

ORDINANCE NUMBER O- 19698 (NEW SERIES)

DATE OF FINAL PASSAGE JAN 15 2008

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 4, ARTICLE 4, DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY TRANSFERING REGULATIONS RELATED TO USE OF GOATS FOR BRUSH MANAGEMENT FROM SECTION 44.0307 TO CHAPTER 14, ARTICLE 2, DIVISION 4; AND AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTION 142.0402, TABLE 142-04A, AND SECTION 142.0412; ALL RELATING TO BRUSH MANAGEMENT.

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

Section 1. That Chapter 4, Article 4, Division 3, of the San Diego Municipal Code is amended by amending Section 44.0307 to transfer the regulations related to use of goats for brush management to Chapter 14, Article 2, Division 4, and amending Section 142.0402, Table 142-04A, and Section 142.0412, to read as follows:

**§44.0307 Cattle, Goats and Sheep**

- (a) [No change.]
- (b) Section 44.0307(a) shall not apply to the following:
  - (1) Dairies or dairy farms licensed during the month of July 1953.
  - (2) Any goats brought in temporarily, to privately-owned non-agricultural zones for the purpose of performing brush management in accordance with the Land Development Code section 142.0412.
- (c) [No change.]

§142.0402 **When Landscape Regulations Apply**

- (a) [No change.]
  
- (b) [No change to first paragraph.]

**Table 142-04A**  
Landscape Regulations Applicability

Type of Development Proposal			Applicable Regulations	Required Permit Type/ Decision Process
Column A	Column B	Column C		
1 - 9 [No change.]				
10.	Publicly or privately owned <i>premises</i> , that are within 100 feet of a <i>structure</i> , and contain native or naturalized vegetation.		142.0403, 142.0412, and 142.0413	No permit required by this division if work is performed in accordance with applicable regulations
11.	New <i>structures</i> , additions to <i>structures</i> , or subdivisions that create <i>lots</i> where new <i>structures</i> could be located on <i>premises</i> adjacent to native or naturalized vegetation		142.0403, 142.0412, and 142.0413	Building Permit/ Process One
12.	New Trees or shrubs planted in the <i>public right-of-way</i>		62.0603, 129.0702, 142.0403 and 144.0409	Public Right-of-Way Permit or Street Tree Permit/ Process One
13.	<i>Condominium Conversions</i>		142.0403, 142.0404, 142.0405(b)(1), 142.0409(a), 142.0412, and 142.0413	No permit required by this division

**§142.0412 Brush Management**

Brush management is required in all base zones on publicly or privately owned *premises* that are within 100 feet of a *structure* and contain native or naturalized vegetation.

(a) Brush management activity is permitted within *environmentally sensitive lands* (except for *wetlands*) that are located within 100 feet of an existing *structure* in accordance with Section 143.0110(c)(7). Brush management in *wetlands* may be requested with a *development permit* in accordance with Section 143.0110 where the Fire Chief deems brush management necessary in accordance with Section 142.0412(i). Where brush management in *wetlands* is deemed necessary by the Fire Chief, that brush management shall not qualify for an exemption under the Environmentally Sensitive Lands Regulations, Section 143.0110(c)(7).

(b) [No change.]

(1) Brush management Zone One is the area adjacent to the structure, shall be least flammable, and shall typically consist of pavement and permanently irrigated ornamental planting. Brush management Zone One shall not be allowed on slopes with gradient greater than 4:1 (4 horizontal feet to 1 vertical foot) unless the property received *tentative map* approval before November 15, 1989. However, within the Coastal Overlay Zone *coastal development* shall be subject to the *encroachment* limitations set forth in Section

143.0142(a)(4) of the Environmentally Sensitive Lands  
Regulations.

- (2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and typically consists of thinned, native or naturalized non-irrigated vegetation.
- (c) The width of Zone One and Zone Two shall not exceed 100 feet and shall meet the width requirements in Table 142-04H unless modified based on existing conditions pursuant to Section 142.0412(i) and the following:
- (1) The establishment of brush management Zones One and Two for new *development* shall be addressed in a site-specific plan to include all creative site and/or structural design features to minimize impacts to undisturbed native vegetation. Both Zone One and Zone Two shall be provided on the subject property unless a recorded easement is granted by an adjacent property owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.
  - (2) Where Zone Two is located within City-owned property, a Right-of-Entry shall be executed in accordance with Section 63.0103 prior to any brush management activity. Zone Two brush management is not permitted in City-owned open space for new *development* proposals. For properties in the Coastal Overlay

Zone, additional requirements for new *subdivisions* are found in Section 142.0412 (n).

