

ORDINANCE NUMBER O- 16939 (NEW SERIES)

ADOPTED ON SEP 14 1987

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE, BY ADDING THERETO SECTION 101.0462 WHICH REGULATES, FOR AN INTERIM PERIOD OF TIME, DEVELOPMENT IN THE ENVIRONMENTALLY SENSITIVE AREAS OF THE CITY AS DESCRIBED IN THE CONSERVATION AND OPEN SPACE ELEMENTS OF THE PROGRESS GUIDE AND GENERAL PLAN (ADOPTED FEBRUARY 26, 1979) AND AS FURTHER DEFINED HEREIN IN ORDER TO ALLOW THE CITY SUFFICIENT TIME TO COMPLETE AN UPDATE TO THE PROGRESS GUIDE AND GENERAL PLAN AND TO STUDY AND RECOMMEND APPROPRIATE ZONING AND OTHER PLAN IMPLEMENTATION POLICIES AND REGULATIONS WITHOUT PREJUDICE TO THAT EFFORT DUE TO THE LOSS OR DAMAGE OF SUCH ENVIRONMENTALLY SENSITIVE RESOURCES CAUSED BY ONGOING DEVELOPMENT PRESSURES AND GROWTH.

WHEREAS, The City of San Diego, California (hereinafter called "City"), is a Charter City pursuant to Article 11, Section 3, of the California Constitution and the City Charter of the City, and has all governmental, corporate and proprietary powers necessary to conduct municipal government, perform municipal functions and render municipal services, including the authority to adopt and enforce general and specific plans, zoning and subdivision regulations, and other land use control measures to protect and promote the public health, safety and welfare of its citizens; and

WHEREAS, pursuant to the provisions of the City Charter and state law, the City is charged with the responsibility of planning for the future growth and development of the City,

including the preparation of a general plan and the implementation thereof through the adoption of rules and regulations governing the issuance of building permits, the approval of tentative and final subdivision maps, and the enactment of a zoning map and zoning regulations; and

WHEREAS, the City has adopted a Progress Guide and General Plan (adopted February 26, 1979), including Guidelines for Future Development which set forth the goals, objectives and policies for growth and development in the urbanized, planned urbanizing and future urbanizing areas of the City which are defined in the Progress Guide and General Plan text and illustrations with respect to community plan areas; and

WHEREAS, it is a goal of the Progress Guide and General Plan to provide for the wise management and utilization of the City's remaining land resources, and preservation of its unique landforms and the character they impart to San Diego; and

WHEREAS, it is also a goal of the Progress Guide and General Plan to preserve as much as possible the natural attributes of both the floodplain and floodway without endangering loss of life and property; and

WHEREAS, it is also a goal of the Progress Guide and General Plan to establish an open space system which provides for the preservation of natural resources, the managed production of resources, the provision of outdoor recreation, the protection of public health and safety, and the utilization of the varied terrain and natural drainage systems of the San Diego Community to guide the form of urban development; and

WHEREAS, the Hillside Review Overlay Zone was adopted by the City Council in 1973 to assure that development occurs in such a manner as to protect the natural and topographic character and identity of hillside 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 drainage, flooding problems, and severe cutting or scarring; and

WHEREAS, on June 19, 1985, the City Council adopted revisions to the Hillside Review Overlay Zone including the qualitative development guidelines and criteria set forth in Document No. RR-262129, Hillside Design and Development Guidelines; and

WHEREAS, despite the Hillside Review Ordinance and supplementary guidelines, significant portions of the City's hillsides and canyons continue to be disturbed, calling into question the effectiveness of the ordinance to fully address the goals and objectives of the Progress Guide and General Plan; and

WHEREAS, the Floodway (FW) and Floodplain Fringe (FPF) Zones were adopted by the City Council in 1973 to regulate uses in the floodplain in order to minimize the potential for flood damage; and

WHEREAS, such zoning has not been applied to all floodplains within the City nor has such zoning, where applied, consistently served to protect the natural attributes of the floodway and floodplain from indiscriminate filling and development and the resulting need to channelize rivers and streams; and

WHEREAS, the City's coastal wetland resources have been effectively preserved through the regulations of the California Coastal Act of 1976, and will continue to be protected through the implementation of the City's Local Coastal Program; and

