

**COUNTY OF SANTA CLARA  
GRADING ORDINANCE**

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## CHAPTER III. GRADING

### ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS

#### *Part 1. General Provisions*

##### **Section C12-400. Purpose.**

This chapter is enacted for the purpose of establishing minimum requirements for all grading work; for the purpose of establishing the procedures by which these requirements may be enforced; and for the purpose of protecting surface water quality by prevention of soil erosion and the transport of soil sediments, which result from improper grading operations.

This chapter may be cited as the “Santa Clara County Grading Ordinance.”

##### **Section C12-401— C12-404. Reserved.**

#### *Part 2. Definitions*

##### **Section C12-405. Definitions.**

In addition to the definitions covering this entire division, the following definitions are applicable to this chapter.

##### **Section C12-405.1. Bedrock.**

“Bedrock” is the solid undisturbed rock in place either at the ground surface or beneath surficial deposits of loose rock, soil, sand or gravel.

##### **Section C12-405.2. Bench.**

“Bench” is a relatively level step excavated into sloping natural ground on which fill is to be placed.

##### **Section C12-405.3. Civil engineer.**

“Civil engineer” shall mean a professional engineer registered as a civil engineer by the State of California.

##### **Section C12-405.4. Compaction.**

“Compaction” shall mean densification of a soil or rock fill by mechanical means. See Figure 1.

##### **Section C12-405.5. Construction permit.**

“Construction permit” is a written permit issued by the county, authorizing certain types of work within public easements or rights-of-way not maintained by a public agency.

##### **Section C12-405.5.1. Design engineer.**

The “Design engineer” or “Design civil engineer” is a California registered civil engineer retained by the applicant to design and/or submit grading plans to the County.

**Section C12-405.5.2. Design landscape architect.**

The “Design landscape architect” is a California licensed landscape architect retained by the applicant and/or the design engineer to design and/or submit the landscaping and irrigation plan of a particular grading plan.

**Section C12-405.6. Depth of embankment (fill).**

“Depth of embankment (fill)” is the vertical dimension of the exposed fill surface (see Figure 1).

**Section C12-405.7. Depth of excavation (cut).**

“Depth of excavation (cut)” is the vertical dimension of the exposed cut surface

(see Figure 1).

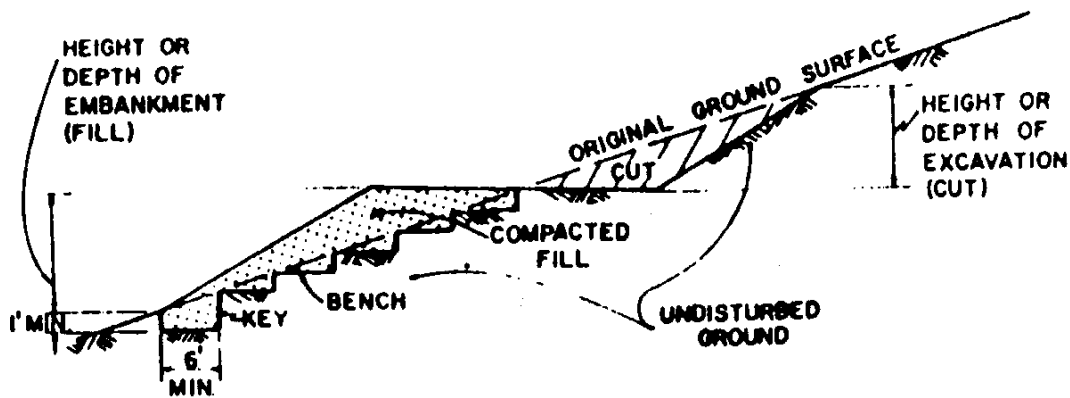


Figure 1—Cut and Fill Slope

**Section C12-405.8. Embankment.**

“Embankment” is bank of fill material placed on sloping or level ground, for the purpose of support, slope modification, or enclosure. See “fill.”

**Section C12-405.9. Encroachment permit.**

“Encroachment permit” is a written permit authorizing certain work within a publicly maintained right-of-way.

**Section C12-405.10. Engineering geologist.**

“Engineering geologist” is a registered geologist certified as an engineering geologist by the State of California.

**Section C12-405.11. Engineering geology.**

“Engineering geology” is the application of geological data and principles to engineering problems dealing with rock and soil.

**Section C12-405.12. Erosion.**

“Erosion” is the wearing away and transport of earth materials as a result of the movement of wind, water and/or ice.

**Section C12-405.13. Excavation or Cut.**

“Excavation” or “Cut” is the removal of naturally occurring earth materials by mechanical means, and includes the conditions resulting therefrom.

**Section C12-405.14. Existing grade.**

“Existing grade” is the elevation of the ground surface at a given point prior to excavating or filling.

**Section C12-405.15. Expansive soil.**

“Expansive soil” is any soil which exhibits significant expansive properties as determined by a soils engineer or the building official.

**Section C12-405.16. Fill.**

“Fill” is the deposit of soil, rock or other materials placed by man.

**Section C12-405.17. Final grading plan.**

“Final grading plan” is a plan prepared by a civil engineer that is approved in accordance with this chapter, showing the proposed grading and all related work, including proposed erosion prevention and sediment control measures.

**Section C12-405.18. Finish grade.**

“Finish grade” is the final elevation of ground surface at a given point after the excavating or filling.

**Section C12-405.18.5. Grade stake inspection.**

The “Grade stake inspection” is the first County inspection called for by the applicant after grading permit issuance, to demonstrate to the County inspector that the survey stakes for the proposed grading work have been placed according to the approved plan.

**Section C12-405.19. Grading.**

“Grading” is any excavation or filling or combination thereof, and includes the land in its excavated or filled condition.

**Section C12-405.20. Geologic hazard.**

“Geologic hazard” is any condition in naturally occurring earth materials which endangers life, health or property. “Geologic hazards” include, but are not limited to faults, and existing or potential landslides, mudslides, rockfalls, and weak, expansive or creeping soil; earthquake-induced ground movement or ground failure, ground shaking, seiche, or tsunami inundation, subsidence, or earth liquefaction.

**Section C12-405.21. Grading work; work.**

“Grading work” or “work” is any excavating or filling or combination thereof, and includes related work, such as, but not limited to, drainage improvements, retaining walls, erosion prevention and sediment control measures, and other requirements of the county.

**Section C12-405.22. Grading permit.**

“Grading permit” is a written permit issued by the building official or his representative pursuant to this chapter, authorizing certain grading work.

**Section C12-405.23. Key.**

“Key” is compacted fill placed in a trench excavated in natural earth material beneath the toe of a proposed fill slope for the purpose of increasing shearing resistance (see Figure 1).

**Section C12-405.24. Landscape architect.**

“Landscape architect” is a landscape architect registered by the State of California.

**Section C12-405.25. Lot.**

See “Parcel.”

**Section C12-405.26. Owner.**

“Owner” is the person shown as the legal owner of the property as shown in the records of the County Assessor's office.

**Section C12-405.27. Parcel.**

“Parcel” is land described as a lot or parcel in a recorded deed or shown as a lot or parcel on a subdivision map or parcel map on file in the County Recorder’s office.

**Section C12-405.28. Permittee.**

“Permittee” is any person to whom a permit is issued pursuant to this chapter.

**Section C12-405.29. Person.**

“Person” is any person, firm or corporation whether principal, agent, employee, or otherwise.

**Section C12-405.30. Preliminary grading plan.**

“Preliminary grading plan” is a plan that shows the proposed grading, and proposed erosion prevention and sediment control measures, in relation to the existing site, prepared and submitted with the application for a grading permit, as described in this chapter.

