

**CHAPTER 5. REGULATIONS FOR EXCAVATING, GRADING, FILLING AND
CLEARING ON LANDS IN UNINCORPORATED SAN MATEO COUNTY.**

ARTICLE 1. EXCAVATING, GRADING, FILLING AND CLEARING.

SECTION 9280. SCOPE AND PURPOSE.

It is the declared intent of the County of San Mateo to promote the conservation of natural resources, including topography and vegetation, as well as to protect health and safety, which includes the reduction or elimination of the hazards of earth slides, mud flows, rock falls, undue settlement, erosion, siltation, and flooding, or other special conditions. To achieve these goals, the adverse effects of grading, cut and fill operations, land clearing, water runoff, and soil erosion must be minimized. Therefore, the following regulatory provisions of this Chapter 5 shall apply for the purpose of stringent control of all aspects of grading and clearing operations and to establish procedure for issuance, administration and enforcement of a permit.

SECTION 9281. APPLICATION OF CHAPTER.

This Chapter 5 shall apply to all grading and excavating operations conducted in the unincorporated portions of the County, unless such operations are specifically excepted or unless a permit for such operations is required in accordance with Sections 6501 and 6502 of the San Mateo County Ordinance Code, Zoning Annex.

SECTION 9282. DEFINITIONS.

For the purposes of this Chapter 5, the following definitions apply:

1. Architect: A professional architect registered in and by the State of California.
2. As Graded: The surface conditions extant on completion of grading.
3. Bedrock: In-place solid rock.
4. Bench: A relatively level step excavated into earth material on which fill is to be placed, or within a cut or fill slope.
5. Best Management Practices Handbook: A compilation of erosion and sediment control measures which is maintained by the County Planning and Building Division.
6. Blending: A term for the intermixing and compaction of natural site soils (such as materials from two natural soil horizons), or for the intermixing of natural site soils with imported soil or other materials.
7. Borrow: Earth material acquired from on- or off-site locations for use in grading on a site.
8. Buttress Fill: A compacted fill placed in such a manner as to buttress and retain weak or unstable materials.
9. Certification: A written engineering or geological opinion concerning the progress and completion of the work.
10. Civil Engineer: A professional engineer registered in and by the State of California to practice in the field of civil works.
11. Civil Engineering: The application of the knowledge of the forces of nature,

principles of mechanics and the properties of materials to the evaluation, design and construction of civil works.

12. Contour Rounding: The rounding of cut and fill slopes in the horizontal and vertical planes to promote stability, to blend with existing contours or to provide horizontal variation, and to eliminate the artificial appearance of slopes.
13. Compaction: The densification of a fill by mechanical or other means.
14. Competent Material: Earth material capable of withstanding the loads or forces which are to be imposed upon it without failure or detrimental settlement as certified by the appropriate geotechnical consultant.
15. County: When referring to approvals, denials or waivers, shall mean the County of San Mateo, or its designees.
16. Depth of Cut or Fill: The vertical distance between existing natural ground and the finish elevation at any location.
17. Drainage Way: A natural or manmade channel which collects and intermittently or continuously conveys stormwater runoff.
18. Dust Control Plan: A written procedure describing the method, equipment, and materials to be used in minimizing and controlling dust arising from the construction activities.
19. Earth Material: Any rock, or natural soil or any combination thereof.
20. Engineering Geologist: A professional engineering geologist certified in and by the State of California to practice in the field of engineering geology.

21. Engineering Geology: The application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.
22. Erosion: The wearing away of the ground surface as a result of the movement of wind, or water.
23. Erosion Control Plan: A written report describing the measures, materials and implementation schedule proposed for erosion control on a grading site, as per Performance Standards for Erosion and Sediment Control Plans described in the Grading Permit Performance Standards Handbook.
24. Excavation: The mechanical removal of earth material.
25. Fill: A deposit of earth or waste material placed by artificial means. (Engineered fill is material placed according to the recommendations and under the observation of a geotechnical consultant.)
26. Geotechnical Consultant: A soil engineer or engineering geologist.
27. Grade: The vertical location of the ground surface.
28. Grade, Existing: The grade prior to grading.
29. Grade, Finish: The final grade of the site which conforms to the approved plan.
30. Grade, Rough: The stage at which the grade approximately conforms to the approved plan.
31. Grading: Any excavating, filling, or placement of earth materials or combination

thereof.