WHEREAS, significant noncoastal wetlands have not been afforded effective protection under existing federal, state or City regulations as evidenced by the fact that approximately ninety percent (90%) of the vernal pools in the San Diego area prior to urban development had been destroyed by 1979 and of the remaining pools, approximately twenty-five percent (25%) have been eliminated between 1979 and 1986; and

WHEREAS, in recognition of these concerns and in light of the fact that the Progress Guide and General Plan is now eight (8) years old, the City Council has authorized a reevaluation of the City's Growth Management Program and the preparation of an update to the Progress Guide and General Plan; and

WHEREAS, the City Council has appointed a Citizens' Advisory Committee on Growth and Development to review and make recommendations on the reevaluation and plan update; and

WHEREAS, the City Council has retained consultants to assist the Planning Department, City Manager and the Citizens' Advisory Committee in the growth management reevaluation and plan update process; and

WHEREAS, a continuation of growth and development within environmentally sensitive areas, under existing regulations, during the reevaluation and plan update period may have a deleterious effect on the City and on its ability to effectively implement the new plan; and

WHEREAS, it has been shown that without interim controls significant environmentally sensitive resources will continue to be lost; and

WHEREAS, pending the completion of the reevaluation and adoption of the plan update and appropriate implementation measures, controls must be enacted to protect the integrity of the plan update; and

WHEREAS, such controls should be enacted for the purpose of protecting the public interest, preventing development which will permanently damage or destroy the habitat, recreational, scenic, and public safety values of the City's environmentally sensitive resources, which development would prejudice the integrity and objectives of the growth management reevaluation and plan update; and

WHEREAS, such controls shall be the minimum necessary to accomplish the objectives herein stated and shall permit development consistent with the goals and objectives of the existing Progress Guide and General Plan and the City's Local Coastal Program; and

WHEREAS, the City Council finds that the continued approval of development without adequate assurances of preservation of environmental quality will result in a threat to the public health, safety or welfare unless such development is subject to appropriate controls; and

WHEREAS, the aforesaid findings are supported by documentary evidence in the public record of development which has resulted in the degradation of environmentally sensitive resources; and

WHEREAS, the Planning Commission has conducted a public workshop and public hearing regarding the utilization of an interim resource protection overlay control zone; NOW THEREFORE, 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 adding Section 101.0462 to read as follows:

SEC. 101.0462 INTERIM RESOURCE PROTECTION OVERLAY ZONE

A. RESOURCE PROTECTION PERMIT REQUIRED

Within the Resource Protection Overlay Zone no building, improvement or portion thereof shall be erected, constructed, converted, established, altered, enlarged, used, or demolished, nor shall any lot or premises be excavated or graded nor shall any vegetation be cleared and grubbed until a separate Resource Protection Permit is obtained in accordance with the procedures set forth in this ordinance. A Resource Protection Overlay Zone Permit shall not be required for installation of landscaping on preexisting single-family lots when clearing and grubbing, grading or other development does not occur. Any person violating this ordinance shall be guilty of a misdemeanor and shall be punishable pursuant to the provisions of SEC. 11.12 of the San Diego Municipal Code.

B. APPLICATION OF THE RESOURCE PROTECTION OVERLAY ZONE

The Resource Protection Overlay Zone shall be applied to all property located within the boundaries of the following referenced areas:

1. All floodways and one hundred (100) year floodplain fringe areas as identified in the Federal Emergency Management Agency (FEMA) maps on file in the office of the City Clerk as Document No. 00-16939-1, and all areas within the City's existing Floodway (FW) or Floodplain Fringe (FPF) Zones.

2. All hillside areas of twenty-five percent (25%) slope or greater as identified by the City's existing Hillside Review Overlay Zone (HR).

3. All wetland and wetland buffer areas identified in Map Drawings C-713 and C-740 on file in the office of the City Clerk as Document Nos. 00-16939-2 and 00-16939-3.

Where any portion of a parcel is located within the Resource Protection Overlay Zone, the regulations of the Resource Protection Overlay Zone shall be applicable to the entire parcel.

C. EXCLUSIONS

1. Coastal Zone.

The Resource Protection Overlay Zone shall not be applicable to any area within the Coastal Zone

where the City Council has accepted Coastal Commission certification of the City's Local Coastal Program and has authorized the Planning Director to begin processing Coastal Development Permits.

2. Mission Valley.

The Resource Protection Overlay Zone shall not be applicable to any area within the floor of Mission Valley, defined as that area located within the existing FW and FPF Zones, nor to any lawfully operating sand and gravel extraction facility located within the boundaries of the Mission Valley Community Plan.

