

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 13, ARTICLE 1, DIVISION 2 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 131.0222; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 3 BY AMENDING SECTIONS 131.0322 AND 131.0323; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 4 BY AMENDING SECTION 131.0422; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 5 BY AMENDING SECTION 131.0522; AMENDING CHAPTER 13, ARTICLE 1, DIVISION 6 BY AMENDING SECTION 131.0622; AND AMENDING CHAPTER 14, ARTICLE 1, DIVISION 5 BY ADDING NEW SECTION 141.0503, RENUMBERING CURRENT SECTION 141.0503 TO SECTION 141.0504, ADDING NEW SECTION 141.0505, AND RENUMBERING CURRENT SECTION 141.0504 TO SECTION 141.0506, ALL RELATING TO FARMERS' MARKETS AND RETAIL FARMS

WHEREAS, Healthy Works, a program administered by the County of San Diego Health and Human Services Agency and funded by the American Recovery and Reinvestment Act of 2009, awards grants to combat rising obesity rates in the San Diego region by planning communities in ways that support increased physical activity and access to healthy foods; and

WHEREAS, the City of San Diego has been awarded a grant of \$50,000 to increase access to healthy foods pursuant to Municipal Code and General Plan amendments to support urban agriculture; and

WHEREAS, on July 20, 2011, the Land Use and Housing Committee of the City Council of the City of San Diego held a hearing on the subject of urban agriculture and requested that staff address specific items and return with proposed amendments to the City of San Diego Municipal Code to increase access to healthy, local and sustainable food by expanding the opportunities for community gardens; and

WHEREAS, on October 5, 2011, staff returned to the Land Use and Housing Committee with proposed amendments to the City of San Diego Municipal Code; and

WHEREAS, on December 15, 2011, the Planning Commission of the City of San Diego recommended that the City Council of the City of San Diego adopt the proposed amendments to the San Diego Municipal Code to increase the opportunities for farmers' markets and retail farms to offer locally grown foods in urban settings; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego as follows:

Section 1. That Chapter 13, Article 1, Division 2 of the San Diego Municipal Code is amended by amending section 131.0222, to read as follows:

§131.0222 Use Regulations Table for Open Space Zones

The uses allowed in the open space zones are shown in Table 131-02B.

Legend for Table 131-02B [No change in text.]

**Table 131-02B
Use Regulations Table of Open Space Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones				
	1st & 2nd >>	OP-	OC-	OR- ⁽¹⁾	OF- ⁽¹¹⁾	
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	1	2
Open Space through Institutional [No change in text.]						
Retail Sales						
Building Supplies & Equipment	-	-	-	-	-	-
Food, Beverages and Groceries	-	-	-	-	-	-
Consumer Goods, Furniture, Appliances, Equipment	-	-	-	-	-	-
Pets & Pet Supplies	-	-	-	-	-	-
Sundries, Pharmaceuticals, & Convenience Sales	-	-	-	-	-	-
Wearing Apparel & Accessories	-	-	-	-	-	-
Separately Regulated Retail Sales Uses:						
Agriculture Related Supplies & Equipment	-	-	-	-	-	-
Alcoholic Beverage Outlets	-	-	-	-	-	-
Farmers' Markets						
Weekly Farmers' Markets	-	-	-	-	-	-
Daily Farmers' Market Stands	-	-	-	-	-	-
Plant Nurseries	-	-	-	-	-	-

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones				
	1st & 2nd >>	OP-		OC-	OR ⁽¹⁾	OF ⁽¹¹⁾
	3rd >>	1-	2-	1-	1-	1-
	4th >>	1	1	1	1 2	1
Retail Farms		-	-	-	-	-
Swap Meets & Other Large Outdoor Retail Facilities		-	-	-	-	C ⁽⁷⁾
Commercial Services through Signs [No change in text.]						

Footnotes for Table 131-02B [No change in text.]

Section 2. That Chapter 13, Article 1, Division 3 of the San Diego Municipal Code is amended by amending sections 131.0322 and 131.0323 to read as follows:

§131.0322 Use Regulations Table for Agricultural Zones

The uses allowed in the agricultural zones are shown in Table 131-03B.

