

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BELMONT AMENDING REGULATIONS IN BELMONT CITY CODE CHAPTER 7, ARTICLE III, SECTION 7-13 PERTAINING TO STREET IMPROVEMENT

WHEREAS, the City has from time to time agreed to defer street improvements required by Belmont City Code Section 7-13 after occupancy of a building, and the City Council desires to modify Section 7-13 to expressly reflect this practice; and,

WHEREAS, Section 7-13, subsections (a) through (d) were originally adopted by the Council as a single section, and the Council wishes to clarify that a request under subsection (c) to modify the strict application of the section applies to the obligation under subsection (a) to construct street improvements, and not to the hillside road standards in subsection (e); and,

WHEREAS, streets adjacent to and serving a building in an R-1 zone as well as buildings in other zones should be subject to improvement if the streets do not meet current city street standards when an addition to a building is made that adds 25 percent or more to the square footage of the existing building; and,

WHEREAS, modifications to the hillside road standards for sidewalks and ramps are needed to conform to current disability access standard.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELMONT DOES ORDAIN AS FOLLOWS:

SECTION 1. BCC SECTION 7-13 AMENDED

Belmont City Code Chapter 7, Article III, Section 7-13 is amended as follows:

Sec. 7-13 Streets required.

(a) Before issuing a building permit for the construction of any building, the building official shall ascertain that the proposed site is adjacent to and served by streets that are improved to current city standards adopted by the city council and adequate for the use proposed for the structure for which the permit is sought. When the building official needs assistance in determining the improvement and adequacy of a street, he or she shall consult with the city engineer. In the event that such streets do not meet current city standards, the permit may be issued upon the dedication of a right-of-way where necessary and the execution of an agreement to install either before occupancy or deferred to a later date such improvements as are determined by the city engineer to be necessary in a manner satisfactory to the city engineer. An agreement for construction of improvements before occupancy shall be secured by a bond in an amount sufficient to cover the estimated costs of the improvements. The city engineer may recommend that the bond be waived when, in his or her opinion, circumstances make a waiver desirable. The city engineer may require a bond to secure improvements to be constructed after occupancy. An agreement to construct improvements either before or after occupancy shall be recorded with the county recorder before issuance of a building permit for the building to secure the future construction of the improvements.

(b) As used herein, "construction of any building" means the construction of a new building or an addition of twenty-five (25) percent or more of the square footage on an existing building, provided that in no case shall improvements be requested in excess of the estimated cost of the addition.

(c) In cases where there are extraordinary conditions affecting the property, an applicant may request that the planning commission modify the strict application of subsection (a). In such cases, the applicant shall request an informal hearing before the planning commission, and if after such hearing the commission finds that by following the strict letter of subsection (a), unreasonable restrictions, unnecessary and extraordinary hardship or damage will be imposed upon the applicant, then the provisions hereof may be modified, in harmony with the general purpose and objectives hereof and in a manner that will protect the public health, safety and welfare of the people of the city.

(d) A decision of the planning commission under subsection (c) may be appealed to the city council by any person adversely affected by such decision by filing a notice of the appeal with the city clerk within 10 days after the action by the commission is taken. The city council shall proceed to hear and determine the matter, considering the action of the planning commission.

(e) Hillside Road Standards - San Juan Hills.

(1) Purposes. The purposes of this subsection are to:

- a. Provide for safe movement of vehicles and pedestrians in the San Juan Hills.
- b. Minimize grading and vegetation removal in constructing roads in the San Juan Hills by controlling the grade, widths of rights-of-way and paving, and other design and construction features.
- c. Allow flexibility in setting standards to prevent erosion, flooding and slope failure, and to minimize the environmental impacts of road construction.

(2) Applicability. The standards in this subsection shall apply to:

- a. Design and construction of all new public and private roads and road extensions in the area covered by the San Juan Hills Area Plan.
- b. Improvement of all or part of any road designated as "unimproved" in the San Juan Hills Area Plan.
- c. Roads designed and constructed as part of a new subdivision or resubdivision in the San Juan Hills.
- d. Rebuilding or upgrading of existing improved roads in the San Juan Hills.
- e. These standards shall not apply to routine maintenance and repair of public or private roads in the San Juan Hills.
- f. In case of conflict with other city regulations, these standards shall prevail.

