

(O-85-3)

ORDINANCE NUMBER O- 16348 (NEW SERIES)

ADOPTED ON JAN 7 1985

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 2, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 62.0401, 62.0402, 62.0403, 62.0404, 62.0404.5, 62.0405, 62.0406, 62.0407, 62.0408, 62.0409, 62.0410, 62.0414, AND BY ADDING SECTIONS 62.0402.1, 62.0402.2, 62.0404.6, AND BY REPEALING SECTIONS 62.0411, 62.0412, 62.0413, 62.0415 62.0416 RELATING TO LAND DEVELOPMENT.

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

Section 1. That Chapter VI, Article 2, Division 4, of the San Diego Municipal Code, be and the same is hereby amended by amending Sections 62.0401, 62.0402, 62.0403, 62.0404, 62.0404.5, 62.0405, 62.0406, 62.0407, 62.0408, 62.0409, 62.0410 and 62.0414 to read as follows:

SEC. 62.0401 PURPOSE AND INTENT

It is the purpose of this Division to regulate grading on both public and private property as necessary to protect persons, property and the environment. All land development performed within the City of San Diego shall comply with the provisions of this Division.

In addition to the specific requirements of this Division, all persons performing grading shall take all due care to provide safe and stable slopes.

SEC. 62.0402 ADMINISTRATION

The City Engineer shall administer this Division in accordance with the provisions of Division 1 of this Article and shall do all things necessary to effect its purpose and intent, including:

- (a) Establish standards and promulgate regulations;
- (b) Accept applications and impose conditions of approval;
- (c) Issue permits when all applicable conditions are met;
- (d) Cause the work to be inspected and certify completion;
- (e) Suspend or cancel permits whenever:
  - (1) Facts are not as presented in application;
  - (2) Work is inconsistent with approved plans;
  - (3) Necessary to safeguard the public health, safety or general welfare.
- (f) Cause unauthorized land development to be stopped.

SEC. 62.0403 EXEMPTIONS FROM PERMIT REQUIREMENTS

The following types of work shall not require a Land Development Permit:

- (a) Excavation on any site when all of the following conditions are met:
  - (1) Depth at any point does not exceed four feet measured vertically from the natural ground surface;
  - (2) Slopes along any exterior property line are no steeper than two units horizontal to one vertical and

the top of slope is no closer than one foot from the property line;

(3) The excavation does not change or adversely affect the existing drainage pattern;

(4) Quantity of material excavated does not exceed the rate of 350 cubic yards per 5,000 square feet of site area exclusive of the volume within the building envelope.

(b) Excavation below finished grade for the basement or footing of a building, for a retaining wall, or for any other structure authorized by a valid building permit. This paragraph shall not exempt from permit requirements, however, any embankment made with the material from such excavation which exceeds subsection (c) nor shall it exempt any resultant cut slope with an unsupported height of greater than four feet after completion of the structure;

(c) Embankment on any site when all of the following conditions are met:

(1) Depth at any point does not exceed three feet measured vertically from the natural ground surface;

(2) Slopes along any exterior property line are no steeper than two units horizontal to one vertical and the toe of slope is no closer than three feet to the property line;

(3) None of the embankment is placed on an existing slope steeper than five units horizontal to one vertical;

(4) The embankment does not change or adversely affect the existing drainage pattern;

(5) Quantity of material placed does not exceed the rate of 350 cubic yards per 5,000 square feet of site area.

(d) The depositing of material in any disposal area operated or licensed by the City pursuant to the terms of the Municipal Code where the operation and conduct thereof does not block or divert any natural drainage way or affect the lateral support or unduly increase the stresses in or pressures upon any adjacent or contiguous property;

(e) Gravel pits, mines, quarries or the processing and stockpiling of soil, rock and gravel, aggregate, or clay where such operations are conducted in accordance with a Conditional Use Permit issued pursuant to the terms of the Municipal Code, where the operation and the conduct thereof does not block or divert any natural drainage way or affect the lateral support or unduly increase the stresses in or pressures upon any adjacent or contiguous property;

(f) Excavation or embankment performed by a governmental agency, public utility, or their contractor in connection with the construction of roadways, pipelines, or utility lines within their rights-of-way;

(g) Clearing and grubbing of subdivided land in all zones except A-1-5 and A-1-10;

(h) Certain soils and geologic exploration activity as more specifically described in Section 62.0404.6.