3. Aquaculture Water Reclamation Plants.

The Resource Protection Overlay Zone shall not be applicable to any aquaculture water reclamation plant which has been the subject of a public hearing at the City Council and has been released by the City Council upon making findings that the plan or project under consideration contains specific development requirements and/or environmentally sensitive area mitigation measures sufficient to achieve the general purpose and intent of this ordinance.

4. Black Mountain Road and Calle Cristobal Assessment District.

The construction of Black Mountain Road and the Calle Cristobal Assessment District area in its entirety and the development necessary to fund and support the necessary improvements of these streets shall be exempt from the provisions of the Resource Protection Overlay Zone.

5. Miramar Ranch North.

The Resource Protection Overlay Zone shall not be applicable to any area within the Miramar Ranch North Community Plan and the seventy (70) acre high school project in Scripps Ranch.

6. County Island Annexation.

The Resource Protection Overlay Zone shall not be applicable to any area within the County Island Annexation portion of the Scripps Miramar Ranch Community Plan.

7. Park Development and Public Facilities.

The Resource Protection Overlay Zone shall not be applicable to any park development plan or major public facility project which has been the subject of a public hearing at the City Council and has been released by the City Council upon making findings that the plan or project under consideration contains specific development requirements and/or environmentally sensitive area

mitigation measures sufficient to achieve the general purpose and intent of this ordinance.

D. DEFINITIONS

The following definitions shall apply only for the purposes of this ordinance.

1. Aquaculture.

A form of agriculture devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and fresh water.

2. 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.

3. Environmentally Sensitive Area.

Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem, and which could be easily disturbed or degraded by human activities and development.

4. Fill.

Any material or substance which is deposited, placed, pushed, dumped, pulled or transported, or moved to a new location and the conditions resulting therefrom. Fill also includes pilings

placed for the purpose of erecting structures thereon when located in a submerged area. Examples of fill materials include but are not limited to earth, excavated or dredged materials, sand, gravel, rock, riprap, and concrete.

5. Floodplain.

The relatively flat areas of low lands adjoining, and including, the channel of a river, stream, water course, bay or other body of water which is subject to inundation by the flood waters of the one hundred (100) year frequency flood.

6. Floodway.

The river channel and the adjacent land areas, within the floodplain, needed to carry the one hundred (100) year frequency flood without increasing the water surface elevation more than one (1) foot at any point. The natural flood water profile is the water surface elevation of a nonconfined one hundred (100) year frequency flood in the natural undeveloped floodplain.

7. Floodplain Fringe.

All that land in a floodplain not lying within a delineated floodway. Land within a floodplain fringe is subject to inundation by relatively low velocity flows and shallow water depths.

8. Hillsides.

All lands having a slope with a natural gradient of twenty-five percent (25%) or greater, twenty-five (25) feet of vertical distance for each one hundred (100) feet of horizontal distance as mapped by the Hillside Review Overlay Zone.

9. Native Vegetation.

Any area within slopes of twenty-five percent (25%) or greater and within the jurisdiction of the Resource Protection Overlay Zone which possesses undisturbed, or relatively undisturbed coastal sage or chaparral communities. Native vegetation areas disturbed by fire or surface clearing shall continue to be regarded as such, provided the disturbed area retains a viable root stock or reseeding potential.

10. Potential Geologic Hazard.

Any area within slopes of twenty-five percent (25%) or greater and within the jurisdiction of the Resource Protection Overlay Zone which is located in a moderate (C) or high (D) Risk Zone as identified on the geo-technical land use capability maps referenced by the Seismic Safety Element of The City of San Diego's Progress Guide and General Plan, and on file in the office of the City Clerk.

11. Prime Viewshed Area.

Any area within slopes of twenty-five percent (25%) or greater and within the jurisdiction of the Resource Protection Overlay Zone which is visible within one mile from the center median of Interstate 5, Interstate 8, Interstate 15, Freeways 805, 163, 52, 94 and all primary arterial roadways identified in The City of San Diego's Progress Guide and General Plan, and from the midpoint of the streambed of all major canyon systems, including but not limited to: Tecolote Canyon, Penasquitos Canyon, Lopez Canyon, Carroll Canyon, Rose Canyon, Murphy Canyon, Switzer Canyon, 34th Street Canyon, Maple Canyon, City Heights Southern Perimeter Canyon System, Chollas Creek Canyon System, Gonzales Canyon, Shaw Valley, Carmel Mountain Canyon and Crest Canyon.