(3) Definitions. The following definitions pertain to terms used in this subsection:

a. Cross slope is the inclination of the ground surface across a road alignment expressed as a percent obtained by dividing vertical distance by horizontal distance. Cross slope is measured along a hundred-foot section drawn perpendicular to the contours and extending fifty (50) feet from each side of the center of the road alignment.

b. Cul-de-sac is a street open at only one end with a turnaround at the other.

c. Emergency road is a one-lane, all-weather road passable by emergency equipment. An emergency road is not considered adequate access for purposes of section 7-11.

d. Improved road is any paved, two-lane road in the San Juan Hills which is not shown on figure 2 of the San Juan Hills Area Plan as "unimproved."

e. Paper road is an unbuilt right-of-way as shown on figure 2 of the San Juan Hills Area Plan.

f. Paved width is the total width of road, improvements, including traffic lanes, parking lanes, gutters, curbs and sidewalks.

g. Private road is any right-of-way which has not been accepted by or on behalf of the city as a public road.

h. Public road is any right-of-way which has been dedicated to the City of Belmont and accepted by or on behalf of the city as a public road.

i. Road improvement plan is a plan prepared pursuant to paragraph (10)a) or (10)b) of this subsection for the improvement to the standards contained herein of an unimproved road or road segment in the San Juan Hills Area.

j. Traffic lanes are the portion of a public or private road consisting of paved lanes for vehicular travel.

k. Turnaround is a space in a public right-of-way or a private road large enough to permit the turning around of a large vehicle, particularly a firetruck. It may take various configurations, including, for example, a circle, bulb, or hammer-head.

l. Unimproved roads are paper roads and unpaved substandard roads as shown on figure 2 of the San Juan Hills Area Plan. There are fourteen (14) unimproved roads in the San Juan Hills: Upper Lock, Lower Lock, Marburger, Bartlett, Marsten (between Bishop and San Juan), Marsten (between Christian and Green Court), Naughton, Alhambra, Monte Cresta, San Ardo, Green Court, East Laurel (between Marsten and San Juan), East Laurel (between Marsten and Adelaide), and Ralston frontage road.

m. Unimproved road segment is the part of an unimproved road between an existing paved road and an area through which the road cannot be reasonably extended because of severe physical constraints such as geologic instability or excessive slope. The length of an unimproved road segment is limited by the cul-de-sac standards set forth in paragraph (4) of this subsection.

(4) Standards for hillside roads generally.

a. All roads shall be designed to adequately handle the traffic of proposed development and constructed to engineering standards acceptable to the city engineer.

b. All roads shall be designed and constructed to provide adequate ingress and egress for emergency services vehicles.

c. Sight distance, curve radii, access to abutting properties, and intersections of all hillside roads shall be designed to accepted engineering standards as determined by the city engineer.

d. All new hillside roads shall be located and designed to minimize grading.

e. Curbs and gutters will be designed to meet drainage requirements as determined by the city engineer.

f. Where sidewalks and on-street parking are provided on only one (1) side of a road, they shall be on the same side unless the city engineer determines that traffic safety requires separation.

g. The maximum grade of a hillside road will be fifteen (15) percent. When supported by detailed engineering studies, the city engineer may approve a grade of up to eighteen (18) percent for a distance not to exceed one hundred (100) feet.

h. Utilities shall be underground, according to utility company specifications and standards, prior to paving new roads.

. Cul-de-sacs shall be no longer than eight hundred (800) feet with a turnaround radius of thirty-two (32) feet. Longer cul-de-sacs and smaller turnarounds may be permitted by the authority approving a road improvement upon the recommendation of the city engineer based on consultation with the fire chief and specific evaluation of the following:

1. Availability of a through connection via an emergency road.
2. Number of lots/houses/occupants to be served by the cul-de-sac.
3. Type of construction of buildings (e.g. fire-retardant roofs and siding, interior sprinklers).
4. Water pressure and availability of a secondary water main.
5. Proximity to fire station and hydrant.
6. Street width.