Exemptions from permit requirements shall not apply to grading, including clearing and grubbing, whenever:

(a) Grading will occur in designated open space or in an environmentally sensitive area;

(b) Grading will occur in any waterway or wetland, stream, river, channel, pond, lake, harbor, ocean, marsh, bog, lagoon, or vernal pool;

(c) Grading will occur in any floodway or floodplain fringe;

(d) Grading will occur in any officially mapped area of high geologic risk (Zone "D") as defined by the Seismic Safety Element of the General Plan;

(e) Grading will occur in the Old San Diego Planned District;

(f) Grading will occur in the Hillside Review Overlay Zone.

Land development required as a condition of approval of a tentative map shall proceed in accordance with the procedures established by Chapter X, Article 2 of the San Diego Municipal Code.

SEC. 62.0404 LAND DEVELOPMENT IN CONNECTION  
WITH A BUILDING OR STRUCTURE

Any person desiring to do land development work in connection with the construction of a building or structure shall obtain a Land Development Permit prior to obtaining a Building Permit. The City may suspend a Building Permit or withhold the Certificate of Occupancy where it is found that

land development has been done without a permit until such time as the required permit is obtained. Any person performing land development without benefit of a permit shall be further subject to the penalties provided for in Sections 62.0104(g) and 62.0402.1 of this Article.

SEC. 62.0404.5 CLEARING AND GRUBBING

Clearing and grubbing shall mean the removal of any and all types of vegetation from the land, including the clearing and breaking up of the surface of the land, through the use of motorized equipment.

Clearing and grubbing which must be done in connection with land development is an integral part of the total work regulated by this Division and is subject to all of the requirements thereof, including the obtaining of a Land Development Permit, unless such development work is categorically exempted pursuant to Section 62.0403 of this Division.

SEC. 62.0405 APPLICATIONS FOR PERMITS

Applications for Land Development Permits shall be made in accordance with Section 62.0105 of this Article. Applications shall be accompanied by detailed plans and specifications including but not limited to:

(a) A suitable topographic map showing present contours as well as proposed finished grade elevations;

(b) A plot plan showing as a minimum the boundaries of the proposed development, lot lines, public and private right-of-way lines, and an indication of the intended use of the property;

(c) An erosion control plan for projects within the Hillside Review Overlay Zone or when otherwise required by the City Engineer;

(d) A soils report prepared by a soils engineer, including an assessment of seepage characteristics;

(e) A seepage study whenever blasting is to be performed or bedrock is to be exposed;

(f) A geologic report prepared by a certified engineering geologist shall be required in any area of high geologic risk (Zone "D") as defined by the Seismic Safety Element of the General Plan;

(g) A revegetation plan;

(h) The final environmental document which addresses the proposed grading; or

An application for an environmental initial study;  
or

A statement certifying that the project is exempt from environmental review requirements in accordance with the California Environmental Quality Act.

All soils and geologic reports shall consist of a preliminary report and a final as-built report.

Applications for agriculture permits are required one time only for lands or portions thereof not used for agriculture during the five year period immediately preceding application. A new application shall be required, however, whenever the lands or any portion thereof subject to a previous permit are not used for agriculture during any continuous five year period after the permit is granted.

Applications require a description of the area, statement of crop to be planted, and method of irrigation. Agriculture permits are limited to plowing along the natural surface only or to the making of embankments or excavations within the scope of Section 62.0403 "Exemptions from Permit Requirements." Environmental clearance is required for endangered species and natural environmental features.

Applications for clearing and grubbing to be performed as part of a City required or approved weed abatement or fire preventive program require only a description of the site and nature of the work.

SEC. 62.0406 PROTECTION OF ADJACENT PROPERTY AND PUBLIC RIGHTS-OF-WAY

During land development, the owner shall take all necessary measures to protect adjacent property and public rights-of-way from damage which may result from the work and to provide the necessary fences and barricades to eliminate any hazard to the public in their normal use of such property or right-of-way. Temporary fences or barricades shall be provided adjacent to the excavation where the slope is two feet horizontal to one foot vertical or steeper and/or the vertical height of the excavation exceeds six feet. Such fences or barricades shall be substantially constructed and shall be properly maintained so long as the hazard resulting from the excavation exists.