**Table 142-04H**  
**Brush Management Zone Width Requirements**

Zone One Width	35 ft.
Zone Two Width	65 ft.

(d) through (g) [No changes.]

**(h) Zone Two Requirements**

(1) through (4) [No changes.]

(5) [No change first paragraph.]

(A) All new plant material for Zone Two shall be native, low-fuel, and fire-resistive. No non-native plant material may be planted in Zone Two either inside the MHPA or in the Coastal Overlay Zone, adjacent to areas containing *sensitive biological resources*.

(B) New plants shall be low-growing with a maximum height at maturity of 24 inches. Single specimens of fire resistive native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of transmitting fire from native or naturalized vegetation to habitable *structures* and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.

(C) through (D) [No change.]

(6) Zone Two shall be maintained on a regular basis by pruning and thinning plants, removing invasive species, and controlling weeds.

(7) [No change.]

(i) In consideration of the topography, existing and potential fuel load, and other characteristics of the site related to fire protection, the Fire Chief may modify the requirements of this Section, and where applicable with the approval of the Building Official, may require building features for fire protection in addition to those required in accordance with Chapter 14, Article 5, Division 5 (Additional Building Standards for Buildings Located Adjacent to Hazardous Areas of Native or Naturalized Vegetation) if the following conditions exist:

(1) through (3) [No changes.]

(j) – (l) [No changes.]

(m) Where specifically authorized by the Fire Chief, goats may be used for brush management in accordance with the following:

(1) In order to prevent escapes, harassment from predators or humans, or over browsing, goats shall be managed and monitored 24-hours a day by a contractor with at least two years experience in raising, handling, and controlling of goats. The goat contractor shall maintain a minimum of \$1 million of liability insurance subject to approval by the Office of the City Attorney.

- (2) At least 10 business days prior to using goats for brush management, the property owner shall apply to the Fire Rescue Department for a permit to use goats for brush management. The *applicant* shall:
- (A) Obtain and submit written permission from the owner of any property through which the goats must gain access to the area to be browsed.
  - (B) Provide written notice to the Fire Chief and all owners and residents of property located immediately adjacent to the area to be browsed. This notice shall identify Sections 44.0307 and 142.0412(m) as the authority for temporary use of goats.
  - (C) Provide photographs of the existing condition of the site, and a plan describing the methods to be employed and measures to retain existing vegetation in compliance with Section 142.0412(h).
- (3) The area to be browsed shall be measured, staked, and appropriately fenced with temporary electrically charged fencing to delineate the Zone Two brush management areas. Signs must be posted at 25-foot intervals along the fence warning of the possibility of mild electric shock.

- (4) The timing of brush management activities shall comply with Section 142.0412(d).
- (5) While goats are browsing:
- (A) No more than 75 goats are permitted on a single acre of the *premises*.
  - (B) Goats shall be moved along periodically so that no more than 50 percent of the vegetation is thinned or reduced.
  - (C) The goats shall remain within a secure enclosure at all times.
  - (D) Goats shall be moved into a separate holding pen at night, which shall be located the maximum distance reasonably practicable from residences.
  - (E) Droppings in the holding pen, and to the extent reasonably possible within the brush management area, shall be removed and properly disposed of daily in accordance with Section 44.0307.
  - (F) The goats shall be used for brush management only and shall be immediately removed when the brush thinning has been accomplished.
- (6) No later than 5 business days from the date of removal of the goats, the *applicant* shall notify the Fire Chief in writing of the removal of the goats.



- (7) The Fire Rescue Department shall not approve any permit under Section 142.0412(m) that will utilize a contractor determined by the City Manager to have negligently performed brush management services within the three prior calendar years. All facts supporting such a determination shall be provided to the *applicant* in writing, and shall constitute a final determination on the City's behalf.
- (n) Within the Coastal Overlay Zone, brush management for new *subdivisions* shall not be permitted to encroach into an environmentally sensitive habitat area [ESHA], except that *encroachment* may be permitted where necessary to achieve a maximum *development* area of 25 percent including Zones One and Two. For purposes of this Section, ESHA shall include southern fordunes, torrey pines forest, coastal bluff scrub, maritime succulent scrub, maritime chaparral, native grasslands, oak woodlands, coastal sage scrub and coastal sage scrub/communities, and any vegetative communities that support threatened or endangered species.
- (o) Violations and Remedies
- (1) The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2 (Enforcement Authorities for the Land Development Code), and Chapter 12, Article 1, Division 3 (Violations of the Land Development Code and General Remedies).

(O-2008-60.REVISED COPY)

- (2) In accordance with Section 121.0312, the City Manager may order reasonable restoration of the *premises* and any adjacent affected site to its lawful condition or may require reasonable mitigation at the sole cost of the responsible person.

