the San Diego County Standards for Private Roads, if the Director determines the roads will ultimately serve no more than estimated 100 ADT or will not feasibly provide a current or future connection to another public road or another subdivision.

(b) Where the property to be subdivided is located in an area identified in the County General Plan Land Use Element as Village Residential 2, a Semi-Rural Residential designation, Rural Lands designation, a Public/Semi-Public designation, a Federal/State Lands designation or an Open Space-Recreation designation, a major subdivision shall provide access by one of the following:

(1) On-site roads and off site roads in areas designated for two du/acre or fewer by the County General Plan and which will ultimately serve an estimated 750 to 2500 ADT. The subdivider shall offer these roads for dedication or obtain offers for dedication, in accordance with San Diego County Standards. When the County has not accepted a dedication for the road prior to approval of the final map or parcel map, the County may instead accept a private road easement not less than 40 feet wide, centered within the offered right-of-way, in accordance with San Diego County Standards for Private Roads.

(2) On-site and off-site roads that will ultimately serve more than an estimated 2500 ADT. The subdivider shall dedicate these roads or obtain offers for dedication in accordance with San Diego County Standards.

(3) In cases where subsections (1) or (2) do not apply, on-site or off-site private road easements at least 40 feet wide in accordance with San Diego County Standards for Private Roads if the Director DPW determines the roads will ultimately serve no more than an estimated 100 ADT and will not feasibly provide a current or future connection to another public road or subdivision. If the Director DPW is unable to make this determination based on the evidence available, the subdivider shall provide access by public roads dedicated in accordance with San Diego County Standards.

(c) For subdivision access roads, the property owner shall: (1) enter into a private road maintenance agreement with the County, on a form provided by the Director, that requires the property owner to perform maintenance in perpetuity for each private road that is a subdivision access road and provides that the obligation to repair and maintain the roads shall be a covenant that runs with the land and is enforceable against all subsequent property owners, or (2) when required by the Director, with concurrence from the Director DPW, dedicate for public use all subdivision access roads that meet San Diego County Standards for Private Roads. In that case, the roads shall be maintained by a permanent road division zone established pursuant to Streets and Highway Code section 1162.6.

(d) Where the property to be subdivided is located in an area subject to a major use permit or a specific plan, streets providing on-site and off-site access shall be designed to those standards necessary to implement the development density design and objectives of the applicable adopted major use permit or specific plan.

(e) Where the property to be subdivided is located in an area identified in the County General Plan Land Use Element as a commercial or industrial designation, streets providing on-site and off-site access shall be dedicated in accordance with San Diego County Standards.

(f) Notwithstanding subsections (a) through (e) above, where the property to be subdivided abuts property that could be further subdivided under the density allowed by the General Plan or could feasibly provide access to a property that could be further subdivided, the subdivider shall provide an analysis of the public road system within the proposed subdivision and that road system shall, where feasible and practicable, be public and be designed so as to extend roads to the boundaries of the property to provide through access from the subdivision to existing or future offsite roads, with the goal of improving circulation in the vicinity.

(g) Each dedicated road which a subdivider proposes on the subdivision boundary shall be at least 40 feet wide together with a strip of land one-foot wide on its outer edge which shall be offered to the County for road purposes and over which the property owner relinquishes access rights.

(h) Each dedicated road which a subdivider proposes to terminate at the subdivision boundary shall include a one-foot wide strip of land extending across the road at its point of termination at the subdivision boundary and shall extend across portions of the adjacent lots. The subdivider shall offer the one-foot strip to the County for road purposes and over which the property owner relinquishes access rights.

(i) Each dead-end public road easement shall include a cul-de-sac that complies with San Diego County Public Road Standards. Each dead end private road easement shall include a cul-de-sac that complies with San Diego County Private Road Standards.

(j) Where it is necessary to extend a road beyond the boundaries of a subdivision to provide adequate circulation or fire protection for residents of the subdivision, the subdivider shall acquire the necessary easements at the subdivider's expense. The subdivider shall dedicate or offer these easements for dedication to the County when required by this section and shall improve the easements in accordance with San Diego County Standards for Public Roads or with San Diego County Standards for Private Roads, whichever is applicable.

(k) Where the property to be subdivided is bounded by any water body such as a lake, estuary, lagoon or river, the subdivider shall provide a street along the water body or other public access.

