

BILL NO. 2013-46

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT CODE TO UPDATE THE STANDARDS AND PROCEDURES FOR OBTAINING APPROVAL OF EARLY GRADING PERMITS, AND TO PROVIDE FOR OTHER RELATED MATTERS.

Proposed by: Christopher Knight, Director of Building and Safety

Summary: Amends the Unified Development Code to update the standards and procedures for obtaining approval of early grading permits.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1: Ordinance No. 6190 and the Unified Development Code adopted as Title 19 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, are hereby amended as set forth in Sections 2 to 4, inclusive, of this Ordinance. The amendments are deemed to be amendments to both Ordinance No. 6190 and the Unified Development Code adopted as Title 19.

SECTION 2: Title 19, Chapter 6, Section 30, Subsection (B), is hereby amended to read as follows:

B. Grading

1. Grading Plan Approval - When Required. When the natural grade of a lot is proposed to be raised more than two feet at any point from existing grade, three copies of a finished lot grading plan and legal description of the property shall be filed with the Department of Public Works. [and the Department.] The plan shall include proposed and existing grades, building locations, and building height information for the development site and for the adjacent properties, and any justification for the proposal. The Director of Public Works or designee may withhold or deny development approval unless the applicant demonstrates to the [Director of Public Works'] satisfaction of the Director of Public Works or designee that the proposal is necessary in order to develop the site in a manner which conforms to applicable drainage and other development standards. [The Director may withhold or deny development approval unless the applicant demonstrates to the Director's satisfaction that the proposal will not be incompatible or out of harmony with the surrounding area.] The timing of site grading is subject to the provisions of Paragraph (3) below.

2. Grading Plan - Appeal of Denial. The applicant may appeal to the City Council any final decision

1 rendered pursuant to Paragraph (1) of this Subsection. In connection with the appeal, the City may
2 require notification of surrounding property owners. The City may charge a fee for the appeal and for
3 any required notification in accordance with the Fee Schedule.

4 **3. Early Grading Consideration.** To the extent provided for in this Paragraph (3), the Director of
5 Public Works or designee may authorize the issuance of a grading permit prior to final approval of
6 Civil Improvement Plans for the site (hereafter “early grading”) if the application for such permit
7 demonstrates to the satisfaction of the Director of Public Works or designee that early grading is
8 necessary in order to relieve a particular and exceptional practical difficulty or exceptional and undue
9 hardship that is not created by the property owner or developer. In addition, the issuance of a grading
10 permit for early grading is subject to the following limitations and conditions:

11 a. The real property that is the subject of the grading permit must not be located within
12 the HS-O (Hillside Development Overlay) District.

13 b. The real property must have received:

14 i. Tentative Map approval and Final Map Technical Review approval for
15 developments requiring a subdivision map; and

16 ii. Site Development Plan Review approval, if required by this Title.

17 c. The developer must have submitted to the City Engineer or designee a justification
18 letter that delineates the reasons for requesting early grading and the specific circumstances the City
19 should consider in evaluating the request for early grading.

20 d. The Drainage Study for the site must have been approved.

21 e. The Traffic Impact Study for the site must have been approved.

22 f. The Bond Estimate for the site must have been approved, and bonds must have been
23 posted.

24 g. The design engineer must have addressed all initial plan check comments and must
25 have resubmitted the plans to the City.

26 h. All easement and development-related agreement documents must have been prepared
27 and submitted to the City.

28 i. The property owner must have executed a waiver and consent, in a form prepared or

1 approved by the City Attorney, in which the property owner acknowledges and agrees:

2 i. That the site has not received final approval of Civil Improvement Plans, and
3 that in the absence of such approval, the property owner is proceeding at his or her own risk in
4 excavating the real property that is the subject of the grading permit;

5 ii. That the location and design of private and public improvements on the site may
6 be subject to change as a condition of final approval of Civil Improvement Plans;

7 iii. That the grading permit issued pursuant to this Paragraph (3) does not create
8 any vested rights; and

9 iv. That the City Council, in the exercise of its legislative authority, is free to
10 amend or enact legislation which may have an adverse effect on the property owner's ability to obtain
11 final approval of Civil Improvement Plans from the City or which may increase the costs of the
12 project, or both.

13 j. The City must have approved any and all deviations from City Standards that have been
14 proposed in connection with the development.

15 k. The developer must have demonstrated compliance with the requirements of NAC
16 278.290 through 278.530.

17 SECTION 3: Title 19, Chapter 8, Section 30, Subsection (B), is hereby amended to
18 read as follows:

19 **B. Grading**

20 **1. Grading Plan Approval - When Required.** When the natural grade of a lot is proposed to be
21 raised more than two feet at any point from existing grade, three copies of a finished lot grading plan
22 and legal description of the property shall be filed with the Department of Public Works, [and the
23 Department.] The plan shall include proposed and existing grades, building locations, and building
24 height information for the development site and for the adjacent properties, and any justification for
25 the proposal. The Director of Public Works or designee may withhold or deny development approval
26 unless the applicant demonstrates to the [Director of Public Works'] satisfaction of the Director of
27 Public Works or designee that the proposal is necessary in order to develop the site in a manner which
28 conforms to applicable drainage and other development standards. [The Director may withhold or

1 deny development approval unless the applicant demonstrates to the Director's satisfaction that the
2 proposal will not be incompatible or out of harmony with the surrounding area.] The timing of site
3 grading is subject to the provisions of Paragraph (3) below.