(5) Width standards for hillside roads.

a. The right-of-way shall be wide enough to accommodate all required improvements, including earth retention systems.

b. Public utility easements shall be provided on both sides of the road. The easements generally shall be five (5) feet wide with variations as appropriate to meet the specific utility requirements.

c. The basic hillside road shall have two (2) traffic lanes, and gutters, curbs, parking lanes and sidewalks on both sides of the road for a paved width of forty-one (41.0) feet as shown in table 1.

Table 1: Paved Width of Hillside Roads

Paved Element	Minimum Width
Traffic lanes	20.0' (two 10-foot lanes)
Gutters	3.0' (1.5' each side)
Curbs	1.0' (0.5' each side)
Parking lanes	11.0' (5.5' each side)*
Sidewalks	10.0' (5.0' each side)**
Total width =.	45.0'

* Effective width is 7.0' per side including 1.5' gutter.

** Effective width is 5.5' per side including 0.5' curb.

(6) Elimination of sidewalks and/or parking lanes. When necessary to meet the purposes of this subsection, the width of a proposed hillside road or road segment may be reduced by eliminating sidewalks and/or parking lanes in the following order:

- a. Sidewalk on one side.
- b. Sidewalk and parking lane on one side.
- c. Sidewalks on both sides and parking lane on one side.

Changes in total width shall be at least one hundred (100) feet apart within a single road improvement project. The administrative or legislative body with authority to approve the road improvement shall be guided by table 2 in determining when to permit elimination of sidewalks and/or parking lanes.

Table 2: Hillside Road Width Related to Cross Slopes

Cross Slope*	Traffic Lanes	Curbs and Gutters	Parking Lanes	Sidewalks	Total Width
20% or less	20'	2' both sides	5.5' both sides	35' both sides	45.0'.
21%—30%	20'	2' both sides	5.5' both sides	5' one side	40.0'.
31%—40%	20'	2' both sides	5.5' one side	5' one side	34.5'
41%—50%**	20'	2' both sides	5.5' one side	none	29.5'

* Cross slopes should be calculated from a detailed engineering topographic map prepared by a registered civil engineer or licensed land surveyor according to specifications required for a grading plan (section 9-25). The calculations should be made in the following manner:

1. If the proposed road improvement is 100 feet long or less, cross slopes shall be calculated at the beginning, midpoint and end, and averaged.
2. If the proposed road improvement is over 100 feet long, cross slopes shall be calculated at least every 50 feet and averaged for each 100 foot segment.

** Road construction is not normally permitted where the cross slope exceeds 50% unless detailed engineering evaluation demonstrates that safe, stable construction is possible.

(7) Exceptions. Exceptions to any of the hillside road standards may be granted by the administrative or legislative body approving the road improvement project upon recommendation of the city engineer based on consultation with the fire chief and appropriate engineering evaluations. To grant an exception, the approving body must make all of the following findings:

- a. Granting the exception will not unduly impair vehicular or pedestrian safety, or emergency access.
- b. Granting the exception will result in road improvement which is consistent with the San Juan Hills Area Plan and other city ordinances.
- c. Reducing the standard is necessary to avoid excessive grading or vegetation removal or to reduce the risk of erosion, flooding or slope failure.

(8) Authorization of right-of-way width of less than forty feet. This paragraph, when adopted by a four-fifths vote of the city council, authorizes the city engineer to approve plans for hillside roads with rights-of-way narrower than forty (40) feet as required by section 1805 of the California Streets and Highways Code, when those roads will be constructed in accord with the standards set forth in this subsection.