(l) Where the Director DPW determines a drainage facility or flood control facility is necessary for the use of lot owners or for the protection of lots, the subdivider shall provide adequate rights-of-way for these facilities and shall offer the rights-of-way for dedication to the County or other public entities. These facilities and rights-of-way shall be shown on the tentative map.

(m) Where the Director DPW determines it is necessary to extend a drainage facility or flood control facility beyond the boundaries of a subdivision for adequate drainage or flood control needs, the subdivider shall acquire the rights-of-way necessary to construct and install these facilities at the subdivider's expense and dedicate them to the County or the San Diego County Flood Control District. These rights-of-way shall provide for construction and installation of these facilities in accordance with San Diego County Standards.

(n) Where the Director DPW determines it is necessary to extend a sewer system beyond the boundaries of the subdivision, the subdivider shall acquire and provide all necessary easements and rights-of-way to accommodate the sewer system extension.

(o) The subdivider shall offer to dedicate land for park purposes, pay fees in lieu of dedication or do a combination of both, pursuant to sections 810.101 et seq.

(p) The subdivider shall offer to dedicate the necessary rights-of-way for bicycle routes in accordance with San Diego County Standards, under either of the following circumstances:

(1) When bicycle routes shown on the County General Plan pass through or abut the subdivision and the routes are reasonably related to the traffic caused by the subdivision.

(2) When a subdivider is required to dedicate rights-of-way for streets in subdivisions containing 200 or more lots and one or more bicycle routes are necessary and feasible for the use and safety of the residents.

(q) If a tentative map is subject to a condition that the subdivider dedicate an interest in real property outside the boundaries of the subdivision, the tentative map shall also be subject to the condition that the County shall not issue a grading permit pursuant to the tentative map unless one of the following occurs:

(1) Interests in real property have been acquired by the subdivider or the public agency concerned, in a form satisfactory to the Director DPW.

(2) The Board has agreed to acquire the interests in the real property.

(r) Where an off-site access road to a residential subdivision will not provide access to an on-site road to be maintained by the County or a permanent road division zone and the Planning Commission has determined that the cost to acquire the off-site access is unwarranted considering the location, traffic volume or use of the proposed subdivision, the subdivider may in lieu of dedication or an offer of dedication, obtain access via a private road easement at least 40 feet wide. In that case, before map approval, the subdivider shall obtain a certificate from a Title Insurance Company acceptable to the County, certifying that the subdivider and the subdivider's successors have a permanent road easement for access to the subdivision.

(s) In an area referred to in subsection (b) above, the subdivider shall offer to dedicate to the County, any private off-site or on-site road proposed to be private when the Director DPW determines that a high probability exists that the private road may need to be brought into the County-maintained system at some future date.

(t) All utility easements which the subdivider acquires after the tentative map has been approved shall be subordinated to any dedications to the County that the subdivider is required to make as a condition of the tentative map approval, except for major transmission facilities, mains and lines, as determined by the Director DPW.

(u) If any part of a trail corridor, as that term is defined in the Community Trails Master Plan (CTMP) appendix H, is located on the property to be subdivided, the subdivider shall prepare a trail route study to determine the specific location of the trail or pathway within the trail corridor and the type of trail or pathway to be constructed. The trail route study shall be prepared to the satisfaction of the Director DPR. The route study shall apply the trail design and locational criteria and the design and construction guidelines in the CTMP. The subdivider shall offer to dedicate a trail or pathway easement on the alignment specified in the trail route study if: (1) the trail route study the County approves concludes that all or part of the trail or pathway should be located in the trail corridor or portion thereof that is on the property to be subdivided and (2) there is the necessary rough proportionality between the required dedication and the impacts of or benefits to the proposed subdivision as determined by the Director with concurrence from the Director DPR. The trail or pathway shall be for pedestrians, equestrians and bicycles.

Section 4. Section 81.903 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 81.903. PROCEDURE FOR APPROVAL OF LOT LINE ADJUSTMENTS.

(a) An applicant for a lot line adjustment shall complete the forms provided by the Director for the application and shall provide the information the Director requires for the application. The applicant shall include an adjustment plat with the application that depicts the existing boundaries of the lots and the proposed boundaries of the lots if the County approves the application.

(b) The Director shall approve, conditionally approve or disapprove the application within 30 days after certification, adoption or completion of the environmental document or process for the application. The Director shall notify the applicant of the Director's action on the application in writing by U.S. mail pursuant to section 11.112 of this code.