**Section C12-405.31. Rough grade.**

“Rough grade” is the stage at which the grade approximately conforms to the approved plan, and any structure foundation areas are at the plan or sub-base foundation grade.

**Section C12-405.32. Sediment control facility.**

“Sediment control facility” a storm water or drainage detention pond, or other device which serves the purpose of collecting water-borne sediment and debris, and is designed to be cleaned out periodically.

**Section C12-405.33. Site.**

“Site” is any lot or parcel of land or combination of contiguous lots or parcels of land under the same ownership where grading is to be performed or has been performed.

**Section C12-405.34. Slope.**

“Slope” is an inclined ground surface the inclination of which is expressed as ratio of horizontal distance to vertical distance.

**Section C12-405.35. Soil.**

“Soil” is all earth material of any origin that overlies bedrock and may include the decomposed zone of bedrock which can be excavated readily by mechanical equipment.

**Section C12-405.36. Soils engineer.**

“Soil engineer” is a civil engineer registered by the State of California who is qualified in the field of soil mechanics and soils engineering.

**Section C12-405.37. Soils engineering.**

“Soils engineering” is the application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and may include the inspection, testing and construction thereof.

**Section C12-405.37.1. Storm water.**

Storm water is drainage which has originated as rainfall, which then flows over land.

**Section C12-405.38. Terrace.**

“Terrace” means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

**Section C12-405.39. Erosion prevention measures.**

"Erosion prevention measures" means the design features of a project which are intended to prevent soil, rock, or other material from being dislodged and moved down slope by storm water flows and wind.

**Section C12-405.40. Sediment control measures.**

"Sediment control measures" means the design features of a project which are intended to halt or reduce the movement or transport of soil sediments by storm water flow.

**Section C12-405.41. Planning director.**

The "Planning director" means the planning director of the County of Santa Clara and his or her designated representatives.

**Section C12-405.42. Building official.**

"Building official" means the building official of the County of Santa Clara and his or her designated representatives.

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## ARTICLE 2. PLANS AND SPECIFICATIONS

### *Part 1. General Provisions*

#### **Section C12-410. Application; plans.**

Complete sets of preliminary plans, including profiles, cross-sections, specifications, and erosion prevention and sediment control measures, shall be submitted to the County Planning Office with each application for a grading permit, and when otherwise required by the building official, for the enforcement of any provisions of this chapter. At the time of application, the applicant shall provide preliminary grading plans. Prior to the issuance of a grading permit, the applicant must furnish final grading plans. When the final plans have been approved and ordinance requirements have been met, a grading permit shall be approved and issued by the building official. The work shall be performed according to the approved plans and specifications, which shall not be modified except as provided in section C12-414 or C12-537.

#### **Section C12-411. Preliminary grading plan.**

Preliminary grading plans provide for land use review and determination of grading permit requirements prior to approval of final plans and issuance of a grading permit. Precise design at this stage is not required. No grading permit will be issued based solely on preliminary plans. The plans shall be clearly and legibly drawn and entitled "Preliminary Grading Plans." They shall contain a statement of the purpose of the proposed grading. Each sheet shall be twenty-four (24) inches by thirty-six (36) inches, in a standard engineering scale and in a scale not smaller than one-inch equals one hundred (100) feet. The plans shall include the following:

- (a) A plan title and the name of preparer and date of preparation.
- (b) A vicinity sketch indicating the location of the site relative to the principal roads in the area.
- (c) A site plan indicating the site of the work and any proposed divisions of land.
- (d) The complete site boundaries and locations of any easements and rights-of-way traversing and adjacent to the property, appropriately labeled and dimensioned.
- (e) The locations of any existing and proposed roads, buildings, wells, pipelines, watercourses, and other structures, facilities, and features on the site and the locations of any improvements on adjacent land within twenty-five (25) feet of the proposed work.
- (f) Typical cross-sections (not less than two (2) sections) of all graded areas, existing and proposed widths and maximum cuts and fills at intervals not exceeding five hundred (500) feet. They shall depict topographic conditions not less than one hundred (100) feet outside the future rights-of-way. Show the vertical dimensions of cuts and fills on each section.
- (g) Location of known soil or geologic hazard areas.
- (h) Contour lines of the existing terrain at appropriate intervals, as provided in Chapter 1, shall be provided throughout the area where the proposed grading is to occur. The contour lines shall be extended a minimum of fifty (50) feet on either side of the affected area.
- (i) Approximate location of cut and fill lines for all the proposed grading work.
- (j) Location, width, direction of flow and approximate location of high banks of any water courses.
- (k) Approximate boundaries of any areas subject to inundation.
- (l) Proposed provisions for storm drainage control and any existing and/or proposed flood control facilities or septic tank drain fields in the vicinity of the grading.

- (m) Estimation of the quantities of excavation and fill and the estimated starting and completion dates.
- (n) Planting and/or seeding for the area affected by the proposed grading.
- (o) North arrow and scale.
- (p) Such supplemental information as required for processing and approval of the design concept, such as erosion control.
- (q) Locations of trees with a trunk circumference of thirty-seven and seven-tenths (37.7) inches or more, measured at a point four and five-tenths (4.5) feet above average ground level, within the area to be disturbed by the proposed grading. The plans shall indicate which trees are proposed to be removed or, if to be protected, construction details thereof.
- (r) All proposed erosion prevention and sediment control measures.
- (s) Other information which may be required by the building official to process the application.

**Section C12-412. Final grading plans.**

Final plans and specifications shall be prepared and signed by a registered civil engineer, on sheets twenty-four (24) inches by thirty-six (36) inches. The plans shall include the following, in addition to requirements for preliminary grading plans, unless waived by the building official:

- (a) A title block. Plans shall be entitled “grading plan” and state the purpose of the proposed grading, the name of the party for whom the plan is prepared, and the name of the engineer or firm by whom this plan is prepared.
- (b) Accurate contour lines at appropriate intervals showing the configuration of the ground before and after grading relative to a bench mark established on site.
- (c) Location, extent and finished surface slopes of all proposed grading and final cut and fill lines.
- (d) Specifications, cross-sections, profiles, elevations, dimensions and construction details based on accurate field data.
- (e) Construction details for roads, watercourses, culverts, bridges and drainage devices, retaining walls, cribbing, dams, erosion prevention, and sediment control measures and other improvements existing or to be constructed. Where water quantity is a design factor, the plans shall be accompanied by a plat showing the drainage area of land tributary to the site, the run-off computations for the area, and calculations of the carrying capacity of watercourses, in accordance with the county drainage manual.
- (f) Temporary and permanent erosion prevention and sediment control measures where appropriate for sediment control during the construction period and until such time as this temporary ground cover has become established.
- (g) A landscaping plan, when required by the county, and a schedule of permanent slope plantings to replace the temporary ground cover and watering facilities, as needed.
- (h) An estimate of the quantity of excavation and fill adjusted for anticipated swell or shrinkage. Show the locations of any borrow sites or locations for disposal of surplus material.
- (i) Itemized cost estimate of the proposed grading and related work.
- (j) Other information as may be required.

**Section C12-414. Modification of approved plans.**

- (a) Upon written application by the applicant’s registered civil engineer to the, county planning office, modification of approved grading plans may be considered for approval by the

building official. Applications for modification initiated by the applicant shall be accompanied by a fee in an amount prescribed by resolution of the Board of Supervisors.

- (b) All necessary soils and geological information and design details shall accompany any proposal to modify the approved grading plans, or the proposal shall be deemed incomplete.
- (c) The modification shall be compatible with any subdivision map or other land use requirements or any other final conditions of approval pertaining to the site.

**Section C12-415. Distribution and use of approved plans.**

One (1) set of reproducible, approved and dated plans and specifications shall be retained by the building official, and one (1) set of reproducible, approved and dated plans and specifications shall be returned to the applicant, or his engineer. The applicant shall supply reproductions of approved, dated plans for use by the project work crew. One (1) or more sets of approved plans shall be retained on the site at all times during the work.

