

ORDINANCE NO. 10179 (New Series)

**AN ORDINANCE AMENDING SECTIONS 81.404, 81.405, 87.421
AND 91.1.105 OF THE SAN DIEGO COUNTY CODE OF REGULATORY
ORDINANCES RELATING TO SUBDIVISIONS**

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that it is necessary to amend Sections 81.404, 81.405, 81.421 and 91.1.105 of the San Diego County Code of Regulatory Ordinances (County Code) pertaining to required subdivision improvements and supervised grading. The amendments made by this ordinance are intended to maintain flexibility in construction phasing for developers while at the same time helping to ensure public improvements required as a condition of development approval are constructed by project owners in a timely manner before impacts that the project improvements are designed to mitigate arise.

Section 2. Sections 81.404, 81.405 81.421and 91.1.105 of the County Code are hereby amended to read as follows:

SEC. 81.404. REQUIRED IMPROVEMENTS.

(a) Before a final map, or where allowed, a parcel map for a major subdivision, is approved the subdivider shall complete or enter into a written agreement with the County with the appropriate security as provided in section 81.408 to complete the following improvements:

(1) Grade and improve all land dedicated or to be dedicated for roads or easements, bicycle routes and all private roads and private easements laid out on a final map or parcel map in the manner and with the improvements that are necessary for the use of the lot owners in the subdivision, local neighborhood traffic and drainage needs in accordance with County Standards.

(2) Install all on-site and off-site drainage and flood control facilities required by the Director DPW, in conformance with San Diego County Standards and applicable floodplain overlay zoning and drainage and flood control policies of the County General Plan. When the Board determines, however, that completing construction of the off-site facilities to San Diego County Standards before the final map or parcel map is approved is impracticable, the subdivider may be allowed to complete the construction in stages when the Board also determines there is a substantial public benefit to staged construction. In that case, the subdivider shall:

(A) Construct required drainage and flood control facilities that are outside the boundaries of the subdivision in stages in conformance with San Diego County Standards and in a manner that will not result in an increase in existing or potential flood hazards to downstream properties.

(B) Construct the facilities to provide for increases in flood flows attributable to a proposed development and the cumulative effect of future developments in the watershed pursuant to current County policy regarding staged construction.

(C) Design the staged facilities to include provisions for minimum maintenance requirements including, but not limited to, vehicular access, erosion and sedimentation control, structural low flow channels and service roads and where appropriate landscaping and irrigation.

(3) Extend public water supply facilities adequate to serve the subdivision to the property to be subdivided when the project is located within a water district or a district's adopted sphere of influence and: (A) the main lines of the existing public potable water supply are located within 500 feet of the subdivision boundary or (B) the subdivider has proposed the use of a public water supply to serve the subdivision.

(4) Provide proof satisfactory to the Director that the serving water district has certified that adequate potable public water supply is available to each lot or parcel or to the Director DEH that there is an adequate potable well water supply available to each lot or parcel. The subdivider shall also install minimum water supply pipe as determined by the Director DPW and recommended by the water district serving the proposed subdivision.

(5) Install fire hydrants and connections as approved by the chief of the local fire district or the County Fire Official.

(6) Install a public system for sewers or sewage disposal serving all proposed lots or parcels where it is determined that the system is required to preserve the public health due to the size and shape of the proposed lots, the terrain and soil condition of the land to be subdivided and the existing development in the vicinity of the proposed subdivision. Each public system shall be approved by the serving sanitation district according to its standards and policies.

(7) Install underground all new and existing utility distribution facilities, including cable television lines and other video service facilities, within the boundaries of any new subdivision or within any half road abutting a new subdivision. The subdivider is responsible for complying with the requirements of this subsection and shall make the necessary arrangements with each of the serving utilities, including licensed cable television operators and other video service providers, for the installation of these facilities. Transformers, terminal boxes, meter cabinets, pedestals, concealed ducts and other facilities necessarily appurtenant to these underground utilities and street lighting systems may be placed above ground. This subsection shall not apply to the installation and maintenance of overhead electric transmission lines in excess of 34,500 volts and long distance and trunk communication facilities. When the installation of cable television lines or video service facilities is required, the subdivider shall provide the Director DPW with either documentation from a licensed or franchised cable television operator or other franchised video service operator, stating arrangements for the underground installation of cable television lines or other video service facilities have been made or documentation that the Cable Television Review Commission has reported that no licensed cable television operator is willing and able to install cable television lines in the subdivision. Any modification or waiver of the

requirements of this subsection shall be governed by sections 81.308 and 309 and reviewed in accordance with the Board Policy on installing utilities underground.