12. Riparian Habitat.

An environment associated with freshwater watercourses, including perennial and intermittent streams, lakes, and other bodies of fresh water, and characterized by plants and animals which are dependent upon the availability of water in the resource.

13. Wetlands.

Land which is transitional between terrestrial and aquatic systems where the water table is

usually at or near the surface or where the land is covered by shallow water.

In addition, all wetlands mapped pursuant to this ordinance must have one or more of the following characteristics:

a. At least periodically, the land supports predominantly hydrophytes.

b. The substrate is predominantly undrained hydric soil.

c. The substrate is nonsoil and is saturated with water or covered by shallow water at some time during the growing season of each year.

Areas classifiable as wetlands include lagoons, marshes, estuaries, vernal pools, streams and rivers and associated riparian habitat areas. However, for the purposes of this ordinance, and in consideration of both qualitative factors and regulatory needs, not all areas meeting this definition have been mapped. The wetland regulations of this ordinance shall apply only to mapped wetlands (Map Drawings C-713 and C-740).

E. PERMITTED USES

1. Wetland Areas.

Permitted uses allowed in the wetland areas as indicated on Map Drawings C-713 and C-740 shall be limited to the following:

- a. Aquaculture.
- b. Nature study projects or similar resource dependent uses.
- c. Wetland restoration projects.
- d. Incidental public service projects where there is no feasible less environmentally damaging alternative, and where mitigation measures have been provided to minimize adverse environmental effects.

2. Wetland Buffer Areas.

Permitted uses in the wetland buffer areas, as indicated on Map Drawings C-713 and C-740, shall be limited to the following:

- a. Access paths.
- b. Fences.
- c. Other improvements necessary to protect adjacent wetlands.

3. Floodways.

Permitted uses in the floodway areas, as designated on the Federal Emergency Management Agency Maps (FEMA) on file in the office of the City Clerk or alternatively any area zoned FW, shall be those uses permitted by the underlying zoning, subject to the regulations and restrictions of this ordinance.

4. Floodplain Fringe.

Permitted uses in the Floodplain Fringe (property located between the floodway and the limits of the one hundred (100) year floodplain) as designated on the Federal Emergency Management Agency (FEMA) maps on file in the office of the City Clerk or alternatively any area zoned FPF, shall be those uses permitted by the underlying zone subject to the regulations and restrictions of the underlying zone in addition to the regulations and restrictions of the Floodplain Fringe Overlay Zone (SEC. 101.0403.1), where applicable, and this ordinance.

5. Hillside Areas.

Permitted uses in the hillside areas (property having slopes with a natural gradient of twenty-five percent (25%) and over, within the jurisdiction of the Resource Protection Overlay Zone) shall be those uses permitted by the underlying zone subject to the regulations and restrictions of the underlying zone in addition to the regulations and restrictions of the Hillside Review Overlay Zone (SEC. 101.0454) and this ordinance.

F. INTERIM DEVELOPMENT REGULATIONS

1. Wetlands.

a. A Buffer Zone of one hundred (100) feet in width shall be maintained around all identified wetland areas, unless the applicant demonstrates that a buffer of lesser width will protect the resources of the wetland, based on site-specific information. Such information shall include, but is not limited to, the type and size of the development and/or proposed mitigations (such as planting of vegetation or construction of fencing) which will also achieve the purposes of the buffer. The buffer shall be measured landward from the wetland. Maps and supplemental information submitted as part of the application shall be used to determine the specific boundaries of the wetland and buffer. The California Department of Fish and Game and the United States Fish and Wildlife Service shall be consulted in such buffer determinations.

b. All buildings or other improvements proposed to be placed or erected, and all grading activities proposed to be undertaken adjacent to a wetland shall be located so as not to contribute to increased sediment

loading of the wetland, cause disturbance to its habitat values, or otherwise impair the functional capacity of the wetland.

2. Floodways.

a. New roadways and roadway expansions, except local access roadways, shall be allowed only where indicated in an adopted community plan.

b. Floodway encroachments for utility and transportation crossings shall be offset by improvements or modifications to enable the passage of the one hundred (100) year frequency flood.

c. Channelization or other substantial alteration of rivers or streams shall be limited to:

- 1) Necessary water supply projects.
- 2) Flood control projects where no other feasible method for protecting existing public or private structures exists and where such protection is necessary for public safety or to protect existing development.
- 3) Developments where the primary function is the improvement of fish and wildlife habitat.

d. Any development which involves the channelization or other substantial alteration of rivers or streams shall do all of the following:

1) Incorporate into the project design and mitigation measures all relevant findings of hydrological studies for the watershed of the affected stream. Such findings shall include but shall not be limited to, erosional characteristics, flow velocities, and sediment transport.