Section 2. 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 final passage.

Section 3. This ordinance shall take effect and be in force on the thirtieth day after its final passage. However, this ordinance will not apply within the Coastal Zone until the California Coastal Commission unconditionally certifies this ordinance as a Local Coastal Program Amendment.


[Note to City Clerk: Add new Editors note at the end of Section 142.0412 to alert code users that a Resolution (R-2008-366) was passed by the Council to temporarily allow goat monitoring in the coastal overlay zone for a 5 year trial period during which annual monitoring reports would be distributed to the Coastal Commission. If at the end of 5 years, monitoring reports indicate that the use of goats has adversely impacted ESHA, the use of goats in the coastal zone would be discontinued. Delete Editors note at the end of Chapter 13, Article 2, Division 4 and delete Sections 132.0404, 132.0405, 132.0406, 132.0407, and 132.0408 following unconditional certification by the Coastal Commission.]

O- 13698

(O-2008-60)

APPROVED: MICHAEL J. AGUIRRE, City Attorney

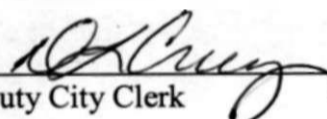
By

  
Jana L. Garmo  
Deputy City Attorney

JLG:als  
12/05/07  
Or.Dept:DSD  
O-2008-60

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of JAN - 8 2008.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 1-15-08  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
JERRY SANDERS, Mayor

**STRIKEOUT ORDINANCE**

**OLD LANGUAGE: ~~Struck Out~~**

**NEW LANGUAGE: Underlined**

(O-2008-60.REVISED COPY)

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 4, ARTICLE 4, DIVISION 3, OF THE SAN DIEGO MUNICIPAL CODE BY TRANSFERRING REGULATIONS RELATED TO USE OF GOATS FOR BRUSH MANAGEMENT FROM SECTION 44.0307 TO CHAPTER 14, ARTICLE 2, DIVISION 4; AND AMENDING CHAPTER 14, ARTICLE 2, DIVISION 4, BY AMENDING SECTION 142.0402, TABLE 142-04A, AND SECTION 142.0412; ALL RELATING TO BRUSH MANAGEMENT.

**§44.0307 Cattle, Goats and Sheep**

(a) [No change.]

(b) Section 44.0307(a) shall not apply to the following:

Dairies or dairy farms licensed during the month of July 1953.

(2) Any goats brought in temporarily, to privately-owned non-agricultural zones for the purpose of performing brush management in accordance with the Land Development Code section 142.0412, ~~Brush Management, subject to the following requirements:~~

~~The goats shall be managed and monitored 24 hours a day by a person who has at least two years experience in the raising,~~

~~handling, and controlling of goats, and who carries a minimum of \$1 million of liability insurance, to prevent escapes, harassment from predators or humans, or over-browsing.~~

~~The owner of the property to be browsed by the goats shall notify, in writing, the City of San Diego Fire Marshal and all owners and residents with property located immediately adjacent to the area to be browsed by goats, at least 10 business days prior to beginning operation. This notice shall identify section 44.0307 as the authority for the temporary use of goats.~~

~~The owner of the property to be browsed by the goats shall obtain written permission from the owner of any property through which the goats must gain access to the area to be browsed by goats, at least 10 business days prior to beginning operation.~~

~~The area to be browsed by goats shall be measured, staked, and appropriately fenced with temporary electrically charged fencing to delineate the brush management areas required under the Land Development Code section 142.0412, Brush Management. Signs must be posted at 25-foot intervals along the fence warning the possibility of mild electric shock.~~

~~When browsing, no more than 75 goats are permitted on any single acre of the premises.~~

~~When browsing, the goats shall be moved along periodically so that no more than 50 percent of the vegetation is thinned or reduced, in accordance with the Land Development Code section 142.0412, Brush Management.~~

~~The goats shall remain within a secure enclosure at all times. The goats may be moved to a separate holding pen at night, which shall be located the maximum distance practicable from residences. In addition to the requirements set forth in section 44.0307(c), droppings in the holding pen shall be removed and properly disposed of daily.~~

~~Brush Management activities are prohibited within coastal sage scrub, maritime succulent scrub, and coastal sage chaparral habitats from March 1 through August 15, except where documented to the satisfaction of the City Manager that the clearing would be consistent with conditions of species coverage described in the City of San Diego's MSCP Subarea Plan.~~

~~The goats shall be used for brush management only and shall be immediately removed when the brush thinning has been accomplished. No later than 5 business days from the date of the removal of the goats, the owner of the property browsed by the goats shall notify, in writing, the City of San Diego Fire Marshal of the removal of the goats.~~

(3) ~~Any use of goats by the City of San Diego or its permittee for the purpose of performing brush management on City-owned property in non-agricultural zones in accordance with the Land Development Code section 142.0412, Brush Management, or for weed abatement, are subject to the requirements set forth in section 44.0307(b)(2)(A)-(I) and 44.0307(e).~~

(c) [No change.]