(8) Construct a street lighting system as required by the Director DPW in conformance with San Diego County Standards.

(9) Grade and improve all land dedicated or to be dedicated for trails or pathways including land previously dedicated for a road which includes sufficient right-of-way for a pathway. Trail improvements shall be made in accordance with the trail standards specified in section 7, "Design and Construction Guidelines," of the CTMP for the type of trail to be developed. Pathway improvements shall be made in accordance with the standards for pathways in the San Diego County Public Road Standards.

(b) Where each parcel on a parcel map for a major subdivision contains a gross area of 20 acres or more, the subdivider shall complete the following improvements:

(1) Grade and improve private roads to grades and widths required in accordance with San Diego County Standards for Private Roads.

(2) Install all drainage structures and facilities required by the Director DPW in conformance with San Diego County Standards.

(3) Install water supply pipelines, fire hydrants and connections as may be required by the Planning Commission or the Board.

(4) Grade and improve all land dedicated or to be dedicated for trails or pathways including land previously dedicated for a road which includes sufficient right-of-way for a pathway. Trail improvements shall be made in accordance with the trail standards specified in section 7, "Design and Development Guidelines," in the Community Trails Master Plan for the type of trail to be developed. Pathway improvements shall be made in accordance with the standards for pathways in the San Diego County Public Road Standards.

(c) If improvements are not completed at the time the final or parcel map is approved and are instead secured by a subdivision improvement agreement, subdivider shall, when the area where improvements are to be made is not accessible by public easements, grant a right of entry or temporary easement to the County in a form acceptable to the Director DPW to allow the County access to the area where the improvements are to be made. The right of entry or temporary easement shall continue for so long as the improvements remain incomplete and for one year following the acceptance of the improvements. Subdivider shall record the right of entry or temporary easement so that subsequent purchasers of interests in the subdivision will have notice of the County's access rights.

(d) Unless determined by the Director DPW to be unnecessary because improvements will be constructed before the lots served by the improvements will be developed, all projects except those for which a traffic study has not be required to be prepared shall have an approved Construction Phasing Plan for all on-site and off-site improvements that identifies when the

required improvements will be constructed in relation to the rough and final grade releases and issuance of building permits. All approved Construction Phasing Plans shall be made a part of the project's improvement agreement.

(e) No rough grading approval or building permits will be issued on a lot until all essential off-site road improvements, all on-site road improvements whether essential or not, and all utility, drainage and other improvements needed to serve the lot are completed to the satisfaction of the Director DPW. For the purposes of this section, essential off-site road improvements shall mean those improvements determined by the Director DPW to be needed to serve a lot to mitigate project environmental, traffic safety or operational impacts. Final pavement cap, driveway, and sidewalk improvements may be constructed after rough grade approval and building permit issuance; except, the Director DPW may require earlier completion where determined by the Director DPW to be necessary to protect public safety and welfare. No final grading approval or occupancy will be issued for a lot until final pavement cap, driveway, and sidewalk improvements serving the lot are completed to the satisfaction of the Director DPW. Notwithstanding the foregoing and unless earlier completion of off-site improvements is determined by the Director DPW to be necessary to mitigate project impacts or address a traffic safety or operational deficiency, subdivisions for which a Construction Phasing Plan is not required may defer the construction of off-site improvements until after rough grade releases and/or building permits have been issued for seventy-five percent of the buildable lots in the subdivision.

(f) Sections (d) and (e) shall not apply to any subdivisions with tentative map or parcel map applications that have been deemed completed pursuant to the requirements of the Subdivision Map Act, Government Code section 66410 et seq. on or before October 28, 2011.

SEC. 81.405. TIME TO CONSTRUCT REQUIRED IMPROVEMENTS AND EXTENSIONS.

(a) Where the subdivider agrees to install improvements pursuant to section 81.404, the agreement shall provide that the subdivider shall complete the improvements within two years after recording the map.

(b) In those instances consistent with subsection (c) below where a subdivider has obtained all permits to construct improvements required by the agreement and has begun installation of the improvements, the Director DPW shall extend the time for the subdivider to complete improvements once for up to two years provided the Director DPW is satisfied the security the subdivider has provided is adequate. In all other instances and except as provided in subdivision (c), the Director DPW may extend the time for a subdivider to complete improvements once, for up to two additional years provided the Director is satisfied that the security provided by the subdivider is adequate. The Director DPW may require the subdivider to provide additional or modified security as a condition of the extension.