(c) If the Director conditionally approves the application the Director shall list the conditions that the applicant must fulfill to receive final approval. A conditional approval shall be valid for six months from the date of the conditional approval. If within this six-month period the applicant submits documentation to the Director showing that the applicant has met all the conditions listed in the conditional approval, the Director shall approve the lot line adjustment. If the applicant does not submit the required documentation within the six-month period the conditional approval shall expire. If the applicant applies for an extension before the six month period expires the Director may grant the applicant one extension, not to exceed an additional six months, to submit the required documentation.

(d) If the Director determines that the application for the lot line adjustment meets the requirements of this division the Director shall certify the lot line adjustment approval on the adjustment plat. The Director may require the applicant to submit a revised adjustment plat when the Director finds that the number or nature of the changes approved cannot be shown clearly or simply on the original adjustment plat.

(e) If the lot line adjustment is conditionally approved, the applicant shall prepare a deed that reflects the lot line adjustment and submit the deed to the County Recorder for filing prior to final approval.

Section 5. Section 81.1103 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 81.1103. CERTIFICATES OF COMPLIANCE.

(a) An owner of real property or a person who has entered into a contract to buy real property may make a written application to the Director for a certificate of compliance.

(b) The applicant shall complete a form provided by the Director and shall provide all information required by the Director relating to the title of the property and other additional information the Director deems relevant including the following:

(1) The name and address of each person having an interest in the application and the name and address of each person having any ownership interest in the property involved.

(2) If a person identified under subsection (1) is a corporation or partnership, the name and address of each person owning more than 10% of the shares of the corporation or owning any partnership interest in the partnership.

(3) If a person identified under subsection (1) is a non-profit organization, the name and address of each person serving as director of the non-profit organization.

(4) If any person identified under subsection (1) is a trust, the name and address of each trustee, beneficiary or trustor of the trust.

(5) Legal descriptions prepared by, or under the responsible charge of, a licensed land surveyor or civil engineer authorized to practice land surveying. The documents shall include his or her name, signature, and license number.

(c) Within 50 days after receipt of the completed application the director shall determine whether the certificate of compliance shall be issued. The Director shall notify the applicant at the end of the 50 day period of the Director's decision and if the Director determines that the certificate of compliance shall be issued, the Director shall cause the certificate of compliance to be filed with the County Recorder at the applicant's expense.

(d) The Director shall issue a certificate of compliance if the Director determines that the real property in question meets one of the following requirements:

(1) At the time the property was divided or resulted from a property division, the property was in compliance with applicable County ordinances regulating the division of real property and the SMA.

(2) The property substantially conforms to a final division plat approved pursuant to former Title 8, Division 1, Chapter 6 (repealed by Ordinance No. 3829 (New Series) on February 1, 1972).

(3) The property has been approved for development pursuant to section 81.1102. Issuance of a certificate of compliance shall not remove or amend any conditions imposed in the development permit.

(4) The property has been approved for division and the County has waived the requirement for preparing, filing and recording a parcel map pursuant to section 81.617.

(5) The property merged with one or more contiguous parcels before January 5, 1978 and the County recognized the merger when it approved a lot line adjustment or a division of land plat or issued

a certificate of compliance for the property and the owner is entitled to have the property unmerged pursuant to section 81.106(c).

(6) The property has been approved as a condominium project on a single parcel and the requirement for a tentative subdivision map and the preparation, filing and recording of a final map has been waived pursuant to section 81.516.

Section 6. Section 81.1105 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 81.1105. VOLUNTARY MERGER OF PARCELS.

Pursuant to Government Code section 66499.20.3 this section provides a procedure for voluntary merger of contiguous parcels under common ownership without reverting to acreage.

(a) An applicant for a voluntary merger of parcels under this section shall submit an application to the Director on a form provided by the Director. The application shall be signed by all co-owners of the parcels to be merged and shall be accompanied by all of the following:

(1) Documents satisfactory to the Director that establish legal ownership of all parcels, common ownership of all parcels and that all parcels comply with the SMA and this division.

(2) A legal description of the proposed merged parcel.

(3) Written verification from the County Treasurer/Tax Collector that there are no tax delinquencies on any parcel the applicant seeks to merge.

(b) If the Director determines that the applicant has satisfied all requirements of this section the Director shall issue a certificate of merger. A legal description of the merged parcel shall be attached to the certificate and the Director shall cause the certificate of merger to be filed with the County Recorder at the applicant's expense.

