

ORDINANCE NO. 10745 (NEW SERIES)

AN ORDINANCE AMENDING SECTIONS 87.203 AND 87.207 OF THE COUNTY OF SAN DIEGO GRADING ORDINANCE RELATING TO ISSUANCE OF GRADING PERMITS AND GRADING PLANS OR IMPROVEMENT PLANS FOR PROJECTS WITH PREVIOUS DISCRETIONARY LAND USE APPROVAL

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

Section 1. The Board of Supervisors finds and determines that the County of San Diego Zoning Ordinance should be updated by amending Section 87.203. Issuance of Grading Permits and Section 87.207. Grading Plans or Improvement Plans for Projects with Previous Discretionary Land Use Approval. The Board finds that these amendments are reasonable and necessary to streamline operations and business efficiency; provides consistency between California Code of regulations and local permit processes; and supports efforts to protect environmental resources.

Section 2. Section 87.203 of the County of San Diego Grading Ordinance is hereby amended to read as follows:

SEC. 87.203. ISSUANCE OF GRADING PERMIT.

(a) Upon application signed by the owner of the property, the County Official shall issue a grading permit where the County Official determines that:

- 1) The proposed grading substantially complies with grading plans or improvement plans approved pursuant to Section 87.204 through 87.208;

In determining whether the proposed grading substantially complies with grading plans or improvement plans approved pursuant to Section 87.204 through 87.208, project change(s) required to comply with changes in State or Federal regulatory requirements shall be provided a 10 percent change allowance in addition to the substantial conformance determination if all of the following are met:

- (a) It shall be determined that the project change(s) do not result in a new or substantially increased significant impact in accordance with the California Environmental Quality Act (CEQA).
 - (b) It shall be determined that that the project change(s) do not result in the creation of a situation that would be detrimental to the health, safety, or welfare of the public.
 - (c) It shall be determined that the project change(s) do not result in the elimination of project features required to meet other County of San Diego code requirements, including, but not limited to the following:
 - (1) Elimination of a trail that provides a connection through the project that is needed for regional connectivity.
 - (2) Reduction in the overall amount of parkland approved with the original project.
 - (3) Elimination of roads that are needed for emergency access, travel time, or to handle the traffic generated by the project.
 - (4) Reduction of area needed for required water supply well or onsite wastewater treatment system and reserve area.
- (b) Notwithstanding paragraph (a), where the approval of plans occurred prior to May 9, 2003, the application for a grading permit shall be evaluated based upon the criteria applicable under Sections 87.204 through 87.208; and where federal or state wildlife protection agencies identify newly

discovered concerns with impacts to resources that were not known at the time of grading plan or improvement plan approval, the County Official may defer issuance of a grading permit until those agencies' requirements have been complied with.

- (c) The 24 month period referenced in paragraph (a)(3) may be renewed by the County Official one time for an additional 24 months, if he or she determines that no significant changes in the work are proposed, environmental review documentation has been appropriately updated and, in the case of major grading, none of the criteria requiring denial under Section 87.211 exist. Notwithstanding the foregoing, the 24 month period shall not be renewed in violation cases, where the application has been filed to correct work done in violation of this Division (including work done without obtaining a grading permit).
- (d) Once issued, the grading permit shall authorize only the work shown on the approved grading plans, which shall be deemed to be incorporated into the grading permit, for a period of 36 months following the date of permit issuance, after which time the permit shall expire and be of no further force or effect. All work authorized by the grading permit, including the matters required by Sections 87.425 (Completion of Work -- Final Reports) and 87.426 (Notification of Completion), shall be completed within 36 months.
- (e) On the effective date of this subsection, a grading permit issued on or after August 21, 2007 and before August 21, 2009 that was issued for 24 months shall automatically be extended for an additional 12 months to make the expiration date 36 months from the original issue date.
- (f) When requested by a permittee, the County Official shall grant a one time extension, up to an additional 12 months for a permit in subsection (d) or subsection (e) if the County Official determines that:
 - 1) No significant changes in the work are proposed;
 - 2) For a permit issued before August 21, 2009 the permittee has provided a statement that due to economic reasons, the permittee has not been able to complete at least 30 percent of the total volume of earthwork. For a permit issued after August 21, 2009, substantial progress has been made towards completing the approved grading, in that at least 30 percent of the total volume of earthwork has been completed; and
 - 3) The estimates of the costs of the work for purposes of Section 87.304 have been updated to current costs at the time of extension.
- (g) Upon application by the owner, the County Official shall approve a modification to a grading permit, provided that:
 - 1) A grading plan or improvement plan change has been approved for the modification pursuant to Section 87.204(c);
 - 2) The proposed grading, as modified, substantially complies with grading plans or improvement plans approved pursuant to Section 87.204 through 87.208;
 - 3) The grading permit application was filed not more than 24 months following the approval of grading plans or improvement plans, or within the duration of a renewal of that period pursuant to paragraph (c);
 - 4) The grading permit modification fee specified in Chapter 3 of this Division has been paid; and
 - 5) Appropriate amendments have been entered into, if required by the County Official, for the Agreement relating to a Right of Entry for Inspection and Indemnification pursuant to Section 87.215, and the Agreement and Cash Deposit if required by Section 87.304.