**Section C12-416. Time for filing final grading plans.**

In order that the final grading plans may be adequately checked prior to the expiration date of the preliminary grading approval, they shall be filed with the county surveyor's office not less than three (3) weeks prior to expiration of the preliminary grading approval.

**Section C12-417. Staying of the grading approval.**

This provision shall apply only one (1) time, at the time of the initial complete submittal to the building official's office for plan check, if:

- (a) An extension of time has been granted in accordance with section C12-432.
- (b) The filing is in accordance with the provisions of section C12-416, or has been submitted to the building official's office at the time of adoption of this section, or is submitted to the building official's office within three (3) weeks after the adoption of this section.
- (c) The building official shall determine if there has been a complete submittal in accordance with these provisions and all other applicable regulations.

In all cases which meet these requirements, the time remaining prior to expiration of the grading approval shall be stayed until the building official has had an opportunity to check the plans in the accordance with applicable procedures. Once the building official has completed the plan check, the remaining time left on the grading approval immediately recommences to run.

**Section C12-418 — C12-419. Reserved.**

**ARTICLE 3. PROCEDURE**

***Part 1. Prohibitions and Exemptions***

**Section C12-420. Prohibitions.**

No person shall do any grading, or cause or allow the same to be done, on any real property, without first obtaining a grading permit, unless exempt hereunder.

### **Section C 12-421. Exemptions.**

The following grading work may be performed without obtaining a grading permit, provided the grading work meets the land use requirements of this division, meets the applicable exemption requirements, and does not endanger adjacent property or divert or impair the flow of water in a watercourse, or cause a public nuisance. Any grading work that is done without a permit and not conforming to these limitations and the exemption provisions herein shall be deemed a violation of this ordinance subject to penalties and abatement procedures provided in this chapter.

- (a) Minor projects which (1) have cuts and/or fills each of which is less than five (5) feet in vertical depth at their deepest points measured from the natural ground surface, (2) the combined cuts and the combined fills are each less than one hundred fifty (150) cubic yards in volume, and (3) do not create unstable slopes. These volume and height limits apply to all work performed regardless of the time period and do not represent annual exempt amounts.
- (b) Grading performed by or under the supervision or construction control of a governmental agency, including the County of Santa Clara, where that agency assumes full responsibility for the work, or by a public utility on property owned by the public utility or within recorded public utility easements where the work is under the exclusive jurisdiction of the State of California Public Utilities Commission and the public utility assumes full responsibility for the work.
- (c) Valid building permit. Grading in connection with a building, swimming pool, retaining wall, or other structure authorized by a valid building permit. All such grading shall be shown on the approved plans and inspected and approved by the county building inspector. This exemption shall not affect the applicability of this chapter to, nor the requirements for, a grading permit for any excavation having an unsupported vertical bank greater than five (5) feet in height after the completion of such structure, or any fill which is removed from the site or not shown on approved plans and inspected.
- (d) Agriculture. Grading performed exclusively for the growing of agricultural crops or the raising of livestock. This exemption does not extend to grading work necessary to convert land from non-agricultural use to agricultural use, but rather pertains to grading necessary for the routine planting, cultivation, tilling and harvesting of existing agricultural fields.
- (e) Trenching. Trenching, water well drilling, post holes drilling, and grading incidental to the construction or installation of underground irrigation or water supply pipelines, septic tank drainfields, conduits, electrical or communication facilities, provided such work shall be backfilled and shaped to the original contour of the land immediately after the completion of the work or within forty-five (45) days after the start of the work, whichever is sooner.
- (f) Excavations for soils or geological investigations by a soils engineer or engineering geologist. Such work shall be backfilled and shaped to the original contour of the land under the direction of the soils engineer or engineering geologist immediately after the investigation, or within forty-five (45) days after the start of the work, whichever is sooner.
- (g) Cemeteries. Excavation or deposition of earth materials within a property which is dedicated for cemetery purposes.
- (h) Logging. Grading done pursuant to a valid use permit for timber harvesting operations, unless such use permit also requires a grading permit.

- (i) Exemption for dumps, mines and quarries. Grading within the site of a refuse disposal dump, sanitary landfill, quarry or plant for excavating and the processing and stockpiling of rock, sand, gravel, aggregate or clay, provided that such grading or other activities are established and operated in accordance with all laws and the requirements of all permits.
- (j) Maintenance of existing firebreaks and roads. Maintenance shall mean keeping the road in substantially the same condition it has been in previously. Prior to the first maintenance operation for each existing firebreak or road, or portion thereof, after adoption of this chapter, a permit shall be obtained from the building official as provided herein. Succeeding maintenance operations meeting the requirements of this exemption shall not require a permit.
- (k) Soil improvement. The addition of topsoil, compost, sand, loam, or other soil amendments in amounts greater than one hundred fifty (150) cubic yards. Amendments shall be added in such a manner that the relative topography of the land shall remain unchanged and the increase in elevation shall not exceed a maximum of one-half foot or such greater depth as may be approved by the building official.

**Section C12-422 — C12-424. Reserved.**

***Part 2. Applications***

**Section C12-425. Filing.**

- (a) Applications for grading permits shall be filed with the county planning office on the forms provided. Applications shall include preliminary or final grading plans as required by the building official, and a non-refundable filing fee in an amount prescribed by resolution of the Board of Supervisors. This fee shall be waived if the grading permit application is submitted for concurrent notice and processing with the application for a use permit, building site approval, subdivision or other land use. The fee also shall be waived if the application is for the maintenance of existing firebreaks or roads as provided in section C12-421(i).
- (b) Only one application and permit is required for grading work to be performed on each site at one time. If grading occurs prior to obtaining a permit, the property owner and the person doing or causing the grading shall be subject to the penalties and abatement procedures stated herein. The county planning office shall determine whether the application is complete, and shall notify the applicant of any additional information that is necessary to complete the application.

**Section C12-426. Review by Architectural and Site Approval Committee.**

- (a) Applications and preliminary plans will be referred to the architectural and site approval committee in the event the grading involves a matter under its jurisdiction.
- (b) The architectural and site approval committee (ASA committee) shall consider the accepted application within two (2) weeks after the next agenda closing date. The committee may continue consideration of the application from time to time. In the event that a decision is not reached within forty-five (45) days of the date of the filing of the application, such application shall be deemed approved by the ASA Committee; provided, however, any delay caused by the land use approval process required herein shall extend or toll the forty-five (45) days accordingly.

### ***Part 3. Review and Determination***

#### **Section C12-427. Referral and findings.**

Before taking action, the architectural and site approval committee or the planning director may refer the application for recommendation to any city in accordance with current county referral procedures and to any other interested public agency. The ASA committee, the planning director, and the building official may impose conditions in order to comply with the land development and land use requirements herein, other county ordinances, and for the health, safety and welfare of the public. Approval by the ASA committee the planning director shall not be granted unless:

- (a) The proposed grading is related to a use presently permitted by law on the property.
- (b) The grading is necessary for establishment or maintenance of the use.
- (c) The design, scope and location of the grading is appropriate for the use and causes minimum disturbance to the terrain and natural features of the land.

#### **Section C12-428. Land use requirements.**

- (a) If the architectural and site approval committee, the zoning administrator, or the planning director determines that the proposed grading requires a zone change, use permit, variance, division of land, building site approval, architectural and site approval, or other land use approval, such approval may be required prior to or concurrent with approval of the grading permit.
- (b) The planning director, the Architectural and Site Approval Committee, or the building official may consider an application concurrently with any other matter. When land use matters have been resolved by the county, the grading permit may be issued in accordance with the provisions of this chapter.