(c) The real property described in the certificate of merger shall become one parcel when the certificate is recorded.

Section 7. Section 81.1311 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 81.1311. BOARD OF SUPERVISORS HEARING.

(a) If the Clerk of the Board receives a resolution from the Planning Commission recommending approval of the development agreement, with or without modification or the applicant requests Board consideration of the matter the Clerk of the Board shall set the matter for a public hearing before the Board, giving notice of the time, place and purpose of such hearing as provided in section 81.1309(a).

(b) The Board shall consider the proposed development agreement at the public hearing on the date set for the hearing or on the date or dates to which the hearing may be continued from time to time by the Board. The Board may take any of the following actions:

(1) Approve the development agreement.

(2) Approve the development agreement with modifications.

(3) Reject the development agreement.

(c) The Board shall only approve a development agreement if the Board makes the findings specified in section 81.1309.

(d) If the Board approves the development agreement the Board shall approve the agreement by ordinance. After the ordinance approving the development agreement takes effect, the Director may execute the agreement with the applicant.

(e) Within ten days after the Board rejects a proposed development agreement the Clerk of the Board shall give notice of the Board's action to the applicant at the address shown on the application and to the Planning Commission through the Director.

(f) Within ten days following complete execution of a development agreement, the Clerk of the Board shall record a fully executed copy of the development agreement including a legal description of the land subject to the agreement and a copy of the approved ordinance. The agreement shall be binding on the parties and their successor in interest, and the benefits of the agreement shall inure to the parties and their successors in interest.

Section 8. Section 82.107 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 82.107. COUNTY GENERAL PLAN.

The San Diego County General Plan provides for the location of public schools. Interim school facilities, whether temporary or permanent, to be constructed from fees paid or land required to be dedicated hereunder, or both, shall be consistent with the County General Plan.

Section 9. Section 82.109 of the San Diego County Regulatory Code is hereby amended to read as follows:

[Deleted]

Section 10. Section 82.206 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 82.206. EXEMPTIONS.

A residential development shall be exempt from the requirements of this division when it consists only of any of the following:

(a) Any modification or remodel of an existing legally-established dwelling unit where no additional dwelling units are created.

(b) A condominium project converting an existing apartment building into a condominium where no new dwelling units are created.

(c) Any rebuilding of a legally-established dwelling unit destroyed or damaged by fire, flood, explosion, act of God or other accident or catastrophe.

(d) Any rebuilding of an historical building recognized, acknowledged and designated as such by the County.

(e) The installation, siting or relocation of mobilehomes in then existing mobilehome parks.

(f) Any dwelling constructed to replace a dwelling taken in an eminent domain proceeding, if both dwelling sites lie within the same school district.

(g) An all-adult development, of five or more dwelling units, for which the serving school district has certified that the developer has made adequate legal assurances that all occupants residing in the development are over eighteen years of age. Such assurances may include a secured agreement to pay specified fees in the event persons eighteen years of age or under become residents of the development. Where a use permit is otherwise required by the San Diego County Zoning Ordinance for the development, further assurance shall be provided by a condition in such permit prohibiting occupants eighteen years of age or younger.

Section 11. Section 84.210 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 84.210. VARIANCES.

In the event the Building Inspector refuses to issue a building permit because of the provisions of this chapter, the Building Inspector shall inform the applicant of the reason for such refusal and of their 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 12. Section 86.101 of the San Diego County Regulatory 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 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 Wildlife 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 13. Section 86.503 of the San Diego County Regulatory Code is hereby 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 Wildlife, 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 14. Section 86.506 of the San Diego County Regulatory Code is hereby 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 15. Section 86.508 of the San Diego County Regulatory Code is hereby 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 Wildlife.

(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 16. Section 86.601 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 86.601. FINDINGS, PURPOSE AND INTENT.