Legend for Table 131-03B [No change in text.]

**Table 131-03B
Use Regulations Table of Agricultural Zones**

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones			
	1st & 2nd >>	AG		AR	
	3rd >>	1-		1-	
	4th >>	1	2	1	2
Open Space through Institutional [No change in text.]					
Retail Sales					
Building Supplies & Equipment		-		-	
Food, Beverages and Groceries		-		-	
Consumer Goods, Furniture, Appliances, Equipment		-		-	
Pets & Pet Supplies		-		-	
Sundries, Pharmaceuticals, & Convenience Sales		-		-	
Wearing Apparel & Accessories		-		-	
Separately Regulated Retail Sales Uses					
Agriculture Related Supplies & Equipment		C		C	
Alcoholic Beverage Outlets		-		-	
Farmers' Markets					
Weekly Farmers' Markets		-		-	
Daily Farmers' Market Stands		-		-	
Plant Nurseries		C		C	
Retail Farms		-		-	
Swap Meets & Other Large Outdoor Retail Facilities		-		C	
Commercial Services through Signs [No change in text.]					

Footnotes for Table 131-03B [No change in text.]

§131.0323 Additional Use Regulations of Agricultural Zones

The uses in this section are permitted within the agricultural zones as indicated subject to the regulations listed.

- (a) [No change in text.]
- (b) Horticulture nurseries are permitted subject to the following:
 - (1) Only plants are permitted to be sold on the *premises*. The sale of nonplant items requires a Conditional Use Permit for a plant nursery in accordance with Section 141.0504;
 - (2) through (3) [No change in text.]

Section 3. That Chapter 13, Article 1, Division 4 of the San Diego Municipal Code is amended by amending section 131.0422, to read as follows:

§131.0422 Use Regulations Table for Residential Zones

The uses allowed in the residential zones are shown in the Table 131-04B.

Legend for Table 131-04B [No change in text.]

**Table 131-04B
Use Regulations Table of Residential Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																					
	1st & 2nd >>	RE-			RS-										RX-		RT-						
	3rd >>	1-			1-										1-		1-						
	4th >>	1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3
Open Space through Institutional [No change in text.]																							
Retail Sales																							

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																					
	1st & 2nd >>		RE-			RS-										RX-		RT-						
	3rd >>		1-			1-										1-		1-						
	4th >>		1	2	3	1	2	3	4	5	6	7	8	9	10	11	12	13	14	1	2	1	2	3
Building Supplies & Equipment			-																					
Food, Beverages and Groceries			-																					
Consumer Goods, Furniture, Appliances, Equipment			-																					
Pets & Pet Supplies			-																					
Sundries, Pharmaceuticals, & Convenience Sales			-																					
Wearing Apparel & Accessories			-																					
Separately Regulated Sales Uses																								
Agriculture Related Supplies & Equipment			-																					
Alcoholic Beverage Outlets			-																					
Farmers' Markets																								
Weekly Farmers' Markets			-																					
Daily Farmers' Market Stands			-																					
Plant Nurseries			-																					
Retail Farms			-																					
Swap Meets & Other Large Outdoor Retail Facilities			-																					
Commercial Services through Signs [No change in text.]																								

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones																				
	1st & 2nd >>		RM-																				
	3rd >>		1-			2-			3-			4-			5-								
	4th >>		1	2	3	4	5	6	7	8	9	10	11	12									
Open Space through Institutional [No change in text.]																							
Retail Sales																							
Building Supplies & Equipment			-																				
Food, Beverages and Groceries			-																				
Consumer Goods, Furniture, Appliances, Equipment			-																				
Pets & Pet Supplies			-																				
Sundries, Pharmaceuticals, & Convenience Sales			-																				
Wearing Apparel & Accessories			-																				
Separately Regulated Sales Uses																							
Agriculture Related Supplies & Equipment			-																				
Alcoholic Beverage Outlets			-																				
Farmers' Markets																							

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones											
	1st & 2nd >>		RM-											
	3rd >>		1-			2-			3-			4-		5-
	4th >>		1	2	3	4	5	6	7	8	9	10	11	12
Weekly Farmers' Markets			-			-			-			-		
Daily Farmers' Market Stands			-			-			-			-		
Plant Nurseries			-			-			-			-		
Retail Farms			-			-			-			-		
Swap Meets & Other Large Outdoor Retail Facilities			-			-			-			-		
Commercial Services through Signs [No change in text.]														