2) Incorporate mitigation measures designed to assure that there will be no increase in the peak runoff rate from the developed site as compared to the greatest discharge that would occur from the existing undeveloped site as a result of the intensity of rainfall expected during a six (6) hour period once every ten (10) years.

3) Minimize stream scour, avoid increases in and reduce, where feasible, the transport of stream sediment to downstream wetlands and other environmentally sensitive habitat areas. Acceptable techniques to control stream sediment include, but are not limited to,

the planting of riparian vegetation in and near the stream.

4) If channelization is determined to be necessary, the floodway of the stream shall accommodate a one hundred (100) year flood. To the extent feasible, all artificial channels shall consist of natural bottoms and sides and be designed and sized to accommodate existing riparian vegetation. Such vegetation shall be maintained at specified levels compatible with the design capacity of the channel.

3. Floodplain Fringe.

a. New roadways and roadway expansions, except local access roadways, shall be allowed only where indicated in an adopted community plan.

b. Within the one hundred (100) year floodplain fringe, permanent structures and/or fill for permanent structures, roads and other public improvements will be allowed only if the applicant can demonstrate that:

1) The development is capable of withstanding periodic flooding, and does not require the construction of off-site flood protective works, including but not

limited to, artificial flood channels, revetments and levees. Flood protection works may be permitted to protect new or existing roads which are identified in the Circulation Element of The City of San Diego's Progress Guide and General Plan, and applicable community plans.

2) Existing environmentally sensitive habitat areas, including riparian habitat, will not be significantly adversely affected.

3) The design of the development incorporates the findings and recommendations of both a site-specific and watershed hydrologic study in order that the development (a) assures that there will be no increase in the peak runoff rate from the fully developed site as compared to the discharge that would be expected from the existing undeveloped site as a result of the most intense rainfall expected once every ten (10) years during a six (6) hour period; and (b) neither significantly increases nor contributes to downstream bank erosion and sedimentation of wetlands, lagoons, or other environmentally sensitive habitat areas.

4) There will be no significant adverse water quality impacts to downstream wetlands, lagoons and other environmentally sensitive habitat areas.

c. All development proposed in the floodplain fringe on property which borders the floodway, or is otherwise linked physically or visually with the floodway shall:

1) Provide not less than a twenty-five (25) foot-wide open space strip bordering the floodway.

2) Provide for landscaping of all buildings and parking facilities.

3) Retain and protect mature trees and other significant existing vegetation. Trees introduced to the site shall be adequately protected from drowning during heavy rains. Any drainage or runoff system installed for this purpose shall be serviced regularly during the November 15 to March 31 rainy season so as to avoid the accumulation of standing water around the base of such trees.

d. All landscaping shall be in substantial conformance with the standards and

specifications set forth in Chapter X,
Division 7, of the San Diego Municipal Code
(City-wide Landscaping Regulations and
Technical Supplement).

4. Hillsides.

Where a development is proposed on slopes of
twenty-five percent (25%) grade and over, within
the jurisdiction of the Resource Protection Overlay
Zone, which possesses undisturbed native
vegetation, or potential geologic hazards, or prime
viewshed values as defined in Paragraph D. above,
the following regulations shall apply:

a. Slopes of twenty-five percent (25%)
grade and over shall be preserved in their
natural state, provided a minimal encroachment
into such slopes (areas disturbed by grading
or development) may be permitted as set forth
in the following table:

TWENTY-FIVE PERCENT (25%) SLOPE ENCROACHMENT ALLOWANCE

Percentage of Parcel in Slopes of Twenty-five Percent (25%) Grade and Over	Maximum Encroachment Allowance as Percentage of Area in Slopes of Twenty-five Percent (25%) Grade and Over
75% or less	10%
80%	12%
85%	14%
90%	16%
95%	18%
100%	20%

The following types of development shall be exempt from the encroachment limitations set forth above.

1) Major public roads and collector streets identified in the Circulation Element of an adopted community plan of The City of San Diego's Progress Guide and General Plan.