The Board of Supervisors finds that the unique topography, ecosystems and natural characteristics of the County are fragile, irreplaceable resources that are vital to the general welfare of all residents; that special controls on development must be established for the County's wetlands, floodplains, steep slopes, sensitive biological habitats, and prehistoric and historic sites; and that present methods adopted by the County must be strengthened in order to guarantee the preservation of these sensitive lands. This Chapter will protect sensitive lands and prevent their degradation for certain discretionary projects. This Chapter will also preserve the ability of affected property owners to make reasonable use of their land subject to the conditions established by this Chapter. It is the intent of this Chapter to increase the preservation and protection of the County's unique topography, natural beauty, diversity, and natural resources and a high quality of life for current and future residents of the County of San Diego. Nothing in this Chapter shall be construed to reduce any requirements to protect environmentally sensitive lands contained in any other County plan, ordinance, policy, or regulation. It is not the intent of this Chapter to prohibit all development on steep slopes, but only to limit the amount of disturbance consistent with the encroachment allowances herein.

Section 17. Section 86.602 of the San Diego County Regulatory Code is hereby 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 Wildlife 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 18. Section 86.603 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 86.603. RESOURCE PROTECTION FINDINGS.

(a) Application of Regulations. Prior to approval of any of the following types of discretionary applications, 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) Steep Slope Analysis Requirement. In order to determine if a parcel contains steep slopes, a slope analysis shall be prepared. 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 environmentally sensitive lands are present, 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 19. Section 86.604 of the San Diego County Regulatory Code is hereby 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) 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.

(6) 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 Register of Professional Archaeologists.

Section 20. Section 87.214 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 87.214. GRADING WITHIN CERTAIN WATERWAYS.

(a) If the County Official suspects that proposed grading may involve jurisdictional waters of the United States (as defined in Section 328.3 of Title 33 of the Code of Federal Regulations), the County Official may defer approval of grading plans or improvement plans until the applicant obtains and submits to the County Official either evidence that an appropriate permit has been issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) authorizing the grading, or a statement from the U.S. Army Corps of Engineers, certifying that such permit is not required.

(b) If the County Official suspects that proposed grading may involve a river, stream or lake (as referenced in Fish and Game Code Section 1603), the County Official may defer approval of grading or improvement plans until the applicant obtains and submits to the County Official evidence that the California Department of Fish and Wildlife has determined that Section 1602 has been complied with.

(c) No permit or approval pursuant to this Chapter shall constitute authorization for grading in violation of any local, state or federal law, including in particular the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) or Chapter 6 of Division 2 of the Fish and Game Code.

Section 21. Section 87.705 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 87.705. APPLICATION AND REVIEW.

(a) All applications for a Major Use Permit for surface mining shall be made, considered and granted or denied pursuant to The Zoning Ordinance, and shall be accompanied by an "Application for Reclamation Plan" as provided by the Department. Both applications shall be processed concurrently. An application for a Reclamation Plan shall be processed under the same procedures as the Major Use Permit, including those provisions requiring a public hearing and those provisions relating to appeals. Reclamation Plans may be granted subject to such conditions and limitations as may be deemed appropriate. All plans and specifications for the grading of the property shall be prepared or approved and signed by a registered civil engineer, and shall include all information required in Section 87.208 and any other information required by the County Official.

(b) Any surface mining operation conducted pursuant to vested non-conforming rights or pursuant to a Major Use Permit, shall cease operating until a Reclamation Plan is approved by the County, unless the Reclamation Plan is on appeal to the SMGB. An "Application for Reclamation Plan" shall be submitted within 120 days from the date the County Official requests in writing to the mining operator or mining site property owner that such Reclamation Plan be submitted or within the extension periods the County Official may grant if cause is shown why more time should be granted for the filing.

(c) The Department shall submit all proposed Reclamation Plans and any proposed amendments to the Director of Conservation for review at least 45 days before the County acts thereon. The County shall notify the Director of Conservation of the filing of an application for a surface mining permit within 30 days of the filing of an application. The Department shall also send the Director of Conservation a copy of each mining permit approved by the County.

(d) The Reclamation Plan shall contain all matters required by SMARA and Sections 3502 and 3700 and following of Title 14 of the California Code of Regulations, and shall provide in designated phases for the progressive rehabilitation of the mining site land form so that, when reclamation is complete, it will contain stable slopes, be readily adaptable for alternate land uses, and be free of derelict machinery, waste materials and scrap to the satisfaction of the County Official. The proposed mining site land form, to the extent reasonable and practical, shall be revegetated for soil stabilization, free of drainage problems, coordinated with present and anticipated future land use, and compatible with the topography and general environment of surrounding property.

(e) Where any requirement of the reclamation plan conflicts with any requirement of the approved major use permit, the County Official shall determine which requirement shall apply; provided however, that the minimum reclamation standards of SMARA shall apply in any event.

