

ORDINANCE NO. NS-1203.116

AN ORDINANCE OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA AMENDING  
THE COUNTY GRADING ORDINANCE IN CHAPTER III  
OF DIVISION C12 OF THE COUNTY OF SANTA CLARA  
ORDINANCE CODE RELATING TO DRAINAGE ALTERATIONS

Summary

This ordinance amends the County's existing grading ordinance to expressly regulate the creation of additional impervious areas and alteration of drainage patterns.

THE BOARD OF SUPERVISORS OF THE COUNTY OF SANTA CLARA ORDAINS AS FOLLOWS:

SECTION 1: Section C12-400 of Part 1, Article 1, Chapter III, of Division C12 of the County of Santa Clara Ordinance Code is hereby amended to read as follows:

**Sec. C12-400. Purpose.**

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

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

SECTION 2: Part 2 of Article 1 of Chapter III of Division C12 of the County of Santa Clara Ordinance Code is hereby amended to add the following sections to read as follows:

**Sec. C12-406. Existing Drainage Pattern**

"Existing Drainage Pattern" means the existing path and flow of storm water runoff.

**Sec. C12-407. Impervious Area**

"Impervious Area" means an area of development that is not penetrable by storm water runoff and that would cause rainfall falling onto the surface to run off.

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**Sec. C12-408. Natural Drainage Swale**

“Natural Drainage Swale” means any course of concentrated drainage that has formed over the course of time by natural forces.

**Sec. C12-409. Subsurface Drainage**

“Subsurface Drainage” means any flow of surface storm water drainage that has been routed underground by way of an underground pipe or conduit.

**Sec. C12-410. Surface Drainage**

“Surface Drainage” means the flow of runoff across and/or over ground whether due to natural drainage patterns or drainage patterns resulting from development.

SECTION 3: Part 1 of Article 3 of Chapter III of Division C12 of the County of Santa Clara Ordinance Code is hereby amended to add the following sections to read as follows:

**Sec. C12-422. Drainage Alteration Prohibitions.**

(a) No person shall engage in any activity that would result in additional impervious area or alter an existing drainage pattern without first obtaining a drainage permit from the Building Official. Activities prohibited without a permit include, but are not limited to, modifying an existing drainage pattern or natural drainage swale by grading, channeling or redirecting surface drainage or subsurface drainage.

(b) The procedural and substantive requirements for drainage permits shall be the same as those applicable to grading approvals and grading permits as provided in this chapter. The permit process for drainage permits shall be as set forth in Section C12-429.1.

(c) The enforcement provisions in Article 7 of this chapter apply to violations of this section.

**Sec. C12-423. Drainage Alteration Exemptions.**

The following drainage alteration activities are exempt from the requirement to obtain a drainage permit. The exemptions in this section are not intended to alter, supplement or create additional exemptions from the grading permit requirements in sections C12-420 or C12-421.

(a) *Minor projects.* The cumulative addition of less than 2,000 square feet of additional impervious area per parcel that does not have the potential to cause or exacerbate existing flood conditions, endanger adjacent property, divert or impair the flow of water in a watercourse, or cause a public nuisance.

(b) *Emergency Access.* The addition of impervious area to comply with emergency access requirements imposed by the County or other public entity. This exemption is limited to the minimum impervious area that is needed to comply with the emergency access requirements.

(c) *Valid Grading Permit.* The addition of impervious area or drainage alterations approved pursuant to a grading permit issued by the County. To qualify for this exemption, all impervious areas and drainage alterations must be shown on the approved plans and must be inspected and approved by the Building Official.

(d) *Consistency with Approved Master Drainage Plan or Other Valid Permits.* The addition of impervious area or drainage alterations that are within the scope of a master drainage plan or another land use or development permit that was previously approved by the County if the Building Official has determined that the master drainage plan or other permit provides a sufficient basis for this exemption. This exemption does not apply if the additional impervious area or drainage alterations are inconsistent with the master drainage plan or other permit, and the Building Official may rescind the previous determination that the master drainage plan or other permit provides a sufficient basis for this exemption if work is performed pursuant to this exemption that is inconsistent with the previously approved master drainage plan or other permit.

(e) *Other Public Agencies, Public Utilities.* The addition of impervious area or drainage alterations made by or under the supervision or construction control of a governmental agency 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.

(f) *Surface Mining.* Excavation, reclamation and other work performed in compliance with a reclamation plan approved pursuant to the Surface Mining and Reclamation Act, Public Resources Code § 2710 et seq. and any other permits applicable to the surface mining operation.

(g) *Maintenance of Existing Roads, Emergency Accessways, and Firebreaks.* The maintenance of existing roads and firebreaks provided there is no net increase in impervious area or alteration of any existing drainage pattern.

**SECTION 4:** Section C12-425 of Part 2 of Article 3 of Chapter III of Division C12 of the County of Santa Clara Ordinance Code is hereby amended to read as follows:

**Sec. C12-425. Filing.**

(a) Applications for grading permits and drainage permits shall be filed with the County Planning Office on the forms provided. Applications shall include preliminary or final plans as required by the Building Official, and a filing fee in an amount established by the Board of

Supervisors. The fee 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 or drainage work to be performed on each site at one time. If work occurs prior to obtaining a permit, the property owner and the person doing or causing the work shall be subject to the penalties and abatement procedures stated in this chapter. 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 5: Section C12-429.1 of Part 2 of Article 3 of Chapter III of Division C12 of the County of Santa Clara Ordinance Code is hereby amended to read as follows:

**Sec. C12-429.1. Small project grading permit process.**

(a) Where the proposed work consists of cut and/or fill each of which is 500 cubic yards or less in volume and the use associated with the proposed work 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 work qualifies as a small grading or drainage 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, the 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 or drainage permit, 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.

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(c) All other applications for grading permits and all applications for grading or drainage abatements shall be processed through the County Planning Office land use review procedure.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California on \_\_\_\_\_ by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**


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Ken Yeager, President  
Board of Supervisors

Signed and certified that a copy of this document has been delivered by electronic or other means to the President, Board of Supervisors.

**ATTEST:**

\_\_\_\_\_  
Maria Marinos, Clerk of the Board

**APPROVED AS TO FORM AND LEGALITY:**

  
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Lizanne Reynolds, Deputy County Counsel