Footnotes for Table 131-04B [No change in text.]

Section 4. That Chapter 13, Article 1, Division 5 of the San Diego Municipal Code is amended by amending section 131.0522, to read as follows:

§131.0522 Use Regulations Table of Commercial Zones

The uses allowed in the commercial zones are shown in Table 131-05B.

**Legend for Table 131-05B [No change in text.]
Table 131-05B**

Use Regulations Table for Commercial Zones

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator		Zones											
	1st & 2nd >>		CN ⁽¹⁾			CR-		CO-	CV-		CP-			
	3rd >>		1-			1-	2-	1-	1-		1-			
	4th >>		1	2	3	1	1	1	2	1	2	1		
Open Space through Institutional [No change in text.]														
Retail Sales														

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones							
	1st & 2nd >>	CN ⁽¹⁾ -			CR-		CO-	CV-	CP-
	3rd >>	1-			1-	2-	1-	1-	1-
	4th >>	1	2	3	1	1	1 2	1 2	1
Building Supplies & Equipment		P ⁽¹¹⁾			P ⁽¹¹⁾	P ⁽¹¹⁾	-	-	-
Food, Beverages and Groceries		P ⁽¹¹⁾			P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	-
Consumer Goods, Furniture, Appliances, Equipment		P ⁽¹¹⁾			P ⁽¹¹⁾	P ⁽¹¹⁾	P ^(3,11)	P ⁽¹³⁾	-
Pets & Pet Supplies		P ⁽¹¹⁾			P ⁽¹¹⁾	P ⁽¹¹⁾	-	-	-
Sundries, Pharmaceutical, & Convenience Sales		P ⁽¹¹⁾			P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	-
Wearing Apparel & Accessories		P ⁽¹¹⁾			P ⁽¹¹⁾	P ⁽¹¹⁾	-	P ⁽¹¹⁾	-
Separately Regulated Retail Sales Uses									
Agriculture Related Supplies & Equipment		-			P	P	-	-	-
Alcoholic Beverage Outlets		L			L	L	L	L	-
Farmers' Markets									
Weekly Farmers' Markets		L			L	L	L	L	L
Daily Farmers' Market Stands		L			L	L	L	L	-
Plant Nurseries		P			P	P	-	-	-
Retail Farms		L			L	L	L	-	-
Swap Meets & Other Large Outdoor Retail Facilities		-			C	C	-	C ⁽¹⁰⁾	-
Commercial Services through Signs [No change in text.]									

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																
	1st & 2nd >>	CC-																
	3rd >>	1-			2-			3-			4-			5-				
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4
Open Space through Institutional [No change in text.]																		
Retail Sales																		
Building Supplies & Equipment		P ⁽¹¹⁾	P ⁽¹¹⁾	-	P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Food, Beverages and Groceries		P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Consumer Goods, Furniture, Appliances, Equipment		P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Pets & Pet Supplies		P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Sundries, Pharmaceutical, & Convenience Sales		P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Wearing Apparel & Accessories		P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾	P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾			P ⁽¹¹⁾				
Separately Regulated Retail Sales Uses																		
Agriculture Related Supplies & Equipment		-	-	-	P			P			P			P				
Alcoholic Beverage Outlets		L	L	L	L			L			L			L				
Farmers' Markets																		
Weekly Farmers' Markets		L	L	L	L			L			L			L				
Daily Farmers' Market Stands		L	L	L	L			L			L			L				
Plant Nurseries		P	P	P	P			P			P			P				

Use Categories/Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones																	
	1st & 2nd >>	CC-																	
	3rd >>	1-			2-			3-			4-			5-					
	4th >>	1	2	3	1	2	3	4	5	1	2	3	4	5	1	2	3	4	5
Retail Farms		L			L			L			L			L			L		
Swap Meets & Other Large Outdoor Retail Facilities		-			-			-			-			-			C		
Commercial Services through <i>Signs</i> [No change in text.]																			