#### **Section C12-429. Exceptions to land use requirements.**

Exceptions to the land use requirements herein may be granted by the body reviewing the application when the proposed grading is necessary because of an emergency or hazardous situation as determined by the building official

#### **Section C12-429.1. Small Project Grading Permit Process**

- (a) Where the proposed grading work consists of cut and/or fill each of which is five hundred (500) cubic yards or less in volume and the use associated with the proposed grading does not require or has already received a land use approval (e.g., building site approval, use permit), an application shall be filed with the county planning office. The planning office shall determine whether there are unique circumstances that warrant conducting an environmental assessment of the project including, but not limited to: close proximity of the project to springs, streams, creeks, lakes, reservoirs, wetlands, or other bodies of water; geologic considerations; seismic considerations; geotechnical considerations; potential hazards to other properties or public rights of way; proximity to sensitive or riparian habitat areas; clarification of land use requirements; clarification of land use findings as referenced in sections C12-427 and C12-428 of this chapter; and any other environmental considerations. If the planning office determines that the proposed grading work qualifies as a small grading project and that an environmental assessment is not required, the application shall be referred to the building inspection office and the building official shall be responsible for project review, permit issuance, and inspections. If an environmental

assessment is required, a grading permit must be processed pursuant to section C12-420. If a land use approval that is currently in effect was specifically conditioned to require a grading permit application, then the project is not eligible for a small project grading permit.

- (b) Applications for permits submitted under this category are not exempt from other provisions of this chapter, including time limits.
- (c) All other applications for grading permits and all applications for grading abatements shall be processed through the county planning office land use review procedure.

**Section C12-430. Environmental review.**

All plans shall be processed in accordance with the California Environmental Quality Act, and regulations promulgated thereunder.

**Section C12-431. Final action.**

Upon final action by the reviewing body, the application shall be forwarded to the building official. Unless the reviewing body has denied the permit, the building official shall process such application in accordance herewith, provided the building official determines that the final plans substantially conform to the approved preliminary plans. Except as required for an emergency or hazardous situation as here in before described in article 3 sections C12-429, C12-443, and C12-444, no permit shall be issued until the period for filing an appeal of a decision of the, planning director, architectural and site approval committee or planning commission has elapsed or final action has been taken on a filed appeal.

**Section C12-432. Time limitation on approval, extension.**

An approval by the reviewing body shall remain valid for twenty-four (24) months. During this period, any conditions of approval must be completed and a grading permit issued, or the application will be deemed expired. Requests for extensions of time shall be in writing to the building official, and shall be accompanied by a fee in an amount prescribed by resolution of the Board of Supervisors. Extensions of time may be granted by the building official for a period not exceeding twenty-four (24) months beyond the initial twenty-four-month period.

**Section C12-433. Emergency grading authorization.**

Whenever the building official has determined that there is an immediate danger to the public health or safety resulting from a landslide, flood, earthquake or other natural calamity, the building official may authorize correction of the condition creating the danger without compliance with all provisions of this chapter; provided, the building official may condition the authorization in any manner deemed necessary to protect the public health and safety and environment.

**Section C12-434. Reserved.**

***Part 4. Permit Limitation***

**Section C12-435. General.**

The issuance of a grading permit shall be limited to work which is covered by the permit and which is shown on the approved plans, or otherwise approved by the building official. In granting any permit, the building official may attach conditions deemed necessary to prevent

creation of a nuisance or hazard to public or private property and to assure completion of the grading, including but not limited to:

- (a) Improvement of any existing grading to bring it up to the standards of this chapter or the recommendations of the civil engineer.
- (b) Requirements for fencing or protection of grading which would otherwise be hazardous.
- (c) Dust control, noise control, hours of operation, sequence of work, weather condition requirements, and haul routes.
- (d) Implementation of erosion prevention and sediment control measures.

**Section C12-436. Same—Permission of other agencies or owners.**

No permit shall relieve the permittee of responsibility for securing any permits or approvals required for work which is regulated by any other ordinance, code, department, or agency of the county, state or federal government, or for obtaining any easements or authorization for grading on property not owned by the permittee. The building official may require submittal of a notarized written authorization for performance of work on adjacent property not owned by the permittee.

Permits or other approvals may also be required from other public agencies, such as the Santa Clara Valley Water District, the California Department of Fish and Game, the San Francisco Bay Conservation and Development Commission, the Army Corps of Engineers, and the Regional Water Quality Control Board.

If the proposed grading work is within the jurisdiction of any other public agencies, the applicant shall submit verification of all required permits, other approvals, or waivers of such requirements to the building official prior to commencement of the grading work.

**Section C12-437. Same—Location or property lines.**

Whenever the location of a property line or easement, or the title thereto, is disputed as the result of the application or during a grading operation, a survey by a licensed land surveyor or registered civil engineer, or resolution of title, may be required by the building official, at the applicant's expense.

**Section C12-438. Same—Time limits.**

The permittee shall perform and complete all work required by the permit within the specified time. If no time limit is specified, the work shall be completed within one hundred eighty (180) days of permit issuance unless an extension is granted by the building official.

**Section C12-439 — C12-442. Reserved.**

***Part 5. Denial of Permit***

**Section C12-443. Hazardous grading.**

No permit shall be approved by the building official when the grading, as proposed by the applicant, is likely to endanger private property or public health and safety or result in excessive deposition of debris or soil sediments on any public way, or interfere with any spring or existing drainage course. If the building official determines that the hazard can be substantially reduced

by planting or growing of vegetation, or the construction of retaining structures, buttress fills, drainage controls or erosion prevention and sediment control measures, or by any other means, the building official may approve the permit with the conditions that such work be performed.

**Section C12-444. Permit denial for geologic or flood hazard.**

If the building official determines that the land area in which grading is proposed is subject to a geologic or flood hazard, that no reasonable amount of corrective work can eliminate or sufficiently reduce, grading permits for habitable structures shall be denied.

**Section C12-445. Violation of other ordinances.**

The building official shall not issue a grading permit unless all proposed land uses shown on the application or the grading plans for the site will comply with all provisions of the county zoning ordinance, and all other applicable county ordinances.

**Section C12-446—C12-449. Reserved.**

***Part 6. Appeals***

**Section C12-450. Appeals.**

Any person dissatisfied with any action of the, planning director, the building official, or the architectural and site approval committee, relating to a grading permit or grading abatement application, may file an appeal with the clerk of the board of supervisors within fifteen (15) calendar days after such decision. Each appeal shall be filed at the county planning office and shall be accompanied by a nonrefundable filing fee in an amount prescribed by resolution of the board of supervisors. The planning director or the building official shall transmit to the clerk of the board of supervisors all maps, records, papers and files which constitute the record in the action on appeal. The board shall hear the matter *de novo* and approve, disapprove or modify the decision. The decision of the board of supervisors is final.

**Section C12-451— C12-454. Reserved.**

**ARTICLE 4. REQUIREMENTS**

***Part 1. General***

**Section C12-455. Denial**

The building official shall deny the issuance of a grading permit for failure to satisfy any of the conditions imposed, and shall provide the applicant with a written finding, identifying the requirements or conditions which have not been met or performed, which are the basis for the denial.

**Section C12-456. Construction inspection and plan check fees; partial refunds; plan check by private entity or person.**

(a) At the time of submittal of final grading plans as provided in section C12-413, the applicant shall pay a nonrefundable plan check fee in an amount prescribed by resolution of the Board of Supervisors. Prior to issuance of a grading permit, the applicant shall pay a nonrefundable

inspection fee, in an amount prescribed by resolution of the Board of Supervisors. The fee includes a component based primarily upon project valuation . The project valuation is determined by the building official from a review of the final grading plans and the estimated cost calculations submitted by the design registered civil engineer.