32. Grading Permit Performance Standards: A handbook to be used by the applicant which details requirements for Erosion and Sediment Control Plans, Grading Standards, Geotechnical Report Guidelines and Dust Control Plan Guidelines.
33. Height of Cut and Fill Slopes: The finish vertical distance from the top to toe of slope.
34. Key: A trench (or bench) excavated in competent earth material beneath a proposed fill for placement of engineered fill.
35. Land Clearing: The removal of vegetation down to the duff or bare soil by any method.
36. Land Clearing Permit: A permit granted by the Planning Director or Planning Commission which authorizes the permittee to carry out land clearing.
37. Land Disturbance/Land Disturbing Activity: Clearing, grading or other manipulation of the terrain.
38. Minimum Standards for Geotechnical Reports: A handbook which details the information to be included in a geotechnical report.
39. Nesting: The placement of large rocks such that voids in the fill are created and that proper compaction becomes difficult or impossible.
40. Replacement: The removal and wasting of soil materials as judged unsuitable for the support of dwellings or other site improvements, and their replacement with suitable soil materials properly engineered.

41. Reworking: The removal, or processing and subsequent mechanical densification or consolidation of existing soil material for reasons of deficiency in one or more respects.
42. Significant: Any detrimental effect on the physical or natural state which cannot be adequately mitigated and as identified by Sections 21,000 et seq. of the California Public Resources Code.
43. Site: Any lot or parcel of land or continuous combination thereof, where grading is anticipated.
44. Slope: An inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
45. Soil: The highly weathered top layer of the earth's surface, excluding bedrock, but including any otherwise unconsolidated earth materials.
46. Soil Engineer: A civil engineer experienced and knowledgeable in the practice of soil engineering.
47. Soil Engineering: The application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.
48. Stabilization: Any procedure that will result in increased shear strength in a soil.
49. Structure: Something constructed or built, as a building, a wall, a bridge, a road, a dam, etc.
50. Terrace: A relatively level step constructed in the face of a graded slope surface

for drainage and maintenance purposes.

51. Variable Slope: The variation of a cut or fill slope in the vertical plane to blend with existing contours and vertical undulation to eliminate the artificial appearance of slopes or to take advantage of inherent characteristics of the slope material.
52. Waste Material: Non-hazardous useless or discarded material.
53. Watercourse: A blue line perennial or intermittent stream as shown on USGS topographic 7 1/2-minute quadrangle series maps.

SECTION 9283. PERMIT REQUIREMENTS.

For the purpose of this Chapter 5 and to establish an orderly procedure for excavating, grading, filling and clearing, land disturbing activities shall be handled in two distinct phases.

1. Grading: A grading permit shall be required for activities involving grading except as exempted below in Section 9284.
2. Clearing: A land clearing permit for the removal of vegetation shall be required when:
 - a. The land area to be cleared is 5,000 sq. ft. or greater, within any two-year period except in County Scenic Corridors where vegetation removal is greater than 1,000 sq. ft.
 - b. Existing slopes are greater than 20 percent.

- c. The land area to be cleared is in any sensitive habitat or buffer zone as identified in the County General Plan.

SECTION 9284. EXEMPTIONS

[Amended]

The following exemptions shall not apply to land disturbances within natural drainage channels.

1. No person shall do any grading or land clearing without first having obtained a permit from the County required by this Chapter 5, except for the following:
 - A. An excavation below finished grade for basements and footings of a building, retaining wall, swimming pool, or other structure authorized by a valid building permit. This statement shall not exempt from permit requirement under this chapter, any fill made with the material on- or off-site from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure, nor when any single purpose excavation exceeds 250 cubic yards for projects located within the designated coastal zone.
 - B. Cemetery graves.
 - C. Approved grading in conjunction with a timber harvest permit issued by the County of San Mateo.
 - D. Excavations for water wells or utilities.
 - E. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay, provided a valid surface mining and reclamation permit issued

by the County of San Mateo is in effect.