4 **2. Grading Plan - Appeal of Denial.** The applicant may appeal to the City Council any final decision
5 rendered pursuant to Paragraph (1) of this Subsection. In connection with the appeal, the City may
6 require notification of surrounding property owners. The City may charge a fee for the appeal and for
7 any required notification in accordance with the Fee Schedule.

8 **3. Early Grading Consideration.** To the extent provided for in this Paragraph (3), the Director of
9 Public Works or designee may authorize the issuance of a grading permit prior to final approval of
10 Civil Improvement Plans for the site (hereafter "early grading") if the application for such permit
11 demonstrates to the satisfaction of the Director of Public Works or designee that early grading is
12 necessary in order to relieve a particular and exceptional practical difficulty or exceptional and undue
13 hardship that is not created by the property owner or developer. In addition, the issuance of a grading
14 permit for early grading is subject to the following limitations and conditions:

15 a. The real property that is the subject of the grading permit must not be located within
16 the HS-O (Hillside Development Overlay) District.

17 b. The real property must have received:

18 i. Tentative Map approval and Final Map Technical Review approval for
19 developments requiring a subdivision map; and

20 ii. Site Development Plan Review approval, if required by this Title.

21 c. The developer must have submitted to the City Engineer or designee a justification
22 letter that delineates the reasons for requesting early grading and the specific circumstances the City
23 should consider in evaluating the request for early grading.

24 d. The Drainage Study for the site must have been approved.

25 e. The Traffic Impact Study for the site must have been approved.

26 f. The Bond Estimate for the site must have been approved, and bonds must have been
27 posted.

28 g. The design engineer must have addressed all initial plan check comments and must

1 have resubmitted the plans to the City.

2 h. All easement and development-related agreement documents must have been prepared
3 and submitted to the City.

4 i. The property owner must have executed a waiver and consent, in a form prepared or
5 approved by the City Attorney, in which the property owner acknowledges and agrees:

6 i. That the site has not received final approval of Civil Improvement Plans, and
7 that in the absence of such approval, the property owner is proceeding at his or her own risk in
8 excavating the real property that is the subject of the grading permit;

9 ii. That the location and design of private and public improvements on the site may
10 be subject to change as a condition of final approval of Civil Improvement Plans;

11 iii. That the grading permit issued pursuant to this Paragraph (3) does not create
12 any vested rights; and

13 iv. That the City Council, in the exercise of its legislative authority, is free to
14 amend or enact legislation which may have an adverse effect on the property owner's ability to obtain
15 final approval of Civil Improvement Plans from the City or which may increase the costs of the
16 project, or both.

17 j. The City must have approved any and all deviations from City Standards that have been
18 proposed in connection with the development.

19 k. The developer must have demonstrated compliance with the requirements of NAC
20 278.290 through 278.530.

21 SECTION 4: Title 19, Chapter 8, Section 40, Subsection (E), Paragraph (1),
22 Subparagraph (b) is hereby amended to read as follows:

23 b. Site Grading Permit. No lands shall be graded or the natural ground surface otherwise disturbed
24 so as to create a dust nuisance, except for clearing of weeds and debris, unless the developer:

25 i. In cases where a final map is required, has complied with the provisions of this Title[;] that
26 pertain to final maps; [or]

27 ii. [Otherwise, has] Has obtained approval of a Site Development Plan and Civil Improvement
28 Plans for the site or area to be graded[.]; or

iii. Has obtained approval for early grading in accordance with LVMC 19.08.030(B)(3).

SECTION 5: For purposes of Section 2.100(3) of the City Charter, Sections 19.06.030, 19.08.030 and 19.08.040 are deemed to be subchapters rather than sections.

SECTION 6: The Department of Planning is authorized and directed to incorporate into the Unified Development Code the amendments set forth in Sections 2 to 4, inclusive, of this Ordinance.

SECTION 7: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

SECTION 8: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this day of , 2013.

APPROVED:

By CAROLYN G. GOODMAN, Mayor

ATTEST:

BEVERLY K. BRIDGES, MMC
City Clerk

APPROVED AS TO FORM:

Val Steed 8-19-13
Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2013, and referred to a committee for recommendation, the
3 committee being composed of the following members _____
4 _____; thereafter the said committee reported favorably on said ordinance on the
5 ____ day of _____, 2013, which was a _____ meeting of said
6 Council; that at said _____ meeting, the proposed ordinance was read by title
7 to the City Council as first introduced and adopted by the following vote:

8 VOTING "AYE": _____
9 VOTING "NAY": _____
10 ABSENT: _____

11
12 APPROVED:
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14 By _____
CAROLYN G. GOODMAN, Mayor

15 ATTEST:
16 _____
BEVERLY K. BRIDGES, MMC
17 City Clerk
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