

(O-84-224)

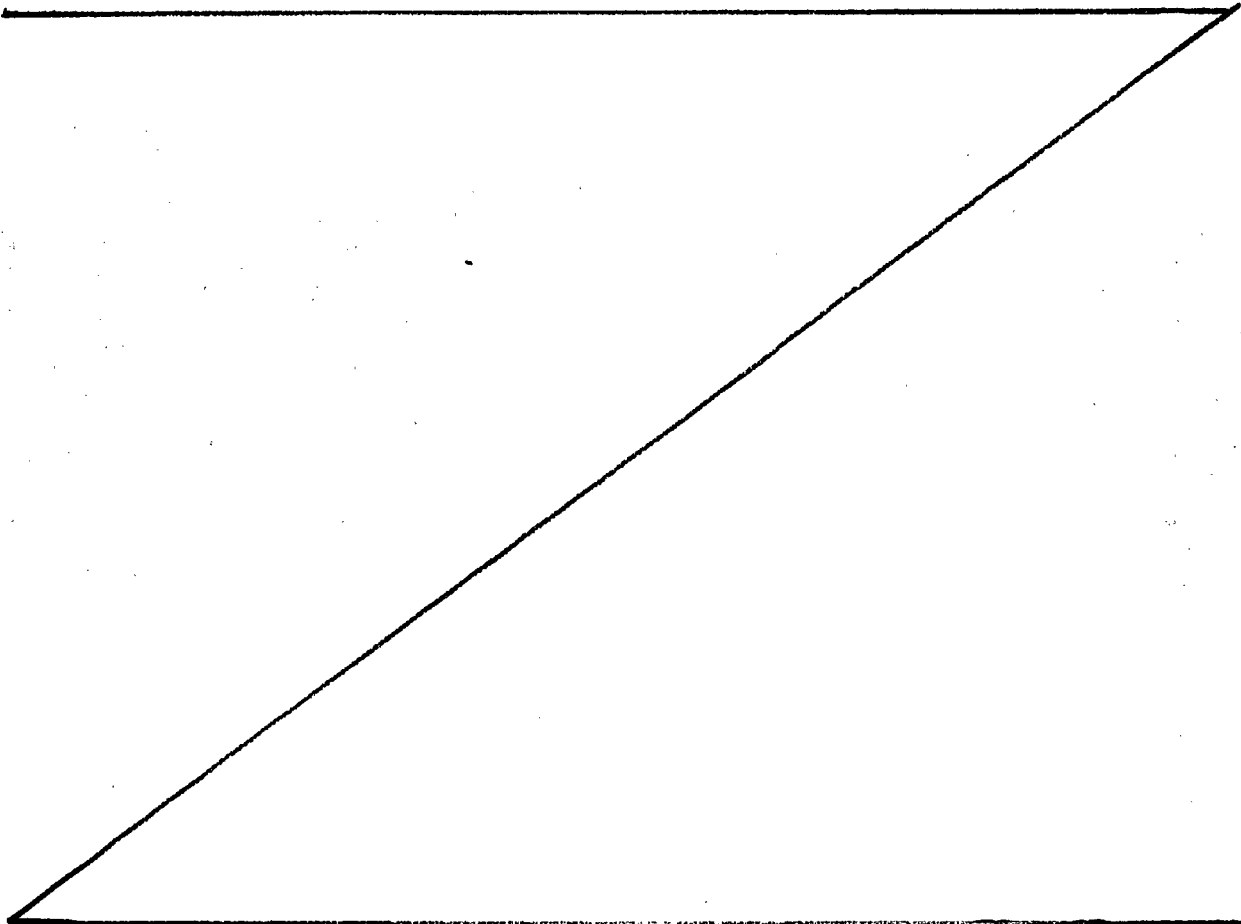
ORDINANCE NUMBER O-16347 (New Series)

Adopted on JAN 7 1985

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1,
DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 101.0454, RELATING TO HILLSIDE
REVIEW OVERLAY ZONE.

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

Section 1. That Chapter X, Article 1, Division 4, of the
San Diego Municipal Code be, and the same is hereby amended by
amending Section 101.0454 to read as follows:



A. PURPOSE AND INTENT

It is the purpose of the Hillside Review Overlay Zone to provide supplementary development regulations to underlying zones to assure that development occurs in such a manner as to protect the natural and topographic character and identity of these areas, environmental resources, the aesthetic qualities and restorative value of lands, and the public health, safety and general welfare by insuring that development does not create soil erosion, silting of lower slopes, slide damage, flooding problems, and severe cutting or scarring. It is the intent of this zone to encourage a sensitive form of development and to allow for a reasonable use which complements the natural and visual character of the City.

B. APPLICATION OF THE HILLSIDE REVIEW OVERLAY ZONE

After public hearing conducted pursuant to Chapter X, Article 1, Division 2, Municipal Code, and upon finding that the public health, safety, general welfare and good zoning practice will be served thereby, the Hillside Review Overlay Zone may be applied to property having slopes with a natural

gradient in excess of 25 percent (25 feet of vertical distance for each 100 feet of horizontal distance) and a minimum elevation differential of 50 feet. If at such hearing it is determined that land located adjacent to the slope, either above or below, must be included in the Hillside Review Overlay Zone in order to promote the purpose and intent of this zone, such rim or bottom land may be included in the Hillside Review Overlay Zone provided that such area is within 300 feet of the nearest point of the slope to which the Hillside Review Overlay Zone is to be applied. The overall average slope will be used for property with varying slope gradients when determining the application of this overlay zone.