- F. Exploratory excavations under the direction of soils engineer or engineering geologists. Such excavations are not to result in an erodible, hazardous, or unstable state. The County Geologist shall be informed of such explorations at least two (2) working days prior to commencement of work.
- G. An excavation which is less than 2 feet in maximum vertical depth made on competent natural terrain with a slope flatter than five horizontals to one vertical and which creates slopes no steeper than two horizontal to one vertical and removes less than 150 cubic yards of material.
- H. A fill less than 2 feet in depth, placed on natural terrain with a slope flatter than five horizontals to one vertical, not intended to support structures, and which does not exceed 150 cubic yards on any one parcel, and does not obstruct a drainage course or affect structural integrity of adjacent property.
- I. Work conducted in any County street, public right-of-way or easement when the work is for a public facility, public utility or other public purposes, or is controlled by other permits.
- J. Emergency work as authorized by the Planning Director necessary to protect life, limb or property; or to maintain the safety, use or stability of a public way or drainage way.
- K. The land area to be cleared is for fire protection purposes as required by the San Mateo County Fire Code, Chapter 2, Article 3, Section 9129.

- L. The land area to be cleared is for routine agricultural activities including but not limited to plowing, harrowing, disking, ridging, listing, leveling, and similar operations to prepare a field for a crop, or the land area to be cleared is for resource management such as brush clearing, erosion control or other resource management programs carried out under the purview of the Resource Conservation District.
- M. Gardening for home use.
- N. Agricultural use of land that is operated in accordance with a conservation plan approved by and implemented according to the practices of the Resource Conservation District (RCD) or when it is determined by the RCD that such use will not cause excessive erosion or sediment losses, based on applicable soil loss tolerance values.
- O. Grading projects for purposes of soil conservation that have been approved by the San Mateo County Resource Conservation District (RCD) when plans for such project have been filed by the RCD with the Planning Division and the Department of Public Works and with the submittal of a certificate of exemption from the Resource Conservation District.
- P. Agricultural water impoundments not exceeding the minimum limitations of the State Dams and Reservoir Act of 1967 (Sections 6000 et seq. of the Water Code) when approved by the San Mateo County Resource Conservation District and with the submittal of a certificate of exemption from the RCD and provided plans are to be filed with the Planning Division and the Department of Public Works by

the RCD.

- Q. The land area to be cleared is to be carried out under an approved Forest Improvement Program or Chaparral Management Program under the purview of the California Department of Forestry when plans for such projects have been filed with the Planning Division.
- R. Repair of storm damage consisting of slide repair, debris removal and water impoundment replacement on agricultural lands carried out under the purview of the ASCS or RCD provided that such activity does not create hazards to other lands.

SECTION 9285. APPLICATION REQUIREMENTS.

- A. Grading Permit: To obtain a grading permit, the applicant shall first file a written application with the Planning and Building Division on a form provided by the Planning Director.

The application shall be accompanied by the following material:

1. Where applicable, a letter from the property owner authorizing the property owner's representative to sign the application.
2. Fees as set by resolution of the Board of Supervisors.
3. A civil engineer's estimate of the quantity of materials to be moved.
4. A geotechnical report except when waived by the Director of Public Works. The applicant must comply with the Uniform Building Code and the County of San Mateo Minimum Standards for Geotechnical Reports.

5. Two sets of grading plans. When the permit is to be heard by the Planning Commission, seven sets of plans are required. The plans shall be prepared and signed by a civil engineer and shall be 24" x 36" and in a form approved by the Director of Public Works. Where a geotechnical report has been required, the geotechnical consultant shall certify on the San Mateo County Geotechnical Consultant Approval Form that applicable portions of the plans have been prepared in accordance with the recommendations contained in the geotechnical report. The plan shall contain at least the following items (additional material may be required to show conformance of the proposed grading with the requirements of this division and other related ordinances).
 - a. A vicinity map or other means of adequately indicating the site location.
 - b. Boundary lines of the site.
 - c. If there is a proposed subdivision, each lot or parcel of land into which the site is proposed to be divided.
 - d. The location of any existing buildings, structures, easements, or underground utilities on the property where the work is to be performed, and the location of any buildings or structures on adjacent land within 50 feet of the proposed work.
 - e. Accurate contours showing the topography of the existing ground extending at least 10 feet outside all boundary lines of the project site, based on elevations taken on adjacent property or other means approved by the Director of Public Works. The contour lines shall be at intervals

sufficient to show the configuration of the ground before grading relative to a benchmark established at or adjacent to the grading site.