- (b) In situations where a private civil engineer is authorized by the building official to perform the inspection work (per this chapter), the inspection fee to be paid to the building official's office shall be twenty (20) percent of the amount of the inspection fees which would have been due for county inspection of the grading.
- (c) At the time that the applicant submits a final grading plan, the applicant may request that the building official estimate the time required to check the grading plan based on the current workload and staffing level. If the applicant desires faster checking of his grading plan, he may request building official contract or employ a private entity or persons on a temporary basis to perform the plan checking services. However, the building official need not enter into such a contract or employ such persons if he determines either that (1) no such entities or persons are available or qualified to perform such services, or (2) the building official would be able to perform services in a more rapid fashion than would any available and qualified persons or entities. Such entities or persons employed by the building official may, pursuant to an agreement with the building official, perform all functions necessary to check the grading plans and to comply with other requirements imposed pursuant to this chapter, except those functions reserved by this chapter to the building official or legislative body.

The applicant shall pay a special plan checking fee in an amount necessary to defray costs directly attributable to employing or contracting with entities or persons performing services pursuant to this section. The special plan checking fee is in addition to the standard plan check fee established in this part and shall be in the amount prescribed by resolution of the Board of Supervisors.

#### **Section C12-457. Violation fees.**

If grading work is done in violation of this chapter, the following shall apply in addition to permit application fees:

- (a) Construction inspection and plan check fee. The fee shall be in an amount prescribed by resolution of the Board of Supervisors. In determining the cost of the work, the private engineer shall include the costs of both the illegal (unpermitted) work and proposed remedial work.
- (b) Violation fee. In addition to any other fees prescribed elsewhere in this chapter, a violation fee as prescribed by resolution of the Board of Supervisors shall be assessed for any grading work in violation of this chapter. Payment of such fee shall not relieve any person from any other liability hereunder. The fee prescribed by this section is to defray the expense of enforcement of this chapter.

### ***Part 2. Reports***

#### **Section C12-457.1. Generally.**

All reports, supplemental reports, and data shall be subject to the review and approval of the building official. Recommendations included in the reports and approved by the building official shall be incorporated into the grading plans and specifications. (Ord. No.NS-1203.35,§6,3-13-78)

**Section C12-457.2.**

The building official may request the county geologist to review the submitted material, in order to provide his/her recommendations, proposed conditions of approval, and/or comments to the building official.

**Section C12-458. Soils engineering investigations and reports.**

The building official may require a soils engineering investigation and report based on the most recent grading plan. Such report shall include laboratory tests and data regarding the nature, distribution, and strength of existing soils; conclusions and recommendations for grading procedures; and design criteria for corrective measures. The report shall be prepared by a registered civil engineer, licensed by the State of California.

**Section C12-459. Engineering geologic report.**

The building official may require an engineering geologic investigation prior to issuing the permit, based on the proposed grading and land use plan(s) and the official county geologic hazard maps. The engineering geologic report, when required, shall include an adequate description of the geology of the site, and conclusions and recommendations regarding the effect of geologic conditions on the proposed grading and land use. The report shall be prepared by a certified engineering geologist, licensed by the State of California.

**Section C12-460. Periodic soil and geologic reports.**

The building official shall require sufficient inspection to assure that all soil and geologic conditions have been adequately considered. Where soil or geologic conditions warrant, the building official may require periodic reports including, but not limited to, the effect of soil and geologic conditions on cut and fill slopes, clearing operations, groundwater, earth material, and conditions, benches for the placement of fill, and possible spring locations.

**Section C12-461. Final reports.**

The building official may require final reports including, but not limited to, certification of slope stability and soil bearing capacity, summaries of field and laboratory tests, locations of tests, recommendations, setbacks, and other information determined to be necessary by the building official. The final soils report or engineering geologic report shall be based on the “as-built” grading plan as affected by soils or geologic factors. A revised geologic map and cross-sections may be required.

**Section C12-462 — C12-464. Reserved.*****Part 3. Construction Requirements and Procedures*****Section C12-465. Construction inspection.**

The building official shall assume full jurisdiction over the inspection of the approved grading after the permittee’s engineer has set alignment and grade stakes in accordance with accepted engineering practices. The building official shall release the performance bond, with the exception of that portion held for guarantee and warranty of the work, upon satisfactory completion. If the Board of Supervisors holds the bond, the building official shall report the

completion of work to the Board with recommendations regarding construction acceptance and release of the bonds. See article 6 regarding performance bonds.

**Section C12-466. Authorization of private civil engineer to inspect the work.**

- (a) Upon request, the building official may authorize a private registered civil engineer to perform the inspection work, and certify compliance with the approved plans and render any required reports. The permittee shall make his own contractual arrangements for such engineering services and be responsible for payment of all costs. Upon authorization for such services, the inspection fee set forth shall be reduced as outlined in section C12-456.
- (b) The permittee shall cause the work to be performed in accordance with the approved plans and any instructions or recommendations by the private engineer. If, during the course of construction, the engineer finds that the work is not being performed substantially in accordance with the approved plans and specifications, he shall immediately notify the person in charge of the work and the building official of the nonconformity and the corrective measures to be taken. When changes in the plans are required, he shall prepare such proposed changes and submit them to building official for plan checking and approval.

**Section C12-467. Periodic progress reports.**

Periodic progress reports shall be rendered by the private civil engineer as required by the building official, including, but not limited to, laboratory tests, slope stability, placement of materials, retaining walls, subdrains, drainage, utilities and any special permit or plan requirements. Upon completion of the work the engineer shall submit to the building official an “as-built” plan, a final report, and certification of completion in accordance with the approved plans and conditions.

**Section C12-468. Modification of approved plans.**

County approval shall not relieve the permittee from adopted county standards and regulations, or those of other agencies for whom the work is performed. If the grading is not properly designed for field conditions, or is significantly contrary to county requirements, the building official may order modification of the approved plans.

**Section C12-469. Suspension of work.**

If the building official finds that the work is not being performed in accordance with the approved plans, specifications, or permit conditions, or problems have arisen requiring a modification of the plans, the work may be stopped by order of the building official. No further construction shall be performed until the necessary corrective measures have been determined and revised plans have been submitted to, and approved by the building official.

**Section C12-470. Notification of work completion.**

- (a) When the grading work has been completed, the building official shall be notified. Final approval and release of bond shall not be granted until all the work has been completed and the “as-built” grading plan and any required reports have been submitted and approved by the building official.
- (b) If the design engineer finds that the work is not being done in conformance with this chapter, the permit, the approved plans, or accepted practices, he shall immediately notify the person

in charge of the grading work, the permittee, and the building official in writing, including recommendation of necessary corrective measures.

**Section C12-471. Termination of services by private civil engineer.**

If the private civil engineer authorized by the building official to perform the inspection work terminates his duties for any cause prior to completion, he shall write the building official within forty-eight (48) hours of such termination, and of the status of the work at his last inspection. The building official shall immediately suspend the permit until either a new civil engineer acceptable to the building official is retained by the permittee, or the county takes over the inspection and additional inspection fees are paid.

**Section C12-472. Certificate of compliance.**

A private civil engineer authorized by the building official to perform the inspection work shall certify that all grading was completed in compliance with the permit and approved plans, and shall furnish “as-built” grading plans.

**Section C12-473 — C12-474. Reserved.**

***Part 4. Responsibility of Permittee***

**Section C12-475. Compliance with permit requirements and plans.**

The property owner shall be responsible for compliance with the requirements of this chapter and related laws.

**Section C12-476. Protection of utilities.**

The property owner shall be responsible for the prevention of damage to any public utilities or services.

