

CHAPTER 6.

WATERCOURSES

SEC. 87.601. PURPOSE AND RELATIONSHIP TO OTHER LAWS.

The purpose of this chapter is to protect persons and property against flood hazards. In case of conflict between the regulations imposed by this chapter and other County Ordinances, State and Federal Regulations, the regulation imposing the more stringent restrictions shall prevail.

(Added by Ord. No. 9547 (N.S.), effective 5-9-03)

SEC. 87.602. ACTS PROHIBITED.

No person shall do or commit or cause to be done or committed, any of the following described acts, nor allow the same to be done on his or her property, nor allow the property to remain in such condition:

(a) Deposit any material of any kind in a watercourse which may impair, impede or accelerate the flow of water therein so as to adversely affect adjoining property;

(b) Plant any vegetation (other than grasses or annual crops) within a watercourse which may impair, impede, or divert the flow of water in such watercourse (unless this is required by a land development permit issued by the County);

(c) Commit any act on or in any easement dedicated, granted or reserved for flood control or drainage purposes which will impair the use of such easement for such purposes; or

(d) Within a flood plain where a Flood Plain Designator or a Flood Channel Designator has been applied under the Zoning Ordinance or within a flood plain as delineated on approved maps issued by the Federal Insurance Administrator (designated by the Secretary of the United States Department of Housing and Urban Development), construct new or substantial improvements of structures unless the lowest floor (including basement) is elevated to or above the level of the 100-year flood or the structure, including attendant utility and sanitary facilities, is flood proofed up to the level of the 100-year flood. "Substantial improvements" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either: (1) before the improvement is started, or (2) if the structure has been damaged, and is being restored, before the damage occurred. "Substantial improvements" are considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. "Substantial Improvements" do not, however, include any alteration to comply with existing federal, state or local health, sanitary, building or safety codes or regulations.

(Added by Ord. No. 9547 (N.S.), effective 5-9-03; amended by Ord. No. 9634 (N.S.), effective 4-23-04)

SEC. 87.603. ACTS PROHIBITED UNLESS PERMIT OBTAINED.

No person shall do or commit or cause to be done or committed, any of the following described acts without first obtaining a grading permit pursuant to Chapter 2 of this Division:

(a) Impair, impede or accelerate the flow of water in a watercourse;

(b) Alter the surface of land, by construction, excavation, embankment or otherwise, so as to reduce the

capacity of a watercourse;

(c) Construct, alter or remove any flood control or storm water drainage structure, facility or channel of or in a watercourse;

(d) Construct or place any structure in, upon or across a watercourse; or

(e) Place fill or encroachments that would increase the flood level or impair the ability of a floodway to carry and discharge the waters resulting from the 100-year flood, within a "floodway" as shown on San Diego County Flood Plan Maps adopted by the Board of Supervisors and on file at the Department of Public Works, as shown on a "Flood Insurance Rate Map" adopted by the Federal Emergency Management Agency, or as defined in Section 87.803(20) of this Division. Permits may be issued where the effect of the fill or encroachment on flood heights is fully offset by stream improvements.

(Added by Ord. No. 9547 (N.S.), effective 5-9-03; amended by Ord. No. 9634 (N.S.), effective 4-23-04)

SEC. 87.604. EXCEPTIONS.

(a) Sections 87.602 and 87.603 do not apply to:

(1) Any act lawfully done pursuant to Chapter 3 (Excavations, Fills and Obstructions) or 4 (Construction) of Division 1 (Protection of Highways) of Title 7 of this Code.

(2) Work performed by the Federal Government, the State of California, the County of San Diego or their agents or contractors. (Note that the County of San Diego is not a "person" to whom this Division applies; see Section 87.803(27) of this Division.)

(3) Acts of the owner of the watercourse in the routine maintenance thereof, provided such acts do not impair, impede or divert the flow of water in such watercourse.

(4) Acts of persons engaged in natural resource extraction operations performed pursuant to a Use Permit, provided such acts are normally and routinely associated with such pursuits and provided further that such acts do not substantially impair, impede, or divert the flow of water in the watercourse.

(5) Repair, reconstruction or improvement to existing structures, provided it:

(aa) is not a substantial improvement (as defined in Section 87.602(d));

(bb) is designed and anchored to prevent flotation, collapse or lateral movement of the structure;

(cc) uses construction materials and utility equipment that are resistant to flood damage; and

(dd) uses construction methods and practices that will minimize potential flood damage.

(6) Construction of parking facilities within the flood plain fringe area below the 100-year flood level, provided:

(aa) The parking facility will service a non-residential building; or

(bb) The structure is open and will not impede the flow of flood waters.

(b) In addition, Section 87.603 does not apply to grading which is exempt from the requirement to obtain a grading permit under one or more of the following paragraphs of Section 87.202 of this Division:

- (1) Sec. 87.202(d): Specified agricultural tilling or cultivating.
- (2) Sec. 87.202(e): Specified utility construction.
- (3) Sec. 87.202(f): Emergency watercourse grading.
- (4) Sec. 87.202(g): Specified surface mining operations.