C. PERMITTED USES

Permitted uses shall be those permitted by the underlying zone subject to the regulations and restrictions of the underlying zone in addition to the regulations and restrictions of this overlay zone.

D. DEVELOPMENT REGULATIONS

Within a Hillside Overlay Zone no building, improvement or portion thereof shall be erected, constructed, converted, established, altered or enlarged or used, or demolished, nor shall any lot or premises be excavated or graded until a Hillside Review Permit is obtained in accordance with the procedure set forth in this section, or a Conditional Use Permit is obtained in accordance with the procedure set forth in Chapter X, Article 1, Division 5, or a Planned Development Permit is obtained in accordance with the procedure set forth in Chapter X, Article 1, Division 9; provided, however, that a Hillside Review Permit will not be required in those cases where said building, improvement or portion thereof does not in any way alter the ground coverage of an existing building or structure. The granting of a Hillside Review Permit does not relieve the applicant for such permit of the responsibility for obtaining other applicable permits from the City and other governmental agencies, including a Land Development Permit from The City of San Diego, if such permit is required by the Municipal Code.

E. HILLSIDE REVIEW PERMIT

1. Upon the filing of an application with the Planning Director for a Hillside Review Permit, which application

shall be accompanied by appropriate site plans, grading plans, sections and elevations, the Planning Director shall either: (1) approve the application; or, (2) deny the application. The plans, sections and elevations required to be submitted with a request for a Hillside Review Permit shall be only those required to inform the City as to the facts listed in paragraph "E.5." of this section.

2. The Planning Director shall examine the Environmental Impact Report, plans, sections and elevations submitted with the application for a permit and determine whether or not a Hillside Review Permit should be issued. The Planning director shall not issue a Hillside Review Permit unless the available information supports the findings of fact set forth in paragraph "E.5." of this section. In issuing a Hillside Review Permit, the Planning Director or Planning Commission may impose such conditions, including modification of the property development, parking and other regulations of the underlying land use zone, as deemed necessary and desirable to protect the public health, safety and general welfare in respect to the facts listed in paragraph "E.5." of this section and to protect the environment in keeping with the provisions of the California Environmental Quality Act and Chapter VI, Article 9 of the Municipal Code.

Prior to approving or denying an application the Planning Director may solicit the recommendations and comments of other public agencies, City Departments and interested groups. Where a tentative map or tentative parcel map is required, the decision of the Planning Director in regard to the Hillside Review Permit shall be made at the time action is taken on the map.

3. The Planning Director shall not approve any Hillside Review Permit unless the proposed development was publicly noticed in accordance with SEC. 101.0220.
4. Any decision of the Planning Director regarding a Hillside Review Permit may be appealed to the Planning Commission within 10 days of that action. The appeal shall be noticed in accordance with SEC. 101.0220 and filed in accordance with SEC. 101.0230.
5. In reviewing an application for a Hillside Review Permit, the Planning Director and/or the Planning Commission shall make the following findings of fact in the review process:
 - a. The site is physically suitable for the design and siting of the proposed development. The proposed development will result in minimum disturbance of sensitive areas.

- b. The grading and excavation proposed in connection with the development will not result in soil erosion, silting of lower slopes, slide damage, flooding, severe scarring or any other geological instability which would affect health, safety and general welfare as approved by the City Engineer. Disturbed slopes are planted with native and self sufficient vegetation.

- c. The proposed development retains the visual quality of the site, the aesthetic qualities of the area and the neighborhood characteristics by utilizing proper structural scale and character, varied architectural treatments, and appropriate plant material.

- d. The proposed development is in conformance with the Open Space Element of the General Plan, the Open Space and Sensitive Land Element of the community plan, any other adopted applicable plan, and the zone. The applicant has discussed the feasibility of open space dedications or easements with appropriate City staff.

- e. The proposed development is in conformance with the qualitative development guidelines and criteria as

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set forth in Document No. _____ "Hillside Design
and Development Guidelines."

6. The Planning Director, or the Planning Commission after the public hearing referred to in paragraph "E.1." of this section, may grant a Hillside Review Permit if, after considering the information presented in the application and after reviewing the plans, sections and elevations submitted with the application and after considering the testimony presented at the hearing, concludes that the available information supports the findings of fact set forth in paragraph "E.5." of this section.

7. In granting a Hillside Review Permit, the Planning Director or Planning Commission may impose such conditions as may be deemed necessary and desirable to protect the public health, safety and general welfare in respect to the facts listed in paragraph "E.5." of this section.

8. If the Planning Director or Commission, after considering the available information is unable to reach the findings of fact set forth in paragraph "E.5." of this section, the application shall be denied.