(9) Improvement plans for unimproved roads. To ensure adequate emergency access, public safety, and drainage improvements, the city requires an approved road improvement

plan prior to granting a building permit for a new structure or enlargement of an existing structure on property accessible only from an unimproved road. The road improvement plan specifies the design and financing of road improvements for an entire unimproved road or unimproved segment on which the property is located. The plan must be submitted by property owner(s) to the city engineer along with a fee set by resolution of the city council. Two (2) types of plans are permitted.

a. A plan for an entire unimproved road which shall include:

1. A plan for grading prepared by a registered civil engineer meeting specifications set by the city engineer. The plan must provide sufficient detail to show clearly the extent and impact of proposed grading, including the limits of the area to be graded; locations, dimensions and slopes of cuts and fills; existing and proposed finished grade; location and heights of proposed retention systems; proposals for drainage and erosion control.
2. Design for road improvements meeting the standards of this subsection.
3. Report signed by a licensed geotechnical engineer, based on geologic and geotechnical investigation of the alignment and review of the preliminary design, concluding that the proposed road will be geologically stable as per section 7-12(d).
4. Details of proposed method of financing road improvements, such as assessment district, reimbursement agreement or other mechanism.
5. Timetable for undertaking the road improvements.
6. Method of financing and plan for maintenance of the road, if it is to be maintained as a private road.
7. Estimation of need for on-street parking and mean of providing it (such as parking bays and additional off-street parking), if the proposed road design does not include parking lanes on both sides.
8. Topographic map showing how access can be provided to abutting properties.
9. Evidence of support for the project from owners of property abutting the road proposed for improvement.
10. Environmental checklist and other required environmental data.
11. If the proposal is for a cul-de-sac, a conclusion, supported by the fire chief, that the proposed cul de sac length and turnaround design are adequate for emergency services.

or:

b. A plan for an unimproved road segment between an existing paved road and an area where physical constraints, such as very steep slopes or geologic instability, effectively preclude construction of a through connection. The plan shall include all items required in a plan for an entire unimproved road, plus:

1. A report signed by a licensed geotechnical engineer concluding that the physical constraints are such that a stable road cannot be reasonably constructed through to a paved road. The report must describe the specific constraints precluding a through road and evaluate the impacts and costs of methods of overcoming the constraints through removal or engineering solutions.

2. A plan with recommendations regarding access to properties abutting the part of the road which will not be improved under the proposed project, including evidence of support for the recommendations from affected property owners.

(10) Adoption of a road improvement plan. A plan for improvement of an unimproved road or road segment must be considered at a public hearing held by the planning commission. Written notice of the hearing shall be mailed to owners of record of all parcels abutting the proposed road or road segment. The planning commission shall make a recommendation to the city council regarding each finding listed below. Final action on a road improvement plan shall be taken by the city council. In adopting a road improvement plan, the city council must make all of the following findings:

- a. The road improvement plan is consistent with the purposes and policies of the San Juan Hills Area Plan; and

- b. The proposed project provides for safe vehicular and pedestrian movement; and

- c. The road has been designed to minimize grading and vegetation removal to the extent feasible; and

- d. Drainage, erosion control and slope stability have been fully addressed in the design of the road improvements; and

- e. The applicants have demonstrated that adequate financing is available to construct and maintain the road as proposed; and

- f. Access to abutting properties has been adequately considered in the design of the road improvements; and

- g. If the project is for a cul-de-sac, the length and turnaround design are appropriate and consistent with emergency access requirements.

- h. If the plans is for an unimproved road segment, the city council must have all of the above findings, plus:

1. A stable, safe, through road cannot be reasonably constructed because of physical constraints; and

2. Recommendations for access to properties abutting the part of the road which would not be improved under the plan are reasonable and consistent with the purposes and policies of the San Juan Hills Area Plan.

(11) Authorization for construction. Prior to any grading, vegetation removal or other construction activity pursuant to an approved road improvement plan, the applicant must

submit a final grading plan and engineering drawings and specifications to the city engineer. The city engineer shall issue an authorization to proceed after reviewing the final plans and making the following determinations:

a. The applicant has entered into an agreement with the city to complete the improvements at the applicant's expense and adequate security to ensure performance has been posted with the city as specified in Government Code, chapter 5, section 66499 through 66499.10 (Subdivision Map Act); and

b. Recommendations made by a licensed geotechnical engineer are fully incorporated into the road design; and

c. Proposed grading is consistent with the purposes and standards of chapter 9, "Grading"; and

d. Satisfactory provision has been made for storm drainage and extension and undergrounding of utilities.