**Section C12-477. Protection of adjacent property, public health, safety.**

The property owner and the person(s) doing or causing or directing the grading is are responsible for the prevention of damage to any other property, public health, and safety. No person shall grade, fill, or excavate on any land so as to endanger any public street, sidewalk, alley, or any other public or private property, or public health and safety without supporting and protecting such property and persons from damage.

**Section C12-477.1. Environmental protection.**

The property owner and the person(s) doing or causing or directing the grading are responsible for protecting environmentally sensitive areas on or near the site, such as creeks, streams, wetlands, lakes, springs, trees, and riparian habitat that could be affected by the grading. The grading shall be conducted in a manner which minimizes and mitigates environmental damage.

**Section C12-478. Start of work notice.**

The property owner shall be responsible for notifying the building official, and any retained private registered civil engineer, whether retained by the county or by the permittee, at least twenty-four (24) hours prior to the start of work.

**Section C12-479. Temporary erosion control.**

The property owner and the person(s) doing or causing or directing the grading shall put into effect and maintain all precautionary measures necessary to protect adjacent watercourses and public or private property from damage by erosion, flooding, or deposition of mud or debris originating from the site. Precautionary measures must include provisions of properly designed erosion prevention and sediment control measures, so that downstream properties are not affected by upstream erosion or sediment transport by storm water.

**Section C12-480 — C12-482. Reserved.**

***Part 5. Responsibility of Owner***

**Section C12-483. Hazard from existing grading.**

Whenever the building official determines that any existing excavation, embankment or fill has become a hazard to life or limb, or endangers structures, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation, embankment, or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the building official, shall within the period specified therein repair, reconstruct or remove such excavations, embankment, or fill to eliminate the hazard.

**Section C12-484—C12-487. Reserved.**

**ARTICLE 5. DESIGN STANDARDS**

***Part 1. Generally***

**Section C12-488. Minimum standards.**

In the absence of supported recommendations by the design registered civil engineer, or as excepted by the building official, the following minimum standards shall apply.

***Part 2. Cuts***

**Section C12-489. Maximum slope.**

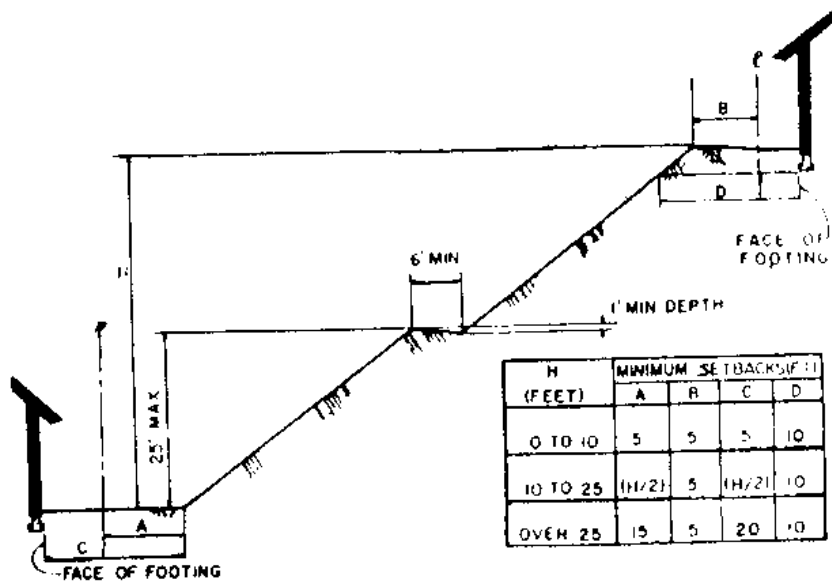
- (a) Cuts shall not be steeper in slope than one and one-half (1-1/2) horizontal to one vertical, unless a soils engineering and /or an engineering geology report is filed certifying that the site has been investigated and indication that the proposed steeper slope will be stable and will not endanger any private or public property, or result in the harmful deposition of debris on any public way or interfere with any existing drainage course.
- (b) The building official may require the excavation to be made with a cut face flatter in slope than one and one-half (1-1/2) horizontal to one vertical if necessary for stability and safety. Cut slopes shall be rounded into the existing terrain to produce a contoured transition from cut face to natural ground.

**Section C12-490. Drainage terraces (cuts).**

Cut slopes exceeding thirty (30) feet in vertical height shall have drainage terraces at vertical intervals not exceeding twenty-five (25) feet except that where only one terrace is required, it shall be at approximately mid-height, unless some other location is approved by the county surveyor. The design and construction of the drainage terraces shall conform to the requirements of this chapter.

**Section C12-491. Expansive soils.**

If during the grading operation expansive soil is found within two (2) feet of the finished lot grade of any area intended or designed as the location for a building, the permittee shall cause such expansive soil to be removed from such building area to depth specified by the soils engineer, and replaced with nonexpansive soil properly compacted; provided, however, the building official may, upon receipt of a report by a civil engineer certifying that he has investigated the property and recommends a design of footings or floor slab or other procedure that in his opinion will alleviate any problem created by such expansive soil, waive the requirement. (See figure 2)



**Figure 2 – Benching and Setbacks**

### ***Part 3. Fills***

#### **Section C12-492. Generally.**

Fill shall be constructed in layers. The loose thickness of each layer of fill material before compaction shall not exceed eight (8) inches. Completed fills shall be stable masses of well integrated materials bonded to adjacent materials and to the materials on which they rest. Fills shall be competent to support anticipated loads and be stable at the design slopes shown on the plans. Proper drainage and other appropriate measures shall be taken to ensure the continuing integrity of fills.

#### **Section C12-493 — C12-494. Reserved.**

#### **Section C12-495. Compaction.**

All fills shall be compacted throughout their full extent to a minimum of ninety (90) percent of maximum density as determined by Test Method No. Calif. 216-G, or other alternate methods approved by the building official. Sufficient tests shall be made for reasonable assurance of compliance with the provisions of this chapter.

#### **EXCEPTIONS:**

- (a) Compaction may be less than ninety (90) percent of maximum density, as determined by the above test, within six (6) inches of the slope surface when such surface material is placed and compacted by a method acceptable to the building official for the planting of the slopes.
- (b) Fills not intended to support structures or roads need not be compacted to these standards if the applicant's civil engineer determines that such compaction is unnecessary for safety and the purpose of the grading, and the building official concurs.

The building official may require that an investigation be made by soils laboratory to establish the characteristics of the soil, the amount of settlement to be expected, and the susceptibility of the soil to erosion or slippage.

#### **Section C12-496. Preparation of ground to receive fill.**

The natural ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, top soil, or other incompetent material, and where slopes are five (5) horizontal to one vertical, or steeper, by benching into competent material. The lowermost bench shall be at least six (6) feet wide, except where recommended by the civil engineer as not being necessary. Subdrains shall be provided under all fills placed in natural water courses and in other locations where seepage is evident. Such subdrainage systems shall be of a material and design approved by the soils engineer and acceptable to building official. The location of the subdrains shall be shown in plan and elevation views on the plan.

#### **Section C12-497. Fill slopes.**

No fill shall be made which creates an exposed surface steeper in average slope than two (2) horizontal to one vertical, exclusive of benches and exclusive of surroundings described herein, unless permitted by the county surveyor after receipt of a report by a civil engineer, based on

appropriate laboratory tests, certifying such steeper slope will be stable and support erosion control plantings, when required. The building official may require that the fill be constructed with an exposed surface flatter than two (2) horizontal to one vertical, or may require such other measures as he deems necessary for stability and safety. Fill slopes shall be rounded into existing terrain to produce a contoured transition from fill face to natural ground and abutting cut or fill surfaces where conditions permit.