(Added by Ord. No. 9547 (N.S.), effective 5-9-03)

SEC. 87.605. GRADING PLANS OR IMPROVEMENT PLANS AFFECTING WATERCOURSES.

Where grading proposed by grading plans or improvement plans would be within or would affect a watercourse, the following requirements shall apply, in addition to the requirements specified in Chapter 2 of this Division:

(a) The County Official shall not approve the grading plans or improvement plans unless he or she has evaluated and determined that the proposed grading is consistent with the San Diego County general plan; provided that, if the proposed grading is associated with a subdivision or other land development project which has been approved by a County decision making body which determined the project to be consistent with the general plan, the County Official shall instead evaluate whether the proposed grading is consistent with such prior project approval and shall not approve the plans if they are not consistent with the prior approval.

(b) The County Official shall not approve the grading plans or improvement plans unless he or she determines that the proposed grading does not create an unreasonable hazard of flood or inundation to persons or property.

(Added by Ord. No. 9547 (N.S.), effective 5-9-03)

SEC. 87.606. EMERGENCY WATERCOURSE GRADING PERMITS.

(a) Notwithstanding any other provision of this Division or any other County Ordinance, an emergency watercourse grading permit may be granted solely for the removal of silt, sand and debris from a watercourse, upon a finding that an emergency exists on public or private property. The permit may be granted by the County Official for the removal of up to 10,000 cubic yards of silt, sand and debris, or by the Board of Supervisors for amounts in excess of 10,000 cubic yards. For purposes of this section, "Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage, (see Section 15025, Title 14 of the California Administrative Code) or projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish or replace property or facilities damaged or destroyed as a result of a disaster in a disaster stricken area in which a state of emergency has been proclaimed pursuant to Chapter 7

of Division 1, Title 2 of the Government Code (see Section 15071, Title 14 of the California Administrative Code).

(b) The emergency watercourse grading permit shall be granted for such periods of time as the County Official or Board shall deem to be reasonable and necessary or advisable under the circumstances, and upon such conditions as the County Official or Board deems necessary to insure the health, safety and welfare of the affected persons or the protection of the affected properties, and to assure that the work shown is in accordance with County Plans and Specifications. Such permit shall be granted to the owner of the property or the authorized agent of the owner.

(Added by Ord. No. 9547 (N.S.), effective 5-9-03; amended by Ord. No. 9634 (N.S.), effective 4-23-04)

SEC. 87.607. MAINTENANCE OF WATERCOURSE REQUIRED.

The property owner is responsible for the timely maintenance of any watercourse on the owner's property. "Maintenance" means cleaning, removing obstructions and repair of existing facilities. Obstructions shall include vegetation, shrubs, trees, tree stumps, limbs and foliage, debris, trash, rubbish, waste matter, deposits of dirt, silt, sand or rock, walls, structures, building materials or any other material which may impede, impair, restrict or divert the flow of water from its natural course. (In the case of live vegetation, any required permits and approvals shall be obtained prior to removal.) The owner shall obtain any approvals or permits required by federal or state law (such as section 404 of the Federal Water Pollution Control Act (33 U.S. Code Section 1344) or section 1600 and following of the Fish & Game Code for such work. Failure to maintain a watercourse in a safe and unobstructed condition is hereby declared to be violation of this section, and a public nuisance.

(Added by Ord. No. 9547 (N.S.), effective 5-9-03)

SEC. 87.608. CIVIL ENGINEER FIELD SUPERVISION.

All work under the provisions of this Chapter shall be performed under the general supervision and coordination of a civil engineer unless waived by the County Official for small projects (or minor work) or the work is supervised by an agency of the Federal or State government.

(Added by Ord. No. 9547 (N.S.), effective 5-9-03)

Watercourse Tip Sheet

United States Army Corps of Engineers
Los Angeles District, San Diego Section
Regulatory Division
5900 La Place Court, Suite 100
Carlsbad, CA 92008

Mission Statement: Protect the nation's aquatic resources through the issuance of permits for projects that have undergone careful evaluation in light of applicable laws, regulations and policy to ensure that no action authorized by our program will have an adverse impact on the overall public welfare. Provide strong protection of the Nation's aquatic environment, including wetlands; to enhance the efficiency of the Corps administration of its regulatory program; and, to ensure that the Corps provides the regulated public with fair and reasonable decisions.

Main Contacts: Shelly Lynch, South Coast Branch Chief, (760) 602-4850
Main Office (760) 602-4829

General Guidance for Watercourse Activities:

DO contact our agency if you intend to conduct activities that result in the discharge (placement) of fill material into waters of the United States, including their adjacent wetlands, since these activities require a Department of the Army Permit from the Corps. Examples of activities in waters of the U.S. that require a permit from the Corps include (but are not limited to) mechanized land clearing, bank protection/stabilization, mechanized dredging, construction of road crossings, and levee construction.