- f. All of the proposed uses for which the proposed grading is necessary.
- g. Elevations, locations, extent and slope of all proposed grading shown by contours, or other acceptable means, and location of any rock disposal areas, buttress fills, subdrains, or other special features to be included in the work. Contours of the finished surface of all proposed grading shall also be included.
- h. A statement of the quantities of material to be excavated and/or filled and the amount of such material to be imported to, or exported from, the site. Approved disposal sites must be used.
- i. Location and nature of known or suspected soil or geologic hazard areas.
- j. Approximate boundaries of any areas with a history of flooding.
- k. Location, width, direction of flow and approximate location of top and toes of banks of any watercourses.
- l. General location and character of vegetation covering the site and the locations of trees with a trunk diameter of 12 inches or more, measured at a point 4 ½ feet above average ground level, within 12 feet of the area to be disturbed by the proposed grading.
- m. A detailed plan for erosion and sediment control, both during

construction and permanent, unless the site has no slopes greater than 2 percent or unless waived or modified by the Director of Public Works (see Erosion and Sediment Control Plan, Grading Permit Performance Standards Handbook).

- n. A plan for dust control (see Dust Control Plans, Grading Permit Performance Standards).
 - o. Name and signature of the registered civil engineer (when required) under whose direction the grading plan is prepared.
 - p. Specifications, and cross-sections, profiles, elevations, dimensions and construction details based on accurate field data.
 - q. Construction details for roads, watercourses, culverts, bridges and drainage devices, retaining walls, gabion walls, cribbing, dams, and other improvements existing or to be constructed, together with supporting calculations and maps.
 - r. Such other information as the Director of Public Works or Planning Director may require.
- B. Agricultural Water Impoundments Permit Requirements: Plans and profiles not under the purview of the RCD and therefore not exempt under Section 9284 (R) above shall be prepared by a licensed engineer as required by the Director of Public Works and be subject to permits and approvals from the Planning Division. All construction must be in accordance with approved plans and specifications and, when required, is to be done in the presence of and certified

by a licensed soils engineer or engineering geologist as appropriate.

- C. Land Clearing Permit Application Requirements: To obtain a land clearing permit, the applicant shall first file a written application with the Planning and Building Division on a form provided by the Planning Director.

The application for a land clearing permit shall be accompanied by the following materials:

1. Where applicable, a letter from the property owner authorizing the property owner's representative to sign the application.
2. Fees as set by resolution of the Board of Supervisors.
3. An Erosion Control Plan (as specified in the Performance Standards Handbook).
4. Plan for the removal of vegetation. The plan shall include at a minimum:
 - a. A vicinity map or other means of adequately indicating the site location.
 - b. Boundary lines of the site.
 - c. Location of area to be cleared.
 - d. Location of existing structures on the site.
 - e. A plan for disposal of the removed vegetation.
 - f. Purpose of removal.

SECTION 9286. REVIEW, REFERRAL AND REPORT.

1. Prior to acceptance, the application shall be reviewed by the Planning Division and the Department of Public Works for compliance with Sections 9285 (A) or 9285 (B) above. Additional information may subsequently be required to demonstrate compliance with this chapter.
2. The Planning Division shall refer the application to the Department of Public Works and other interested departments and agencies for comment and recommendation. In reviewing the application and plans and making his recommendations, the Director of Public Works shall report whether the grading as proposed complies with the standards as detailed below in Section 9296 and shall recommend conditions to assure such compliance.
3. It shall be the duty of the Planning Director to forward the application together with recommendations thereon to the appropriate body specified below in Section 9287 for its action.

SECTION 9287. DECISION MAKING AUTHORITY.

The following person or body shall grant the indicated permits as required by this chapter:

1. The Planning Commission: All grading and land clearing permits in State or County Scenic Road Corridors.
2. Planning Director: Land clearing permits outside State or County Scenic Road Corridors; grading permits for agricultural water impoundments which do not

qualify for exemption under Section 9284 (P) above and which are located outside State and County Scenic Road Corridors; and grading permits involving cut or fill not to exceed 1,000 cubic bank yards.