**Section C12-498. Fill material.**

No organic material shall be permitted in fills. Rock or similar irreducible material with a maximum dimension greater than eight (8) inches shall not be buried or placed in fills within two (2) feet of finished grade. When such greater size material is placed in fills it shall be done in accordance with specifications prepared by the design civil engineer, and must be approved by the building official.

**Section C12-499. Drainage terraces (fills).**

Fill slopes exceeding thirty (30) feet in vertical height shall have drainage terraces at vertical intervals not exceeding twenty-five (25) feet, except that where only one terrace is required, it shall be at approximately mid-height unless some other location is approved by the building official. Such drainage terraces shall be at least six (6) feet wide and shall be designed and constructed so as to provide a swale or ditch having a minimal depth of one foot and a longitudinal grade of not less than four (4) percent nor more than twelve (12) percent. There shall be no reduction in grade along the direction of flow unless the velocity of flow is such that slope debris will remain in suspension on the reduced grade. Downdrains or drainage outlets shall be provided at approximately three hundred (300) foot intervals along the drainage terrace or an equivalent location. Downdrains and drainage outlets shall be of approved materials and of adequate capacity to convey the intercepted waters to the point of disposal. The terrace, including the swale or ditch, shall be protected from erosion by specially designed drainage way that discharges into a safe disposal area. If the drainage discharges onto natural ground, adequate erosion prevention measures shall be provided.

**Section C12-500. Slopes to receive fill.**

Fill placed on the top of an existing or proposed cut or natural slope shall be set back a minimum distance of six (6) feet measure horizontally. Tests to determine the density of compacted fills shall be made on the basis of not less than one test for each two-foot vertical lift of the fill, but not less than one test for each one thousand (1,000) cubic yards of material placed. Additional density test at a point approximately one foot below the fill slope surface shall be made on the basis of not less than one test for each one thousand (1,000) square feet in slope surface, but not less than one test for each ten-foot vertical of slope height. Additional tests may be required throughout the fill as determined by the inspector for the county surveyor. All tests shall be reasonably uniformly distributed within the fill or fill slope surface. Results of such testing and location of tests shall be presented in the periodic and final reports.

**Section C12-501. Expansive soils.**

In areas intended or designed to support buildings, expansive soil shall not be placed within two (2) feet of the finish grade in such building areas unless recommended by a civil engineer based

on laboratory tests and certifying that a design of footings or floor slab or other procedure will alleviate problems created by placing the expansive soil within such building areas.

**Section C12-502 — C12-504. Reserved.**

***Part 4. Setbacks***

**Section C12-505. Generally.**

Cuts and fills shall be set back from property lines and from existing buildings as shown in Figure 2. The building official may increase these dimensions based on information that he has showing that the dimensions do not provide adequate safety or comply with other county ordinance requirements.

**Section C12-506 — C12-509. Reserved.**

***Part 5. Drainage***

**Section C12-510. General.**

The drainage structures and devices required by this division shall be designed and constructed in accordance with the adopted Santa Clara County Drainage Manual and Standards.

**Section C12-511. Storm water and subsurface water disposal requirements.**

All drainage facilities shall be designed to carry surface and subsurface waters to the nearest practical street, storm drain or natural watercourse. Adequate provisions shall be made to avoid damage to adjacent and downstream properties. The following additional restrictions also shall apply:

- (a) Water shall not be allowed to pond above cut or fill slopes or on drainage terraces. Adequate drainage facilities shall be provided to prevent such ponding.
- (b) Areas designed for buildings shall be graded to provide at least one percent grade, away from the building.

**Section C12-512 — C12-514. Reserved.**

***Part 6. Erosion Control***

**Section C12-515. Slope protection.**

Adequate provision shall be made to minimize damage to the face of cuts and fills. Down slopes shall be protected from surface water runoff from above by dikes, swales or cut-off ditches, or other measures, as needed.

**Section C12-516. Dikes, swales and ditches.**

Dikes, swales and ditches, when required, shall be designed and constructed to control runoff and erosion from graded areas. Where concentrated drainage discharges onto natural ground, effective measures shall be taken to dissipate the energy and, where practical, release the accumulated waters as sheet flow, unless the discharge is into a storm sewer or natural water course.

**Section C12-517. Erosion prevention and sediment control measures.**

All grading plans shall include the retained registered civil engineer's and/or landscape architect's recommendations for erosion prevention and sediment control measures.

During the period of October 15th to April 15th, or other dates as determined by the building official, all planned erosion prevention and sediment control measures shall be installed by the time of the initial "grade stake" inspection, unless approval for phased control measure installation is requested of and granted by the building official prior to grading or construction permit issuance.

Grading projects that are started but not completed by October 15th of each year are to be "winterized" by installation of planned erosion prevention and sediment control measures, which shall be maintained in good repair through the April 15th following, and until the project is completed.

***Part 7. Planting of Slopes***

**Section C12-519. General.**

The loss of trees, ground cover, and topsoil shall be minimized on any grading project. In addition to mechanical methods of erosion control, graded areas shall be protected to the extent practical from damage by erosion by planting grass or ground cover plants and/or trees. Such plantings shall provide for rapid, short-term coverage. A plan by a landscape architect may be required by the building official.

Where permanent landscaping or construction will not provide a timely ground cover, interim plantings may be required by the building official.

**Section C12-520. Minimum requirements for slopes over 15 feet in vertical height.**

In addition to planting with grass and/or ground cover, slopes in excess of fifteen (15) feet in vertical height shall be planted with shrubs in two and one-fourth (2.25) inch pots, or larger, spaced at intervals not to exceed ten (10) feet on centers, or trees having a one gallon minimum size at twenty-foot intervals, or a combination of shrubs and trees at equivalent spacing appropriate to the species. The plants selected and the planting methods to be used shall be suitable for the soil and climate conditions of the site. A landscaping plan and planting and maintenance instructions prepared by a landscape architect may be required.

**Section C12-521. Timing of planting.**

The planting shall be completed as soon as practical, and not more than ninety (90) days after completion of the grading, or of a portion thereof on phased projects.

**Section C12-522. Vegetation removal.**

If the project is abandoned after vegetation removal has taken place, the area shall be planted as provided herein. If the work is suspended for an extended period, the building official may require interim planting as needed to control erosion and sediment transport.

**Section C12-525. Irrigation.**

- (a) Slopes required to be planted shall be provided with an approved system of irrigation where needed for plant propagation and continued maintenance. The irrigation system plans shall be submitted and approved as a part of the grading permit. If hose bibs are installed, they must be at conveniently accessible locations where a hose no longer than fifty (50) feet is necessary for irrigation.
- (b) The requirement for a permanent irrigation system may be modified upon the recommendation of a landscape architect based on the type of plants selected, the planting methods, and the soil and climatic conditions at the site.

**Section C12-526. Establishment of planting.**

The planting and irrigation system required by this section shall be installed as soon as practical after rough grading. Prior to final approval of grading and before the release of the total grading bond, the planting shall be well established.

**Section C12-527. Other standards.**

The building official may adopt supplementary engineering standard details as may be appropriate for the carrying out of the provisions of this chapter. Such standards shall be published and filed in the building official’s office and the office of the clerk of the board of supervisors.

**ARTICLE 6. IMPROVEMENT AGREEMENT AND SECURITIES**

**Section C12-531. Bonds required.**

The building official shall require a bond or surety deemed necessary to assure faithful performance of the work on approved form. A permit shall not be issued for work deemed hazardous unless the permittee first posts a cash bond or improvement security approved by the building official in sufficient amount to cover the cost of required work.

**Section C12-532. Failure to complete work.**

Each bond shall remain effective until completion of the work satisfactory to the building official. Upon failure to complete the work or failure to comply with all of the terms of the permit, the county may do the required work or cause it to be done, and collect from the permittee or surety company all costs, including administrative costs, incurred for completing the work. Any unused portion of a cash bond shall be refunded after deduction by the county of the total cost of said work.