**§142.0402 When Landscape Regulations Apply**

(a) [No change.]

(b) [No change to first paragraph.]

**Table 142-04A**

Landscape Regulations Applicability

Type of Development Proposal			Applicable Regulations	Required Permit Type/ Decision Process
Column A	Column B	Column C		
1 - 9 [No change.]				
10.	<del>Undeveloped</del> <u>Publicly or privately owned premises that are</u> within 100 feet of a <del>structure that and</del> <u>contain native or naturalized vegetation or environmentally sensitive lands</u>		142.0403, 142.0412, and 142.0413	No permit required by this division if work is performed in accordance with applicable regulations
11.	<u>New structures, additions to structures, or subdivisions that create lots where new structures could be located on premises adjacent to native or naturalized vegetation</u>		142.0403, 142.0412, and 142.0413	Building Permit/ Process One

Type of Development Proposal	Applicable Regulations	Required Permit Type/ Decision Process
12. New Trees or shrubs planted in the <i>public right-of-way</i>	62.0603, 129.0702, 142.0403 and 144.0409	Public Right-of-Way Permit or Street Tree Permit/ Process One
13. Condominium Conversions	142.0403, 142.0404, 142.0405(b)(1), 142.0409(a), 142.0412, and 142.0413	No permit required by this division

**§142.0412 Brush Management**

(a) Brush management is required in all base zones on the following types of premises:

(1) Publicly or privately owned premises that are within 100 feet of a structure and contain native or naturalized vegetation.

(2)(a) ~~Except for wetlands,~~ Brush management activity is permitted within environmentally sensitive lands (except for wetlands) that are located within 100 feet of an existing structure in accordance with Section 143.0110(c)(7). Brush management in wetlands may be requested with a development permit in accordance with Section 143.0110 where ~~unless~~ the Fire Chief deems brush management necessary in ~~wetlands~~ in accordance with Section 142.0412(i). Where brush management in wetlands is deemed necessary by the Fire Chief, that brush management shall not qualify for an exemption under the Environmentally Sensitive Lands Regulations, Section 143.0110(c)(7).



(b) [No change.]

(1) Brush management Zone One is the area adjacent to the structure, shall be least flammable, and shall typically consist of pavement and permanently irrigated ornamental planting. Brush management Zone One shall not be allowed on slopes with gradient greater than 4:1 (4 horizontal feet to 1 vertical foot) unless the property ~~that~~ received *tentative map* approval before November 15, 1989. However, within the Coastal Overlay Zone *coastal development* shall be subject to the ~~encroachment~~ *encroachment* limitations set forth in Section 143.0142(a)(4) of the Environmentally Sensitive Lands Regulations.

(2) Brush management Zone Two is the area between Zone One and any area of native or naturalized vegetation and shall typically consist of thinned, native or naturalized non-irrigated vegetation.

(c) ~~Except as provided in Sections 142.0412(f) or 142.0412(i),~~ The width of Zone One and Zone Two shall not exceed 100 feet and shall meet that the width requirements shown in Table 142-04H unless modified based on existing conditions pursuant to Section 142.0412(i) and the following:

(1) The establishment of brush management Zones One and Two for new development shall be addressed in a site-specific plan to include all creative site and/or structural design features to minimize impacts to undisturbed native vegetation. Both Zone One and Zone Two shall be provided on the subject property

unless a recorded easement is granted by an adjacent property owner to the owner of the subject property to establish and maintain the required brush management zone(s) on the adjacent property in perpetuity.

(2) Where Zone Two is located within City-owned property, a Right-of-Entry shall be executed in accordance with Section 63.0103 prior to any brush management activity. Zone Two brush management is not permitted in City-owned open space for new development proposals. For properties in the Coastal Overlay Zone, additional requirements for new subdivisions are found in Section 142.0412 (n).

**Table 142-04H  
Brush Management Zone Width Requirements**

Zone One Width	35 ft.
Zone Two Width	65 ft.

(d) through (g) [No changes.]

(h) Zone Two Requirements

(1) through (4) [No changes.]

(5) [No change first paragraph.]