2) Local public streets or private roads and driveways which are necessary for access to the more developable portions of a site on slopes of less than twenty-five percent (25%) grade, 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 Planning Director based upon an analysis of the project site.

3) Public utility systems.

4) Areas with native vegetation, which are cleared or trimmed to protect existing or proposed structures in potential danger from fire provided the area of such clearance is the minimum necessary to comply with existing City fire codes and that such slopes retain their native root stock or are replanted with native or naturalized non-native fire

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retardant vegetation, and further that no reconfiguration of the natural landform is required.

5) Natural slopes or previously graded slopes located directly underneath pole-supported or cantilevered buildings, provided such areas are open to light and air and allow a minimum clearance of four (4) feet between the building subfloor and the ground.

b. On existing legal parcels, a deviation in the encroachment allowance percentage may be granted by the Planning Director, if necessary to maintain a minimum development right (total disturbed area) equal to twenty percent (20%) of the entire parcel.

c. All encroachment allowances, including permissible deviations, shall be subject to a determination by the Planning Director that such encroachment supports the findings of fact set forth in Paragraph K. of this ordinance.

d. All slopes of twenty-five percent (25%) grade and over which remain undisturbed or which are restored or enhanced as a result of a development approval shall be conserved as a condition of permit approval through a deed restriction, open space easement or other suitable device that will preclude any future development or grading of such slopes.

G. APPLICATION SUBMITTAL REQUIREMENTS

Every application for a Resource Protection Permit shall be accompanied by the following information where applicable:

1. A site plan showing the location of proposed buildings, accessory structures, recreational areas, access roads and driveways, parking areas, storage areas, and any other uses of the site.

2. A landscaping plan showing the location of all plant materials including trees, shrubs, and ground covers.

3. A grading plan for any development which requires the alteration of the existing land configuration.

4. A preliminary elevation plan (including sections) showing basic foundation and roof configurations.

5. A drainage plan showing proposed runoff control measures.

6. In wetland areas only: An analysis and map showing the precise boundary of the wetland and proposed buffer area.

7. In floodway and floodplain fringe areas only:

a. A hydrological study of the site and affected watershed showing existing river

channels, streambeds and proposed channelization alignments.

b. A biological resource inventory and mitigation plan.

8. In hillside areas only:

a. A slope analysis, based upon a topographic map with contour intervals not exceeding five (5) feet. The slope analysis shall show the following slope categories for the entire property in acres:

1) Less than twenty-five percent (25%) slope.

2) Twenty-five percent (25%) to thirty-five percent (35%) slope.

3) Greater than thirty-five percent (35%) slope.

b. A geological reconnaissance report where development is proposed to be located in a "moderate" (C), "high" (D), or "variable" (BC or AC) Risk Zone as identified on the geo-technical land use capability maps referenced by the Seismic Safety Element of The City of San Diego's Progress Guide and General Plan, and on file in the office of the City Engineer. The geological reconnaissance report shall be prepared in accordance with the City's Engineering and Development

Department's Guidelines for Geo-technical Reports, and shall address potential geologic hazards. The report shall be considered and made available for public review as part of the standard environmental review process.

Where unstable conditions are indicated but, in the opinion of the City Engineer, are not sufficiently defined in the geological reconnaissance report, a preliminary engineering geology report shall also be required. The preliminary engineering geology report shall include the results of subsurface investigations sufficient to identify the nature and magnitude of such unstable conditions, and shall identify alternative mitigation measures that may be needed.

c. An existing vegetation resource survey showing:

- 1) Areas covered by undisturbed coastal sage or chaparral vegetation.
- 2) Existing disturbed areas.
- 3) Areas proposed to be disturbed by the development.
- 4) Areas to be restored in native vegetation.

d. A viewshed analysis showing prime viewshed areas as defined in Paragraph D.

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H. PUBLIC HEARING

The Planning Director shall conduct a noticed public hearing for all project applications in accordance with Article 1, Chapter X, Division 2, SEC. 101.0220, of the San Diego Municipal Code. The Planning Director shall have the authority to consolidate any public hearing on a Resource Protection Permit Application with any other public hearing required in connection with another permit application relating to the same development. Applications for a Resource Protection Permit requested or required in conjunction with other permits or variances requiring discretionary action by more than one decisionmaking authority or body, shall be heard by the senior granting authority or body.