(12) Reimbursement agreements.

a. Purpose. The city council may establish within the areas to which the hillside road regulations are applicable to provide for reimbursement agreements for the purpose of achieving the equitable sharing of new roadway and public utility extension cost among benefitting properties pursuant to an approved hillside road improvement plan.

b. Application for reimbursement agreement. An application for a reimbursement agreement may be made simultaneously with the application for the approval of a hillside road improvement plan or after approval of the plan but prior to the construction of the approved hillside roadway and/or public utility extensions. Provided, however, that an application for a reimbursement agreement may be made for any road construction project and extension of public utilities commenced prior to August 20, 1990. The application shall be accompanied by the following:

1. A completed application on a form prepared by the director of community development and the processing fee established by resolution of the city council.

2. A proposed or approved hillside road improvement plan.

3. A list of benefitting properties together with the names and addresses of the owners of the properties as shown on the last equalized assessment roll.

4. A description of the benefits to be conferred on each of the benefitting properties.

5. Development cost estimates for each component of the proposed improvements.

6. A description of the method used to apportion the cost of the improvements and a statement explaining why the proposed method is the most equitable, what alternate methods were considered, and why the alternate methods were not used.

7. The proposed portion of the cost of improvements to be assigned to each benefitting

property.

8. Stamped envelopes addressed to each benefiting property owner.

9. An independent estimate of construction costs prepared by a consultant selected by the city and paid for by the applicant.

10. Such other information as may be required by the city.

c. Reimbursement agreement upon approval. When a subdivider, land developer, person or persons is required to provide a hillside road improvement plan and/or the construction of said hillside road together with other improvements which will benefit other properties to be developed under the provisions of this section, the city shall, upon recommendation of the city engineer and approval of the city council, enter into an agreement with the subdivider, land developer, person or persons for the recovery of that portion of the cost of said hillside road improvement plan and improvements which benefit properties not owned or controlled by the subdivider, land developer, person or persons. The agreement may, but shall not necessarily, provide for payment to the subdivider, land developer, person or persons an amount attributable to interest as the council may direct. The reimbursement agreement shall contain at least the following provisions:

1. The city shall be obligated to make reimbursements to subdivider or land developer only when and as the city obtains funds from benefiting property owners as such benefiting property owners eventually improve their property.

2. Any funds paid by benefiting property owners to the city need not be paid over to the subdivider or land developer until the limitations period for instituting court action to seek a refund of such funds paid under protests has passed, and no court action has been instituted; in the event court action is instituted, the city shall not pay over such funds to the subdivider or land developer until the court action has been finalized and the authority of the city to collect such charges has been sustained.

3. The city shall have the right to turn over the defense of any action seeking refund of amounts paid under protest to the subdivider or land developer; if the subdivider or land developer fails to undertake the defense of the action at the subdivider's own expense, the city may stipulate to return of the funds so paid under protest by or on behalf of the owner or owners of any such benefiting property, and the city shall not be further obligated to subdivider or land developer as to any such funds so refunded. In the event a court action is maintained to prevent the city from collecting such funds from benefiting property owners, the city shall have the right to turn over the defense of that action to the subdivider or land developer, who shall agree to hold the city harmless from any and all liability thereunder; in the event the subdivider fails to undertake defense of the action at subdivider or land developer's sole expense, the city may stipulate to cease collecting such funds, or enter into any other settlement of the litigation acceptable to the city, and subdivider or land developer shall lose any right to reimbursement under the reimbursement agreement.

4. The reimbursement agreement shall provide for reimbursement of all funds less cost incurred by the city, when and as collected, without interest, unless the council otherwise

determines. Under no circumstances shall the city be deemed liable for any funds not so collected from benefiting property owners.

5. It shall be the responsibility of the person(s) to be reimbursed to keep the city apprised of said person(s) address during the term of this agreement. In the event the city is unable to locate the developer at the time that any fees are actually collected, the city shall hold such fees for the benefit of the developer or its successor or assignee for a period of three (3) years. Upon the expiration of the three year period, any fees not reimbursed to said person(s) shall escheat to the city and the city shall be free and clear of any obligation to said person(s).