A modification to a grading permit shall have no effect on the period of time within which grading shall be completed.

Section 3. Section 87.207 of the County of San Diego Grading Ordinance is hereby amended to read as follows:

SEC. 87.207. GRADING PLANS OR IMPROVEMENT PLANS FOR PROJECTS WITH PREVIOUS DISCRETIONARY LAND USE APPROVAL.

(a) The County Official may approve grading plans or improvement plans for a project for which a discretionary land use approval has previously been granted, where he or she determines that:

- 1) The work substantially conforms to that shown on preliminary grading plans which were reviewed as part of an approved and unexpired tentative map, tentative parcel map, use permit or other land development application.

In determining whether the proposed grading substantially complies with grading plans or improvement plans approved pursuant to Section 87.204 through 87.208, project change(s) required to comply with changes in State or Federal regulatory requirements shall be provided a 10 percent change allowance in addition to the substantial conformance determination if all of the following are met:

- (a) It shall be determined that the project change(s) do not result in a new or substantially increased significant impact in accordance with the California Environmental Quality Act (CEQA).
 - (b) It shall be determined that that the project change(s) do not result in the creation of a situation that would be detrimental to the health, safety, or welfare of the public.
 - (c) It shall be determined that the project change(s) do not result in the elimination of project features required to meet other County of San Diego code requirements, including, but not limited to the following:
 - (1) Elimination of a trail that provides a connection through the project that is needed for regional connectivity.
 - (2) Reduction in the overall amount of parkland approved with the original project.
 - (3) Elimination of roads that are needed for emergency access, travel time, or to handle the traffic generated by the project.
 - (4) Reduction of area needed for required water supply well or onsite wastewater treatment system and reserve area.
- 2) An analysis is conducted pursuant to Section 15162 of Title 14 of the California Code of Regulations, to determine whether the effects of such grading were analyzed in the environmental review of such approved land development application, and whether further environmental documentation is necessary;
 - 3) The grading complies with Title 6, Division 7, Chapter 8 of this code.
 - 4) Sections 87.212 and 87.213, regarding specified sensitive areas, have been complied with;
 - 5) If the grading will involve waters, rivers, streams or lakes, as referenced in Section 87.214, the applicant has submitted documentation of compliance with the requirements of that Section;
 - 6) The grading or improvement plans identify any environmental mitigation measures or other conditions which were required by the previous approval to be completed prior to issuance of a grading permit, and makes these conditions which must be fulfilled prior to issuance of a grading permit;

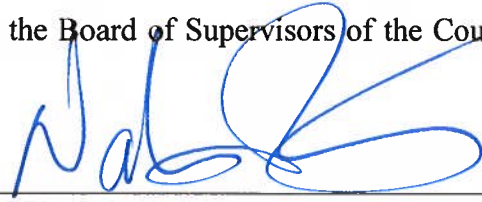
- 7) All conditions of the previous approval which were required to be completed prior to approval of grading plans or improvement plans have been fulfilled;
 - 8) Dust control measures will be employed, sufficient to comply with Section 87.428; and
 - 9) The grading complies with the design standards stated in Chapter 4 of this Division.
- (b) The application shall be accompanied by plans showing a vicinity sketch, property lines, location of all structures in the area to be graded, including those on land of others if within fifteen feet, contours showing the topography of the existing ground, elevations, dimensions, location, extent and slopes of all proposed grading, the location, extent and square footage of the total area to be cleared of vegetation, all areas proposed to be subjected to any "Land Disturbance Activity" (as that term is defined in Section 67.803 of this Code), and all watercourses located on site.

Section 4. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the Daily Transcript, a newspaper of general circulation published in the County of San Diego.

Approved as to form and legality

By: Randall Sjoblom, Senior Deputy County Counsel

PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 1st day of September 2021.



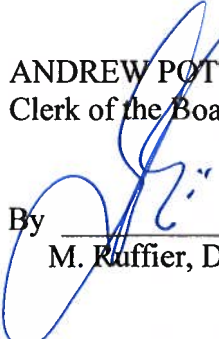
NATHAN FLETCHER
Chair, Board of Supervisors
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Vargas, Anderson, Lawson-Remer, Fletcher, Desmond

ATTEST my hand and the seal of the Board of Supervisors this 1st day of September 2021.

ANDREW POTTER
Clerk of the Board of Supervisors

By 
M. Ruffier, Deputy



Ordinance No.: 10745 (N.S.)
Meeting Date: 09/01/2021 (05)