(c) The Director DPW may extend the time for a subdivider to complete improvements once, for up to two additional years and shall not grant an extension for completion of the improvements if the subdivider has previously been granted a time extension or the subdivider

has substituted security for the security originally furnished under section 81.408. The Board, however, may grant additional time extensions.

SEC. 87.421. INSPECTION AND REPORTING REQUIREMENTS FOR REGULAR AND SUPERVISED GRADING.

The following requirements are applicable to regular and supervised grading:

(a) The County Official shall cause the work to be inspected to the extent he or she deems necessary and may require inspection of excavations and fills and compaction control by a soils engineer. Rough and final grading inspection approvals sought for lots within major subdivisions shall be issued subject to any limitations imposed by section 81.404. At a minimum, the following inspections shall be required:

(1) Initial Site Inspection: A site inspection shall be performed prior to grading permit issuance.

(2) Rough Grading Inspection: Upon completion of rough grading and prior to issuance of a building permit, an inspection of the rough grading, and in particular the drainage and erosion control measures, shall be performed. All required landscaping shall be planted and irrigation systems installed prior to the rough grading inspection. The permittee shall complete and submit to the County Official a compaction report prior to or at the time of this inspection. The County Official shall approve the rough grading if he or she determines, based upon the inspection and the compaction report, that the rough grading complies with the requirements of the grading permit, section 81.404 in the case of grading completed for a major subdivision, and this Division.

(3) Final Grading Inspection: Upon completion of all grading, and prior to occupancy of any building or structure, a final grading inspection shall be performed. The County Official shall review the reports submitted pursuant to paragraph (c) below and shall determine that planting is established and that all irrigation systems are operational. The County Official shall approve the final grading if it conforms to all requirements of the grading permit, section 81.404 in the case of grading completed for a major subdivision, and this Division.

(b) The County Official may require sufficient inspection by the soil engineer to assure that the soil engineer has adequately considered all geological conditions. These inspections may be required to include, but need not be limited to inspection of cut slopes, canyons during clearing operations for ground water and earth material conditions, benches prior to placement of fill, and possible spring locations. Where geologic conditions warrant, the County Official may require periodic geologic reports.

(c) Reports of a soil engineer certifying the compaction or acceptability of all fills shall be filed with the County Official. The reports shall include but need not be limited to:

- (1) inspection of cleared areas and benches prepared to receive fill and removal of all soil and unsuitable materials;
- (2) the placement and compaction of fill materials;
- (3) the bearing capacity of the fill to support structures;
- (4) the inspection or review of the construction of retaining walls, subdrains, drainage facilities and devices, storm water protection devices, buttress fills, and other similar measures;
- (5) excavation for and back filling of retaining walls; and
- (6) where potentially expansive soils are present at either cut or fill grade, written recommendations regarding treatment given or to be given to such soils.

SEC. 91.1.105 . PERMITS.

(a) Except as provided in section 91.1.105.2, no person shall erect, construct, enlarge, alter, repair, maintain, move, improve, remove, convert or demolish a building or structure regulated by this chapter without a separate permit for each building or structure, issued by the building official. This section shall not be construed to require separate permits for a dwelling and auxiliary buildings or structures on the same property which are described in a building permit application, plot plan and other drawings.

(b) No person shall construct a residential driveway and no person shall cause or allow a residential driveway to be constructed on property owned or controlled by the person without having obtained a permit as provided in this chapter. A person shall not be required to obtain a separate permit for a residential driveway ancillary or accessory to the construction of a single family dwelling or duplex.

(c) No person shall do any grading, for which a grading permit is required, without a grading permit issued as provided in Title 8, Division 7 of this code. When the grading permit is issued by the building official a building permit shall be obtained to cover all retaining walls, drainage structures and related items (other than standard terrace drains and similar facilities). The building permit fee shall be based on the total valuation of the retaining walls, drainage structures and related items.

(d) No permits shall be issued for construction on a site where a grading permit is required until the rough grading has been inspected and approved, acceptable compaction and other soil reports have been approved and until all plan check fees required under this code have been paid.

(e) No permit shall be issued on a site where grading or public improvements installation work is being performed subject to the approval of the Director of Public Works until the Director of Public Works notifies the Director of Planning and Land Use

in writing that the grading or public improvement work has been satisfactorily completed.

Section 3. This Ordinance shall take effect and be in force sixty (30) days after the date of its passage. Before the expiration of fifteen (15) days after its adoption, a summary shall be published once with the names of the members voting for and against the same in San Diego Commerce, a newspaper of general circulation published in the County of San Diego.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of San Diego this 12th day of October, 2011.