I. PERMIT EXEMPTIONS

A Resource Protection Permit shall not be required for interior modifications or repairs, nor any exterior repairs, alterations or maintenance which does not increase the envelope of an existing building or accessory structure, nor for agricultural grading on land which has been cultivated within the previous five (5) year period or pursuant to an agricultural permit (SEC. 62.0405(h)).

A Resource Protection Permit shall not be required for any development for which a Building Permit, Grading Permit, Hillside Review Permit, Planned Development

Permit, Conditional Use Permit, Development Agreement or Planned District Permit has been requested (application on file) prior to June 22, 1987, nor for any development which has obtained Coastal Commission approval on or before July 10, 1987.

J. ADMINISTRATION OF PERMIT

The Planning Director or a designated representative shall administer the Resource Protection Permit. A Resource Protection Permit shall not be issued unless the available information supports the findings of fact set forth in Paragraph K. of this ordinance. In issuing a Resource Protection 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 determined necessary and desirable to protect the public health, safety, and general welfare.

K. DEVIATIONS AND REQUIRED FINDINGS OF FACT

The Planning Commission and the City Council shall have the ultimate authority to allow a deviation from any of the development regulations of this ordinance provided that such deviation is required because strict application of this ordinance would result in unnecessary hardship or reach results in conflict with City Council policy. Findings of overriding social or economic considerations and other factors as set forth

herein below must be made by the Planning Commission and City Council in order to approve any such deviation. The foregoing authority is hereby delegated to the Planning Director. The decision of the Planning Director with respect to a request for a deviation may be appealed to the Planning Commission and City Council in accordance with Paragraph L. of this ordinance.

Based on the information derived from the plans, documents and studies submitted, from testimony received at the public hearing, and from any field investigations made, the Planning Director (or the Planning Commission or City Council on appeal) shall decide whether to issue the Resource Protection Permit as requested. A permit shall be issued provided that all of the findings of fact set forth below can be supported by the information available at the time of the hearing and by the conditions imposed:

1. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive natural resources and environmentally sensitive areas.

2. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and scenic resources located in adjacent parks and recreation areas and will provide adequate buffer areas to protect such resources.

3. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from geological and erosional forces and/or flood and fire hazards.

4. The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas.

5. The proposed development will conform with the The City of San Diego's Progress Guide and General Plan, the Community Plan, the Local Coastal Program, or any other applicable adopted plans and programs.

L. APPEALS

1. Appeals to the Planning Commission.

The decision of the Planning Director may be appealed to the Planning Commission in accordance with Article 1, Chapter X, Division 2, SEC. 101.0230, of the San Diego Municipal Code.

2. Appeals to the City Council.

The decision of the Planning Commission may be appealed to the City Council in accordance with Article 1, Chapter X, Division 2, SEC. 101.0240, of the San Diego Municipal Code.

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M. CONDITIONAL USE PERMITS WITHIN THE RESOURCE
 PROTECTION OVERLAY ZONE

Conditional Use Permits which would allow development in the Resource Protection Overlay Zone shall be consistent with the uses permitted under the Resource Protection Overlay Zone and shall be subject to all other applicable regulations and restrictions. All Conditional Use Permits within the Resource Protection Overlay Zone shall be subject to approval by the City Council as set forth in Article 1, Chapter X, Division 2, SEC. 101.0510, of San Diego Municipal Code.

N. DURATION OF THE RESOURCE PROTECTION OVERLAY
 ZONE

The provisions of this ordinance shall remain in effect for such time as the Interim Development Ordinance No. O-16908 (New Series), adopted July 21, 1987, remains effective, or until such time as the City Council adopts an ordinance (or ordinances) which supersedes this ordinance and is designed to protect the City's environmentally sensitive areas, whichever comes first.

O. APPLICABILITY OF PROVISIONS

That upon the effective date of this ordinance, Section 5., entitled "ENVIRONMENTALLY SENSITIVE LANDS," of Ordinance No. O-16908 (New Series), adopted July 21, 1987, is hereby superseded by this ordinance. In the event that any provision of this ordinance is invalidated, voided, or its enforcement stayed by a

court of competent jurisdiction, the applicable provision(s) of Section 5. of the Interim Development Ordinance No. O-16908 (New Series), shall have full force and effect in place of the invalidated provision(s). "Applicable provision(s)" means those provisions of Section 5. pertaining to the same subject matter(s) as those which have been invalidated.

Section 2. This ordinance shall take effect and be in force on the thirtieth (30th) day from and after its passage.