6. No building permit shall be issued for property that has been assigned a pro rata share of the cost of preparing a hillside road plan and the cost of constructing the road and other improvements until the cost allocated to the property as its share of said cost has been paid. Said cost may be paid at any time prior to issuance of the building permit.

7. The city shall deduct from the reimbursement cost when collected any and all cost and expense incurred by the city for the administration and enforcement of the reimbursement agreement. Said cost and expenses are deemed to be the cost and expense of the applicant.

8. A description of each of the properties benefited by the hillside improvement plan and/or the construction of said hillside road together with other improvements.

9. The length of time the agreement is to remain in effect as determined by the city council.

d. Report from city engineer. Prior to entering into a reimbursement agreement pursuant to this subsection, the city council shall receive a report from the city engineer describing in detail the entire area which is benefited by the improvements and recommending the apportionment of the costs of such improvements based upon the benefit to such property. The apportionment of benefit shall be on the basis of frontage upon such improvements, acreage served by such improvements, or any other formula rationally related to actual benefit. The city council may approve the report as submitted, or modify the report, and the action of the city council thereon shall determine the benefit to each piece or parcel of property outside the subdivision or single parcel to be developed benefited by such improvements, establish the amount or amounts to be charged such properties, and direct the method of collection of the costs of such improvements. The action of the city council shall be final.

e. Determination of benefit. In determining the benefit to each piece or parcel of property, the city council shall, unless consent of all affected property owners is filed with the city, hold a public hearing thereon and give notice by mail to property owners of record who would be affected by such determination, and provide to all such property owners an opportunity to appear and be heard upon the proposed determination of benefit and method of apportioning of costs thereof. Notices shall be sent to affected property owners of record as shown on the last equalized assessment roll at least thirty (30) days prior to the hearing. Any action by the city council under this subsection shall be taken only at a regular or special meeting of the city council for which public notice has been given as required by

the Ralph M. Brown Act, as amended.

f. Audit of project costs. Upon completion of the construction of the hillside road and other improvements which are the subject of the reimbursement agreement, an audit of the plan preparation and construction costs shall be performed by a consultant selected by the city and paid for by the subdivider, land developer, person or persons who are parties to the reimbursement agreement, to verify the total cost of plan preparation and construction. If the costs are less than originally determined for the purpose of determining benefit and allocation of the cost, the city manager may administratively reduce the pro rata allocation of costs to be collected to reflect the audited cost.

g. Recordation of agreement. The reimbursement agreement approved by the city council shall be recorded in the official records of the County Recorder of the County of San Mateo.

SECTION 2. CEQA.

Exemption. The City Council finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment. The Council therefore directs that a Notice of Exemption be filed with the Alameda County Clerk in accordance with the CEQA guidelines.

SECTION 3. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Belmont hereby declares that it would have passed this Ordinance and each section or subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 4. EFFECTIVE DATE.

This Ordinance shall take effect and will be enforced thirty (30) days after its adoption.

SECTION 5. PUBLICATION AND POSTING

Publication of summary. The City Clerk has caused to be published a summary of this ordinance, prepared by the City Attorney under Government Code Section 36933, subdivision (c), once, in a newspaper of general circulation printed and published in San Mateo County and circulated in the City of Belmont, at least five days before the date of adoption. A certified copy of the full text of the ordinance was posted in the office of the City Clerk since at least five days before this date of adoption. Within 15 days after adoption of this ordinance, the City Clerk shall cause the summary of this ordinance to be published again with the names of those City Council members voting for and against the ordinance; and the City Clerk shall post in the office of the City Clerk a certified copy of the full text of this adopted ordinance with the names of those City Council members voting for and against the ordinance.

* * *

The City Council of the City of Belmont, California introduced the foregoing ordinance, on July 26, 2016 and adopted the ordinance at a regular meeting held on _____, 2016 by the following vote:

Ayes:

Noes:

Absent:

Abstain:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

City Attorney