



MAILED
OCT 06 2022
CODE ENFORCEMENT
DIVISION

October 6, 2022

CIVIL PENALTY NOTICE AND ORDER

Location: 3975 Via De La Valle, San Diego, CA 92014

APN No.: 302-090-31-00

**Property Owner/
Responsible Person:** Surf Real Estate LLC
446 West Plant Street
Winter Garden, FL. 34787

**Agent for Service:
Address:** C/O Rob Haskell
446 West Plant Street
Winter Garden, FL. 34787

Zoning Designation: AR-1-2, FEMA Floodways & Floodplains, Very High Fire Hazard Severity Zones, Brush Management, Special Flood Hazard Area, Environmental Sensitive Lands

You are hereby notified that the property identified above is in violation of the San Diego Municipal Code (SDMC). On **September 7, 2022**, the following violations were observed at the property and must be corrected:

- Conducted unpermitted grading activity resulting in placement of gravel & dirt materials, including the removal of native vegetation within the Special Flood Hazard Area within the property. The topography has been altered in several areas AND affect the drainage patterns on the property without the required permits.
- Gravel has been placed at various locations and compacted into native substrate by driving and parking activities.
- Conducted grubbing AND removal of native vegetation (southern coastal salt marsh) on property considered Environmental Sensitive Lands due to the presence of City *Wetland* without required permits.
- Unauthorized use of vacant lot as storage for multiple soccer goal posts without the required permits.

- Failure to install and maintain storm water Best Management Practices (BMPs) and erosion control measures.
- The impact of unpermitted grading is approximately 18.3 acres. See Exhibit 'A' for violation areas.

This is a violation of the following code section(s):

| <u>Code Section</u> | <u>Violation Description</u> |
|-----------------------------------|---|
| • SDMC §113.0103 | Definition – Wetland |
| • SDMC §126.0502 | When a Site Development Permit is Required |
| • SDMC §129.0602 | When a Grading Permit is Required |
| • SDMC §131.0320 and §131.0322 | Agricultural Zone Regulations |
| • SDMC §142.0103 | When a Permit Is Required for Grading |
| • SDMC §142.0144 | Grading Within Environmentally Sensitive Lands (ESL) |
| • SDMC §142.0146 | Erosion, Sedimentation and Water Pollution Control (Storm Water) |
| • SDMC §142.0147 | Revegetation Requirements (Grading) |
| • SDMC §143.0110 | When Environmentally Sensitive Lands (ESL) Regulations Apply |
| • SDMC §§121.0202-121.0203 | provides the authority regarding enforcement of the Land Development Code. |
| • SDMC §121.0302 | requires compliance with the Land Development Code, specifies these violations are not permitted, and provides authority for the abatement of public nuisances. |

If you correct the above violations as identified below, you will not be subject to any administrative civil penalties.

In order to avoid administrative civil penalties, you must correct the violations by as follows:

IMMEDIATELY: CEASE ALL UNPERMITTED WORK, ACTIVITIES, AND USE.

By October 31, 2022 OR prior to a rain event, should one occur:

- Install all necessary erosion and sedimentation control measures, incorporating storm water Best Management Practices (BMPs), necessary to protect all exposed slopes and pads. These BMPs must eliminate the potential for a discharge of sediments and other pollutants in and adjacent to native habitat and properties. BMPs must be maintained throughout the construction and monitoring process.
- Contact Max Hoang, Zoning Investigator, at (619) 533-6784 or email at

mhoang@sandiego.gov to schedule for inspection of BMPs.

By November 4, 2022:

- Cease unpermitted use of vacant lot for storage. Remove stored items. Call Zoning Investigator for compliance inspection.

By March 31, 2023:

- Obtain a Site Development Permit for Grading within Environmentally Sensitive Lands.
- Obtain required Grading Permit(s) to remove OR keep unpermitted work and successfully complete all required inspections.
- Obtain required Permit(s) for the grading that has been conducted within ESL.
- Obtain required Grading Permit(s) and successfully complete all required inspections.

All applications for permits must be submitted online. Please go to <https://www.sandiego.gov/development-services> and click on apply for a permit online. Be advised that CED will be reviewing the submitted plans for enforcement compliance.

Re-inspection fees are assessed for each inspection after the issuance of a violation notice in accordance with the SDMC §13.0103. An invoice will be sent following each inspection until compliance is achieved. Current re-inspection fees range between \$264 and \$295.

Please refer to the San Diego Municipal Code sections cited for additional information via <https://www.sandiego.gov/city-clerk/>.

Additional forms and documents to assist in your compliance efforts are available at: <https://www.sandiego.gov/ced/forms>.

Failure to Comply with Notice and Order

If you fail to comply with this Notice and Order in the time and manner set forth above, you are subject to civil administrative penalties pursuant to SDMC §§12.0801-12.0810. The penalty rate for the above listed violation(s) has been established in accordance with SDMC §§12.0801-12.0810 at **\$1,000** per violation per day and shall be an ongoing assessment of penalties at the daily rate until the violations are corrected. Administrative civil penalty amounts are established by the Development Services Director.

The following factors were used in determining the amount:

Page 4
Civil Penalty Notice and Order
3975 Via De La Valle
October 6, 2022

- the nature and seriousness of the violation
- whether the offense impacted environmentally sensitive lands
- the impact of the violation upon the community

Pursuant to SDMC §12.0805(a), in determining the date on which civil penalties shall begin to accrue, the Development Services Director considers the date when the Code Enforcement Division first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence. The date on which the civil penalties began to accrue is **September 7, 2022** and shall end on the date that the violation(s) has been corrected to the satisfaction of the Development Services Director or the Enforcement Hearing Officer.

Civil Penalties Hearing

If you fail to comply with the Notice and Order, written notice of the time and place of an administrative enforcement hearing will be served on you at least 10 calendar days prior to the date of the hearing in accordance with SDMC §12.0403. At the hearing, you may present evidence concerning the existence of the violation(s) and whether the amount of administrative civil penalties assessed was reasonable in accordance with SDMC §12.0808. Failure to attend an administrative enforcement hearing will constitute a waiver of your rights to an administrative hearing and administrative adjudication of the violation(s) set forth above.

Administrative Costs

The Development Services Director or Enforcement Hearing Officer is authorized to assess administrative costs. Administrative costs may include, but are not limited to: staff time to investigate and document violations; laboratory, photographic, and other expenses incurred to document or establish the existence of a violation; and scheduling and processing of the administrative hearing and all actions.

Failure to Comply with Administrative Enforcement Order

If you fail, neglect, or refuse to obey an order to correct the violations, administrative civil penalties will continue to accrue on a daily basis until the violation is corrected. The unpaid amount of administrative civil penalties will be referred to the City Treasurer for collection, recorded as a code enforcement lien against the property in accordance with SDMC §§13.0201-13.0204, and may be referred to the City Attorney to file a court action to recover the unpaid amount. Failure to correct the violations may also result in referral to the City Attorney for further enforcement action.

If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact **Max Hoang, Zoning Investigator**, at (619)-533-6784 or email at mhoang@sandiego.gov.

LAJ/MDH/mmb

Enclosed: Exhibit 'A' Violation Area

CED# 0518995

This information will be made available in alternative formats upon request.

0518995_3975_ViaDeLaValle_ced105_M.Hoang

Exhibit "A"

3975 Via De La Valle

APN# 302-090-3100 / CE# 0518995

Unpermitted graded areas – with dirt & gravel (#1, 2, 3, 4)

Unpermitted grading – filled area

Unpermitted stored soccer goal posts

Unpermitted grading – filled area



Site Location