3. Zoning Hearing Officer: All other grading permits.

SECTION 9288. PUBLIC HEARING AND COMMENT.

1. The Zoning Hearing Officer, Planning Commission or Board of Supervisors shall hold a public hearing before taking action on any grading or land clearing permit which is before them.
2. A public hearing on a grading or land clearing permit may be held concurrently with any other public hearing on the project held by the appropriate person or body specified above in Section 9287.
3. In addition to testifying at a public hearing, any person may submit written comment on an application for a grading or land clearing permit, or on a permit appeal, at any time prior to the close of the applicable public hearing. If no public hearing is required, written comments may be submitted prior to the decision date specified in any notice required by Section 9289 below. Written comments shall be submitted to the Planning Director who shall forward them to the appropriate person, commission or board.

SECTION 9289. NOTICE REQUIREMENTS.

Where a public hearing is required, notice shall be given as required for use permits in Section 6503 of the San Mateo County Ordinance Code, Zoning Annex, if in the

opinion of the Planning Director the grading activity may affect properties beyond 300 feet from the property line, additional notice may be required as deemed appropriate. In addition, ten (10) days prior to action by the Planning Director, notice of grading permits required for agricultural water impoundments shall be given in the same manner; such notice shall specify the date on which a decision will be made.

SECTION 9290. FINDINGS, CONDITIONS AND ACTION.

1. The decision-making authority will review the report submitted by the Planning Division regarding the permit and make the following findings in any action to approve the permit:
 - a. That the granting of the permit will not have a significant adverse effect on the environment.
 - b. That the project conforms to the criteria of this chapter, including the standards referenced in Section 9296 above.
 - c. That the project is consistent with the General Plan.
2. Approval of a permit required by this chapter shall be conditioned as necessary to ensure conformance with this Chapter 5. For agricultural water impoundments, the permit may be conditioned as appropriate to include such requirements as having adequate evidence of water rights provided by the State Division of Water Rights in advance of construction. The approving authority may require modification and resubmittal of project plans, drawings and specifications. When modification and resubmittal of plans is required, action shall be deferred for a sufficient period of time to allow the Planning Director to prepare his

recommendation on the modified project.

3. After reviewing the evidence regarding the application for permit, the decision making authority shall either grant or deny the permit based on the conditions and findings described above in Sections 9290.1 and 9290.2.

SECTION 9291. APPEALS.

The action of the decision maker in authorizing or denying a permit may be appealed by the applicant, or any other person who is aggrieved by issuance of or non-issuance of the permit or any conditions thereof.

Permits considered and acted upon by the Planning Director or Zoning Hearing Officer may be appealed to the Planning Commission, by filing a written notice of appeal with the Planning Division within ten (10) working days from issuance or denial of said permit. The Planning Commission shall hear such appeal and render a decision following such hearing. The decision of the Planning Commission is appealable to the Board of Supervisors in the manner described above. The decision of the Board of Supervisors shall be final. The action taken by the decision maker shall be reported to the affected parties.

SECTION 9292. DURATION OF PERMIT.

If a substantial amount of work authorized by any permit is not commenced within eight (8) months of the date of issuance or as otherwise indicated on the face of the permit, or on the improvement agreement, or if said work is not completed within one (1) year of commencement or as otherwise indicated on the permit or the improvement agreement, the permit shall expire and become void.

SECTION 9293. RENEWAL.

The renewal of an expired permit may be administratively approved by the Planning Director providing no changes to the plans have been made. An application for such renewal must be made in writing no later than one month prior to the expiration date, in the same manner as specified for in the original application. The fees for such renewal will be one half ($\frac{1}{2}$) the original fee. Two renewals may be granted.

Extensions beyond two renewals require a complete new application and must be submitted with full fees.

SECTION 9294. PERMIT AMENDMENT.

Upon application by the permittee, the permit required by this chapter may be amended by the approving authority. Application for and action on an amendment shall be accomplished in the same manner specified by this chapter for initial approval of the permit. All sections of this Chapter 5 shall apply to the permit amendment.