Erosion and siltation control may require temporary or permanent siltation basins, energy dissipators, or other



measures as actual field conditions warrant, whether or not such measures are a part of approved plans.

Where a permanent excavation is adjacent to an existing developed right-of-way or other publicly used property, and the top of the slope is within ten feet of the property line, the property owner shall construct an acceptable permanent four-foot high fence at the property line where the vertical height of the excavation exceeds six feet.

The City Engineer may modify or delete the above requirements where it is evident that the land development work will present no hazard to the adjacent property or public rights-of-way.

The City may suspend any Building Permit or Land Development Permit whenever any of the above measures are being inadequately observed until such time as conformity is obtained.

SEC. 62.0407 REPLACEMENT OF PUBLIC IMPROVEMENTS  
DAMAGED BY LAND DEVELOPMENT

In the event the City or public utility is required to place, replace, or maintain a facility within a public right-of-way or public property over which the property owner has done land development work, the property owner shall pay that portion of the cost of placement, replacement or maintenance caused by the construction, or existence of the owner's land development work.

The costs of placing, replacing or maintaining the facility shall include the cost of obtaining any necessary alternate right-of-way.

SEC. 62.0408 SPECIAL BOND REQUIRED FOR EXCAVATION

Where land development work or any excavation exempted from Land Development Permit procedures under Section 62.0403 hereof involves excavation adjacent to the public right-of-way or public property with a height in excess of six feet and a slope steeper than two units horizontal to one unit vertical, the City Engineer may require a special bond to indemnify the City against any damage which may result from such excavation or land development. The amount of the special bond shall be determined by the City Engineer and such bond shall remain in force and effect until the excavation or land development has been completed or the permanent lateral support for the slope, if required, has been constructed, and it has been determined by the City Engineer that the adjacent improvements are no longer in jeopardy.

The special bond shall be conditioned upon the payment to the City of any costs incurred by the City in repairing, restoring, or replacing improvements which may be damaged as a result of the adjacent excavation or land development. Procedures for notice, performance of work, and payment to the City where such work is performed by the City shall conform to Section 62.0110 of this Code; provided, however, where delay in repair to the improvement would constitute a hazard to the public or to other improvements within the immediate areas, the City Engineer may perform such emergency work as may be required and shall recover the cost thereof from the principal and surety of the bond.

SEC. 62.0409 MAINTENANCE AGREEMENT FOR LAND DEVELOPMENT  
INVOLVING UNCONTROLLED EMBANKMENT

Where, in the opinion of the City Engineer, the construction of an uncontrolled embankment would not be contrary to the public interest or general welfare, a permit for such land development may be issued provided that the plans clearly indicate the limits of the uncontrolled embankment to be constructed and an agreement as required in this Article is recorded in the office of the County Recorder.

Application for Land Development Permits involving uncontrolled embankment shall be accompanied by a land development maintenance agreement signed by the property owner. The agreement shall be prepared by the City Engineer and shall contain the following provisions and such other provisions as may, in the opinion of the City Engineer, afford protection to the property owner and the City.

(a) The land development work shall be designated as uncontrolled embankment and shall be constructed in accordance with plans approved by the City Engineer.

(b) The owner acknowledges that as an uncontrolled embankment the site is not eligible for a Building Permit unless special soils analysis and foundation design are submitted.

(c) The land development work shall be done and maintained in a safe and sanitary manner at the sole cost, risk and responsibility of the property owner and his

successors in interest, who shall hold the City harmless with respect thereto. Land development maintenance agreements for uncontrolled embankment shall be recorded in the office of the County Recorder as an obligation upon the land involved.

SEC. 62.0410 SLOPE GRADIENT REQUIREMENTS

All constructed slopes shall be designed for proper stability considering both geological and soil properties. Cut and fill slopes less than ten feet in vertical height may be constructed at a gradient no steeper than one and one-half horizontal to one vertical without special permission.