APPROVED: John W. Witt, City Attorney

By Thomas F. Steinke
Thomas F. Steinke
Deputy City Attorney

TFS:ta:fs
07/29/87
07/31/87 REV. 1
08/11/87 REV. 2
10/01/87 REV. 3
Or.Dept:Plan.
O-88-27
Form=o.none

[Faint, illegible text covering the majority of the page]

RECEIVED
CITY CLERK'S OFFICE
1987 OCT -1 PM 3:06
SAN DIEGO CALIF.

SEP 14 1987

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

Council Members	Yeas	Nays	Not Present	Ineligible	
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Bill Cleator	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
District 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	VACANT
Ed Struiksma	<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"/>	
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Celia Ballesteros	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

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

(Seal)

By: *Charles G. Abdelnour* Deputy.

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

AUG 07 1987

SEP 14 1987

....., 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: *Charles G. Abdelnour* Deputy.

Office of the City Clerk, San Diego, California

SEP 14 1987

Ordinance Number 0-16939 Adopted

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE
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SAN DIEGO, CALIF.

CITY OF SAN DIEGO
202 C. STREET, 2ND FLOOR
SAN DIEGO, CA 92101
ATTN: MAYDELL L. PONTECORVO

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE

ORDINANCE NUMBER O-16939 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER X, ARTICLE 1, DIVISION 4, OF THE SAN DIEGO MUNICIPAL CODE BY ADDING THERETO SECTION 101.0481 WHICH REGULATES, FOR AN INTERIM PERIOD OF TIME, DEVELOPMENT IN THE ENVIRONMENTALLY SENSITIVE AREAS OF THE CITY AS DESCRIBED IN THE CONSERVATION AND OPEN SPACE ELEMENTS OF THE PROGRESS GUIDE AND GENERAL PLAN (ADOPTED FEBRUARY 26, 1979) AND AS FURTHER DEFINED HEREIN IN ORDER TO ALLOW THE CITY SUFFICIENT TIME TO COMPLETE AN UPDATE TO THE PROGRESS GUIDE AND GENERAL PLAN TO STUDY AND RECOMMEND APPROPRIATE ZONING AND OTHER PLAN IMPLEMENTATION POLICIES AND REGULATIONS WITHOUT PREJUDICE TO THAT EFFORT DUE TO THE LOSS OR DAMAGE OF SUCH ENVIRONMENTALLY SENSITIVE RESOURCES CAUSED BY ONGOING DEVELOPMENT PRESSURES AND GROWTH.

The Resource Protection Overlay Zone is an interim ordinance designed to protect the environmentally sensitive areas of the City while the City completes an update of its Progress Guide and General Plan. The environmentally sensitive areas within the Resource Protection Overlay Zone include: 1) all floodways and floodplain areas within the City of San Diego as identified in the Federal Emergency Management Agency (FEMA) maps, for a 100-year frequency flood; 2) all hillside areas of 25 percent slope or greater as identified by the City's existing Hillside Review Overlay Zone (HR); and 3) all wetlands and wetland buffer areas identified in Map Drawings C-713 and C-740 on file in the office of the City Clerk.

The Resource Protection Overlay Zone is intended to protect existing environmentally sensitive areas by: 1) restricting uses permitted in mapped wetland areas and by requiring adequate buffer areas (generally 100 feet wide) around such wetlands; 2) limiting the channelization or other alteration of rivers and streams located in mapped floodway areas; 3) limiting permanent structures and filling in mapped floodplain areas; and 4) minimizing disturbance of sensitive hillside areas through the use of precise encroachment regulations. The Resource Protection Overlay Zone requires a discretionary permit which is reviewed by the Planning Director and subject to appeal to the Planning Commission and City Council.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

INTRODUCED ON AUGUST 7, 1987
Passed and Adopted by the Council of The City of San Diego on SEPTEMBER 14, 1987

AUTHENTICATED BY: MAUREEN O'CONNOR
Mayor of The City of San Diego, CA
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, CA
By MAYDELL L. PONTECORVO, Deputy.
(SEAL)

Pub. September 28 RR720

I, THOMAS D. KELLEHER, 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-16939 (NEW SERIES)

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:

SEPT. 28

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

Dated at San Diego, California this 28 day of SEPT., 1987.

Thomas D. Kelleher
(Signature)

54 lines x .98 = \$105.84
(14 7/8" x 2 x \$10.78 = \$105.10)