**Section C12-534. Cash bonds.**

For sites of extraordinary environmental concern or significance, the building official may require that the amount of the bond attributable to erosion prevention and sediment control measures shall be provided as a cash bond, to allow for a rapid response, should urgent implementation of remedial measures become necessary.

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## **ARTICLE 7. ENFORCEMENT**

### ***Part 1. Liability***

#### **Section C12-535. Generally.**

Neither the issuance of a permit under the provisions of this chapter, nor the compliance with the provisions hereof, or with any conditions imposed in a permit issued hereunder, shall relieve any person from responsibility for damage to other persons or property, or impose any liability upon the county for damage to other persons or property.

### ***Part 2. Access and enforcement***

#### **Section C12-536. Right of entry.**

Whenever necessary to enforce the provisions of this chapter, the building official or his authorized representative may enter the premises at all reasonable times to perform any duty imposed by this chapter; provided, that if such premises are occupied, he shall first present proper credentials and request entry; if the premises are unoccupied, a reasonable effort to locate the owner or other persons having control of the premises will be made.

#### **Section C12-536.1. Inspection warrant.**

The building official may request the county counsel and/or district attorney to obtain an inspection warrant when access to the property has been denied by the owner or other person controlling the property.

#### **Section C12-537. Hazardous conditions.**

When the building official determines that any existing grading is a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, or causes environmental damage, the owner of the property or agent in control or possession of said property, upon receipt of notice in writing from the building official, shall, within the period specified therein, eliminate the hazard. If the grading presents an immediate hazard, the building official may eliminate the hazard without giving the notice provided for herein above.

- (a) Whenever the building official eliminates a hazard as authorized herein, the person responsible for the hazard shall pay the county for the costs thereof. When such hazard exists on private property, it shall be deemed a nuisance.
- (b) If a permit has been issued and hazardous condition develops, the building official may suspend, modify or revoke the permit.

#### **Section C12-538. Stop work order.**

If the building official finds any grading work for which a permit is required but not issued, or the grading is in substantial noncompliance with a permit issued to the property owner or the plans and specifications relating thereto, the building official may order the work stopped by posting a notice on the site, or by written notice

#### **Section C12-539. Reserved.**

**Section C12-540. Written notices.**

Unless otherwise provided herein, service of a written notice shall be accomplished by personal service or by mailing a copy of said notice by regular mail to the owner of the property at the address shown on the latest equalized assessment roll and to any other person, firm or corporation responsible for the grading work, at any address known to the building official, and notice shall be deemed received on receipt of said notice, if personally served, or on the third day after the notice was deposited in the United States mail, if mailed.

**Section C12-541— C12-544. Reserved.**

***Part 3. Abatement of violations***

**Section C12-545. General.**

Whenever the building official determines that grading work violates this chapter, the building official shall order the violations abated in accordance herewith by issuing a notice of violation and/or a notice to abate the violation to the property owner(s) and any other involved parties.

**Section C12-546. Posting notice.**

A Notice of Violation shall be posted on the property near the illegal grading, and a copy shall be transmitted to the owner. Failure to provide said notice, however, shall not affect proceedings to correct a violation.

**Section C12-547. Recorded notice of violation and appeals.**

The building official shall record a Notice of Grading Violation in the office of the county recorder, and shall notify the owner of the affected real property and any other known party responsible for the violation. If the property owner or other responsible party disagrees that the grading violates this chapter, a written appeal and proof may be submitted to the building official, including documentation and engineering reports that a grading permit is not required. This appeal is administrative in nature. The building official's decision on an administrative appeal may be appealed to the Planning Commission and the Board of Supervisors, in the manner provided in this chapter. The appeal to the Planning Commission may be filed within thirty (30) calendar days from the date of service of written notice of violation, and shall be filed within thirty (30) days after the decision of the building official on administrative appeal.

**Section C12-548. Required correction.**

The property owner is required to correct the grading violation by either obtaining a grading abatement permit, or by abating the illegal work in accordance with an abatement order issued by the building official. The abatement order may include requirements to safeguard the health, safety and welfare of the public and requirements for remediation of environmental damage caused by the illegal grading, and may prevent the owner of the property or person doing the illegal grading from obtaining the benefit of the grading until compliance with this chapter is achieved. All work shall be performed in accordance herewith, employing generally accepted engineering principles and designs specified or approved by the building official. Inspection of the abatement of a grading violation shall be provided by the building official for all work performed.

**Section C12-549. Reserved.**

**Section C12-550. Notice of expungement.**

A notice of expungement of the notice of violation shall be recorded with the County Recorder when:

- (a) The building official or other appellate authority determines that a grading permit is not required; or
- (b) All remedial work has been completed and approved by the building official.

**Section C12-551. Noncompliance with abatement notice.**

At such time as the building has investigated the illegal grading, he may revise the abatement order. If the condition of the illegal grading has changed, building official may require new or revised plans and may grant written time extensions for good cause. Noncompliance with the terms, conditions or time schedule of the abatement notice as required by the building official, shall terminate the processing of any plans previously submitted.

**Section C12-552. Suspension and revocation of permit.**

Grading pursuant to permit must comply with the permit and the plans and specifications related thereto. Significant modifications must be approved by the building official. The building official may suspend or revoke any grading or construction permit for good cause, including but not limited to: performing grading work on adjacent property without written permission, failure to follow approved plans, failure to call for inspections, failure to implement required erosion prevention and sediment control measures, and performing grading work without obtaining required permits or clearances from state and/or federal agencies.

**Section C12-553. Denial of other applications.**

No final map or parcel map shall be filed with the county recorder; and no petition for change of zone or application for subdivision, lot line adjustment, single building site approval, use permit or special permit shall be accepted as complete; and no building permit, septic tank, water, sewer, electric or other permit shall issued to any applicant for any premises or portion thereof which has been graded in violation of this chapter and not corrected pursuant to section C12-548. Upon written request of the applicant, the approving authority may waive the provisions of this section whenever corrective work has commenced pursuant to the provisions of section C12-548 or whenever an applicant has obtained a permit to perform corrective work and has executed an agreement to perform corrective work secured by an adequate bond. A waiver may not be granted if the approving authority determines that the existing violation presents safety hazard, nuisance or risk of severe environmental damage.

***Part 4. Legal Proceedings***

**Section C12-554. Penalties.**

Notwithstanding section C1-72, any person, firm or corporation, whether as principal, agent, employee, contractor or otherwise, violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable by a fine of not more one thousand dollars (\$1,000.00), or by imprisonment in the county jail for a period not exceeding six (6) months or both fine and imprisonment. Each such person, firm or corporation shall be guilty of a separate

offense for each and every day during any portion of which any violation of this chapter is committed or permitted by such person, and shall be punished for each separate offense.

**Section C12-555. Citation authority.**

Pursuant to section 836.5 of the California Penal Code, the building official and his/her deputies are hereby authorized to enforce the provisions of this chapter and to issue citations for violations thereof.

There shall be no civil liability on the part of, and no cause of action shall arise against, the building official or his/her deputies acting pursuant to this section and within the scope of his/her authority.

**Section C12-556. Additional remedies.**

- (a) Any violation of this chapter or the codes adopted hereunder is hereby declared to be unlawful and a public nuisance.
- (b) If this chapter is violated or there is noncompliance with the abatement order provided for, the building official may request the County Counsel and/or the district attorney to initiate legal action.
- (c) The remedies provided herein are not exclusive, and shall be in addition to any other remedy or penalty provided by law for violation of this chapter.

**Section C12-557— C12-599. Reserved.**

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