SECTION 9295. SECURITIES.

The County may require the applicant, as a condition of issuing a permit required by this Chapter 5, to post a security in an amount as determined by the County. The security shall be of sufficient amount to ensure compliance with the conditions of the permit, this Chapter 5, and to repair any damage that may result from the land disturbing activity. Release of the security shall occur one year after installation of the measures and be conditioned on the faithful performance of the conditions of the permit.

Securities will be released only upon satisfactory completion of the work and

completion of a one-year warranty period required by the County. When landscaping or erosion control measures are required, a separate security shall be posted for a period of two-growing seasons. The security shall be based upon the cost of placement or replacement of the landscaping or the work performed, whichever is greater.

SECTION 9296. STANDARDS.

The following standards delineate levels of design and control to be met during the project. Their purpose is to assure that development is accomplished so as to minimize adverse effects on the existing terrain and to minimize the potential for erosion.

1. Erosion and Sediment Control. An erosion and sediment control plan and subsequent implementation shall be required except where an environmental assessment by the County Planning Division of the site shows that such plan is not necessary. Plans shall conform to standards as detailed in the Grading Permit Performance Standards Handbook.
2. Grading. Performance standards, as detailed in the Grading Permit Performance Standards Handbook, are to apply to all aspects of the proposed grading and are intended to be operational during all stages of development.
3. Geotechnical Reports. When it is determined by the Department of Public Works that conditions on the project site warrant a geotechnical report (see 9285(A) – Application Requirements, Grading Permit, above), the report shall be prepared by a professional geotechnical consultant under the direction of a soils engineer and an engineering geologist in accordance with the current Minimum Standards for Geotechnical Reports and the Grading Permit Performance Standards

Handbook.

4. Dust Control Plans. All projects must submit dust control plans as detailed in the Grading Permit Performance Standards Handbook.
5. Fire Safety. All equipment used in grading operations shall meet spark arrester and firefighting tool requirements as specified in the California Public Resources Code.
6. Time Restrictions. The period from October 1 to April 30 has been determined to be the period in which heavy rainfall normally occurs in the County. During said period, no land disturbing activity shall be authorized on any single site under a permit if the Planning Director determines that such work will endanger the public health or safety or cause excessive erosion.

SECTION 9297. RESPONSIBILITIES DURING PROJECT IMPLEMENTATION.

All land disturbing activities for which a permit is required shall be subject to inspection by the County. In addition to the inspections specified below in Sections 9297.1 and 9297.2, the County may make such other inspections as it deems necessary to determine that the work is being performed in compliance with the requirements of this chapter.

1. Civil Engineer.
 - a. For engineered grading, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the geotechnical reports into the grading plan. The

civil engineer shall also be responsible for the inspection and certification of the grading within the engineer's area of technical specialty. This responsibility shall include, but need not be limited to, inspection and certification as to the establishment of line, grade and drainage of the development area. The civil engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the County. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-graded grading plans (see Section 9297.5, below) upon completion of the work.

- b. Prior to foundation work, the permittee's engineer shall certify that the building pad elevations do not vary more than two-tenths (0.2) of a foot from the approved pad elevations.
- c. When work has been completed, the civil engineer shall certify that all grading, lot drainage and drainage facilities have been completed and the slope planting installed in conformance with the approved plans and the requirements of this Chapter 5.

2. Soils Engineer and Engineering Geologist.

- a. During grading, all necessary reports, compaction data, and geotechnical recommendations shall be submitted to the permittee's civil engineer and the Department of Public Works by the soils engineer and the engineering geologist.
- b. The soils engineer's area of responsibility shall include, but need not be

limited to, the professional inspection and certification concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and design of buttress and replacement fills, and the design and need for subdrains and other groundwater control devices, where required, incorporating data supplied by the engineering geologist.

- c. The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and certification of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters. Applicable findings shall be reported to the soils engineer and the civil engineer for engineering analysis.
- d. During grading, periodic density tests shall be made by the geotechnical consultant and submitted to the Department of Public Works. Dry density, moisture content, and the location, elevation and sampling date of each sample taken shall be reported, along with sufficient data to correlate with laboratory analyses submitted. In addition, the location and type of all surface and subsurface water control measures shall be submitted.
- e. Upon completion of the grading, the geotechnical consultant shall certify that the site was graded and filled with material in accordance with approved specifications and approved geotechnical recommendations. The certification should be completed on the Geotechnical Consultant Approval Form provided by the Department of Public Works.