(A) All new plant material for Zone Two shall be native ~~non-~~irrigated, low-fuel, and fire-resistive. No non-native plant material may be planted in Zone Two either inside the MHPA or in the Coastal Overlay Zone, adjacent to areas containing *sensitive biological resources*.

(B) New plants shall be low-growing with a maximum height at maturity of 24 inches. Single specimens of fire ~~resistant~~ resistive native trees and tree form shrubs may exceed this limitation if they are located to reduce the chance of transmitting fire from native or naturalized vegetation to habitable *structures* and if the vertical distance between the lowest branches of the trees and the top of adjacent plants are three times the height of the adjacent plants to reduce the spread of fire through ladder fueling.

(C) through (D) [No change.]

(6) Zone Two shall be maintained on a regular basis by pruning and thinning plants, removing invasive species, and controlling weeds; ~~and maintaining any temporary irrigation system.~~

(7) [No change.]

(i) In consideration of the topography, existing and potential fuel load, and other characteristics of the site related to fire protection, the Fire Chief may modify the requirements of this sSection, and where applicable with the approval of the Building Official, may require building features for fire protection in addition to those required in accordance with Chapter 14, Article 5, Division 5 (Additional Building Standards for Buildings Located Adjacent to Hazardous Areas of Native or Naturalized Vegetation) if the following conditions exist:

(1) through (3) [No changes.]

(j) - (l) [No changes.]

(m) Where specifically authorized by the Fire Chief, goats may be used for brush management in accordance with the following:

(1) In order to prevent escapes, harassment from predators or humans, or over browsing, goats shall be managed and monitored 24-hours a day by a contractor with at least two years experience in raising, handling, and controlling of goats. The goat contractor shall maintain a minimum of \$1 million of liability insurance subject to approval by the Office of the City Attorney.

(2) At least 10 business days prior to using goats for brush management, the property owner shall apply to the Fire Rescue Department for a permit to use goats for brush management. The applicant shall:

(A) Obtain and submit written permission from the owner of any property through which the goats must gain access to the area to be browsed.

(B) Provide written notice to the Fire Chief and all owners and residents of property located immediately adjacent to the area to be browsed. This notice shall identify Sections 44.0307 and 142.0412(m) as the authority for temporary use of goats.

(C) Provide photographs of the existing condition of the site, and a plan describing the methods to be employed and measures to retain existing vegetation in compliance with Section 142.0412 (h).

(3) The area to be browsed shall be measured, staked, and appropriately fenced with temporary electrically charged fencing to delineate the Zone Two brush management areas. Signs must be posted at 25-foot intervals along the fence warning of the possibility of mild electric shock.

(4) The timing of brush management activities shall comply with Section 142.0412(d).

(5) While goats are browsing:

(A) No more than 75 goats are permitted on a single acre of the premises.

(B) Goats shall be moved along periodically so that no more than 50 percent of the vegetation is thinned or reduced.

(C) The goats shall remain within a secure enclosure at all times.

(D) Goats shall be moved into a separate holding pen at night, which shall be located the maximum distance reasonably practicable from residences.

- (E) Droppings in the holding pen, and to the extent reasonably possible within the brush management area, shall be removed and properly disposed of daily in accordance with Section 44.0307.
- (F) The goats shall be used for brush management only and shall be immediately removed when the brush thinning has been accomplished.
- (6) No later than 5 business days from the date of removal of the goats, the applicant shall notify the Fire Chief in writing of the removal of the goats.
- (7) The Fire Rescue Department shall not approve any permit under Section 142.0412(m) that will utilize a contractor determined by the City Manager to have negligently performed brush management services within the three prior calendar years. All facts supporting such a determination shall be provided to the applicant in writing, and shall constitute a final determination on the City's behalf.
- (n) Within the Coastal Overlay Zone, brush management for new subdivisions shall not be permitted to encroach into an environmentally sensitive habitat area (ESHA), except that encroachment may be permitted where necessary to achieve a maximum development area of 25 percent including Zones One and Two. For purposes of this Section, ESHA shall include southern fordunes, torrey pines forest, coastal bluff scrub, maritime

succulent scrub, maritime chaparral, native grasslands, oak woodlands, coastal sage scrub and coastal sage scrub/communities, and any vegetative communities that support threatened or endangered species.

(o) Violations and Remedies

(1) The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2 (Enforcement Authorities for the Land Development Code), and Chapter 12, Article 1, Division 3 (Violations of the Land Development Code and General Remedies).

(2) In accordance with Section 121.0312, the City Manager may order reasonable restoration of the *premises* and any adjacent affected site to its lawful condition or may require reasonable mitigation at the sole cost of the responsible person.

JLG:als  
12/05/07  
Or.Dept:DSD  
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