(f) When the approval of any Reclamation Plan and Agreement has become final and effective, the Director shall cause a copy to be filed with the San Diego County Recorder. The documents to be recorded shall set forth the names of all owners of the property subject to the Reclamation Plan. The recorded document shall provide constructive notice to all purchasers, transferees, or other successors to the interests of the owners named, of the rights and obligations created by the Reclamation Plan.

Section 22. The San Diego County Regulatory Code has two sections with the same section number 89.317. The second existing section titled 89.317 of the San Diego County Regulatory Code previously added by Ord. No. 10640 is hereby amended to read as follows:

SEC. 89.318. UNDERGROUND UTILITY DISTRICT NO. 117.

The following described portion of San Diego County, State of California, is hereby declared to be Underground Utility District No. 117 of the County of San Diego:

Parcel No. 2019-0070-A

The Easterly 150 feet of the West Half, and the Westerly 150 feet of the East Half, of Section 6, Township 11 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to Official Plat thereof. EXCEPTING THEREFROM that portion thereof lying Southerly of a line that is parallel with and 300 feet Northerly of, measured at right angles to, the Southerly line of said Section 6.

Parcel No. 2019-0070-B

The Easterly 150 feet of the West Half, and the Westerly 150 feet of the East Half, of Section 31, Township 10 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to Official Plat thereof.

Parcel No. 2019-0070-C

The Easterly 150 feet of the West Half, and the Westerly 150 feet of the East Half, of Section 30, Township 10 South, Range 1 West, San Bernardino Base and Meridian, in the County of San Diego, State of California, according to Official Plat thereof. EXCEPTING THEREFROM that portion thereof lying Northerly of a line that is parallel with and 100 feet Northerly of, measured at right angles to, the Southerly line of the Northerly half of said Section 30. The Board of Supervisors shall by subsequent resolution set the elates by which all affected property owners shall be ready to receive underground utility service and by which the utility or utilities must remove all poles, overhead wires and associated overhead structures and make the necessary underground installation of wires and facilities for supplying electric, communication or similar or associated service within Underground Utility District

No. 117. The resolution shall also specify the date upon which the utility service provider shall be permitted to discontinue overhead service and request the utility service provider to pay from the County's existing Rule 20A allocation any and all costs eligible for such payment under Rule 20A Section 3. Notice of the adoption of such subsequent resolution shall be given by the Clerk of the Board of Supervisors in the manner provided in Section 89.107(A) and (B) of this Division.

It is the finding of the Board of Supervisors of San Diego County that the public health, safety and welfare require the removal of poles, overhead wires and associated structures, and the underground installation of wires and facilities for supplying electric, communication or similar or associated service within Underground Utility District 117. The Board of Supervisors further finds that Underground Utility District No. 117, herein created, is in the general public interest because that portion of Cole Grade Road, from Fruitvale Road to Oak Meadow Road, within Underground Utility District No. 117, meets the following general public interest criteria established by the California Public Utilities Commission: (1) The road is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic; and (2) the road is considered an arterial street or major collector as defined in the Governor's Office for Planning and Research General Plan Guidelines. The Board of Supervisors requests that the utility companies within Underground Utility District No. 117 pay for the installation of up to 100-feet of each customer's underground electric service lateral occasioned by the undergrounding.

Section 23. Section 810.107 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 810.107. TIME OF LAND DEDICATION OR PAYMENT OF FEE.

(a) If land is to be dedicated, whether within or outside the subdivision, approval of the tentative map shall be subject to the following condition:

(1) Fee title to the land shall be conveyed by grant deed to the County, other governmental agency or other entity responsible for operation and maintenance of parks and recreation facilities, as approved by the County, that is free and clear of all encumbrances, including utility easements and underlying drainage systems, except those which, in County's opinion, will not interfere with the use of land for park and recreational purposes and which the Department of Parks and Recreation agrees to accept, as evidenced by a Phase I and/or II Environmental Site Assessment and a California Land Title Association policy provided by the applicant or developer and subject to approval of the Director. The applicant shall convey fee title to the County prior to approval of the final map and the grant deed shall be recorded immediately following the recordation of the final map. The applicant shall provide all fees and instruments required to convey fee title to the land plus title insurance in favor of the County; or

(2) Enter into a secured Park Acquisition and Improvement Agreement pursuant to Section 810.119 of this Chapter.

(b) If Park In-Lieu Fees are to be paid, such fees shall be collected on a per dwelling unit basis prior to the issuance of a building permit or such other permit for development required to authorize the construction or installation of a dwelling. The applicant shall pay the fees prescribed in this Article or shall present a written statement from the Director of Parks and Recreation certifying that the requirements of this Article have been satisfied with respect to the development for which permits are sought. The obligation to pay Park In-Lieu Fees shall be noted on both the tentative map and the final map.

(c) Notwithstanding the provisions of this Subsection to the contrary, the payment of Park In-Lieu Fees in connection with residential Subdivisions may be deferred and paid prior to or at the time of scheduling a final building inspection, if the applicant executes an agreement with the County for a fee deferral. Applicants choosing to execute an agreement with the County for a fee deferral, shall pay the

PLDO fee amount in effect at the time of PLDO fee payment. In the event the County, for any reason, fails to collect any or all PLDO fees prior to final inspection, such fees shall remain the obligation of the applicant and/or the property owner.

Section 24. Section 810.112 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 810.112. PARK IMPACT FEE EXEMPTIONS.

The following uses shall be exempt from both the Park Land Acquisition Impact Fee and the Park Improvement Impact Fee, unless otherwise stated:

- (a) Any residential Development that involves the Subdivision of land and pays the Park In-Lieu Fee is exempt from the Park Land Acquisition Impact Fee.
- (b) Any Development that does not require a County building permit.
- (c) Any nonresidential Development.
- (d) The replacement on the same parcel by the owner of a dwelling or dwellings destroyed by fire, flood, earthquake, or other calamity, provided that the application for a building permit to replace such dwelling is filed with the Director within two (2) years after destruction of the dwelling and is filed by the homeowner impacted by the calamity.
- (e) Rehabilitation, replacement, or reconstruction of residential structures that were lawfully constructed.
- (f) 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 camping, 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.
- (g) Recreational Trailer Parks, Temporary Trailer Parks, or Travel Trailer Parks, as those terms are defined in the Mobilehome Parks Act.
- (h) Condominium projects or stock cooperatives which consist of the Subdivision of air-space in an existing apartment building which is more than five (5) years old where no new dwelling units are added.
- (i) Any farm employee housing or farm labor camp project.
- (j) Accessory dwelling units permitted prior to January 1, 2024 and constructed pursuant to the provisions of the Zoning Ordinance on established lots with an existing single-family residence.

Section 25. Section 810.210 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 810.210. CONSTRUCTION CREDIT.

When, as a requirement of the approval of subdivision and parcel maps, the conditions require the construction of any facility described on the Local Drainage Area Fee Map, or any portion of these facilities, the cost of the required improvements shall be credited to the developer based upon the length, capacity and type of facility to be constructed.

Credit for construction of planned facilities shall be the cost incurred to construct facilities as set out in Document No. 608735 on file with the Clerk of the Board of Supervisors. Credit will be limited to the actual cost incurred to construct the improvements. Adjustment of fees are pursuant to Section 810.211 of this Chapter.

If, upon construction of the facilities, the credit associated with such construction is less than the fee for the PLD area(s), the subdivider shall pay to the County the difference between the costs

incurred and the fee otherwise owed. If the credit exceeds the fee, the subdivider may be eligible for a credit up to the amount of the fee otherwise payable so that no additional fee payment will be owed.

Section 26. Section 810.213 of the San Diego County Regulatory Code is hereby amended to read as follows:

SEC. 810.213. REIMBURSEMENT AGREEMENT.

In the event that the subdivider is required to construct drainage facilities within a PLD area(s) to provide supplemental size and capacity for other developments, the County shall reimburse the subdivider from the appropriate planned local drainage facilities fund. Reimbursement shall be made only as fees are collected in connection with the subdivision of other property in the same PLD area(s) in which said facilities were constructed. The amount of reimbursement shall be limited to the difference between the actual construction costs and the amount of the drainage fee. Fees shall be adjusted in accordance with Section 810.211 of this Chapter. No subdivider shall receive reimbursement until all subdividers who have previously executed reimbursement agreements payable from the same fund have been fully reimbursed or until such agreements have expired. The maximum term of any reimbursement agreement is ten years unless in the Board's discretion a longer term is approved to allow for reimbursement.

Section 27. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after 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 The Daily Transcript, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY

Justin Crumley, Senior Deputy