3. Change of Consultant.

If the civil engineer, the geotechnical consultant or the testing agency of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of its technical competence for certification upon completion of the work.

4. Noncompliance.

If, in the course of fulfilling its responsibility under this chapter, the civil engineer, the geotechnical consultant or the testing agency finds that the work is not being done in conformance with this Chapter 5, or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the Department of Public Works and the Planning Director. Recommendations for corrective measures, if necessary, shall be submitted. Project work shall be stopped until corrective measures are approved by the County.

5. Supplemental Reports.

Upon completion of the rough grading work, and at the final completion of the work, the County may require the following reports and drawings and supplements thereto:

- a. An as-graded grading plan prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities, cut fill lines and all other pertinent

information including, but not limited to, buttress and replacement fills, restricted from building areas, etc.

- b. An as-built grading report prepared by the geotechnical consultant including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. The report shall include a final description and if necessary, a map of the geology of the site including any new information disclosed during the grading and its effect upon site grading. A certification shall be provided approving the adequacy of the site for the intended use as affected by soil and geologic factors.

6. Emergency Preventative Maintenance.

In any event that a condition should arise during the grading operations which may become a hazard, whether or not such condition was caused through negligence or act of God, immediate remedial action to mitigate hazard shall be taken under the direction of the civil and/or geotechnical consultant. Within three working days, a written report describing the remedial work shall be sent to the County for review.

SECTION 9298. ENFORCEMENT.

1. Enforcement by the Planning Director.

The Planning Director shall enforce the provisions of this Chapter 5 and the terms and conditions of any grading or land clearing permit. If the Planning

Director determines that grading or clearing has been done without a required permit, or that grading or land clearing has been done in violation of any of the terms and conditions of an issued permit, or that any person has otherwise failed to comply with the requirements of this Chapter 5, the Planning Director shall do the following:

- a. Direct that a Stop Work Order be issued on all construction being carried out on the property affected by the violation, if one has not yet been issued under Section 9299.1 below.
- b. In the event that any violation presents an immediate threat to the public health or safety, require that the property owner or permit applicant, as may be appropriate, take such steps as are necessary to protect the public health or safety, in accordance with the procedure set forth in Section 9298.3 below.
- c. Require that the property owner or permit applicant, as appropriate, prepare and implement a grading plan which meets the requirements of this chapter, and which accomplishes one of the following:
 - i. Restores the property to the condition which existed prior to the violation.
 - ii. Requires such remedial work as is necessary to make the grading or land clearing work already completed conform with all requirements of this chapter;
 - iii. Requires such remedial work as is necessary to mitigate impacts

of the grading work so that such work conforms as nearly as possible to all requirements of this chapter. The Planning Director's determination shall be guided by the factors set forth in Section 9298.4 below.

A Stop Work Order issued pursuant to this section shall apply to any and all construction or other development being carried out on the property affected by a violation under this section, including, but not limited to, any residential structure to be served by an illegally graded access road or driveway. The Stop Work Order will not be lifted as to any such construction or other development until such time as the grading or land clearing violation has been corrected as provided for in this section.

2. Nuisance.

The provisions of this Chapter 5 shall not be construed to authorize any person to maintain a private or public nuisance upon their property, and compliance with the terms of this Chapter shall not be a defense in any action to abate such nuisance.

3. Procedure for Emergency Work.

In the event that the Planning Director determines that grading or land clearing work has been done without a permit, or in violation of the terms or conditions of a permit, or in violation of any provision of this Chapter 5, such that there is presented an immediate and substantial threat of physical injury or death, or

irreversible environmental damage, the Planning Director shall immediately direct that a Stop Work Order be issued, and shall give written notice to the permittee or landowner, as appropriate, stating:

- a. The nature of the violation.
- b. The facts upon which a determination has been made that the violation constitutes an immediate and substantial threat of physical injury or death, or irreversible environmental damage.
- c. The work to be completed and/or repairs to be made to correct the violation.
- d. The time within which the work is to be completed.