DO contact our agency if you are not sure whether you will need a permit from the Corps and we will discuss your project with you and schedule a site visit if needed. If you anticipate that you are going to have a flooding problem or experienced one last year because a watercourse is blocked or inhibited please call us now so we can start working on solutions with you.

Watercourse maintenance activities that typically do not require a permit from the Corps include: Hand removal (i.e. without the use of heavy machinery within the stream channel) of trash, debris, and sediment; and

Hand removal of invasive species, such that the plants are being cut above the root system (e.g., mowing, rotary cutting, and chainsawing) and the cut materials are disposed of outside waters of the U.S.

California Regional Water Quality Control Board
CRWQCB, San Diego Region
2375 Northside Drive, Suite 100
San Diego, CA 92108-2700

Mission Statement: Develop and enforce water quality objectives and implement plans that will best protect the area's waters while recognizing local differences in climate, topography, geology and hydrology.

Main Contact: Alan Monji Engineering Geologist, (619) 521-3967

General Guidance for Watercourse Activities:

DO remove trash and debris (i.e. leaf litter, wrack, dead vegetation) without mechanized equipment.

DO contact our agency for any other activity that may result in a discharge of a pollutant or waste to waters and check to see if you need a permit for activities such as the removal of exotic invasive plants/weeds.

Watercourse Tip Sheet

United States Fish and Wildlife Service

Carlsbad Fish and Wildlife Office

2177 Salk Ave #250

Carlsbad, CA 92008

Mission Statement: Working with others to conserve, protect and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people.

Main Contacts: Susan Wynn, Staff Biologist, (760) 431-9440 ext. 216
Email: susan_wynn@fws.gov

General Guidance for Watercourse Activities:

DO plan ahead for the rainy season so that there is time for early coordination

DO hand remove shopping carts, mattresses, large fallen logs, and trash from streams and areas of ponded water

DO hand clear debris and sediment from within existing culverts to allow water to pass

DO contact our office if you have questions about the presence of endangered or threatened species on your property. We are available to visit your property and provide technical assistance.

DO contact our office if you have questions about the potential for vernal pools on your property. We are available to visit your property and provide technical assistance.

DO NOT move soil, alter water flow, create dams, or empty areas of ponded water (except those areas where water has ponded on asphalt roadways, asphalt parking lots, or manicured lawns) without first contacting our office

DO NOT use machinery within or adjacent to streams and/or areas of ponded water (except those areas where water has ponded on asphalt roadways, asphalt parking lots, or manicured lawns) without first contacting our office

DO NOT place rocks, rip rap, or cement within streams and/or areas of ponded water (except those areas where water has ponded on asphalt roadways, asphalt parking lots, or manicured lawns) without first contacting our office

DO NOT remove vegetation from within or around streams or areas of ponded water

Watercourse Tip Sheet

California Department of Fish and Wildlife

South Coast Region
3883 Ruffin Road
San Diego, CA 92123

Mission Statement: Conserve, protect and manage California's fish, wildlife and native plant resources.

Main Contact: Kelly Fisher, Environmental Scientist, (858) 467-4207
Email: Kelly.Fisher@wildlife.ca.gov

General Guidance for Watercourse Activities:

DO notify CDFW of any proposed activity that may substantially modify a river, stream, or lake.

DO notify CDFW if the flood control activity will: substantially divert or obstruct the natural flow of any river, stream or lake; substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake; or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake, involve the use of mechanized equipment that displace the soil, that remove sediment, rocks, or other substrates, that divert or obstruct the stream flow, or that remove native vegetation.

The notification requirement applies to any work undertaken in or near a river, stream, or lake that flows at least intermittently through a bed or channel, including ephemeral streams, desert washes, and watercourses with a subsurface flow. It may also apply to work undertaken within the flood plain of a body of water.

DO provide CDFW with a completed notification form and the corresponding fee if your activities will do any of the above. Forms and fee schedule are available at <http://www.dfg.ca.gov/habcon/1600/forms.html>

If CDFW determines that the activity may substantially adversely affect fish and wildlife resources, a Lake or Streambed Alteration Agreement will be prepared. The Agreement includes reasonable conditions necessary to protect those resources and must comply with the California Environmental Quality Act (CEQA). Once the Agreement is signed and finalized, the entity may proceed with the activity in accordance with the final Agreement.

DO contact CDFW if you are planning an activity within or near a stream and are unsure whether you need to notify CDFW, please contact us to discuss your individual project with a Streambed Program representative.

Watercourse maintenance activities that typically do not require a permit from CDFW include:

Hand-removal of human-generated trash and debris;

Hand-removal, above ground, of small amounts of arundo, tamarisk, castor bean, and pampas grass, provided such activities are conducted outside the bird-breeding season, native vegetation is not removed, and no vegetative material is allowed to enter the stream; and

Hand-removal of newly-fallen trees or branches that obstruct the flow of the stream.