All cut and fill slopes greater than ten feet in vertical height shall be constructed at a gradient no steeper than two horizontal to one vertical. The City Engineer may permit such slopes at a gradient of one and one-half horizontal to one vertical contingent upon:

(a) Submission of reports by both a soils engineer and a certified engineering geologist containing the results of surface and subsurface exploration and analysis sufficient for the soils engineer and engineering geologist to certify that in their professional opinion the underlying bedrock and soil supporting the slope, and the materials to be exposed on cut and fill slopes shall have strength characteristics sufficient to provide a stable slope with a factor of safety of not less than one and one-half for static loads and will not pose a danger to persons or property;

(b) The installation of an approved special slope planting program and irrigation system. This special slope

planting program and irrigation system shall be design by a registered landscape architect and shall include specific measures to be taken on the steeper slopes which will assure definite and continued erosion control and satisfactory growth of the ground cover and plant material under the climactic conditions of the project site. The design shall incorporate the recommendations of the soils engineer as contained in the soils report.

Where extraordinary conditions exist to the extent that enforcement of the standards set forth herein would result in extreme hardship, the City Engineer may authorize slopes steeper than one and one-half horizontal to one vertical; provided, however, that a determination that such steeper slopes are warranted shall be based upon soils and geologic investigations as provided for herein. Extraordinary conditions shall include such conditions as the excavation of solid rock or street construction within a confined right-of-way.

#### SEC. 62.0414 REVEGETATION

Application for a Land Development Permit made in accordance with Section 62.0405 of this Article shall include a program for the permanent revegetation of all slopes which have a gradient steeper than six horizontal to one vertical and are in excess of five feet in vertical height.

Revegetation programs shall, to the extent practicable:

(a) Provide short term erosion protection through the use of seeds and/or plantings that ensure vigorous early growth;

(b) Provide long term erosion protection through introduction of seeds and/or plantings which will be fully capable of growing and reproducing without irrigation or by the application of no more than one million gallons of water per acre per year;

(c) Integrate with the adjacent natural terrain;

(d) Emphasize water conservation.

The revegetation program shall be demonstrably capable of producing a vegetation complex of healthy, well established plants in sufficient numbers and of a pattern of distribution which, when mature, will provide permanent erosion protection to the site. Where extensive areas are to be planted or where difficult growing conditions are anticipated, the City Engineer may require that the revegetation program be formulated and signed by a registered landscape architect.

An irrigation system shall be provided whenever required for the proper initiation, development and maintenance of the vegetation complex. The design of the irrigation system shall be such that adequate support is provided for as long as an irrigation requirement is projected to exist for the vegetation complex selected. It shall not have a significant potential for causing erosion, soil slippage, or landslides by saturating large volumes of soil, high application rates, or erosive water droplet characteristics.

Whenever it is determined by the City Engineer that there is potential for soil slippage, major erosion,

landslides, or other geologic hazard or instability, the revegetation plan shall include the recommendations of a soils engineer and certified engineering geologist.

Section 2. That Chapter VI, Article 2, Division 4, of the San Diego Municipal Code, be and the same is hereby amended by adding Sections 62.0402.1, 62.0402.2 and 62.0404.6 to read as follows:

SEC. 62.0402.1 PENALTIES FOR UNAUTHORIZED  
LAND DEVELOPMENT

No person shall do or cause to be done any work covered under this Division without having first obtained a Land Development Permit. Where land development is undertaken without a permit, the City Engineer shall initiate administrative penalties in accordance with the provisions of Section 62.0104 hereof.

In addition to the administrative penalties imposed by the City Engineer, persons violating the provisions of this Division shall be guilty of an infraction and subject to a fine not to exceed \$100 upon a first conviction. A second violation within three years of conviction shall constitute a misdemeanor and shall be subject to a fine not to exceed \$500 plus a maximum of 90 days in jail. A third or subsequent violation within five years of a first conviction shall constitute a misdemeanor and shall be subject to a fine not to exceed \$1,000 plus a maximum of six months in jail.

The provisions of this section shall apply to all persons who do, or cause to be done any work covered by this

Division without benefit of a permit including, but no limited to:

- (a) Property owners or lessees with whose permission or under whose direction the work is done;
- (b) Contractors who perform the work;
- (c) Truckers who transport fill material to the site or the excavated material from the site.

Compliance with the provisions of this Division shall be evidenced by possession of a valid Land Development Permit or a copy thereof.