If after ten (10) days from the receipt of the Notice the applicant fails to respond or to meet the requirements of the Notice within the time limit set by the Planning Director, the Planning Director shall cause such work to be done and deduct the cost therefrom from any cash deposit or other security, if any has been previously posted, or otherwise direct such action as is necessary to recover the costs of such work. Any work performed under this section shall not relieve the owner or permit applicant, as appropriate, from the requirement to comply with the requirements of Section 9298.1, above. The remedy provided herein is not exclusive and shall not preclude the County from employing any other means of enforcement otherwise provided by law.

4. Restoration or Remedial Work.

In determining what remedial action shall be required as provided by Section

9298.1(c), above, the Planning Director shall consider restoration to original condition as the most appropriate remedy, conformance with all requirements of this Chapter 5 as the next most appropriate remedy, and mitigation to conform as nearly as possible to the requirements of this chapter as the least appropriate remedy. In making the necessary determination, the Planning Director shall consider:

- a. The amount of grading which has been done in violation of this Chapter 5.
- b. The amount of grading which would be necessary to either restore the property to its original condition or to bring the grading into conformance with the requirements of this Chapter 5.
- c. The environmental damage which would occur as a result of either restoring the property to its original condition or bringing the grading into conformance with the requirements of this Chapter 5.
- d. The economic feasibility of either restoring the property to its original condition or bringing the grading into conformance with the requirements of this Chapter 5.
- e. The degree of culpability of the person committing the violation.
- f. Any other factor relevant to a proper determination of the matter. Before any work may commence, the property owner or permit applicant, as appropriate, shall provide a bond or other equivalent security, in the amount estimated for completion of the work. In the event the property

owner or permit applicant fails to do the required work, the Planning Director shall direct that the proceeds of the security be used to complete the required work.

SECTION 9299. VIOLATIONS.

1. Stop Work Order.

If the Chief Building Official finds any grading work for which a permit is required but not issued, or the grading is in substantial noncompliance with an issued permit, or the plans and specifications relating thereto, he may order the work stopped by posting the site or by written notice and may issue an abatement order. No further grading may be done except on approval of the Planning Director. Conditions may be imposed as necessary to protect the health, safety and welfare of the public, including the condition that corrective work be done within a designated time as specified in Section 9298.1 above.

2. Record Notice of Violation.

Record a Notice of Grading Violation in the Office of the County Recorder and 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, proof may be submitted to the Planning Director, including documentation and engineering reports that a grading permit is not required.

If the Planning Director determines that a grading permit is required, the property owner and/or party responsible for the grading work shall apply for the necessary

grading permit within a specified time period by the Planning Director. Failure to apply for the grading permit or failure to comply with all permit conditions constitutes a grading violation. The Planning Director may refer any grading violation to the County Counsel or to the District Attorney for prosecution.

3. Notice of Expungement.

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

- a. The Planning Director or other appellate authority determines that a grading permit is not required; or
- b. All work has been completed and approved by the Planning Director and appropriate expungement fees paid by the permit holder.

4. Additional Prosecutions.

When applicable, violations may be prosecuted as an Unfair Business Practice under the Business and Professions Code.

SECTION 4.

If any portion of this ordinance is for any reason held by any court to be invalid or unconstitutional, that portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof nor other applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 5.

This ordinance shall take effect thirty (30) days after its adoption by the Board of Supervisors.

* * * * *

Regularly passed and adopted this 3rd day of January, 2023

AYES and in favor of said ordinance:

Supervisors: _____ *DAVE PINE*

_____ *NOELIA CORZO*

_____ *RAY MUELLER*

_____ *WARREN SLOCUM*

_____ *DAVID J. CANEPA*

NOES and against said ordinance:

Supervisors: _____ *NONE*



*President, Board of Supervisors
 County of San Mateo
 State of California*

Certificate of Delivery

I certify that a copy of the original ordinance filed in the Office of the Clerk of the Board of Supervisors of San Mateo County has been delivered to the President of the Board of Supervisors.



Assistant Clerk of the Board of Supervisors