9. The decision of approving or denying the application shall include the findings of fact relied upon by the Planning Director or Planning Commission. The decision shall be filed with the City Clerk, the Zoning Administrator, Engineering and Development Department and the Building Inspection Department and a copy shall be mailed to the applicant.

10. The decision of the Planning Commission shall be final on the eighth day from the date of the Commission's decision except when an appeal is taken to the City Council as provided in SEC. 101.0240.

F. ASSIGNMENT OF PUBLIC HEARING RESPONSIBILITY

Applications for a Hillside Review Permit requested or required in conjunction with other permits or variances requiring discretionary action by more than one decision-making authority or body, shall be heard by the senior granting authority or body.

The order of seniority from most senior to least senior is as follows:

1. City Council
2. Planning Commission
3. Planning Director or Subdivision Board
4. Zoning Administrator

G. FAILURE TO UTILIZE HILLSIDE REVIEW PERMIT OR FAILURE TO CONFORM TO OR COMPLY WITH CONDITIONS.

1. Any Hillside Review Permit granted by the City as herein provided shall be conditioned upon the privileges granted being utilized within 36 months after the effective date thereof, except as otherwise provided within a phasing program, contained in: 1) a development agreement entered into between the City and owners of land located within the Hillside Review Permit area, 2) a specific plan applicable to the subject property, or 3) as otherwise provided by resolution approved by the City Council upon recommendation of the Planning Commission. Failure to utilize such permit within such period will automatically void the same, unless an extension of time has been granted by the Planning Director as set forth in paragraph "H" herein. Construction must actually be commenced within the

stated period and must be diligently pursued to completion.

2. During the 36-month period referred to in this paragraph, the property covered by the Hillside Review Permit shall not be used for any purpose or use other than that authorized by the Permit.
3. The Planning Director shall determine whether the conditions and requirements of the Permit have been met by the permittee. The determination by the Planning Director shall be final and conclusive on all affected parties.

H. EXTENSION OF TIME TO A HILLSIDE REVIEW PERMIT

1. The Planning Director may, by resolution, grant an extension of time up to 36 months on the time limit contained in a currently valid Hillside Review Permit. To initiate a request for an extension of time, the property owner or owners shall file a written application with the Planning Director in the office of the Planning Department, prior to the expiration of the Hillside Review Permit. The Planning Director may grant the extension of time if it is found from the evidence submitted that there has been no material change of circumstances since the permit was originally granted.


2. The decision of the Planning Director may be appealed to the Planning Commission within 10 days of that action. The appeal shall be noticed in accordance with SEC. 101.0220 and filed in accordance with SEC. 101.0230. The decision of the Planning Commission shall be final on the eighth day from the date of the Commission's decision except when an appeal is taken to the City Council as provided in SEC. 101.0240.

I. CANCELLATION OF A HILLSIDE REVIEW PERMIT

A valid Hillside Review Permit granted by the Planning Director, or by the Planning commission on appeal, or by the City Council on appeal, may be cancelled at any time during the 36-month period referred to in paragraph "G" herein. Cancellation may be initiated by the owner of the property covered by the permit by means of a communication directed to the Planning Director in the office of the Planning Department. The permit becomes void 120 days after receipt of the communication in the office of the Planning Department.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By 
Frederick C. Conrad
Chief Deputy City Attorney

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05/07/84
Or.Dept:Plan.
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JAN 7 1985

Passed and adopted by the Council of The City of San Diego on _____, by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struikma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By Ellen Roward, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

DEC 11 1984

JAN 7 1985

_____, and on _____.

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By Ellen Roward, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16347 Adopted JAN 7 1985

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1984 JUN 27 AM 11: 22

SAN DIEGO, CALIF.

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CERTIFICATE OF PUBLICATION

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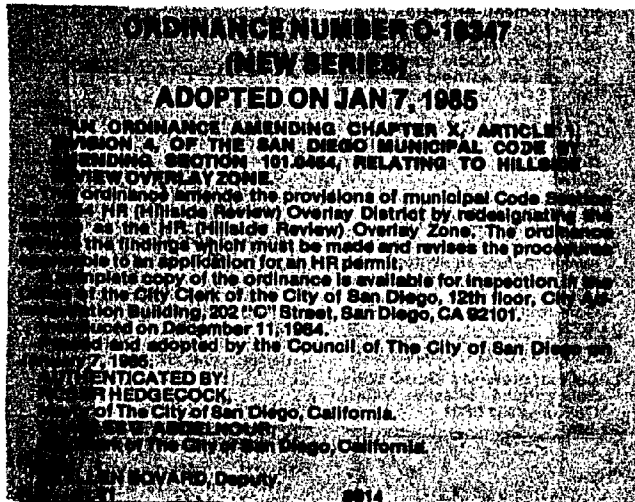
SAN DIEGO, CALIF.

THE CITY OF SAN DIEGO
202 C St., 12th Floor
San Diego, CA 92101

IN THE MATTER OF

NO.

ORDINANCE NUMBER O-16347



I, Michael L. Ungashick, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER O-16347
(NEW SERIES)
ADOPTED ON JAN 7, 1985

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

January 21, 1985

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 21st day of Jan., 19 85.

Michael L. Ungashick
(Signature)

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