SEC. 62.0402.2 ENFORCEMENT

The City Engineer and his designated representatives, in addition to law enforcement personnel who are otherwise empowered to enforce the provisions of the San Diego Municipal Code, are hereby authorized and empowered to enforce the provisions of this Division.

SEC. 62.0404.6 SOIL TESTING AND GEOLOGIC EXPLORATION

Soil testing and geologic exploration shall be exempt from the permit requirements of this Division unless the grading thresholds of Section 62.0403(a) or (b) are exceeded; provided, however, that areas disturbed by such activity shall be restored.

Section 3. That Chapter VI, Article 2, Division 4, of the San Diego Municipal Code, be and the same is hereby amended by repealing Sections 62.0411, 62.0412, 62.0413, 62.0415 and 62.0416 as follows:

SEC. 62.0411 AUTHORITY OF CITY ENGINEER TO PERMIT  
STEEPER SLOPE DEVELOPMENT



SEC. 62.0412 PLANNING COMMISSION CONSIDERATION OF  
SPECIAL PERMISSION FOR HIGHER OR STEEPER  
SLOPE DEVELOPMENT

SEC. 62.0413 CITY COUNCIL CONSIDERATION OF APPEALS  
FROM DECISIONS OF THE PLANNING COMMISSION  
OR CITY ENGINEER

SEC. 62.0415 GENERAL SLOPE IRRIGATION REQUIREMENTS

SEC. 62.0416 MINIMUM SLOPE IRRIGATION REQUIREMENTS  
FOR VARIOUS SLOPE GRADIENTS

Section 4. 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   
\_\_\_\_\_  
John K. Riess,  
Deputy City Attorney

JKR:mem:710.3  
8/30/84  
Or.Dept:E&D  
O-85-3

528

Passed and adopted by the Council of The City of San Diego on JAN 7 1985,  
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 Bayard, 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, and on JAN 7 1985.

~~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 Bayard, Deputy.

Office of the City Clerk, San Diego, California	
Ordinance Number <u>0-16348</u>	Adopted <u>JAN 7 1985</u>

RECEIVED  
CITY CLERK'S OFFICE

1984 SEP 12 AM 9:44

SAN DIEGO, CALIF.

889 7146

889 7146

00056

CERTIFICATE OF PUBLICATION

RECEIVED  
CITY CLERK'S OFFICE

1985 JAN 23 AM 10:19  
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-16348

**ORDINANCE NUMBER O-16348  
(NEW SERIES)  
ADOPTED ON JAN 7, 1985**

AN ORDINANCE AMENDING CHAPTER VI, ARTICLE 2, DIVISIONS 1, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 62.0401, 62.0402, 62.0403, 62.0404, 62.0405, 62.0406, 62.0407, 62.0408, 62.0409, 62.0410, 62.0411, AND BY ADDING SECTIONS 62.0402.1, 62.0402.2, 62.0404.1, AND BY REPEALING SECTIONS 62.0411, 62.0412, 62.0413, 62.0415, 62.0416 RELATING TO LAND DEVELOPMENT.

This amendment clarifies and makes organizational changes in the land development sections of the code. The provisions on sanctions are amended to make a first violation an infraction with the second and third violations misdemeanors with increasing penalties. The exemptions for minimal work not requiring a permit are changed from a limit of 800 cubic yards per 5,000 square feet to a new standard where four conditions must be met. Exemptions for minimal work will not be applicable in open space, fire lanes, floodways, floodways, or areas of geologic risk. More detailed requirements for a land development permit are added. The provisions for protection of adjacent property are strengthened. The role of the private engineering geologist in recommending out and fill slopes is clarified. The provisions for vegetation following land development are rewritten to clarify the requirements.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th floor, City Administration Building, 202 "C" Street, San Diego, CA 92101. Introduced on December 11, 1984. Passed and adopted by the Council of The City of San Diego on January 7, 1985.

ATTESTED BY:  
DAVID R. HEDGECOCK,  
Mayor of The City of San Diego, California.  
ARLIS G. ABDELNOUR,  
City Clerk of The City of San Diego, California.  
ELLEN BOYARD, Deputy  
City Clerk

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-16348  
(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  
00057 (Signature)

3 3/4" x 2 x 9.76 = 73.20