Footnotes to Table 131-05B [No change in text.]

Section 5. That Chapter 13, Article 1, Division 6 of the San Diego Municipal Code is amended by amending section 131.0622 to read as follows:

§131.0622 Use Regulations Table for Industrial Zones

The uses allowed in the industrial zones are shown in Table 131-06B.

Legend for Table 131-06B [No change in text.]

**Table 131-06B
Use Regulations Table for Industrial Zones**

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones								
	1st & 2nd >>	IP-			II-			III-		IS-
	3rd >>	1-	2-	3-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1	1
Open Space through Institutional [No change in text.]										
Retail Sales										
Building Supplies & Equipment		-	-	P ^(6,15)	P ⁽¹⁵⁾	P ⁽¹⁵⁾	-	P ^(6,15)	P ⁽¹⁵⁾	
Food, Beverages and Groceries		-	-	-	-	P ⁽¹⁵⁾	-	-	-	
Consumer Goods, Furniture, Appliances, Equipment		-	-	-	P ^(2,15)	P ⁽¹⁵⁾	-	-	P ^(3,15)	
Pets & Pet Supplies		-	-	-	-	P ⁽¹⁵⁾	-	-	-	
Sundries, Pharmaceuticals, & Convenience Sales		-	P ^(5,15)	P ^(5,15)	P ^(5,15)	P ⁽¹⁵⁾	P ^(5,15)	P ^(5,15)	P ^(4,15)	
Wearing Apparel & Accessories		-	-	-	P ^(3,15)	P ^(3,15)	-	-	P ^(3,15)	
Separately Regulated Retail Sales Uses										
Agriculture Related Supplies & Equipment		-	-	-	P	P	P	P	P	
Alcoholic Beverage Outlets		-	-	-	-	L	-	-	-	
Farmers' Markets										
Weekly Farmers' Markets		-	-	-	-	L	-	-	-	

Use Categories/ Subcategories [See Section 131.0112 for an explanation and descriptions of the Use Categories, Subcategories, and Separately Regulated Uses]	Zone Designator	Zones							
	1st & 2nd >>	IP-		IL-			IH-		IS-
	3rd >>	1-	2-	1-	2-	3-	1-	2-	1-
	4th >>	1	1	1	1	1	1	1	1
Daily Farmers' Market Stands	-	-	-	-	L	-	-	-	-
Plant Nurseries	-	-	-	-	P	-	P	P	P
Retail Farms	-	-	-	-	L	-	-	-	-
Swap Meets & Other Large Outdoor Retail Facilities	-	-	C	C	C	C	C	C	C
Commercial Services through <i>Signs</i> [No change in text.]									

Footnotes for Table 131-06B [No change in text.]

Section 6. That Chapter 14, Article 1, Division 5 of the San Diego Municipal Code is amended by adding new section 141.0503, renumbering current section 141.0503 to section 141.0504, adding new section 141.0505, and renumbering current section 141.0504 to section 141.0506, to read as follows:

§141.0503 Farmers' Markets

Farmers' markets are outdoor establishments where farmers and other vendors sell produce and other goods directly to consumers and where vendors selling farm produce comprise at least 50 percent of the vendors. A farmers' market may be either a weekly farmers market or a daily farmers market stand. Weekly farmers' markets conducted on public property are not subject to this section. Farmers' markets are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) Weekly farmers' markets on private property shall comply with the following:

- (1) Written permission of the property owner to conduct the weekly farmers' market shall be available to City of San Diego staff and officials upon request;
 - (2) A farmers' market shall be limited to one event per week per location;
 - (3) No parking shall be required; however, any parking reserved for handicapped access impacted by the farmers' market shall be temporarily relocated to a handicapped accessible location during the hours of the farmers market;
 - (4) Access to all building entryways and all disabled access routes shall be maintained; and
 - (5) One restroom per 250 persons shall be available.
- (b) Daily farmers' market stands shall comply with the following:
- (1) Daily farmers' market stands may operate seven days per week at a given location;
 - (2) Outdoor display areas shall comply with Section 142.1130 (Outdoor Display Regulations for Commercial Zones);
 - (3) No parking shall be required;
 - (4) Sales shall be limited to the sale of unprocessed, non-value added crops;
 - (5) A daily farmers' market stand shall occupy an area no greater than five feet in depth and sixteen feet in length per commercial frontage; and

- (6) No required parking shall be displaced.
- (c) Daily farmers' market stands on private property shall obtain written permission of the property owner to conduct the daily farmers' market and shall make such written permission available to City of San Diego staff and officials upon request, in addition to the requirements of Section 141.0503(b)(1) through 141.0503(b)(6).
- (d) Daily farmers' market stands located in the public right-of-way, between the curb and fronting property line, shall comply with the following in addition to the requirements of Section 141.0503(b)(1) through 141.0503(b)(6):
 - (1) Written permission of the fronting property owner to conduct the daily farmers' market shall be available to City of San Diego staff and officials upon request;
 - (2) A Certificate of Insurance for a Public Liability Insurance Policy of at least \$500,000 in a form acceptable to the City Engineer and naming the City as an additional insured shall be required to be maintained at all times; and
 - (3) The location of the daily farmers' market stand shall comply with the following:
 - (A) A minimum 4-foot wide clear path of sidewalk shall be maintained within the public right-of-way at all times;
 - (B) Access to adjacent uses shall be maintained at all times;

- (C) The daily farmers' market stand shall be located as close as feasible to the fronting property; and
- (D) The daily farmers' market stand shall not be located parallel to loading areas, transit stops, taxi zones, or areas designated for pedestrian loading and unloading.

§141.0504 Plant Nurseries

Plant nurseries may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a "C" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

- (a) through (c) [No change in text.]

§141.0505 Retail Farms

Retail farms are establishments whose primary function is to produce and sell food and other related products on the same *premises*. Retail farms are permitted as a limited use in the zones indicated with an "L" in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations:

- (a) The maximum area inclusive of retail and farming areas shall not exceed 4 acres;
- (b) The use of pesticides is limited to those permitted by the U. S. Department of Agriculture's National Organic Program;
- (c) A minimum of seventy-five percent of the products sold must be grown or generated onsite;

- (d) The hours of operation for the farm component shall be limited to the hours between sunrise and sunset as set forth by the National Oceanic and Atmosphere Administration for the San Diego area;
- (e) All equipment shall be stored on the *premises*;
- (f) All storage, service, and repair areas shall be enclosed, secured and located outside of all required setbacks; and
- (g) Parking shall comply with Chapter 14, Division 2, Article 5 (Parking Regulations).
 - (1) The retail component shall comply with the parking ratios for Retail Sales, Commercial Services, and Mixed use Development;
 - (2) The farm component shall provide one parking space per employee working the farm during the largest shift; and
 - (3) For a “pick your own” retail operation, the retail parking ratio shall assume 1,000 square feet of retail space per acre of land farm.

§141.0506 Swap Meets and Other Large Outdoor Retail Facilities

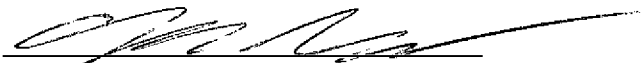
Swap meets and other large outdoor retail facilities may be permitted with a Conditional Use Permit decided in accordance with Process Three in the zones indicated with a “C” in the Use Regulations Tables in Chapter 13, Article 1 (Base Zones) subject to the following regulations.

(a) through (f) [No Change in Text]

Section 7. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public prior to the day of its passage.

Section 8. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage, except that the provisions of this ordinance applicable inside the Coastal Overlay Zone, which are subject to California Coastal Commission jurisdiction as a City of San Diego Local Coastal Program amendment, shall not take effect until the date the California Coastal Commission unconditionally certifies those provisions as a local coastal program amendment.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Keith Bauerle
Deputy City Attorney

KB:hm
01/17/2012
Or.Dept:DSD
Document No. 306111

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor