

CALIFORNIA COASTAL COMMISSION

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W21a



February 13, 2003

TO: Commissioners and Interested Parties

RECORD PACKET COPY

FROM: Charles Lester, Deputy Director
Diane Landry, District Manager
Steve Monowitz, Coastal Planner

SUBJECT: **SAN LUIS OBISPO COUNTY LOCAL COASTAL PROGRAM MAJOR AMENDMENT NO. 1-01 Part C: Grading and Drainage Ordinance Update.**
For public hearing and Commission action at its meeting of March 5, 2003 to be held at the Embassy Suites Hotel (333 Madonna Rd.) in San Luis Obispo.

SUMMARY OF STAFF REPORT**DESCRIPTION OF AMENDMENT REQUEST**

The County is proposing to amend the LCP ordinances that regulate grading and drainage in the coastal zone. The existing ordinances, contained in Chapter 5 of the Coastal Zone Land Use Ordinance (CZLUO), are attached to this report as Exhibit 1. They are proposed to be replaced with new and expanded ordinances attached to this report as Exhibit 2. Significant changes proposed by the amendment include new and revised definitions of "grading" and expanded exemptions from grading permit requirements. Specifically, the amendment will:

- Incorporate new definitions of grading within both Chapter 5 and Chapter 11 of the CZLUO. In Section 23.05.024a of Chapter 5 (Site Development Standards), a new definition would be added that classifies grading as earthwork involving more than 50 cubic yards of material and that also involves excavations of certain depths or the creation of slopes with specified heights and steepness. In Chapter 11 (Definitions), the existing definition of grading as "Any excavating, filling or combination thereof", would be replaced with "Any activity which involves the physical movement of earth material".¹
- Expand exemptions to grading permit requirements for non-agricultural grading activities, such as for certain maintenance activities, exploratory excavations, public utility connections, and vegetation clearing activities.

¹ The new definition in Chapter 11 goes on to state that "This includes and excavating, filling, stockpiling, movement of material, compaction of soil, creation of borrow pits, or combination thereof, but does not include surface mining or quarrying operations (including the extraction and stockpiling of excavated products and the reclamation of mined lands) operating in conformance with Section 23.08.180." Proposed Section 23.05.044 resolves the discrepancy between this definition and Section 23.05.024 in favor of the more limited definition proposed for Chapter 5.



California Coastal Commission

- Revise grading permit exemption for agricultural cultivation activities. The existing LCP exempts “agricultural cultivation activities including the preparation of land for cultivation, other than grading for roadwork or pads or structures” from the need to obtain a grading permit. The amendment would replace this exemption with a tiered approach for determining what agricultural grading activities are exempt based on the level of significance of the grading activity, and whether the grading activity incorporates the recommendations and/or review of the County Resource Conservation District.

More generally, the amendment will update the standards and review procedures for grading activities and drainage facilities proposed in the coastal zone. Among other changes, the amendment will:

- Expand information requirements for grading permit applications and drainage plans;
- Update standards for grading activities, drainage facilities, and erosion and sedimentation control plans;
- Strengthen requirements for groundwater recharge measures;
- Clarify criteria and procedures for environmental review of grading and drainage plans;
- Expand the section regarding construction procedures and inspections;
- Add a new section regarding enforcement and interpretation of the grading ordinance; and
- Add a new section of definitions related to grading and drainage.

SUMMARY OF STAFF RECOMMENDATION

The proposed update to the grading and drainage standards presents many important issues and opportunities regarding the implementation of the policies and standards contained in the San Luis Obispo County certified Land Use Plan (LUP), particularly those calling for the protection of coastal watersheds.

As submitted, the amendment falls short of adequately carrying out the LUP objective that “all new development ensure watershed protection” (page 9-6, Policies for Coastal Watersheds), as well as other LUP provisions for the protection of sensitive habitats and scenic and archaeological resources, for the following reasons:

- The amendment proposes to define grading as earthwork involving more than 50 cubic yards of material that also involves excavations of certain depths or the creation of slopes with specified heights and steepness. As a result of this definition, a great deal of grading (defined



as development by Coastal Act Section 30106) could take place without a development permit. Under the new definition, an unlimited amount of earth moving could take place without a development permit, provided that there is no excavation of more than two feet in depth, there is no fill of more than 3 feet in depth, there will be no cut slope of more than 5 feet in height that are steeper than 1.5:1, and that there will be no fill slopes of more than one foot in depth that are steeper than a 2:1 grade. Earth moving activities conducted within these parameters have the potential to adversely impact sensitive habitats, scenic corridors, natural landforms, and archaeological resources. The amendment's definition of grading therefore does not carry out the provisions of the Land Use Plan calling for the protection of these resources. The amendment is also inconsistent with Coastal Act provisions that define grading as development (Section 30106) and require a development permit for all coastal development (Section 30600).

- The amendment would exempt a wide range of development activities from development permit requirements, far beyond those established by Section 30610 of the Coastal Act. As provided by Section 30610(e), exemptions to permit requirements for specific categories of development necessitates approval by two-thirds of the Commission, the adoption of specific findings, and a determination that the exemptions are consistent with the California Environmental Quality Act (CEQA). Approval of these exemptions through the LCP amendment process, which requires only a majority vote by the Commission, would be inconsistent with the Coastal Act and would not ensure that the resource protection objectives of the certified LUP and CEQA would be adequately carried out.
- For those development activities that are subject to compliance with the proposed new grading and drainage standards, the new standards do not provide sufficient safeguards to ensure the effective implementation of LUP resource protection policies. For example, the amendment does not establish the criteria necessary to evaluate whether drainage facilities will be sized and designed in a manner that prevents erosion and the degradation of coastal water quality. Nor does the amendment provide adequate standards and review procedures to ensure that grading, drainage, and other development activities take place consistent with the protection of coastal resources.

Because the proposed amendment does not provide an effective means of carrying out the certified LUP, staff recommends that the Commission deny the amendment as submitted. Staff further recommends that the Commission **approve** the amendment if it is **modified** as suggested. As detailed in this report, the suggested modifications are needed to establish ordinances that will effectively carry out LUP Policies and Coastal Act permit requirements. The modifications also implement many of the recommendations contained in the Periodic Review Of the San Luis Obispo County Local Coastal Program adopted by the Commission in July 2001. In sum, the Suggested Modifications respond to the problems identified above as follows:



- The suggested modifications delete the parameters contained in the proposed definition of grading in order to define and regulate development in a manner that is consistent with Coastal Act procedures and that is adequate to carry LUP policies. At the same time, the suggested modifications are careful to distinguish grading from earth moving activities associated with the removal or harvest of vegetation for agricultural purposes, which is not considered to be “development” under the Coastal Act or LCP. Specifically, the suggested modifications propose that grading be defined as:

“Any activity which involves the physical movement or disturbance of earth material by mechanized means. This includes any excavating, filling, stockpiling, movement of earth material in connection with clearance of vegetation, compaction of soil, creation of borrow pits, or combination thereof, but does not include surface mining or quarrying operations (including the extraction and stockpiling of excavated products and the reclamation of mined lands) operating in conformance with Section 23.08.180. Grading also does not include plowing, seeding, planting, cultivating, or harvesting activities within an established farming operation, including lands that have been lying fallow as part of a conventional rotational cycle.”²

- The suggested modifications delete permit exemptions, other than those provided by Coastal Act Section 30610, to ensure that all coastal development is properly reviewed and permitted³. Although grading permit requirements are expanded by the suggested modifications, it is important to note that the application requirements and review procedures have been designed in proportion to the impacts posed by development, based on the location, extent, and quantity of earth moving proposed. Small projects located outside of steep or unstable slopes and sensitive resource areas are not subject to the same in-depth application and review procedures established by the modifications for development posing much more significant impacts.
- Finally, the suggested modifications revise and supplement the proposed amendment so that LCP implementing ordinances contain the specific procedures and standards required to ensure that new development is carried out consistent with LUP Policies protecting coastal resources – particularly those protecting coastal watersheds and environmentally sensitive

² The underlined portion reflects the new language suggested to be added to the definition proposed by Section 23.05.044 of the amendment. The suggested modification to the definition of grading contained in section 23.05.024 of the amendment replaces the proposed definition with a cross reference to the modified definitions cited above.

³ The suggested deletion of permit exemptions does not imply that such exemptions could not be approved in the future. As noted by the suggested modifications, exemptions can be incorporated into the LCP in the future through the categorical exclusion process provided by Coastal Act Section. Commission staff is currently working with the County and interested parties within the Morro Bay watershed to develop a Categorical Exclusion that would streamline permit requirements for development of improved drainage and erosion control projects that benefit coastal resources and water quality.



habitat areas. For example, the suggested modifications establish more specific criteria for sizing and designing pre and post construction drainage control facilities, preserving natural drainage course, reducing impervious surfacing, maintaining pre-development flow levels, maximizing groundwater recharge, and preventing the discharge of pollutants.

PROCEDURAL NOTE

San Luis Obispo County Local Coastal Program Major Amendment No. 1-01 (SLO LCPA 1-01) consists of three parts. Part A (Residential Vacation Rentals) was considered by the Commission on March 7, 2002 and continued. Parts B (Procedural and Clarifying Amendments) was denied as submitted Commission on August 8, 2002 and approved with suggested modifications that were recently rejected by the County. Part C of the amendment, the subjects of this report, involves an update to the LCP's Grading Ordinance. Parts A and C of SLO LCPA 1-01 must be acted on by the Commission no later than by May 16, 2003 meeting, due to Coastal Act time limits.

ANALYSIS CRITERIA

The relationship between the Coastal Act and a local government's Local Coastal Program (LCP) can be described as a three-tiered hierarchy with the Coastal Act setting generally broad statewide policies. The Land Use Plan (LUP) portion of the LCP incorporates and refines Coastal Act policies for the local jurisdiction, giving local guidance as to the kinds, locations, and intensities of coastal development. The Implementation Plan (IP), or zoning portion of an LCP typically sets forth zone districts and site regulations which are the final refinement specifying how coastal development is to proceed on a particular parcel. The IP must be consistent with, and adequate to carry out, the policies of the LUP. The LUP must be consistent with the Coastal Act.

In this case, the proposed LCP amendment affects only the IP component of the San Luis Obispo County LCP. Thus the standard of review for the amendment is consistency with the policies of the LUP.

ADDITIONAL INFORMATION

For further information about this report or the amendment process, please contact Steve Monowitz, Coastal Planner, at the Central Coast District Office of the Coastal Commission, 725 Front St., Suite 300, Santa Cruz, CA 95060; telephone number (831) 427-4863.



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I. STAFF RECOMMENDATION

MOTIONS AND RESOLUTIONS

The Commission needs to make two motions in order to act on this proposal:

IMPLEMENTATION PROGRAM AMENDMENT CERTIFICATION WITH SUGGESTED MODIFICATIONS

MOTION I: *I move that the Commission reject Implementation Program amendment 1-01: Part C for San Luis Obispo County as submitted.*

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a YES vote. Passage of this motion will result in rejection of the Implementation Program amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program amendment submitted for San Luis Obispo County and adopts the findings set forth below on grounds that the Implementation Program amendment as submitted is inconsistent with the land use plan. Certification of the Implementation Program amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program amendment as submitted.

MOTION II: *I move that the Commission certify Implementation Program amendment 1-01: Part C for San Luis Obispo County if it is modified as suggested in this staff report.*

STAFF RECOMMENDATION:

Staff recommends a YES vote. Passage of this motion will result in certification of the Implementation Program amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.



RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies Implementation Program amendment Part B for San Luis Obispo County if modified as suggested below for Part B and certifies Implementation Program amendment Part C for San Luis Obispo County if modified as suggested below for Part C. The Commission hereby adopts the findings set forth below on grounds that the Implementation Program amendment with the suggested modifications is consistent with the land use plan. Certification of the Implementation Program amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the changes to the proposed Local Coastal Program amendment which are necessary to make the requisite findings. If the local government accepts each of the suggested modifications within six months of Commission action, by formal resolution of the Board of Supervisors, the corresponding amendment portion will become effective upon Commission concurrence with the Executive Director finding that this has been properly accomplished.

Note: The entire text of the amendment submittal is attached to this report as Exhibit 2. Only those portions of the amendment submittal that are affected by the suggested modifications are repeated below. The suggested modifications below use underlined text to indicate additions to the proposed amendment, and ~~strikethroughs~~ to indicate deletions to the proposed amendment.

Suggested Modification 1: Revise proposed Ordinance Section 23.05.020 to include water quality protection in purpose and cross-reference other relevant LCP Sections.

23.05.020 – Purpose and Intent of Grading Regulations: The Board of Supervisors expressly finds that the regulations, conditions and provisions of this ordinance constitute minimum grading standards and procedures necessary to preserve life, limb, health, property, and public welfare. The following sections establish standards for grading and excavation activities to mitigate or effectively 1) reduce hazards to life and property, 2) reduce the harmful effects of storm water runoff, 3) reduce drainage problems from new development, 4) protect against erosion and sedimentation, 5) enhance slope stability, ~~and~~ 6) encourage groundwater recharge, and 7) protect coastal water quality. In addition, this ordinance: 1) protects natural, scenic, and cultural



resources; 2) provides for the safety, use, and stability of public rights-of-way and drainage channels; and 3) prevents related environmental damage to private and public property. Furthermore, the ordinance establishes the administrative procedure for issuance of permits and provides for approval of plans and inspection of grading construction. Additional standards for grading within a Sensitive Resource Area are found in other sections of this Title, as well as in the Coastal Zone Land Use Plan.

Suggested Modification 2: Revise the definition of grading and grading permit requirements in proposed Section 23.05.024 in order to ensure that development activities are reviewed and permitted in accordance with Coastal Act and LCP requirements.

23.05.024 Grading Permit Required.

~~Except as provided in Sections 23.05.026b and c of this Chapter (exemption from grading permit requirements), no~~ No person shall perform undertake any grading as defined in Section 23.05.044 [see page 32 of this staff report] including both excavation or fill, without first obtaining a grading permit for such work, unless the grading activity is exempt from coastal development permit requirements pursuant to 30610 of the Coastal Act and Section 13252 of Title 14 of the California Code of Regulations, or the grading activity has been exempted from permit requirements by a Categorical Exclusion approved by the California Coastal Commission. A separate permit shall be required for each site. Contiguous sites being graded as one integrated project may be considered one site for purposes of this section.

~~In granting any permit under this Chapter, the director and, where provided, the County Engineer Review Authority, may impose such conditions as may be necessary to prevent creation of a nuisance or a hazard to public health, public safety, or public or private property or to assure conformity to the County General Plan and Local Coastal Program. Where a grading permit application proposes a project that is not otherwise subject to the land use permit requirements of Chapters 23.03 or 23.08 or other applicable section of this title, grading permit approval certifies that the proposed project will satisfy all applicable provisions of the Local Coastal Program and thereby constitutes approval of a coastal development permit. Where a grading permit is appealable to the Coastal Commission pursuant to Section 23.01.043, Minor Use Permit approval is also required as set forth in Section 23.02.033.^[4]~~

⁴ This modification moves and slightly changes the discussion regarding the relationship between grading permits and coastal development permits contained in Section 23.05.030 of the amendment. See Suggested Modification 4.



a. ~~Grading.~~ For the purposes of this chapter, "grading" is defined as follows:

~~(1) All new earthwork that involves one or more of the following activities: excavations, fills, dams, reservoirs, impoundments, diking, dredging borrow pits, stockpiling, or compaction of fill where the amount of material cumulatively for any of the above mentioned operations exceeds 50 cubic yards; AND~~

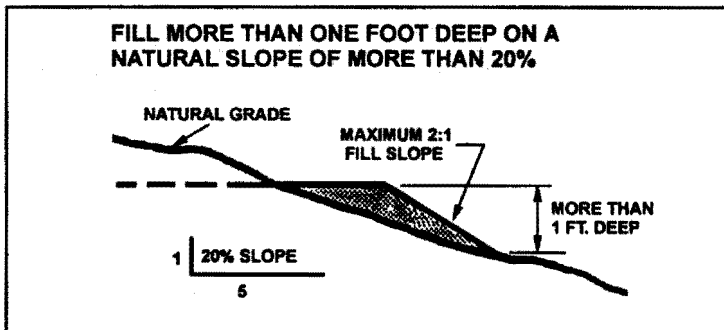
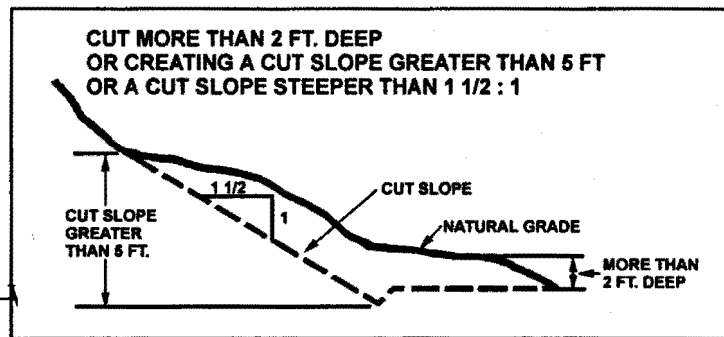
~~(i) The excavation is more than two feet in depth, OR~~

~~(ii) Creates a cut slope greater than five feet in height and steeper than one and one half horizontal to one vertical; OR~~

~~(iii)~~

here
the

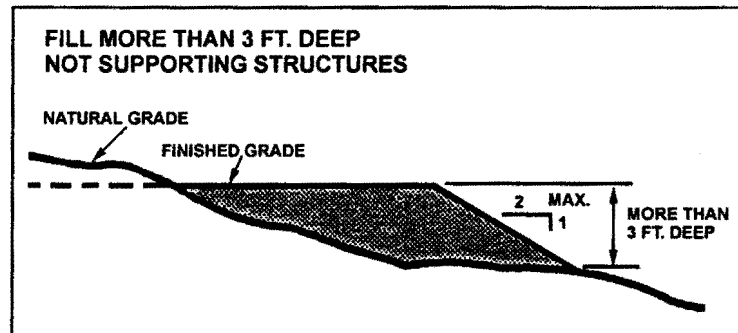
~~grading is intended to support structures, the fill is more than one foot in depth and placed on natural terrain with a slope exceeding five horizontal to one vertical; OR~~



~~(iv) Whe~~



~~re the grading is not intended to support structures, the fill is more than three feet in depth, and does not obstruct or alter a drainage course.~~



- b a. Timing of Approval.** A grading permit shall not be approved prior to any of the following: (1) the application for a building permit (if applicable); or prior to (2) approval of, and conclusions of all appeal periods for, all necessary general plan amendments, land use permits or land divisions if such approvals are necessary to completion of any project on the same site associated with the proposed grading; or prior to (3) approval of any state or federal agencies.
- e b. Alternatives or Modifications to Approved Plans.** The issuance of a permit under this Chapter shall constitute an authorization to do only that work which is described or illustrated on the Drainage and Pollution Prevention Plans, grading plans and erosion control plans or specifications approved by the Review Authority~~director or drainage plans approved by the County Engineer.~~ Any alternatives or modifications to approved plans must be approved by the director ~~Planning Director~~ or where applicable, the County Engineer, provided that any change which poses new impacts to coastal resources shall require a new grading permit processed in accordance with this Title.
- d c. Corrections to Hazardous Condition.** Whenever the director determines that any existing excavation, constructed embankment or fill on land subject to County regulations has become a hazard to life and limb, endangers property, adversely affects the safety, use or stability of a public right-of-way or drainage channel, or creates a significant environmental impact, the owner of the property, or other person or agent in control of said property, upon receipt of written notice from the director,



shall within the period specified therein, correct, repair, or eliminate the condition and conform with the requirements of this code. In an emergency, as defined by Section 23.03.045, the corrective action may be reviewed and processed in accordance with Section 23.03.045 and 23.05.025f, below. In all other situations, the corrective action shall be processed in accordance with Section 23.05.030 of this title (Grading Permit Requirements).

[Subsection e of the proposed amendment regarding "Professionals Qualified to Prepare Grading Plans" remains unchanged but is renumbered as subsection d.]

f e. Emergency Work Grading. Section 23.03.045 establishes the procedures for issuance of emergency permits in situations that constitute and emergency. Corrections, remedies and repairs that involve grading and are made necessary by an emergency situation involving the a sudden, unexpected occurrence of a break, rupture, flooding or breach of an existing facility which presents an immediate threat to life, health or property, may be made as required before the grading permits are applied for to or issued. Written notification and a description of the work shall be submitted to the director as provided by Section 23.03.045. Permits for emergency work grading shall be applied for within 15 days of commencement of work, and shall be processed according to the procedures established by Section 23.03.045b. This shall include emergency work grading done under the Emergency Watershed Protection Program in cooperation with the USDA Natural Resource Conservation Service and the Resource Conservation Districts.

~~g. Request for Relief from Ordinance Provisions and Standards.~~

~~(1) A request for relief from the provisions of this chapter, grading permit conditions of approval, or plan specifications, may be approved, conditionally approved, or denied by the director. A request for relief must state in writing the provision which is to be varied, the proposed substitute provision, when it would apply, and its advantages. The following findings shall be required to approve or conditionally approve a request for relief:~~

- ~~(i) there are special individual circumstances or conditions affecting the property that make the strict letter of this ordinance impractical; and~~
- ~~(ii) No relief shall be granted unless the relief requested, is consistent with the purpose and intent of this chapter and does~~



~~not diminish the health and safety benefits that would be obtained in the absence of a grant of relief.~~

- ~~(2) The director may require additional information from professional engineering, engineering geology or geotechnical engineering or erosion control specialists opinions which are necessary to evaluate the requested relief.~~
- ~~(3) As contemplated in this section, the director may grant alternative methods of construction or modifications for projects which could be constructed under the basic standard established in this chapter, but which if relief is granted, can be better or equal to and more economically designed and constructed than if relief were not given. Relief shall not be granted if it would have the effect of allowing the construction of a project which would not be possible under the provisions of the county code without the relief.~~

[Subsection h of the amendment regarding "Professional Education Program" is unchanged but is renumbered to subsection f.]

Suggested Modification 3: Delete Section 23.05.026, "Exemptions from Grading Permits", contained on pages 6 - 15 of Exhibit 2 as necessary to carry out the resource protection policies of the Land Use Plan and the permitting requirements established by the Coastal Act.

Suggested Modification 4: Revise Section 23.05.030 to require grading applications to include information needed to address potential impacts to coastal resources.

23.05.030 - Grading Permit Requirements:

- a. Grading Plan Content.** To apply for a grading permit, a plot plan application is to be submitted, together with the additional information required by this section. Where grading that requires a permit is proposed in conjunction with a ~~site plan~~, minor use permit, or development plan request, those applications may be used to satisfy grading permit information requirements as long as all required information is submitted and the grading conforms to the provisions of this title and the Local Coastal Program. This section modifies Section 3309 of the Uniform Building Code. ~~Where a grading permit application proposes a project that is not otherwise subject to the land use permit requirements of Chapters 23.03 or 23.08 or other applicable sections of this title, grading permit approval certifies that the proposed project will satisfy all applicable provisions of this title and thereby constitutes approval of a coastal development permit.~~



~~Where a grading permit is appealable to the Coastal Commission pursuant to Section 23.01.043, Minor Use Permit approval is also required as set forth in Section 23.02.033.⁵~~

A grading permit application is to include a grading plan which includes the information specified by this section. A grading plan is to be legible and accurately drawn to scale using standard drafting techniques. Plans shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this chapter and all relevant codes and regulations. Plans shall include, but not be limited to, the following information unless waived by the director:

...

- (9) The location of all existing and proposed roads, buildings, structures, easements, groundwater recharge areas, wells and/or sewage disposal systems on site, and the approximate location of these items on adjacent property ies which are within 100 feet of the property boundary or which may affect or be affected by the proposed project including any wetlands, coastal streams or riparian vegetation. Show spot elevations at corners of existing and proposed buildings or structures and lots where proposed grading will occur.

...

- (16) An estimate of total area in square feet or equivalent metric measurement of natural vegetation to be removed. The type and quantity of all vegetation to be removed shall also be specified by the plan.

...

- b. Minor Grading Plan Requirements.** ~~Where Section 23.05.026a requires a grading permit and the grading will involve less than 5,000 cubic yards and less than 10,000 square feet of disturbance;~~ is located on slopes less than 20 percent; is not located within a Geologic Study Area or Flood Hazard combining designation, or less than 100 feet from any Environmentally Sensitive Habitat and is not located on soils identified on public soils surveys as being prone to slides or slippage, the

⁵ This section is not eliminated from the ordinance by the suggested modifications. Rather, it is suggested to be revised and moved to Section 23.05.024 (see Modification 2).



application for a grading permit is to include the following, unless waived by the director:

...

- (9) Erosion and Sedimentation Control Plan (Section 23.05.0342).** Protective measures to be taken during construction, such as hydro-mulching, berms (temporary or permanent), interceptor ditches, subsurface drains, terraces, and/or sediment traps in order to prevent erosion of the cut faces of excavations or of the sloping surfaces of fills. (Such information shall be submitted in the form of a sedimentation and erosion control component of the drainage and pollution prevention plan pursuant to Section 23.05.0362, when required by that section.)

...

- (11)** When required by the Director of Planning and Building, each application for a grading permit shall be accompanied by two sets of supporting data consisting of civil engineering report, soil engineering report, engineering geology report, erosion and sedimentation control report, and/or along with any other reports necessary. ~~In many instances this information may be shown on the face of the plan.~~

...

- c. Engineered Grading Plan Requirements.** If the grading will involve 5,000 cubic yards or more, disturb 10,000 square feet or more, is located on slopes of 20 percent or greater, or is located within a Geologic Study Area or Flood Hazard area or within 100 feet of any Environmentally Sensitive Habitat, the grading plan is to be prepared and signed by a qualified registered civil engineer or other qualified professional licensed by the state to perform such work, and is to include specifications covering construction, inspection and material requirements in addition to the information required for minor grading (Section 23.05.030b). The following reports shall be required:

- (1) Site and Drainage Report.** The Site and Drainage Report, which shall be incorporated into the Drainage and Pollution Plan where required by Section 23.05.032, shall include, but not be limited to:

...



(vii) Structural Best Management Practices (BMPs) to treat stormwater runoff after construction is completed. For design purposes, with case-by-case considerations, post-construction structural BMPs (or suites of BMPs) should be sized and designed to achieve the Numeric Design Standard (i.e., infiltrate and/or treat stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs).

...

Suggested Modification 5: Revise Section 23.05.032 to incorporate pollution prevention and erosion control requirements within the standards for drainage facilities, and to supplement requirements for groundwater recharge.

23.05.032 - Drainage and Pollution Prevention Plan Required:

a. Requirement Criteria: The requirements of this section apply to all new development. projects and activities required to have land use permit approval. Drainage and Pollution Prevention plans are reviewed and approved by the County Engineer in accordance with the standards and procedures established by this Title. Drainage and Pollution Prevention plans are to be submitted with or be made part of the Plot Plan, Site Plan, Minor Use Permit, Development Plan or grading permit application for any project that:

...

(3) Will result in an impervious surface of more than ~~20,000~~ 5,000 square feet; or

...

(8) Involves land disturbance or placement of structures within 100 feet of the top bank of any stream or creek watercourse shown with a blue line on the most current USGS 7 1/2 minute quadrangle map; or

...

(11) Involves development on a site adjacent to any coastal bluff or within 100 feet of a wetland.



In any case where a drainage and pollution prevention plan is required by Section 23.05.042 and an environmental determination is not otherwise required by Sections 23.02.033 or 23.03.034 (Minor Use Permit and Development Plan), Chapter 23.07 (Combining Designations), or Section 23.05.030 (Grading Permit Review and Approval), the project application is to be subject to an environmental determination as set forth in Section 23.02.034b(1) before a decision to approve the application, except for single-family residences which are categorically exempt from the provisions of CEQA.

b. Drainage and Pollution Prevention Plan Content. Drainage and Pollution Prevention plans are to be neatly and accurately drawn, at an appropriate scale that will enable ready identification and recognition of submitted information. The County Engineer or Planning Director may require drainage and pollution prevention plans to be prepared by a registered civil engineer.

~~(1) Basic Drainage Plan Contents. Except where an engineered drainage plan is required, a Drainage and Pollution Preventions plans is to~~ shall include the following information about the site and the proposed drainage and pollution prevention measures in sufficient detail to determine that project implementation will comply with the water quality and other standards established in Section 23.05.040. This information shall include, but not be limited to, the following components:

(1) Pre and Post Development Site Drainage Information.

- (i) Flow lines of surface and subsurface waters onto and off the site, including a description of all water courses, impoundments, flood areas and wetlands on or adjacent to the site or into which storm water directly flows. The Drainage and Pollution Prevention Plan shall delineate and describe the location and extent of all floodplains, drainage corridors, and all wetlands contained on the site.
- (ii) Existing and finished contours at two-foot intervals or other topographic information required by the County Engineer.
- (iii) Building pads, finished floor and street elevations, areas of impervious surfaces, and any easements and rights-of-way, existing and proposed.
- (iv) Location and graphic representation of all existing and proposed natural and man made drainage facilities for storage or conveyance of runoff, including drainage swales, ditches, culverts and berms, sumps, sediment



basins, channels, ponds, storm drains and drop inlets. In addition, private sewage disposal systems must be shown. Include detailed construction plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with or as a part of the proposed work, together with a map showing the drainage area and hydraulic calculations showing the facilities flow carrying capacities and justifying the estimated runoff of the area served by any drain. Include design discharges and velocities for conveyance devices, and storage volumes of sumps, ponds, and sediment basins.

- (v) Estimates of existing and increased runoff resulting from the proposed improvements and methods for reducing velocity of any increased runoff.
- (vi) Proposed flood-proofing measures where determined to be necessary by the County Engineer.
- (vi) An evaluation of the effects of projected runoff on adjacent properties and existing drainage facilities and systems.
- (vii) The type, size, and location of all Best Management Practices included in the site design to protect water quality and achieve the water quality standards of section 23.05.040. The plan should include calculations demonstrating that structural BMPs (or suites of BMPs) have been sized and designed to achieve the Numeric Design Standard (i.e., infiltrate and/or treat stormwater runoff from each storm, up to and including the 85th percentile, 24-hour storm event for volume-based BMPs, and/or the 85th percentile, 1-hour storm event, with an appropriate safety factor, for flow-based BMPs).
- (viii) A maintenance program that identifies the type and schedule of maintenance activities that will be implemented by the property owner to ensure that drainage facilities are operating effectively for the life of the project.

(2) Groundwater Recharge Component

(vi) M Drainage and Pollution Prevention Plans shall identify the methods for enhancing groundwater recharge that have been incorporated into the project design or an explanation of non-necessity of groundwater recharge for this site, unless site conditions are inappropriate for recharge as established by Section 23.05.035. The Groundwater Recharge Component of the Plan shall identify how the project has minimized the use of



impervious surfaces, clustered building site locations, and limited roads and driveways to their smallest functional size. The groundwater recharge component of the plan shall also, where site conditions allow, provide for the use of vegetated drainage systems that protect and enhance natural drainage patterns, and the use of pervious materials for the construction of driveways, walkways, parking areas, and other outdoor surfacing. Where the use of pervious material is not feasible, the plans shall directing drainage to pervious areas on-site for infiltration through grassy swales or vegetation filter strips. Groundwater recharge features shall be designed and maintained consistent with the standards established by Section 23.05.040f.

~~(vii) Proposed flood proofing measures where determined to be necessary by the County engineer.~~

~~e. Engineered Plan Content. Engineered drainage plans are to include an evaluation of the effects of projected runoff on adjacent properties and existing drainage facilities and systems in addition to the information required by subsection b. of this section.~~

Suggested Modification 6: Incorporate Ordinance 23.05.034 into Section 23.05.032 (above) so that, when required, erosion and sedimentation controls are contained within the Drainage and Pollution Prevention Plan.

23.05.034— (3) Erosion and Sedimentation Control Plan Required:

a. Requirements. An erosion and sedimentation control plan shall be required as part of the Drainage and Pollution Prevention Plan ~~grading permit application~~ except when all of the following site characteristics exist:

...

(4) ~~The Ssites is located more than 300 feet from the top bank of any stream or creek blue line water course or water feature shown on the most current 7 1/2 minute USGS quadrangle map.~~

...

(7) All grading and site disturbance activities will: 1) occur after April 15 and before October 15 1 and 2) will create minimal site disturbance.

...



- c. **Regional Water Control Board Review.** ~~For projects that disturb greater than five acres of land, the~~ The Erosion and Sedimentation Control component Plan must shall be included with part of a Storm Water Pollution Prevention Plan as required for compliance with NPDES Storm Water Discharge General Permits for Construction Activity administered by the State Water Resources Control Board and the Regional Water Quality Control Board.

...

Suggested Modification 7: Revise Section 23.05.035 to supplement standards for groundwater recharge.

23.05.035 - Groundwater Recharge.

...

- b. **Groundwater Recharge.** All development on sites that do not meet the above criteria shall include provisions to maximize groundwater recharge, among other means by minimizing the use of impervious surfaces, clustering building site locations, and limiting roads and driveways to their smallest functional size. Where the use of pervious material is not feasible, the plans shall direct drainage to pervious areas on-site for infiltration through grassy swales or vegetation filter strips. All areas on the project site that will become impervious or will have their soil permeability impaired (such as compacting soil under an all weather driveway) must be mitigated to the maximum extent practicable with recharge enhancement elsewhere on the parcel. Offsite mitigation is a secondary alternative when effective onsite recharge is not possible. Where a Drainage and Pollution Prevention Plan is required by Section 23.05.032, groundwater recharge provisions shall be identified by Groundwater Recharge Component of the plan .

The Design Elements for Enhancing Groundwater Recharge handout available from the Department of Planning and Building has numerous ideas and design elements that can be incorporated into the project. This is not a complete list; developers are encouraged to incorporate other ideas that will retain water in a manner that encourages soil contact and percolation. The project plans should clearly indicated the capacity of each recharge area



Suggested Modification 8: Revise Section 23.05.036 to clarify permitting requirements and review procedures.

23.05.036 - Review, Approval and Permits:

a. Environmental Review.

- (1) **Environmental Determination.** As required by Title 14 of the California Administrative Code, all grading permit applications are to be reviewed by the Environmental Coordinator for an environmental determination pursuant to the California Environmental Quality Act (CEQA). This section does not apply to those applications that are deemed exempt from the provisions of CEQA pursuant to section 15304 or 15061(b)(3) of the State CEQA Guidelines. Exempt applications are those that propose grading on terrain with slopes less than 10 percent, will involve less than 5,000 cubic yards of earth moving, are not located within a Sensitive Resource Area combining designation, and are consistent with the criteria for approval in subsection b(1) of this section.

In any case where a drainage and pollution prevention plan is required by Section 23.05.034 and an environmental determination is not otherwise required by Section 23.02.034 (Development Plan), Chapter 23.07 (Combining Designations), Section 23.05.030c(3) (Exemption from Permit Requirements), the project application is to be subject to an environmental determination by the Environmental Coordinator as set forth in Section 23.02.034b(1) before a decision to approve the application, except for single-family residences which are exempt from the provisions of CEQA. As part of this determination, the Environmental Coordinator shall prepare and apply a checklist or equivalent tool to help in the review of potential impacts to water quality. Such a checklist shall, at a minimum, include questions about the management practices proposed to reduce the impact of polluted runoff, area of impervious surface to be created, uses of the development that might generate polluted runoff and proximity of the development to coastal waters or drainage ways that lead to coastal waters or sensitive coastal resources. This review procedure shall identify the potential water quality impacts from the development, and prescribe appropriate site design, source control or treatment control BMPs necessary to address those impacts.

Unless exempt, no action shall be taken to approve, conditionally



approve, or deny a grading permit or drainage and pollution prevention plan until it is:

...

b. Approvals.

(1) Criteria for Approval.

(i) Grading Plan. A grading permit may be issued where the director of Planning and Building first finds, where applicable, that:

...

(g) ~~Unless overriding findings have been made,~~ the proposed grading will not create substantial adverse long-term visual effects.

...

(ii) Drainage and Pollution Prevention Plan. All drainage and pollution prevention plans are to be submitted to the County Engineer for review, and are subject to the approval of the County Engineer, prior to issuance of a land use, grading or construction permit, as applicable. Actions of the County Engineer on drainage and pollution prevention plans may be appealed to the Board of Supervisors in accordance with the procedure set forth in Section 23.01.042a of this title; except that where the site is within a Flood Hazard combining designations, the procedure described in Section 23.07.066d shall be used.

...

(4) Restriction on Grading Approvals. If grading is for the creation of, or access to, a building site, land disturbance shall not take place until a building permit has been issued ~~accepted for processing~~. If grading is for a proposed project which requires discretionary approval, grading shall not take place until approval(s) are received and required appeal periods expire. If plan approval cannot be issued until determination of adequate water and/or sewage disposal or other required site investigation is made, land disturbance shall be limited to the extent necessary to allow such an investigation. Erosion control measures and/or site restoration shall be required after site investigations are completed. This provision shall not



apply to subdivision improvements or road construction required as a condition of approval of a land division, provided that such roads and improvements are designed and constructed in compliance with all standards and requirements of this Title.

c. **Permits.**

(1) **Grading Permit Application Procedure.** An application for grading permit consists of written and graphic information. The written information required is identified in the Section 23.05.030a, Grading Permit Application Content. The graphic information is identified in the Section, Grading Plan Required. Not all applications require the same level of information. In some situations, additional information may be required after initial review based upon the nature, degree, or location of proposed work.

(2) **Time Limits of Permits.**

(i) An approved grading permit is valid for a period of 120 days from the effective date of the permit, or until expiration of the land use permit associated with the grading (whichever is less), after which the permit shall expire unless:

...

(iii) **Extension of grading permit.** Any permit holder with an unexpired grading permit may apply for an extension of the time within which grading operations are to be begun or completed. The director may extend the expiration date of the permit for a period not exceeding 180 days, or until the land use permit associated with the grading activities is set to expire (whichever is less), where the permit holder has requested such extension in writing and has shown that circumstances beyond the control of the permit holder have prevented commencement or completion of grading. The director may extend the permit for additional periods of 180 days, or until the land use permit associated with the grading activities is set to expire (whichever is less), after a site investigation confirms that grading activities and site conditions conform to the provisions of this title, and where proper completion of grading, temporary and final sedimentation and erosion control measures (Section 23.05.034) in accordance with the provisions of this title have been assured through a bond or other guarantee of performance (Section 23.02.060). Any



extension of a grading permit that constitutes a coastal development permit pursuant to Section 23.05.030 shall be processed in accordance with Section 23.02.050e.

...

(4) Denial of Permits - Restoration.

- (i) If grading operations are commenced before first securing a proper permit, no permit will be issued until all illegal grading has been stopped except to restore the site to its original condition or to correct hazardous conditions to the satisfaction of the director, and all violation fines levied as misdemeanors or civil penalties are paid in full. The director may require approval and implementation of an erosion and sedimentation control plan in the interim if weather or site conditions warrant such action. In the event that no grading permit, erosion control permit, or Land Use Permit consistent with this title can be issued for ~~such~~ the unpermitted grading operations, the site shall be restored to an acceptable condition as determined by the director pursuant to all applicable permitting requirements and development standards of this title.

- (ii) If restoration is required of a site by the director, restoration plans, prepared by a certified Sediment and Erosion Control Specialist or by other additional qualified professionals at the discretion of the director, shall be submitted for review and approval prior to any restoration. The ~~permit holder~~ applicant shall pay a restoration permit fee, in addition to any applicable penalties and other required permit fees, which shall be equal to the fee that would be charged for a grading permit fee for the same work. Restoration shall be ~~made~~ carried out in conformity with the approved restoration plans and all other approved permits and plans required by this title.

...

Suggested Modification 9: Revise Section 23.05.038 clarify permit amendment requirements and require that the timing of grading activities avoid impacts to sensitive habitats.

23.05.038 - Construction and Inspections:

a. Construction Procedures.



...

(2) **Modifications to Approved Plans.** No work based upon any modifications to the approved plans shall proceed unless and until such modifications have been approved by the Director of Planning and Building, and where applicable, the County Engineer. As required by section 23.05.024c, the proposed change shall not result in greater environmental impacts not considered in the approved environmental document; any changes that pose new impacts to coastal resources shall require a new grading permit processed in accordance with this Title. Change orders must be reviewed expeditiously to allow the job to be able to proceed.

...

(4) **Grading Hours - Limitations.** No grading work (except for agricultural exemptions and emergency operations specified in Section 23.05.026(f), which requires a grading permit under the provisions of this Chapter shall take place between the hours of 7:00 p.m. and 7:00 a.m. weekdays and between the hours of 5:00 p.m. and 8:00 a.m. on the weekends, unless the director or approved conditions of a land use permit finds that such operation is not likely to cause a significant public nuisance or adverse environmental impact and authorizes expanded or night operations in writing. Hours of operation on the weekends or near sensitive habitats may be further regulated by conditions of the grading permit or associated land use permit.

...

Suggested Modification 10: Revise Section 23.05.040 to establish Water Quality Standards and supplement grading, drainage, erosion control, and other standards.

23.05.040 - Standards:

- a. **Water Quality Standards.** Development shall not result in the degradation of coastal waters caused by the introduction of pollutants, or by changes to the landscape that adversely impact the quality, quantity and flow dynamics of coastal waters. Runoff shall not be discharged in a manner that adversely impacts coastal waters. All new development, and all grading, drainage and pollution prevention plans, shall demonstrate consistency with these standards and achieve the following:



- (1) Maintain Post-development peak runoff rates. Post-development peak runoff rates and volumes shall be maintained at levels similar to pre-development conditions;
- (2) Maintain and Restore Natural Drainage. The applicant shall design development to protect and restore natural drainage systems;
- (3) Minimize Pollutant Loads. Site design and source control Best Management Practices (BMPs) shall be included in all new development. The applicant shall demonstrate that the selected suite of BMPs shall minimize pollutant loads and mitigate impacts on water quality by capturing, filtering or treating all drainage subject to pollutants. BMPs shall be incorporated into the project design in the following progression:
 - Site Design BMPs (any project design feature that reduces the generation of pollutants or reduces the alteration of the natural drainage features, such as minimizing impervious surfaces or minimizing grading);
 - Source Control BMPs (practices that prevent release of pollutants into areas where they may be carried by runoff, such as covering work areas and trash receptacles, practicing good housekeeping, and minimizing use of irrigation and garden chemicals);
 - Treatment Control BMPs (a system designed to remove pollutants from runoff including the use of gravity settling, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process). Where the development poses a threat to water quality due to its size, type of land use or proximity to coastal waters (or proximity to a creek, channel or stormdrain system that leads to coastal waters) and the combination of site design and source control BMPs is not sufficient to protect water quality, treatment control BMPs shall be implemented.
- (4) Manage Stormwater Runoff. Design post-construction structural BMPs (or suites of BMPs) to infiltrate and/or treat stormwater runoff consistent with the stormwater runoff numeric design standard of this ordinance (see Definitions, section 23.05.044).

a. b. Grading Standards.

- (1) **Area of Cuts and Fills.** Cuts and fills shall be limited to the minimum amount necessary to provide stable embankments for approved development (e.g., required parking areas or street rights-of-way, structural foundations, ~~and adequate residential yard areas, or~~



outdoor storage of or sales area incidental to a non-residential use).

...

- (3) **Grading Adjacent to Environmentally Sensitive Habitats.** Grading shall not occur within 100 feet of any Environmentally Sensitive Habitat ~~as shown in the Land Use Element~~ except:

...

- (4) **Landform Alterations within Public View Corridors.** Grading, vegetation removal and other landform alterations shall be minimized on sites located within ~~areas determined by the director to be a public view corridors from collector or arterial roads.~~ Where feasible, contours of finished grading are to blend with adjacent natural terrain to achieve a consistent grade and appearance.

- (5) **Grading near Watercourses.** Grading, dredging or diking (consistent with Section 23.07.174) shall not alter any intermittent or perennial stream, or natural body of water ~~shown on any USGS 7 1/2 minute map,~~ except as permitted through approval of a county land use permit or grading permit as applicable, drainage and pollution prevention plan, and a streambed alteration permit from the California Department of Fish and Game issued under Section 1601 or 1602 of the Fish and Game Code and as provided by Section 3 above. In addition, the grading must be consistent with the Clean Water Act, Section 404 permits from the US Army Corps of Engineers, SWA, Section 401 Water Quality Certification or Waste Discharge Requirements from the Regional Water Quality Control Board, and appropriate. (Additional standards are contained in Sections 23.07.172 through 174 of this title.) Watercourses shall be additionally protected as follows:

...

All temporary diversions and fill, as well as all construction materials and debris, shall be removed immediately at the conclusion of construction.

- (6) **Revegetation.** Where natural vegetation has been removed through grading in areas not affected by the landscaping requirements (Section 23.04.180 et. seq. - Landscaping, Screening and Fencing), and that are not to be occupied by structures, such areas are to be replanted as set forth in this subsection to prevent erosion after construction activities



are completed.

...

(ii) Methods of Revegetation. Acceptable methods of revegetation include hydro-mulching, or the planting of rye grass, barley or other seed with equivalent germination rates. Where lawn or turf grass is to be established, lawn grass seed or other appropriate landscape cover is to be sown at not less than four pounds to each 1,000 square feet of land area. Other revegetation methods offering equivalent protection may be approved by the Building Official. Plant materials shall be watered at intervals sufficient to assure survival and growth. Native plant materials are encouraged to reduce irrigation demands, and exotic species that pose a threat to native habitats due to their invasive nature (e.g. ice plant, pampas grass, scotch broom, acacia, eucalyptus, etc.) are strictly prohibited. Where riparian vegetation or native plant species have been removed, riparian the same plant species shall be used for revegetation at equal or greater quantities and extent to that which existed on the site prior to grading.

...

(iv) Revegetation Success. Revegetation required as part of grading activities shall be monitored and maintained by the permittee. The Planning Director may require specific monitoring and maintenance activities and plans, as well as corrective actions, to ensure that the revegetation requirements of this title are satisfied.

...

b. c. Drainage Standards. Drainage systems and facilities subject to drainage and pollution prevention plan review and approval that are to be located in existing or future public rights-of-way are to be designed and constructed as set forth in the county Engineering Department Standard Improvement Specifications and Drawings and Storm Water Quality Task Force California Storm Water Best Management Practice Handbooks. Other systems and facilities subject to drainage plan review and approval are to be designed in accordance with good engineering practices. ~~A Master Drainage Plan shall be required as part of the grading plan for all grading permit applications.~~ Designs for site area drainage and terraces shall conform to the requirements for fill activities established by this chapter as well as the following provisions:



- ...
- (17) Runoff computations may be made by the rational method except where specific methods for calculating individual residential retention basins have been adopted (e.g., the 85% Numeric Design Standard for structural BMP's).
- ...

e. d. Dam and Reservoir Standards.

NOTE: All surface stream water impoundments require approval of an application to appropriate water from the California State Water Resources Control Board, Division of Water Rights.

- (1) ~~Agricultural stock ponds less than two (2) acre feet in capacity are exempt from permit requirements. Agricultural stock ponds that are between two (2) acre feet and ten (10) acre feet in capacity may be exempted if the plans are determined to be consistent with accepted design and conservation sites are approved by qualified professionals including a civil engineer, U.S. Department of Agriculture, Natural Resource Conservation Services, Resource Conservation District (or its successor agency). All other Grading permits shall be required for the construction of all dams, reservoirs and impoundments in accordance with Sections 23.05.024 and 23.05.030. require a grading permit unless the design is prepared or approved by, and is inspected and certified by, the U. S. Department of Agriculture, Natural Resource Conservation Service, or State of California Department of Water Resources and the work is exempt from the California Environmental Quality Act.~~

- ...
- d. e. Erosion and Sedimentation Control Standards.** Erosion and sediment control measures shall be required as part of the grading plan requirements. Plan contents and standards shall be as specified in Section 23.05.032 23.05.034 (Erosion Control Plan Required).
- ...

- (3) All earth fills and disturbed areas shall be planted, mulched and maintained, or otherwise protected from the effects of storm runoff and wind erosion. Permanent or temporary soil stabilization must be



applied to denuded areas within 15 days after final grade is reached on any portion of the site. Denuded areas which may not be at final grade but which will remain undisturbed for longer than 60 days shall also be stabilized within 15 days. All mulching shall provide the same protection as that resulting from the application of two (2) tons of straw mulch per one acre of surface area. All disturbed or denuded areas created during the period between ~~November 15~~ October 1 and ~~March~~ April 15 of the following year shall be mulched or equally protected before quitting time each day.

...

- (11) Runoff shall enter and exit a basin through protected inlets and outlets as approved by the director and shown on approved plans and permits required by this title.
- (12) Sediment removal scheduling and sediment dispersal shall be as approved by the director and shall be subject to the grading permit requirements of this title.
- (13) Temporary drainage control measures installed during construction shall be designed to avoid concentration of flow which may cause or exacerbate erosion and sedimentation.

e. f. Groundwater Recharge Standards. Groundwater recharge measures shall be required as part of the site plan requirements. Plan contents and standards shall be as specified in Section 23.05.035 and as listed below:

- (1) Stormwater impound areas shall be located to use the most permeable soils on the project site, where practical, and shall be setback at least 100 feet from environmentally sensitive habitat areas.
- (2) Stormwater impound areas shall be sufficiently shallow or properly shielded so that they do not pose a safety hazard.
- (3) Storm water impound areas shall drain fast enough or be designed so that ponded water does not become a vector habitat (mosquito pond). Alternatively, storm water impound areas may be designed to mimic a natural wetland habitat, provided that they are designed and maintained in a manner that prevents a public nuisance or health hazard.

...



Suggested Modification 11: Revise and supplement definitions contained in Section 23.05.044.

23.05.044 - Definitions: The following definitions pertaining to grading and erosion control shall apply to the interpretation and enforcement of this chapter. In addition to the following definitions, the definitions contained in Section 23.11.030 are incorporated into this chapter as though they were fully set forth here. Where any of the definitions conflict with other titles of the County Code, this chapter prevails for the purposes of this title.

NOTE: _ This denotes that the definition is presently found in Chapter 11 of the Coastal Zone Land Use Ordinance; however some changes have been made in the wording of the definition.

...

Agricultural Drainage Channels - Drainage channels to direct irrigation, natural drainage and tailwaters to and from agricultural fields. Agricultural Drainage Channels do not include creeks, streams, and rivers.

...

Best Management Practices (BMPs) - Sets of on-the-ground measures that control the input of non-point source pollutants into ground or surface waters. Such BMPs can be either Structural or Non-structural in nature and when designed and implemented correctly can mitigate the impacts associated with new development. Types of Best Management Practices include:

- Nonstructural Best Management Practices that (a) Conserve natural drainage areas; (b) Direct rooftop and other impervious surface runoff to permeable or vegetated areas; c) Direct sheet flow to vegetated buffers; (d) Use porous materials; (e) Use grass channels; and (f) Design and site development to maximize filtration and percolation.
- Structural Best Management Practices such as (a) Stormwater management ponds; (b) Stormwater management wetlands; (c) Stormwater management infiltration; (d) Stormwater management filtering systems; and (e) Stormwater management open channel systems.

...

Grading – Any activity which involves the physical movement or disturbance of earth material by mechanized means. This includes any excavating, filling, stockpiling, movement of earth material in connection with clearance of



vegetation, compaction of soil, creation of borrow pits, or combination thereof, but does not include surface mining or quarrying operations (including the extraction and stockpiling of excavated products and the reclamation of mined lands) operating in conformance with Section 23.08.180. Grading also does not include plowing, seeding, planting, cultivating, or harvesting activities within an established farming operation, including lands that have been lying fallow as part of a conventional rotational cycle.

...

Guidance Manuals:

- Model Urban Runoff Program. "Appendix 3T Best Management Practices," Model Urban Runoff Plan, Post-Construction Controls for New Development.
- Storm Water Quality Task Force. California Storm Water Best Management Practice Handbooks, March 1993.
- US Environmental Protection Agency. Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters [CZARA 6217(g) Guidance].
- Bay Area Stormwater Management Agencies Association (BASMAA) Start at the Source; Residential Site Planning and Design Guidance Manual for Stormwater Quality Protection. January 1999.

...

Habitat, Environmentally Sensitive - ~~Any type of Sensitive Resource Area~~ where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development. They include but are not limited to wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats ~~and are mapped as Land Use Element combining designations.~~

...

Numeric Design Standard. Sizing post-construction BMPs to accommodate the runoff from the 85th percentile storm runoff event. The "85th percentile, 24-hr" Numeric Design Standard is applicable to volume-based BMPs such as detention and infiltration basins, wet ponds, and constructed wetlands. The "85th percentile,



1-hr” Numeric Design Standard (with an appropriate safety factor⁶) is applicable to flow-based BMPs that remove pollutants primarily through filtering and limited settling. These include media filters such as filter inserts in catch basins, oil/water separators, and biofilters such as vegetated filter strips and grassy swales.

...

Stream/Creek, “Blue Line” - any bed, channel or bank of any river, stream or lake as shown with a “blue” line on a USGS 7-1/2 minute (1:24,000) quadrangle map. The surface or subsurface water flow within these “blue” line delineations could be perennial, intermittent, or ephemeral. Streams/creeks also include other bodies of water not shown on USGS 7-1/2 minute quadrangles that flow at least periodically or intermittently through a bed or channel having banks and support fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.

...

Structure - Any artifact constructed or erected, the use of which requires attachment to the ground, including but not limited to any buildings, but not including fences or walls six feet or less in height or open wire fencing.

...

III. RECOMMENDED FINDINGS

A. Background

The San Luis Obispo County certified LCP is composed of seven parts: the Coastal Zone Land Use Ordinance, which is the Implementation Plan (IP) portion of the LCP; the Framework for Planning, the Coastal Plan Policies, and four Area Plans, which make up the Land Use Plan (LUP). The Commission approved the LUP with modifications on October 14, 1982, and the IP was approved as submitted on October 7, 1986. The County assumed permit-issuing authority on March 1, 1988.

The County is proposing a number of changes to the certified Implementation Plan (IP) regulating grading and drainage. To approve these changes, the Commission must find that they are consistent with and adequate to carry out the Land Use Plan (LUP). The sections of the IP proposed for change by the amendment provide the primary means for implementing LUP

⁶ The San Diego RWQCB has adopted a safety factor of “2” for their flow-based BMP design standard. This means doubling the runoff treatment capacity necessary to handle the local 85th percentile hourly rainfall intensity. The safety factor is meant to deal with the reduced efficiency that occurs with flow-through BMPs that are not adequately maintained.



policies regarding the protection of coastal watersheds. They also implement LUP policies protecting sensitive biological, scenic, and archaeological resources.

Moreover, the sections of the CZLUO proposed for amendment play a critically important role in the LCP's regulatory framework. Most commonly, coastal development permits issued by San Luis Obispo County take the form of a Land Use Permits (i.e., Plot Plans, Minor Use Permits, or Development Plans), and grading and drainage standards are applied during land use permit review. Land use permit/coastal development permits issued by the County often include conditions requiring permittees to obtain a grading permit and/or submit grading, drainage, and/or erosion control plans for County approval prior to commencing construction. However, in some instances where grading is the only development proposed, no land use permit may be required. In these situations, the requirement for a grading permit is equivalent to the requirement for a coastal development permit, and must be processed and noticed accordingly. Figure One, on the following page, illustrates this relationship.

B. Amendment Description

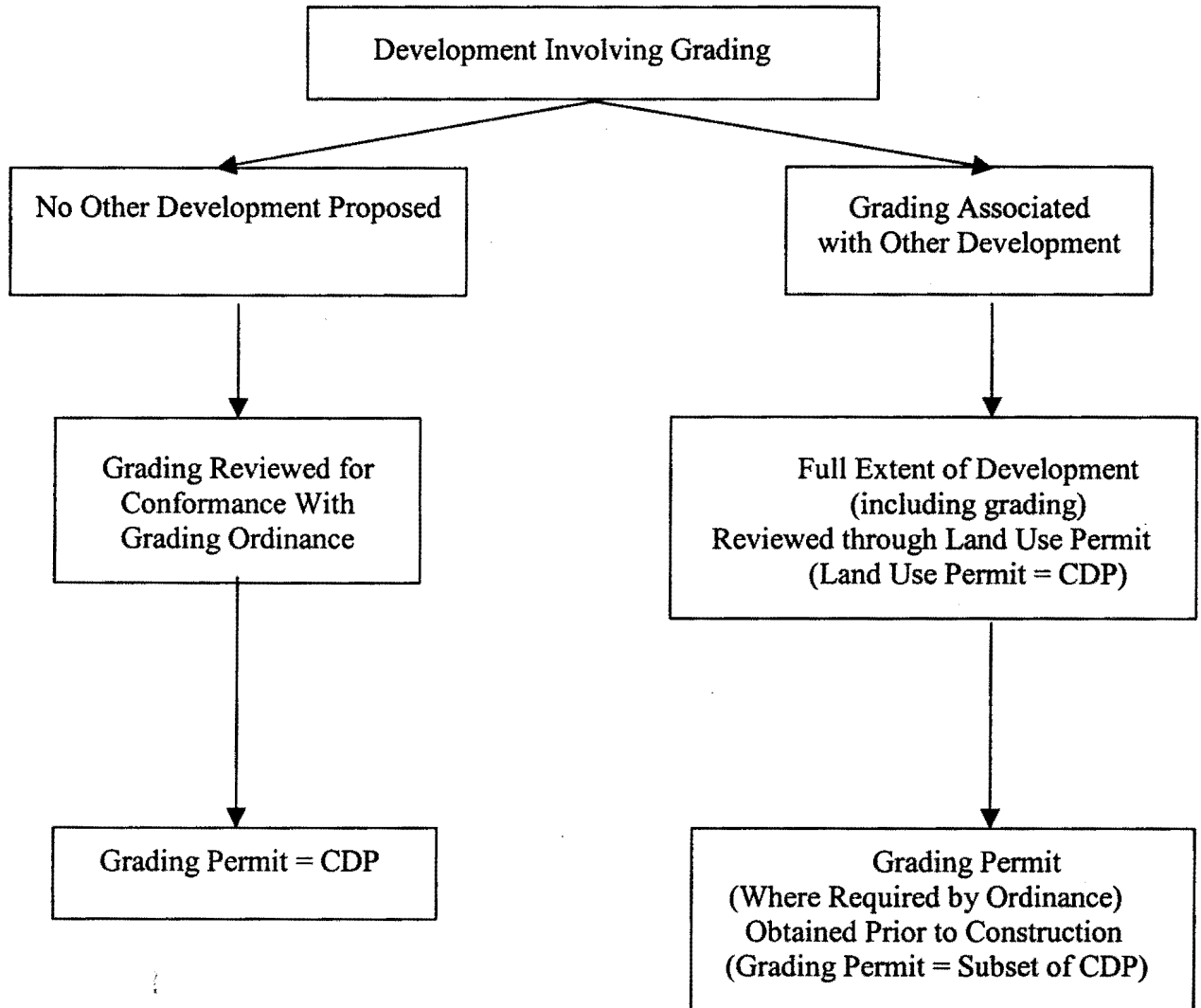
The County is proposing to amend the LCP ordinances that regulate grading and drainage in the coastal zone. The existing ordinances, contained in Chapter 5 of the Coastal Zone Land Use Ordinance (CZLUO), are attached to this report as Exhibit 1. They are proposed to be replaced with new and expanded ordinances attached to this report as Exhibit 2. Significant changes proposed by the amendment include new and revised definitions of "grading" and expanded exemptions from grading permit requirements. Specifically, the amendment will:

- Incorporate new definitions of grading within both Chapter 5 and Chapter 11 of the CZLUO. In Chapter 5 (Site Development Standards), a new definition would be added that defines grading as earthwork involving more than 50 cubic yards of material and that also involves excavations of certain depths or the creation of slopes with specified heights and steepness. In Chapter 11 (Definitions), the existing definition of grading as "Any excavating, filling or combination thereof", would be replaced with "Any activity which involves the physical movement of earth material".⁷
- Expand exemptions to grading permit requirements for non-agricultural grading activities, such as for certain maintenance activities, exploratory excavations, public utility connections, and vegetation clearing activities.

⁷ The new definition in Chapter 11 goes on to state that "This includes and excavating, filling, stockpiling, movement of material, compaction of soil, creation of borrow pits, or combination thereof, but does not include surface mining or quarrying operations (including the extraction and stockpiling of excavated products and the reclamation of mined lands) operating in conformance with Section 23.08.180." Any discrepancy between the Chapter 5 and Chapter 11 definitions, as they apply to the regulation of grading activities, would be resolved in favor of the more limited version contained in Chapter 5 by virtue of proposed Section 23.05.044.



Figure 1: Relationship between Grading and Coastal Development Permits



- Revise grading permit exemption for agricultural cultivation activities. The existing LCP exempts “agricultural cultivation activities including the preparation of land for cultivation, other than grading for roadwork or pads or structures” from the need to obtain a grading permit. The amendment would replace this exemption with a tiered approach for determining what agricultural grading activities are exempt based on the level of significance of the grading activity, and whether the grading activity incorporates the recommendations and/or review of the County Resource Conservation District.

More generally, the amendment will update the standards and review procedures for grading activities and drainage facilities proposed in the coastal zone. Among other changes, the amendment will:

- Expand information requirements for grading permit applications and drainage plans;
- Update standards for grading activities, drainage facilities, and erosion and sedimentation control plans;
- Strengthen requirements for groundwater recharge measures;
- Clarify criteria and procedures for environmental review of grading and drainage plans;
- Expand the section regarding construction procedures and inspections;
- Add a new section regarding enforcement and interpretation of the grading ordinance; and
- Add a new section of definitions related to grading and drainage.

C. Amendment Analysis

1. Water Quality

a) Policies

Chapter 9 of the Coastal Plan Policies document of the San Luis Obispo County certified Land Use Plan (LUP) contains the following policies related to the protection of water quality and coastal watersheds:

Policy 1: Preservation of Groundwater Basins. *The long-term integrity of groundwater basins within the coastal zone shall be protected. The safe yield of the groundwater basin, including return and retained water, shall not be exceeded except as part of a conjunctive use or resource management program which assures that the*



biological productivity of aquatic habitats are not significantly adversely impacted. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]

Policy 7: Siting of New Development. *Grading for the purpose of creating a site for a structure or other development shall be limited to slopes of less than 20 percent except:*

Existing lots of record in the Residential Single-Family category and where a residence cannot be feasibly sited on a slope less than 20 percent;

When grading of an access road or driveway is necessary to provide access to an area of less than 20 percent slope where development is intended to occur, and where there is no less environmentally damaging alternative;

The county may approved [sic] grading and siting of development on slopes between 20 percent and 30 percent through Minor Use Permit, or Development Plan approval, if otherwise required by the Coastal Zone Land Use Ordinance.... In allowing grading on slopes between 20 percent and 30 percent the county shall consider the specific characteristics of the site and surrounding area that include but are not limited to: the proximity of nearby streams or wetlands, the erosion potential and slope stability of the site, the amount of grading necessary, neighborhood drainage characteristics and measures proposed by the applicant to reduce potential erosion and sedimentation. The county may also consider approving grading on slopes between 20 percent and 30 percent where it has been demonstrated that there is no other feasible method of establishing an allowable use on the site without grading. Grading and erosion control plans shall be prepared by a registered civil engineer and accompany any request to allow grading on slopes between 20 percent and 30 percent. It shall also be demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.

In all cases, siting of development and grading shall not occur within 100 feet of any environmentally sensitive habitat. In urban areas as defined by the Urban Services Line, grading may encroach within the 100 foot setback when locating or siting a principally permitted development, if application of the 100 foot setback renders the parcel physically unusable for the principally permitted use. Secondly, the 100 foot setback shall only be reduced to a point at which the principally permitted use, as modified as much as practical from a design standpoint, can be accomplished to no point less than the setback allowed by the planning area standard or 50 feet whichever is the greater distance [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO COASTAL ZONE LAND USE ORDINANCE SECTIONS: 23.05.034 (Grading) and 23.04.021.]



Policy 8: Timing of Construction and Grading. *Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]*

Policy 9: Techniques for Minimizing Sedimentation. *Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation. Measures should be utilized from the start of site preparation. Selection of appropriate control measures shall be based on evaluation of the development's design, site conditions, predevelopment erosion rates, environmental sensitivity of the adjacent areas and also consider costs of on-going maintenance. A site specific erosion control plan shall be prepared by a qualified soil scientist or other qualified professional. To the extent feasible, non-structural erosion techniques, including the use of native species of plants, shall be preferred to control run-off and reduce increased sedimentation. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]*

Policy 10: Drainage Provisions. *Site design shall ensure THAT drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses. [THIS POLICY SHOULD BE IMPLEMENTED AS A STANDARD AND PURSUANT TO SECTION 23.05.034 OF THE CZLUO.]*

Policy 11: Preserving Groundwater Recharge. *In suitable recharge areas, site design and layout shall retain runoff on-site to the extent feasible to maximize groundwater recharge and to maintain in-stream flows and riparian habitats. [THIS POLICY SHOULD BE IMPLEMENTED AS A STANDARD.]*

Policy 12: Agricultural Practices. *Agricultural practices shall minimize erosion and sedimentation through accepted management practices that aid soil conservation. The Soil Conservation Service should be encouraged to continue education programs regarding soils management. [THIS POLICY SHOULD BE IMPLEMENTED AS A STANDARD.]*

Policy 13: Vegetation Removal. *Vegetation Clearance on slopes greater than 30% in geologically unstable areas or on soils rated as having severe erosion hazards shall require an erosion and sedimentation control plan. Stream vegetation removal is discussed in greater detail in the Sensitive Habitat chapter. [THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.05.036 OF THE CZLUO.]*



Policy 14: Soil Conservation Techniques. *Proper soil conservation techniques and grazing methods shall to the maximum extent feasible be employed in accordance with the 208 water quality standards adopted by the California Water Quality Control Board. [THIS POLICY SHALL BE IMPLEMENTED AS A STANDARD.]*

In addition, the Environmentally Sensitive Habitat policies of the LUP cited later in this report serve to minimize erosion and runoff, protect riparian habitat, and preserve overall water quality of coastal streams.

b) Analysis

Many of the Coastal Watershed policies cited above are implemented by Sections 23.05.034 and 23.05.036 of the Coastal Zone Land Use Ordinance (CZLUO) - Sections that are proposed for revision by the subject amendment. These ordinances regulate grading and drainage in the coastal zone, and are the primary means by which the County implements LUP standards for the protection of coastal water quality.

The State of California has adopted a *Plan for California's Nonpoint Source Pollution Control Program*, containing a variety of management measures to further improve protection of water quality during the siting and design, construction, and post-development phases. These management measures can be generally identified as 1) preventing and reducing erosion; 2) preventing degradation to areas important to water quality functions, particularly riparian areas; 3) limiting impervious surfaces; 4) limiting discharge of toxic materials and/or nutrients; and 5) addressing runoff from existing developed areas, including runoff from roads and bridges. The current amendment provides an opportunity to incorporate these and other water quality protection improvements into the LCP, as recommended by the *Periodic Review of the San Luis Obispo County Certified Local Coastal Program* adopted by the Commission in July 2001.

In general, the proposed amendment would improve the implementation of LUP policies for coastal watershed protection by updating current regulations regarding the management of erosion, sedimentation, and runoff. However, the amendment contains some weaknesses that prevent it from adequately carrying out LUP resource protection policies.

1) Grading Definition

The amendment exempts a wide range of grading activities from the need to obtain a grading permit, both by placing numeric parameters around the definition of grading and proposing a wide range of exemptions to grading permit requirements. This is especially problematic where the grading permit process provides the equivalent of coastal development permit review, such as when there is no structural development associated with the grading to trigger the need for a land use permit (please see Figure 1 on page 35 of this report).



As previously described, the proposed definition of grading is limited to earth moving activities that involve more than 50 cubic yards and excavations of certain depths or the creation of slopes with specified heights and steepness. A significant amount of earth moving could take place within these parameters – activities that could degrade coastal water quality and aquatic habitats by causing erosion, sedimentation, and the discharge of pollutants. By exempting such development from the definition of grading, these activities would not be subject to compliance with the LCP’s erosion and sedimentation control requirements (among other important resource protection standards). Therefore, the amendment’s proposed definition of grading fails to carry out the coastal watershed policies of the LUP cited above.

To address this issue, the suggested modifications propose a definition that closely follows the LCP’s current definition of grading⁸. Specifically, Suggested Modifications 1 and 11 propose to expand on the definition of grading proposed by the County for Section 23.05.044 as follows:

Grading – Any activity which involves the physical movement or disturbance of earth material by mechanized means. This includes any excavating, filling, stockpiling, movement of earth material in connection with clearance of vegetation, compaction of soil, creation of borrow pits, or combination thereof, but does not include surface mining or quarrying operations (including the extraction and stockpiling of excavated products and the reclamation of mined lands) operating in conformance with Section 23.08.180. Grading also does not include plowing, seeding, planting, cultivating, or harvesting activities within an established farming operation, including lands that have been lying fallow as part of a conventional rotational cycle.

As proposed by the County and maintained by the suggested modifications, the above definition classifies earth moving associated with mining and quarry as being outside the definition of grading. This is appropriate because the CZLUO contains specific standards and permitting requirements that address the impacts of quarries and mines.

Similarly, the suggested modifications revise the proposed definition to state that grading does not include earth-moving activities associated with the removal or harvest of vegetation for agricultural purposes. The basis for this distinction can be found in Coastal Act Section 30106, which defines development as including “the removal of major vegetation *other than for agricultural purposes*”.

In order to make the distinction between grading and earth moving that occurs as a consequence of agricultural harvesting activities, the suggested modifications call out specific agricultural activities that do not fall within the definition of grading. These include “plowing, seeding,

⁸ Section 23.11.030 of the CZLUO currently defines grading as “Any excavating, filling, or combination thereof. See Section 23.05.020 of this title.” The referenced ordinance provides a list of the grading standards contained in the CZLUO, and does not provide any additional specificity to the definition contained in Section 23.11.030.



planting, cultivating, and harvesting activities conducted within an established farming operation, including lands that have been lying fallow as part of a conventional rotational cycle”.

A critical aspect of this distinction is that earth-moving activities occur outside of the bounds of an existing agricultural operation fall within the definition of grading, and must comply with grading, drainage, and permitting requirements. In other words, the physical movement of earth material for the purpose of agricultural cultivation is considered to be development, in the form of grading, when it is conducted in an area where earth moving for cultivation purposes has not previously occurred.

Distinguishing certain agricultural activities from the definition of grading is an important issue for the farmers and ranchers of San Luis Obispo County. During the public hearings regarding the Periodic Review of the San Luis Obispo County Local Coastal Program, the Commission received testimony from farmers and ranchers expressing their concern that regulations and permit requirements (including but not limited to grading permit requirements) threatens the viability of coastal farming operations. During these hearings, and at subsequent meetings with the Commission staff, representatives of the County Farm Bureau, the County Agricultural Commissioner, and the County Planning Department have stressed the need to minimize regulations, and in particular, permitting requirements, in order to protect the productivity and viability of agricultural operations. These are clearly important issues for the Commission to consider in light of Coastal Act and LCP Policies calling for the protection of coastal agriculture.

The submitted amendment seeks to address these issues, not by distinguishing agricultural activities from the definition of grading, but by establishing procedures under which agricultural grading could be exempted from permit requirements. As addressed in more detail below, this is an acceptable approach provided that it is processed in accordance with the categorical exclusion procedures established by Coastal Act Section 30610(e) and Title 14, Sections 13240 – 13249 of the California Code of Regulations.

In the interim, the CZLUO, as amended, must carry out the permitting requirements established by the Coastal Act and the resource protection policies of the certified LUP. Towards this end, the inclusion of all earth moving activities, other than those directly associated with the harvesting of vegetation for agricultural purposes, must be included in the definition of grading. Similarly, the proposed definition of structure needs to be revised because it excludes structures (e.g., fences) that are considered development by the Coastal Act. Only with these modification will the amendment carry out LUP Coastal Watershed Policies and the development permit requirements established by the Coastal Act.

2) Grading Permit Exemptions

The grading permit exemptions proposed in Section 23.05.026 pose similar problems to the proposed definition of grading, in terms of carrying out the permitting requirements of the Coastal Act and implementing the Coastal Watershed Policies of the LUP. As described above,



the Coastal Act and LCP definition of development specifically state that grading is development, and Section 30600 of the Coastal Act requires any person wishing to undertake development in the coastal zone first obtain a coastal development permit. Only in the limited instances specified by Coastal Act Section 30610 and Title 14 of the California Code of Administrative Regulations is development exempt from this permit requirement.

The exemptions from grading permit requirements proposed by the amendment are far more extensive than the standard coastal development permit exemptions provided in the Coastal Act and the Administrative Regulations. This runs contrary to the permit requirements established by Coastal Act section 30600(a), which states:

Except as provided in subdivision (e) [regarding emergency projects], and in addition to obtaining any other permit required by law from any local government or from any state, regional, or local agency, any person, as defined in Section 21066, wishing to perform or undertake any development in the coastal zone, other than a facility subject to Section 25500, shall obtain a coastal development permit.

Coastal Act Section 30610 identifies the types of development exempt from coastal development permit requirements. In relation to the categories of exempted development proposed by the amendment, subsection (e) of Section 30610 provides:

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas:

...

(e) Any category of development, or any category of development within a specifically defined geographic area, that the commission, after public hearing, and by two-thirds vote of its appointed members, has described or identified and with respect to which the commission has found that there is no potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast and, where the exclusion precedes certification of the applicable local coastal program, that the exclusion will not impair the ability of local government to prepare a local coastal program.

...

The two-thirds vote required to adopt categorical permit exclusions (as opposed to the majority vote required for the certification of an LCP amendment), reflects the fact that such exemptions must be carefully evaluated to ensure that they do not interfere with local government's and the Coastal Commission's abilities to effectively implement LUP and Coastal Act Policies. Clearly,



the development permit process is the principal way in which local governments and the Coastal Commission implement the Coastal Act and certified LCPs.

Exempting these development activities from grading permit requirements pursuant to an LCP amendment not only conflicts with the procedures for granting permit exclusions established by Coastal Act, but will also limit the CZLUO's ability to effectively carry out the of the LUP, particularly the Coastal Watershed provisions cited above. The amendment includes 10 pages of new grading permit exemptions. Approximately half of these are exemptions for agriculturally related grading, and are based on the type and extent of grading being proposed as well as coordination and review by the federal Natural Resource Conservation Service and the San Luis Obispo County Resource Conservation District. It also includes 5 pages of exemptions for non-agriculturally related grading activities, such as for grading within specific parameters for excavation and fill, exploratory excavations, the creation of fuelbreaks, the maintenance of flood control channels, and the creation of refuse disposal sites approved by the County Health Department.

Establishing these permit exemptions will interfere with the CZLUO's ability to carry out the LUP because, among other reasons, many of the exclusions would allow development with high potential for significant adverse impacts on coastal resources to occur without a permit. For example, flood control channels often support aquatic habitat containing rare and threatened biological resources. Maintenance activities may involve significant amounts of earth moving within and these channels, which could remove habitat, increased the potential for erosion and sedimentation, alter natural drainage and groundwater recharge patterns, and result in the discharge of pollutants to coastal waters. The allowance of such activities to proceed without a permit would eliminate the need for such projects to be reviewed for conformance with the LCP and Coastal Act, and would also preclude such projects from being appealed to the Coastal Commission, even though in most instances flood control maintenance occurs within the Commission's appeal jurisdiction.

Also of particular concern is that the development activities exempted by the proposed amendment could be undertaken within sensitive resource areas, such as within wetlands, streams, riparian habitats, and groundwater recharge areas. This runs counter to the limits on coastal development permit exemptions established by Title 14 of the California Code of Regulations, which specifically requires that development otherwise exempted by Coastal Act Section 30610 are required to obtain a permit when located in these areas, due to the potential for adverse impacts. Coastal water quality is especially susceptible to adverse impacts posed by the exempted development in these areas, both due to the nature of the exempted development (earth moving), and the important drainage, filtration, and infiltration functions that these areas serve. The permitting process provides the necessary means by which these impacts can be evaluated and addressed, and thereby is an essential tool for ensuring that LUP policies protecting Coastal Watersheds will be effectively carried out.



For these reasons, Suggested Modifications 2 and 3 delete the exemptions proposed in Section 23.05.026 of the amendment. These exemptions are replaced with a reference to the exemptions provided by Section 30610. Only with these modifications will the amendment effectively carry out the Coastal Watershed protection policies of the LUP and the permitting requirements established by the Coastal Act.

Notwithstanding these modifications, the Commission recognizes that many of the permit exclusions contained in the proposed amendment are intended to minimize permit requirements for development that has the potential to benefit both coastal agriculture and protection of coastal water quality. For example, the installation of best management practices that have been developed by state and federal resource agencies can help prevent the erosion of prime agricultural soils to the mutual benefit of agricultural productivity and water quality. The Commission is in strong support of this approach, and its staff will continue to work with the County and other interested parties to streamline permitting requirements for beneficial projects in accordance with the Categorical Exclusion procedures established by the Coastal Act and described above. The work that has been completed as part of this amendment submittal, combined with the work completed as part of the "Morro Bay Partners in Restoration Program"⁹, provides an excellent foundation for the County to develop and submit such a Categorical Exclusion for Commission certification.

3) Application Requirements and Review Procedures

Notwithstanding the fact that development in the form of grading requires a coastal development permit unless exempted pursuant Coastal Act Section 30610, local governments have the ability to customize the permit applications requirements and review procedures established by their LCP's so they are proportional to the impacts posed by the type, location, and intensity of the development activities. For example, grading permits required for small projects located outside of steep or unstable slopes and sensitive resource areas should not be subject to the same in-depth application and review procedures established by the modifications for development posing much more significant impacts.

The application and review requirements for development involving grading and/or drainage issues contained in the proposed amendment reflect such an approach. Development applications must contain varying levels of information, at various levels of detail, and are

⁹ The Morro Bay Partners in Restoration Program is a cooperative effort by the non-profit group Sustainable Conservation, the Natural Resources Conservations District, the San Luis Obispo County Resource Conservation District, and various regulatory agencies to reduce regulatory impediments to the implementation of best management practices. It has been modeled after programs being implemented in the Elkhorn Slough and Salinas River watersheds pursuant to Federal Consistency certifications by the Coastal Commission. In contrast to the Elkhorn Slough and Salinas watershed projects, the Morro Bay effort is attempting to streamline permit requirements for projects including but not limited to those with direct oversight by the federal government. Accordingly, the categorical exclusion process, rather than Federal Consistency, provides the appropriate means for streamlining coastal development permit requirements.



processed using different methods, based on the level of impact posed by the development. Similar to the County's objective to minimize permit requirements through the exemptions discussed above, the intent of this approach is to maximize regulatory efficiencies and eliminate unnecessary requirements. It has also, however, along with other changes, contributed to the length and complexity of the LCP's grading and drainage regulations. This is reflected by the fact that the 18 pages of grading and drainage regulations contained in the current CZLUO would be expanded to 59 pages by the amendment.

Although the Commission believes that the length and complexities of the proposed ordinances could be simplified and condensed, and encourages the County to pursue such changes, the proposed application and review standards are, in general, an acceptable means for implementing Coastal Watershed policies of the LUP. There are, however, a few areas where these permitting and application requirements need to be supplemented, in order to ensure that the potential impacts to coastal resources are effectively evaluated and regulated. The Commission has therefore suggested the following modifications, as summarized below:

- Suggested Modification 2 requires emergency permits and follow up coastal development permits for grading conducted in an emergency;
- Suggested Modification 4 requires grading plans and grading permit applications to include the information needed to evaluate potential impacts to water quality and groundwater recharge. It also requires an engineered grading plan where there will be 10,000 square feet or more of site disturbance;
- Suggested Modification 5 requires a drainage plan where development will install more than 5,000 square feet of impervious surfacing, and requires all drainage plans to include provisions for pollution prevention;
- Suggested Modification 6 calls for the erosion and sedimentation control plan required by the amendment to be incorporated as a component of drainage pollution and prevention plans, and expands on the requirements for an erosion and sedimentation control plan, for example by requiring such a plan whenever the development site is located within 300 feet of a natural watercourse or aquatic habitat.
- Suggested Modification 8 identifies the specific water quality issues that must be considered during environmental review. This modification also clarifies that grading permits can not be extended beyond the effective date of an associated coastal development permit, and that remediation of grading permit violations must occur in compliance with all applicable permitting requirements;
- Suggested Modification 9 clarifies that changes to approved grading plans necessitate the issuance of a new permit where new impacts to coastal resources are posed by the change.



Through the modifications to the amendment submittal summarized above ensure a comprehensive review process for Grading and Drainage (and Pollution Prevention) Plans, and will help ensure that the measures necessary to protect coastal water quality will be identified and effectively implemented. Therefore, only as modified will the application and permitting requirements established by the amendment be effective to carry out the Coastal Watershed protection policies of the LUP and the coastal development permit requirements of the Coastal Act.

4) Grading, Drainage, and Groundwater Recharge Standards

Irrespective of grading permit requirements and grading and drainage plan review procedures, the amendment requires that all development activities be conducted consistent with the established in Section 23.05.040. These standards will certainly help achieve the coastal watershed protection objections set forth by Chapter 9 of the LUP. They are not, however, adequate to implement LUP Coastal Watershed provisions unless they are implemented as part of the coastal development permit process, for the reasons discussed above.

Another problem with the proposed with the proposed standards is that they do not adequately address all potential sources of pollution from new development. The control of urban non-point source pollution requires the use of two primary strategies: the prevention of pollutant loadings and the treatment of unavoidable loadings. A combination of pollution prevention and treatment practices is favored because planning, design, and education practices are generally more effective, require less maintenance, and are more cost-effective in the long term. In addition, the integration of simple and inexpensive Best Management Practices (BMPs) within all new development can have a significant cumulative effect supporting both watershed and water quality protection.

The major opportunities to control non-point source loadings occur during the following three stages of development, previously mentioned above: (1) the siting and design phase, (2) the construction phase, and (3) the post-development phase. Before development occurs, land in a watershed is available for a number of pollution prevention and treatment options, such as setbacks, buffers, or open space requirements, as well as wet ponds or constructed urban runoff wetlands that can provide treatment of the inevitable runoff and associated pollutants. In addition, siting requirements and restrictions and other land use ordinances, which can be highly effective, are more easily implemented during this period.

In addition to the selection of proper BMPs, the sizing of BMPs is also of concern. The majority of runoff is generated from small storms which typically convey a disproportionate amount of pollutants in the initial period that runoff is generated during a storm event. Designing BMPs for the small, more frequent storms, rather than for the large infrequent storms, results in improved BMP performance at lower cost. The Commission has previously found that sizing post-construction BMPs to accommodate the runoff from the 85th percentile storm runoff is often



appropriate to address runoff concerns. Sizing BMP capacity beyond this standard can lead to insignificant increases in pollutants removal (and hence water quality protection), relative to the additional costs. The Numeric Design Standard is just that: a goal for which water quality protection measures should be based. The implementation of this Numeric Design Standard is reflected in modifications (Suggested Modifications 20, 21, and 24) to the amendment submittal. The size and effectiveness of those chosen BMPs can be determined by both the applicant and staff analyst using the referenced guidance documents developed by various state and federal agencies.

In order to ensure that the amendment provides adequate standards to control of polluted runoff and maximize groundwater recharge opportunities, the Commission has suggested the following modifications, summarized below:

- Suggested Modification 7 supplements the proposed requirements for groundwater recharge by requiring the minimization of impervious surfaces, clustering of building sites, limiting the size of roads and driveways, and directing drainage to pervious areas of the site through vegetated filter strips (which help remove sediments and pollutants from runoff);
- Suggested Modification 8 establishes standards for water quality protection, including management of runoff, protection of natural drainages, and minimization of pollutant loads. It also expands on grading standards, among other ways by requiring the removal of all temporary water diversions and fill, prohibiting the use of non-native plant species during revegetation, and establishing revegetation success criteria. With respect to drainage standards, the modification requires drainage systems to be constructed in accordance with *California Storm Water Best Management Handbooks*, and that they be sized to meet the 85% Numeric Design Standard. Regarding Dam and Reservoir standards, the modification requires a grading permit for the construction of such facilities. Finally, in terms of Erosion and Control Standards, the modification requires the application of such controls between October 1 and April 15 (as opposed to October 15 – March 15).

c) Water Quality Conclusion

The proposed amendments to the grading and drainage standards of the San Luis Obispo County's certified Implementation Plan are not adequate to carry out the Coastal Watershed protection policies of the certified Land Use Plan for the following reasons:

- The proposed definition of grading inappropriately excludes earth moving activities that constitute grading, and therefore, development;
- The proposed exemptions from grading permits do not ensure the protection of water resources and do not carry out the coastal development permit requirements of the Coastal Act;



- The proposed application and review standards do not allow for effective evaluation of water quality impacts or implementation of necessary water quality protection measures. Nor do they carry out Coastal Act development permit requirements; and
- The proposed standards to not effectively maximize groundwater recharge or adequately address pollution prevention and Coastal Act permitting requirements.

As a result, the amendment must be denied as submitted, and can only be approved if modified as suggested.

2. Environmentally Sensitive Habitats

a) Policies

The San Luis Obispo County LCP contains numerous policies related to the protection of Environmentally Sensitive Habitats, a few of which are listed below for reference purposes.

Policy 1 for Environmentally Sensitive Habitats: *New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resource shall be allowed within the area.*

Policy 14 for Environmentally Sensitive Habitats: Development adjacent to coastal wetlands shall be sited and designed to prevent significant impacts to wetlands through noise, sediment or other disturbances. Development shall be located as far away from the wetland as feasible, consistent with other habitat values on the site.

Policy 18 for Environmentally Sensitive Habitats: *Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological function of coastal streams shall be protected and preserved.*

Policy 33 for Environmentally Sensitive Habitats: *Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat.*

b) Analysis

Given the fact that many environmentally sensitive habitats identified by the LUP are aquatic (i.e., wetland, riparian, and marine habitats), their preservation and enhancement is partly dependent upon the maintenance and enhancement of coastal water quality. The Coastal



Watershed issues addressed in the preceding finding are therefore directly relevant to the evaluation of the amendment's ability to carry out LUP ESHA policies, and are incorporated into this finding by reference.

Other ESHA issues raised by the amendment include the potential for grading activities and drainage and recharge facilities to adversely impact sensitive terrestrial habitats. For example, while the amendment is explicit in limiting some grading activities from taking place within 100 feet of an ESHA, this requirement does not apply to all grading activities, and thus, is inconsistent with ESHA Policy 1. In order to prevent development from disturbing environmentally sensitive habitats, modifications to the amendment submittal are necessary to restrict and regulate grading and drainage within and adjacent to ESHA. These include Suggested Modification 3, which eliminates permit exemptions for development activities that could occur within or adjacent to ESHA; Suggested Modification 5, which requires a Drainage and Pollution Prevention Plan to be developed when development will occur within 100 feet of a wetland; and Suggested Modification 10, which prohibits the installation of storm water impound areas within 100 feet of an ESHA.

In addition, although the amendment proposes language that calls for the revegetation of disturbed areas, it does not require the use of native plants. This is inconsistent with policies to protect environmentally sensitive habitats from exotic and invasive species, and is resolved by Suggested Modifications 10.

Finally, the provisions of the proposed amendment do not protect streams and riparian habitats consistent with LUP ESHA policies because it only protects streams that are mapped by USGS quadrangles. To ensure that all streams and wetlands are protected, Suggested Modifications 5, 6, and 10 eliminate the ordinance's reliance on USGS maps. This problem is also addressed by Suggested Modification 11, which replaces the proposed definition of "Blue Line Stream/Creek", with the definition of stream used by the California Department of Fish and Game. Only with these modifications will the proposed amendment carry out the ESHA protection policies of the LUP.

3. Visual and Scenic Resources

a) Policies

The following policies regarding the protection of visual and scenic resources are relevant:

Policy 1 for Visual and Scenic Resources: *Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible.*



Policy 5 for Visual and Scenic Resources: *Grading, earthmoving, major vegetation removal and other landform alterations within public view corridors are to be minimized. Where feasible, contours of the finished surface are to blend with adjacent natural terrain to achieve a consistent grade and natural appearance.*

b) Analysis

As ESHA protection is, in many instances, dependent upon the maintenance of coastal water quality, so is the protection of visual resources. Indeed, the riparian corridors, wetland habitats, and Pacific Ocean are some of the most scenic attributes of the San Luis Obispo coastal zone, and the continuance of these habitats is an essential component to the preservation of visual resources. Thus the water quality findings contained in this staff report are included in these visual resource findings by reference.

Other important visual considerations are that, as previously described, large amounts of earth moving, land form alteration, and vegetation removal could occur without a permit, either because the activity is not defined as grading or excluded from grading permit requirements. Such activities have the potential to adversely impact scenic coastal resources. For this reason, the definition of grading should be revised, and the proposed exemptions deleted, as proposed in the suggested modifications.

In addition, proposed Section 23.05.036b allows the Director of Planning and Building to issue a grading permit for development that would have substantial adverse long-term visual effects, provided that overriding findings have been made. The LUP policies do not provide for "override" findings to reduce standards for resource protection. Ordinance provisions that allow relaxed standards are not adequate to carry out the LUP policies, and as a result, cannot be approved. Suggested Modification 25 corrects this problem by requiring all grading activities to be conducted in a way that will not create substantial adverse long-term visual effects. Only with this modification will the amendment carry out LUP policies intended to protect visual and scenic resources.

4. Archaeology

a) LUP Policies

The following policy regarding the protection of archaeological resources is relevant:

Policy 1 for Archaeology: *The county shall provide for the protection of both known and potential archaeological resources. All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a development proposal to avoid development on important archaeological sites. Where*



these measures are not feasible and development will adversely affect identified archaeological or paleontological resources, adequate mitigation shall be required.

b) Analysis

Perhaps the biggest potential impact to archaeological resources is the proposed definition of grading (discussed above) because it allows an unlimited amount of grading activity, less than two feet in depth, to occur without monitoring or benefit of a permit. As a result, a significant amount of archeological resources could be impacted, without proper mitigation, because the earth moving activity would not qualify as "grading," and thus, would not be subject to review for compliance with LUP standards.

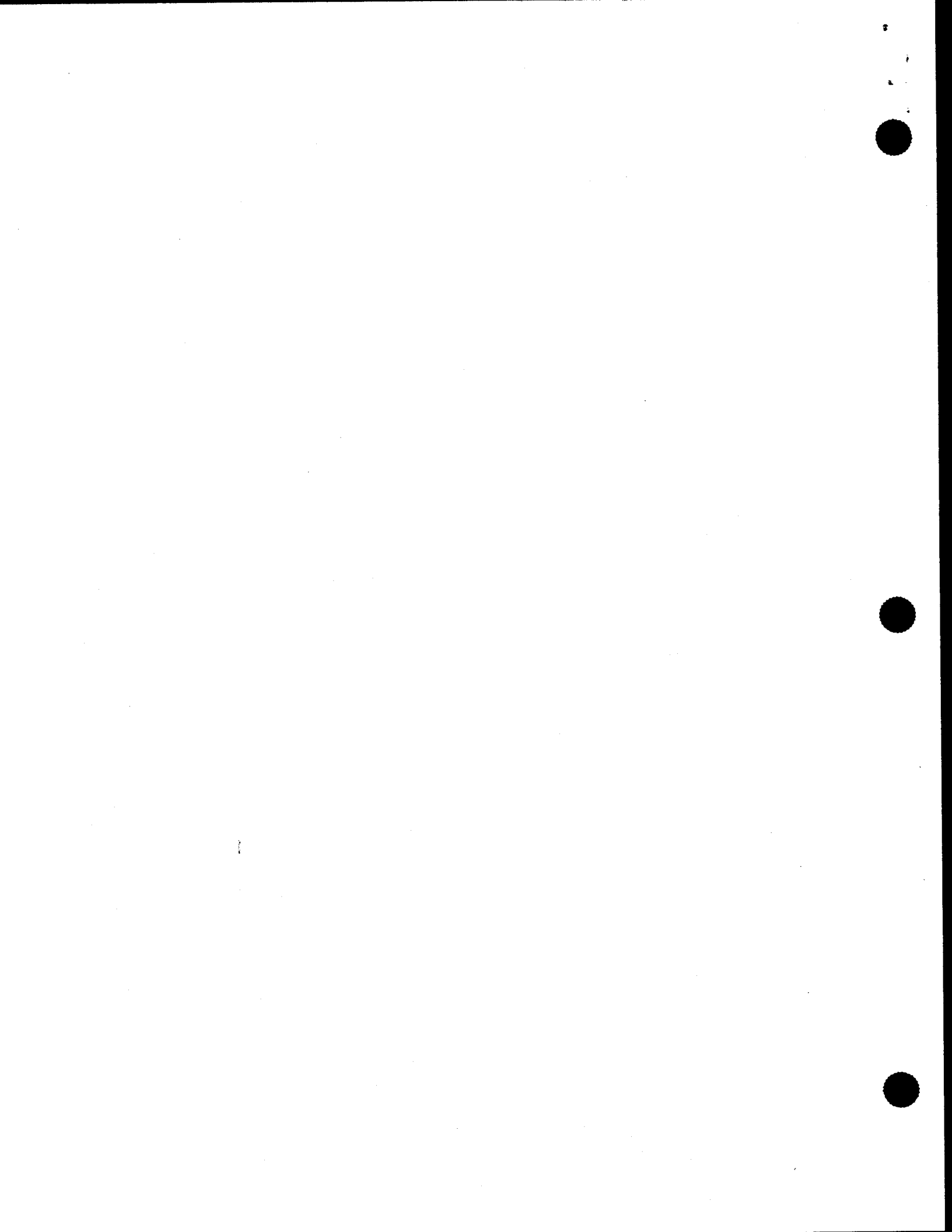
In addition, while the amendment is explicit in limiting some grading activities from taking place within archaeologically sensitive areas, this stipulation is not made for all grading activities, and thus, is inconsistent with Policy 1 for Archaeology. The elimination of the proposed permit exemptions resolves this issue. This suggested modification, and the suggested modification to the definition of grading, are therefore necessary to ensure that the amendment carries out the archaeological resource protection requirements of the LUP.

C. California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for Local Coastal Programs and amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Therefore, local governments are not required to undertake environmental analysis on LCP amendments, although the Commission can and does utilize any environmental information that the local government has developed. In this case the County approved a Negative Declaration for the amendment finding that it did not generate any significant environmental impacts.

In contrast to the conclusions of the County's environmental analysis, this report has identified that the proposed amendment poses significant adverse impacts on the environment, among other ways, by placing inappropriate limitations on the definition of grading, and by exempting a wide range of potentially damaging development activities from permitting requirements. For those development activities that are defined as grading, and that rare required to obtain grading and development permits, this report finds that the proposed amendment does not provide adequate standards to prevent new development from adversely impacting coastal water quality. Modifications have been suggested to address these issues and avoid adverse environmental impacts. Approval of the amendment, will not have significant environmental effects within the meaning of CEQA only if its is modified as suggested.





CHAPTER 5: SITE DEVELOPMENT STANDARDS

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23.05.010 - Purpose:

This chapter establishes standards for the preparation of sites for development and construction activities, to protect the health, safety and welfare of persons living on or near a project site by protecting against unwarranted or unsafe grading, or soil erosion resulting from grading; by defining appropriate circumstances for tree removal; by providing for adequate drainage and fire protection facilities; and by identifying appropriate standards for other aspects of site development.

23.05.020 - Grading:

Sections 23.05.022 through 23.05.039 establish standards for grading and excavation activities to minimize hazards to life and property; protect against erosion and the sedimentation of water courses; and protect the safety, use and stability of public rights-of-way and drainage channels. Additional standards for grading within a Sensitive Resource Area are in Sections 23.07.160 et seq. The grading standards of this chapter are organized into the following sections:

- 23.05.022 Grading Regulations Adopted
- 23.05.024 Grading Plan Required
- 23.05.025 Grading Permit Required
- 23.05.026 Grading Permit Exemptions
- 23.05.027 Grading Permit Fees
- 23.05.028 Grading Permit - Application Content
- 23.05.030 Grading Permit Review and approval
- 23.05.032 Commencement and Completion of Grading
- 23.05.034 Grading Standards
- 23.05.036 Sedimentation and Erosion Control
- 23.05.038 Appeal
- 23.05.039 Nuisance and Hazard Abatement

23.05.022 - Grading Regulations Adopted:

All grading activities shall occur pursuant to the provisions of Chapter 70 of the Uniform Building Code, 1985 edition, which is hereby adopted and incorporated into this title by reference as though it were fully set forth here. In the event of any conflict between the provisions of this chapter and Chapter 70 of the Uniform Building Code, this chapter shall prevail.

23.05.024 - Grading Plan:

- a. When required:** In any case where a proposed project requiring land use permit approval involves 50 or more cubic yards of earth moving, the land use permit application shall include a grading plan containing the information specified by subsection b of this section.
- b. Grading plan content:** A grading plan shall be neatly and accurately drawn to scale, including the following information:
- (i) Existing ground contours or elevations of the site at five foot intervals.
 - (ii) Contours or site elevations after grading is completed, including any modifications to drainage channels.
 - (iii) Any required retaining walls or other means of retaining cuts or fills.
 - (iv) Elevations of the edge of the pavement or road at driveway entrance.
 - (v) Elevation of the finish floor of the garage or other parking area.
 - (vi) Elevations at the base of building corners.
 - (vii) An estimate of the volume of earth to be moved, expressed in cubic yards.

Where a grading permit is required by Section 23.05.025 (Grading Permit Required), the grading plan shall also include all information required by Section 23.05.028 (Grading Permit - Application Content).

23.05.025 - Grading Permit Required:

A grading permit shall be obtained before beginning any: grading, excavation, or fill activities; or for any diking or dredging activities involving wetlands and riparian areas; or for any earthwork, paving, surfacing or other construction activity that alters any natural or other existing offsite drainage pattern, including but not limited to any change in the direction, velocity or volume of flow; except for the activities identified by Section 23.05.026 (Grading Permit Exemptions). This section and Section 23.05.026 supersede Section 7003 of the Uniform Building Code. Where a grading permit application proposes a project that is not otherwise subject to the land use permit requirements of Chapters 23.03 or 23.08 or other applicable section of this title, grading permit approval certifies that the proposed project will satisfy all applicable provisions of this title and thereby constitutes approval of a coastal development permit. Where a grading permit is appealable to the Coastal Commission pursuant to Section 23.01.043, Minor Use Permit approval is also required as set forth in Section 23.02.033.

23.05.026 - Grading Permit Exemptions.

The following activities are exempt from the requirements of Section 23.05.025 for a grading permit:

- a.** Where authorized by a valid building permit, excavations below existing or finish grade for basements, and footings of a building, retaining walls or other structures; provided that this shall not exempt any fill made with material from such excavation nor exempt any excavation occurring where the natural slope of the site exceeds 20 percent or any excavation having an unsupported height greater than five feet after the completion of such structure.
- b.** Cemetery graves.
- c.** Excavations or fills approved by the county Engineering Department for subdivision map projects with approved coastal development permits.
- d.** Agricultural cultivation activities including preparation of land for cultivation, other than grading for roadwork or pads for structures.
- e.** Surface mining operations approved in accordance with Section 23.08.180 et seq. (Surface Mining).

- f. An excavation which is less than two feet in depth; or which does not create a cut slope greater than five feet in height and steeper than one and one-half horizontal to one vertical.
- g. A fill less than one foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.
- h. Excavations for wells, tunnels (except mining - see Section 23.08.190 et seq.), routing pipeline maintenance practices disturbing areas less than 1,000 square feet in size; or installation, testing, placement in service, or the replacement of any necessary utility connection between an existing facility and an individual customer or approved development for utilities regulated by the Public Utilities Commission, including electrical, water, sewage disposal or natural gas lines, on a single site or within a public right-of-way; provided that this exemption does not apply to such excavations in the following areas: [Amended 1992, Ord. 2591]
 - (1) Any area designated as appealable pursuant to Section 23.01.043;
 - (2) Within an archaeologically sensitive area as shown in the Land Use Element;
 - (3) Within 100 feet of an Environmentally Sensitive Habitat as shown in the Land Use Element;
 - (4) Extensions of water or sewage service outside of an urban services line as shown in the Land Use Element.

23.05.027 - Grading Permit Fees.

Fees for grading permits shall be as set forth in County Fee Ordinance. This section supersedes Section 7007(b) of the Uniform Building Code.

23.05.028 - Grading Permit - Application Content:

To apply for a grading permit, a Plot Plan application is to be submitted, together with the additional information required by this section. (Where a grading permit is appealable to the Coastal Commission pursuant to Section 23.01.043, the application shall also include all information required by Section 23.02.033 for a Minor Use Permit.) Where grading requiring a permit is proposed in conjunction with a Site Plan, Minor Use Permit or Development Plan request, those applications may be used to satisfy grading permit information requirements as long as all required information is submitted. This section supersedes Section 7006 of the Uniform Building Code.

a. Minor grading: Where Section 23.05.025 requires a grading permit and the grading will move less than 5,000 cubic yards; is located on slopes less than 30%; and is not located within a Geologic Study Area or Flood Hazard combining designation, the application for a grading permit is to include the following, where required by the Building Official:

(1) Contour information:

- (i)** For sites with slopes of 10% or less, generalized existing contours and drainage channels, including areas of the subject site (and adjoining properties) that will be affected by the disturbance either directly or through drainage alterations.
- (ii)** For sites with slopes greater than 10% and less than 30%, details of area drainage and accurate contours of existing ground at two-foot intervals; for slopes 30% or greater, contours at five-foot intervals.

- (2)** Location of any buildings or structures existing or proposed on the site within 50 feet of the area that may be affected by the proposed grading operations, including any wetlands, coastal stream or riparian vegetation.
- (3)** Proposed use of the site necessitating grading, where a land use permit has not been issued.

- (4) Limiting dimensions, elevations or finished contours to be achieved by the grading, and proposed drainage channels and related construction.
- (5) Drainage plan (Section 23.05.044 (Drainage Plan Content)).
- (6) Compaction report, where a site is proposed to be filled to be used for a building pad.
- (7) A soil engineering report, including data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and criteria for corrective measures when necessary, and opinions and recommendations covering adequacy of sites to be developed by the proposed grading.
- (8) An engineering geology report, including a description of site geology, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading.
- (9) Intended means of revegetation, including the location, species, container size and quantity of plant materials proposed, and the proposed time of planting.
- (10) Protective measures to be taken during construction, such as hydro-mulching, berms (temporary or permanent), interceptor ditches, subsurface drains, terraces, and/or sediment traps in order to prevent erosion of the cut faces of excavations or of the sloping surfaces of fills. (Such information shall be submitted in the form of a sedimentation and erosion control plan pursuant to Section 23.05.036, when required by that section.)

b. Engineered grading: Where Section 23.05.026 requires a grading permit, and the grading will move 5,000 cubic yards or more, is located on slopes of 30% or greater, or is located within a Geologic Study Area, Flood Hazard area or within 100 feet of any Environmentally Sensitive Habitat, the grading plan is to be prepared and certified by a registered civil engineer, and is to include specifications covering construction and material requirements in addition to the information required for minor grading.

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23.05.030 - Grading Permit Review and Approval:

Grading permit applications shall be processed as follows:

a. Environmental determination: As required by Title 14 of the California Administrative Code, all grading permit applications are to be transmitted to the Environmental Coordinator for an environmental determination pursuant to the California Environmental Quality Act (CEQA), except for the applications that propose grading on terrain with slopes less than 10%, that will involve less than 5,000 cubic yards of earth moving and are not located within a Sensitive Resource Area combining designation, 23.05.030 which applications are hereby deemed categorically exempt from the provisions of CEQA. Following transmittal to the Environmental Coordinator, no action shall be taken to approve, conditionally approve or deny a grading permit until it is:

- (1) Returned to the Planning and Building Department accompanied by a written determination by the Environmental Coordinator that the project is exempt from the provisions of CEQA; or
- (2) Returned to the Planning and Building Department accompanied by a duly issued and effective negative declaration; or
- (3) Returned to the Planning and Building Department accompanied by an environmental impact report certified by the Board of Supervisors.

[Amended 1992, Ord. 2540; Amended 1992, Ord. 2547]

b. Application processing where EIR required: Where the Board of Supervisors has required an environmental impact report pursuant to CEQA, and:

- (1) If a development plan is not required by other provisions of this title, a grading permit application shall be processed, reviewed and approved according to all the provisions of Section 23.02.034 (Development Plan), and the criteria of subsection e. of this section; or
- (2) If a development plan is required by other provisions of this title, a grading permit shall be processed, reviewed, and approved according to the provisions of this section, including a requirement that the grading permit application shall be consistent with and satisfy all applicable conditions of approval of the development plan.

[Amended 1993, Ord. 2501]

- c. Application processing where no EIR is required:** Where a grading permit is categorically exempt from the provisions of CEQA or has been granted a negative declaration, the Building Official may approve the permit where the proposed grading is in conformity with applicable provisions of this title; provided:
- (1) The Building Official may require that grading operations and project designs be modified if delays occur that result in weather-generated problems not considered at the time the permit was issued.
 - (2) Where a negative declaration for a grading permit has identified mitigation measures necessary to reduce environmental impacts, such mitigation measures are to be applicable to the approved grading permit and grading operations as conditions of approval.
- d. Application processing for appealable development:** Where grading activities are appealable to the Coastal Commission pursuant to Section 23.01.043, the grading permit shall be processed as a Minor Use Permit (Section 23.02.033).
- e. Criteria for approval:** A grading permit may be issued only where the Building Official first finds, where applicable, that:
- (1) The extent and nature of proposed grading is appropriate to the use proposed, and will not create site disturbance to an extent greater than that required for the use;
 - (2) Proposed grading will not result in erosion, stream sedimentation, or other adverse off-site effects or hazards to life or property;
 - (3) The proposed grading will not create substantial adverse long-term visual effects visible from off-site.
 - (4) Proposed drainage measures have been approved by the County Engineer.
- f. Grading permit time limits:**
- (1) An approved grading permit is valid for a period of 120 days from the effective date of the permit, after which the permit shall expire unless:
 - (i) Grading has begun.
 - (ii) An extension has been granted as set forth in subsection f of this section.

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- (2) Where grading has been commenced within 120 days of permit issuance, grading operations are to be completed within 120 days from the date of commencement of grading unless an extension has been granted (subsection f), or the initial approval specifies a longer term for completion.

- g. Extension of grading permit:** Any permittee holding an unexpired grading permit may apply for an extension of the time within which grading operations are to be begun or completed, pursuant to Section 19.04.034 of the Building and Construction Ordinance, Title 19 of this code.

23.05.032 - Commencement and Completion of Grading:

All grading operations for which a permit is required are subject to inspection by the Building Official, and are to be completed in accordance with the following provisions:

- a. Inspection:** Where required by the Building Official, grading operations are to be conducted only while under the inspection of the Building Official, as set forth in Section 7014 of the Uniform Building Code, provided the Building Official may waive this requirement where inspection is conducted by another public agency or where the Building Official determines the nature and extent of proposed grading does not need continuous inspection.
- b. Independent testing:** The Building Official may require inspection and testing by an approved testing agency, and is responsible for coordination of the parties to all grading activities, including the civil engineer, soils engineer, and engineering geologist (where required), the grading contractor and the testing agency.
- c. Bonding:** Guarantees of performance may be required by the Building Official as set forth in Section 7008 of the Uniform Building Code and Section 23.02.060 of this title.
- d. Completion of work:** Completion of grading operations is to occur in accordance with Section 7015 of the Uniform Building Code.

23.05.034 - Grading Standards:

All excavations and fills, whether or not subject to the permit requirements of this title, shall be conducted in accordance with the provisions of Sections 7009 through 7013 of the Uniform Building Code, and the following standards:

- a. Area of cuts and fills:** Cuts and fills shall be limited to the minimum amount necessary to provide stable embankments for required parking areas or street rights-of-way, structural foundations, and adequate residential yard area or outdoor storage or sales area incidental to a non-residential use.
- b. Grading for siting of new development.** Grading for the purpose of creating a site for a structure or other development shall be limited to slopes less than 20% except:
- (1) Existing lots in the Residential Single-Family category, if a residence cannot feasibly be sited on a slope less than 20%; and
 - (2) When grading of an access road or driveway is necessary to provide access to building site with less than 20% slope, and where there is no less environmentally damaging alternative; and
 - (3) **Grading adjustment.** Grading on slopes between 20% and 30% may occur by Minor Use Permit or Development Plan approval subject to the following:
 - (i) The applicable review body has considered the specific characteristics of the site and surrounding area including: the proximity of nearby streams or wetlands, erosion potential, slope stability, amount of grading necessary, neighborhood drainage characteristics, and measures proposed by the applicant to reduce potential erosion and sedimentation.
 - (ii) Grading and erosion control plans have been prepared by a registered civil engineer and accompany the request to allow the grading adjustment.
 - (iii) It has been demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area.
 - (iv) It has been found that there is no other feasible method of establishing an allowable use on the site without grading on slopes between 20% and 30%.
- c. Grading adjacent to Environmentally Sensitive Habitats.** Grading shall not occur within 100 feet of any Environmentally Sensitive Habitat as shown in the Land Use Element except:
- (1) Where a setback adjustment has been granted as set forth in Sections 23.07.172d(2) (Wetlands) or 23.07.174d(2) (Streams and Riparian Vegetation) of this title; or

- (2) Within an urban service line when grading is necessary to locate a principally permitted use and where the approval body can find that the application of the 100-foot setback would render the site physically unsuitable for a principally permitted use. In such cases, the 100-foot setback shall only be reduced to a point where the principally-permitted use, as modified as much as practical from a design standpoint, can be located on the site. In no case shall grading occur closer than 50 feet from the Environmentally Sensitive Habitat or as allowed by planning area standard, whichever is greater.
- d. Landform alterations within public view corridors.** Grading, vegetation removal and other landform alterations shall be minimized on sites located within areas determined by the Planning Director to be a public view corridors from collector or arterial roads. Where feasible, contours of finished grading are to blend with adjacent natural terrain to achieve a consistent grade and appearance.
- e. Final contours:** Contours, elevations and shapes of finished surfaces are to be blended with adjacent natural terrain to achieve a consistent grade and natural appearance. Border of cut slopes and fills are to be rounded off to a minimum radius of five feet to blend with the natural terrain.
- f. Grading near watercourses:** Grading, dredging or diking (consistent with Section 23.07.174) shall not alter any intermittent or perennial stream, or natural body of water shown on any USGS 7-1/2 minute map, except as permitted through approval of a county drainage plan and a streambed alteration permit from the California Department of Fish and Game issued under Sections 1601 or 1602 of the Fish and Game Code. (Additional standards are contained in Sections 23.07.172 through 174 of this title.) Watercourses shall be protected as follows:
- (1) Watercourses shall not be obstructed unless an alternate drainage facility is approved.
 - (2) Fills placed within watercourses shall have suitable protection against erosion during flooding.
 - (3) Grading equipment shall not cross or disturb channels containing live streams without siltation control measures approved by the County Engineer in place.
 - (4) Excavated materials shall not be deposited or stored in or alongside a watercourse where the materials can be washed away by high water or storm runoff.

g. Revegetation: Where natural vegetation has been removed through grading in areas not affected by the landscape requirements (Section 23.04.180 et seq. - Landscape, Screening and Fencing), and that are not to be occupied by structures, such areas are to be replanted as set forth in this subsection to prevent erosion after construction activities are completed. [Amended 1993, Ord. 2649]

- (1) **Preparation for revegetation:** Topsoil removed from the surface in preparation for grading and construction is to be stored on or near the site and protected from erosion while grading operations are underway, provided that such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved. After completion of such grading, topsoil is to be restored to exposed cut and fill embankments or building pads to provide a suitable base for seeding and planting.
- (2) **Methods of revegetation:** Acceptable methods of revegetation include hydro-mulching, or the planting of rye grass, barley or other seed with equivalent germination rates. Where lawn or turf grass is to be established, lawn grass seed or other appropriate landscape cover is to be sown at not less than four pounds to each 1,000 square feet of land area. Other revegetation methods offering equivalent protection may be approved by the Building Official. Plant materials shall be watered at intervals sufficient to assure survival and growth. Native plant materials are encouraged to reduce irrigation demands. Where riparian vegetation has been removed, riparian plant species shall be used for revegetation.
- (3) **Timing of revegetation measures:** Permanent revegetation or landscaping should begin on the construction site as soon as practical and shall begin no later than six months after achieving final grades and utility emplacements.

23.05.036 - Sedimentation and Erosion Control:

a. Sedimentation and erosion control plan required: Submittal of a sedimentation and erosion control plan for review and approval by the County Engineer is required when:

- (1) Grading requiring a permit is proposed to be conducted or left in an unfinished state during the period from October 15 through April 15; or
- (2) Land disturbance activities, including the removal of more than one-half acre of native vegetation are conducted in geologically unstable areas, on slopes in excess of 30%, on soils rated as having severe erosion hazard, or within 100 feet of any water course shown on the most current 7-1/2 minute USGS quadrangle map.

- (3) The placing or disposal of soil, silt, bark, slash, sawdust or other organic or earthen materials from logging, construction and other soil disturbance activities above or below the anticipated high water line of a watercourse where they may be carried into such waters by rainfall or runoff in quantities deleterious to fish, wildlife or other beneficial uses.

When a sedimentation and erosion control plan is required, none of the activities described in subsections a(1) through a(3) above shall be commenced until such plan is approved by the County Engineer pursuant to this section.

- b. Sedimentation and erosion control plan preparation and processing:** Sedimentation and erosion control plans shall address both temporary and final measures and shall be submitted to the County Engineer for review and approval. When such plans are required, they shall be prepared by a registered civil engineer or other qualified professional approved by the County Engineer. Such plans shall be prepared in accordance with the San Luis Obispo County Standard Improvement Specifications and Drawings. Sedimentation and erosion control plans may be incorporated into and approved as part of a grading, drainage or other improvement plan, but must be clearly identified as a sedimentation and erosion control plan. Selection of appropriate control measures shall be based upon evaluation of project design, site conditions, pre-development erosion rates and the environmental sensitivity of adjacent areas.
- c. Plan check, inspection, and completion:** Where required by the County Engineer, the applicant is to execute a plan check and inspection agreement with the county and the sedimentation and erosion control facilities inspected and approved before a certificate of occupancy is issued.
- d. Sedimentation and erosion control measures:** The control of sedimentation and erosion shall include but is not limited to the use of the following:
 - (1) Slope surface stabilization:**
 - (i) Temporary mulching, seeding or other suitable stabilization measures approved by the County Engineer shall be used to protect exposed erodible areas during construction.
 - (ii) Earth or paved interceptors and diversions shall be installed at the top of cut or fill slopes where there is a potential for erosive surface runoff.

- (2) **Erosion and sedimentation control devices:** In order to prevent polluting sedimentation discharges, erosion and sediment control devices shall be installed as required by the County Engineer for all grading and filling. Control devices and measures that may be required include, but are not limited to energy absorbing structures or devices to reduce the velocity of runoff water.
- (3) **Final erosion control measures:** Within 30 days after completion of grading, all surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity that alters natural vegetative cover, are to be revegetated to control erosion, unless covered with impervious or other improved surfaces authorized by approved plans. Erosion controls may include any combination of mechanical or vegetative measure, including those described in USDA Soil Conservation Service Bulletin 347.

e. **Off-site effects.** Grading operations shall be conducted to prevent damaging effects of erosion, sediment production and dust on the site and on adjoining properties.

23.05.038 - Appeal:

Any determination as to conformance with the grading standards in this chapter may be appealed to the Board of Supervisors in accordance with the procedure set forth in Section 23.01.042a of this title.

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23.05.039 - Nuisance and Hazard Abatement:

Existing grading that has become hazardous to life or property is subject to Section 7004 of the Uniform Building Code. Any grading performed in violation of this section shall be deemed a nuisance, and full abatement and restoration may be required and an assessment of cost may be levied in accordance with Chapter 23.10 (Enforcement).

23.05.040 - Drainage:

Standards for the control of drainage and drainage facilities provide for designing projects to minimize harmful effects of storm water runoff and resulting inundation and erosion on proposed projects, and to protect neighboring and downstream properties from drainage problems resulting from new development. The standards of Sections 23.05.042 through 23.05.050 are applicable to projects and activities required to have land use permit approval.

23.05.042 - Drainage Plan Required:

No land use or construction permit (as applicable) shall be issued for a project where a drainage plan is required, unless a drainage plan is first approved pursuant to Section 23.05.046. Drainage plans shall be submitted with or be made part any land use, building or grading permit application for a project that:

- a.** Involves a land disturbance (grading, or removal of vegetation down to duff or bare soil, by any method) of more than 40,000 square feet; or
- b.** Will result in an impervious surface of more than 20,000 square feet; or
- c.** Is subject to local ponding due to soil conditions and lack of identified drainage channels; or
- d.** Is located in an area identified by the County Engineer as having a history of flooding or erosion that may be further aggravated by or have a harmful effect on the project; or
- e.** Is located within a Flood Hazard (FH) combining designation; or
- f.** Involves land disturbance or placement of structures within 50 feet of any watercourse shown on the most current USGS 7-1/2 minute quadrangle map; or
- g.** Involves hillside development on slopes steeper than 10 percent.

- h. May, by altering existing drainage, cause an on-site erosion or inundation hazard, or change the off-site drainage pattern, including but not limited to any change in the direction, velocity, or volume of flow.
- i. Involves development on a site adjacent to any coastal bluff.

[Amended 1995, Ord. 2715]

23.05.043 - Environmental Determination Required.

In any case where a drainage plan is required by Section 23.05.042 and an environmental determination is not otherwise required by Section 23.02.033 (Minor Use Permit), Section 23.02.034 (Development Plan), Chapter 23.07 (Combining Designations), or Section 23.05.030 (Grading Permit Review and Approval), the project application is to be subject to an environmental determination as set forth in Section 23.02.034b(1) before a decision to approve the application, except for single-family residences which are exempt from the provisions of CEQA.

[Amended 1995, Ord. 2715]

23.05.044 - Drainage Plan Preparation and Content:

Drainage plans shall be neatly and accurately drawn, at an appropriate scale that will enable ready identification and recognition of submitted information. The County Engineer may require drainage plans to be prepared by a registered civil engineer.

- a. **Basic drainage plan contents:** Except where an engineered drainage plan is required, a drainage plan is to include the following information about the site:
 - (1) Flow lines of surface waters onto and off the site.
 - (2) Existing and finished contours at two-foot intervals or other topographic information approved by the County Engineer.
 - (3) Building pad, finished floor and street elevations, existing and proposed.
 - (4) Existing and proposed drainage channels including drainage swales, ditches and berms.

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- (5) Location and design of any proposed facilities for storage or for conveyance of runoff into indicated drainage channels, including sumps, basins, channels, culverts, ponds, storm drains, and drop inlets.
- (6) Estimates of existing and increased runoff resulting from the proposed improvements.
- (7) Proposed erosion and sedimentation control measures.
- (8) Proposed flood-proofing measures where determined to be necessary by the County Engineer.

b. Engineered plan content: Engineered drainage plans are to include an evaluation of the effects of projected runoff on adjacent properties and existing drainage facilities and systems in addition to the information required by subsection a of this section.

23.05.046 - Drainage Plan Review and Approval:

All drainage plans are to be submitted to the County Engineer for review, and are subject to the approval of the County Engineer, prior to issuance of a land use or construction permit, as applicable. Actions of the County Engineer on drainage plans may be appealed to the Board of Supervisors in accordance with the procedure set forth in Section 21.01.042a of this title; except that where the site is within a Flood Hazard combining designation, the procedure described in Section 23.07.066d shall be used.

23.05.048 - Plan Check, Inspection and Completion:

Where required by the County Engineer, a plan check and inspection agreement is to be entered into and the drainage facilities inspected and approved before a certificate of occupancy is issued.

23.05.050 - Drainage Standards:

a. Design and construction. Drainage systems and facilities subject to drainage plan review and approval that are to be located in existing or future public rights-of-way are to be designed and constructed as set forth in the county Engineering Department

Standard Improvement Specifications and Drawings. Other systems and facilities subject to drainage plan review and approval are to be designed in accordance with good engineering practices.

- b. Natural channels and runoff.** Proposed projects are to include design provisions to retain off-site natural drainage patterns and, when required, limit peak runoff to predevelopment levels.
- c. Areas subject to flooding.** Buildings or structures are not permitted in an area determined by the County Engineer to be subject to flood hazard by reason of inundation, overflow, high velocity or erosion, except where such buildings or structures are in conformity with the standards in Section 22.07.066 of this title and provisions are made to eliminate identified hazards to the satisfaction of the County Engineer. Such provisions may include providing adequate drainage facilities, protective walls, suitable fill, raising the floor level of the building or by other means. The placement of the building and other structures (including walls and fences) on the building site shall be such that water or mudflow will not be a hazard to the building or adjacent property. The County Engineer in the application of this standard shall enforce as a minimum the current federal flood plain management regulations as defined in the National Flood Insurance Program, authorized by U.S. Code Sections 4001-4128 and contained in Title 44 of the Code of Federal Regulations Part 59 et seq., which are hereby adopted and incorporated into this title by reference as though they were fully set forth here.
- d. Development adjacent to coastal bluffs.** The drainage plan shall incorporate measures to minimize increased erosion to the coastal bluff as a result of development.

23.05.060 - Tree Removal.

The purpose of these standards is to protect existing trees and other coastal vegetation from indiscriminate or unnecessary removal consistent with Local Coastal Plan policies and pursuant to Section 30251 of the Coastal Act which requires protection of scenic and visual qualities of coastal areas. Tree removal means the destruction or displacement of a tree by cutting, bulldozing, or other mechanical or chemical methods, which results in physical transportation of the tree from its site and/or death of the tree.

23.05.062 - Tree Removal Permit Required.

No person shall allow or cause the removal of any tree without first obtaining a tree removal permit, as required by this section:

23.05.062

a. When required. Plot Plan approval (Section 23.02.030), is required before the removal or replacement of any existing trees except for tree removal under circumstances that are exempt from tree removal permit requirements pursuant to subsection b. of this section, and except for the following types of tree removal, which are instead subject to Minor Use Permit approval:

- (1) Riparian vegetation near any coastal stream or wetland. (See Section 23.07.174 for additional standards);
- (2) Proposed for removal when not accompanied by a land use permit for development;
- (3) Located in any appealable area as defined by Section 23.01.043c;
- (4) Located in any Sensitive Resource Area (where the identified resources are trees) as shown on official combining designation maps (Part III of Land Use Element);
- (5) Where tree cutting will cumulatively remove more than 6,000 square feet of vegetation as measured from the canopy of trees removed.

b. Exceptions to tree removal permit requirements. A tree removal permit is not required for the removal of trees that are:

- (1) Identified and approved for removal in an approved land use permit or approved subdivision improvement drawings, provided that such removal is subject to the standards of Section 23.05.064 (Tree Removal Standards); or
- (2) In a hazardous condition which presents an immediate danger to health or property; or
- (3) With trunks measuring less than eight inches in diameter at four feet above grade; or
- (4) To be removed in preparation for agricultural cultivation and crop production in an Agriculture land use category.
- (5) To be removed as part of management practice in orchards of commercial agricultural production.

**PREAMBLE TO THE GRADING, DRAINAGE, AND EROSION CONTROL
ORDINANCE REQUIREMENTS**

INTRODUCTION: San Luis Obispo County provides an ideal environment in which to live, work, and vacation. The area's natural beauty and abundant resources support a variety of plants and animals and a wide range of human activities including agriculture, fishing, tourism, development, a wide variety of business enterprises, recreation, and incomparable surroundings for day-to-day living.

The Board of Supervisors finds that the regulation of grading activities in the County are necessary to protect and preserve life, limb, health, property, and public welfare.

The general intent of the grading regulations include:

- a. **Minimize Hazards to Life and Property.** The primary test of proper grading technique and the review and inspection process remains the goal of minimizing the impacts resulting from earthquakes and of high rainfall. In addition, however, isolated impacts resulting from slope instability or settlement can cause full or partial loss of individual structures and/or property.

Experience throughout California has shown that loss of life and property damage that result from geologic hazards and man-made conditions can be significantly reduced by the creation and enforcement of modern grading ordinances and building codes. The Grading Ordinance establishes a regulatory "loss-reduction" program, based on Chapter 33 of the Uniform Building Code, to review, approve, modify, or restrict proposed grading and excavation activities.

- b. **Reduce Erosion of Top Soil and Siltation.** The topsoil of San Luis Obispo County is slowly being carried into the ocean by the waters of our rivers and streams. Although erosion is a natural process which occurs at varying rates, earth-moving activities which do not include effective erosion and sediment controls can greatly accelerate the rate of soil loss and sediment build up. Accelerated erosion may be caused by improper construction and development practices, improperly designed roads, improper land use, inadequate drainage facilities, and improper farming, grazing and grading practices.

Soil particles are transported by a combination of runoff and wind. A brief, intensive storm can wash away a fraction of an inch of unprotected topsoil which took a lifetime to form. Eroded material accumulates in streams where it buries spawning areas, restricts groundwater recharge, makes water unsuitable for human use and reduces channel flood capacity. It creates problems not only by its presence in waterways, but also by its absence from the land. Most of the eroded material is valuable topsoil, containing nutrients necessary for plant growth. We all pay the costs of erosion: road and drainage channel repair and maintenance; reduced water supplies; drinking water treatment or filtration systems; and loss of the productivity and stability of land and waterways. To minimize these costs, the grading ordinance prohibits grading during the normal rainfall period between October 15 and April 15 unless an erosion and sediment control plan has been submitted, approved, and implemented. (For agricultural exemptions, please see Section 22.05.026c)

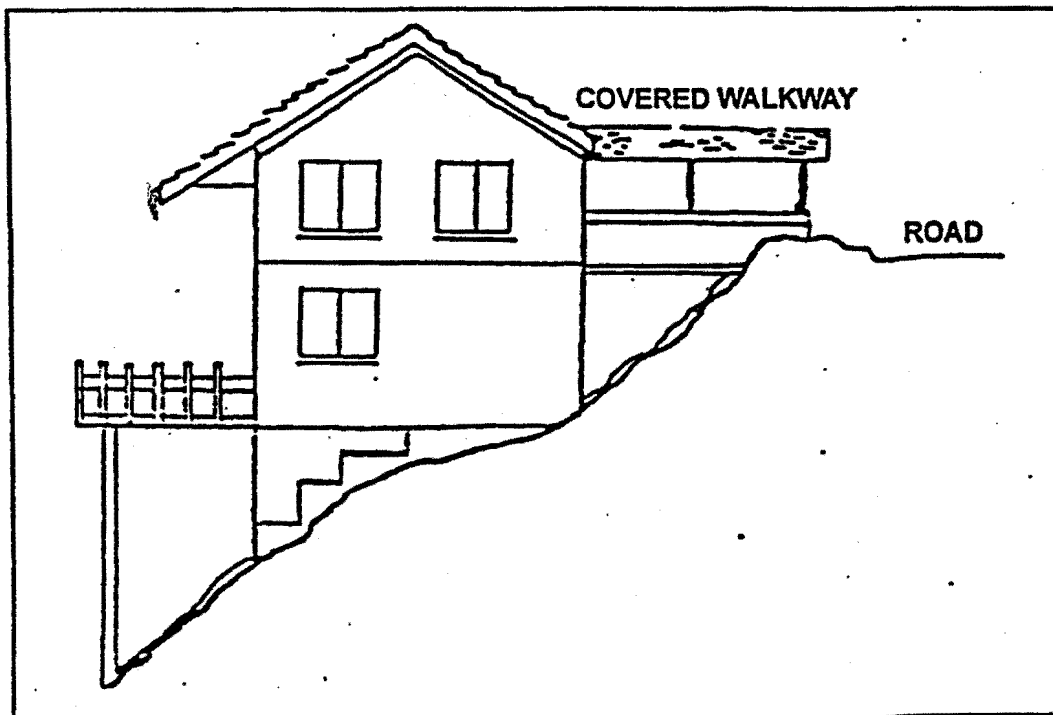
- c. **Protect Scenic Resources and Reduce Visual Impacts.** Grading activities directly modify land forms, sometimes to the extent that natural terrain is completely disfigured. Conventional hillside or mass-grading design standards often emphasize building site stability and runoff control, and omit aesthetics and environmental sensitivity. Mass grading often produces flat surfaces with linear or angular forms that bear no resemblance to the original topography. Consequently, mass

linear or angular forms that bear no resemblance to the original topography. Consequently, mass grading typically requires a grading permit and associated environmental review, where as designing projects to fit the land and disturb less area has less environmental effects and may not require a grading permit. The long-term visual impact of retaining walls, crib walls, drainage devices, and roads is often overlooked. Poor grading practices can create visual impacts that last for generations.

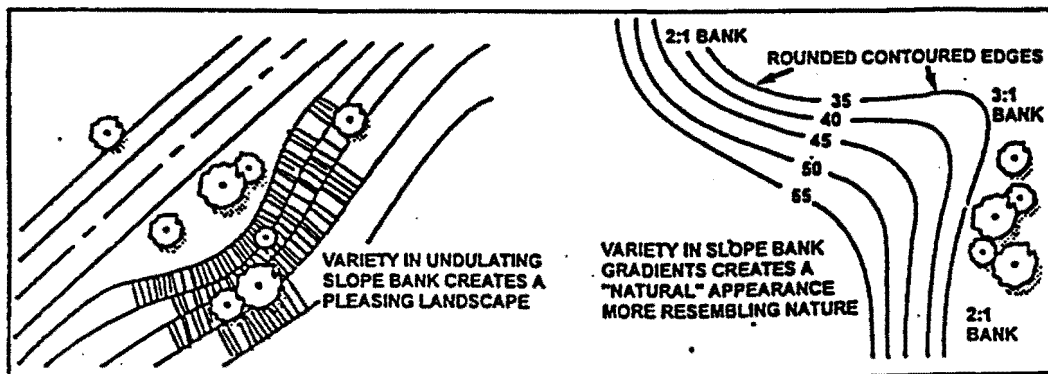
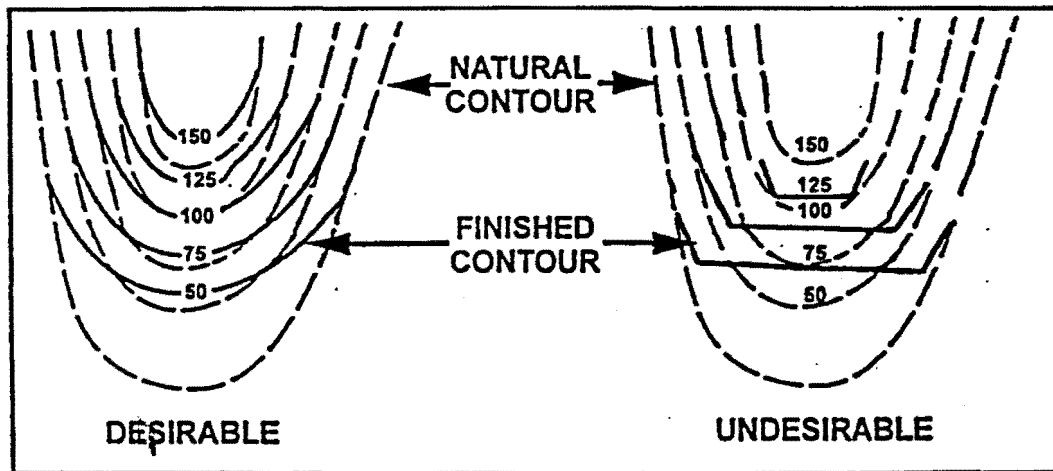
GOALS FOR GRADING, DRAINAGE AND EROSION CONTROL: The following goals are presented with the intent of clarifying the basic intent and objectives of the San Luis Obispo County grading program. They serve as design guidelines only. The design of grading and drainage has a significant affect on the functions of outdoor spaces, the contribution of storm runoff to recharge and flooding, the establishment and maintenance of plant materials, and the amount of water to be used in the landscape. Specific grading, drainage and erosion control standards, measures and requirements are contained in Section 22.05.040.

a. **Site Planning.**

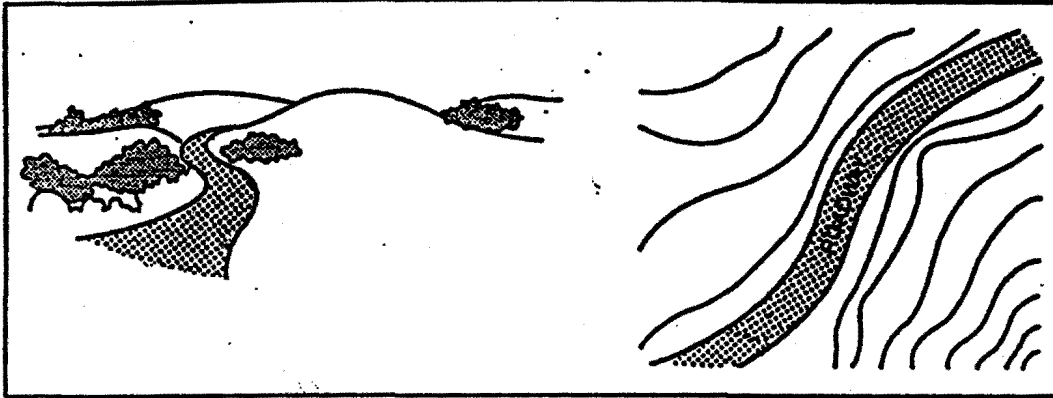
- (1) **Minimize Earth Work.** Design and locate roads, structures, and driveways to minimize cuts and fills. (It is understood, however, that increased grading may be appropriate or necessary in some limited situations to achieve smooth transitions, consistent grades, natural appearance, or other positive design goals.) Cutting into slopes makes them steeper and more erodible. Consider the length and steepness of the slope, soil type, upslope drainage area, and other applicable factors. Limit cuts and fills to the minimum amount necessary to provide stable embankments for proposed improvements. For example, stepped foundations, staggered floor levels and stairs or walkway entrances are ways to reduce slope cutting and erosion potential, in some instances. See the following example.



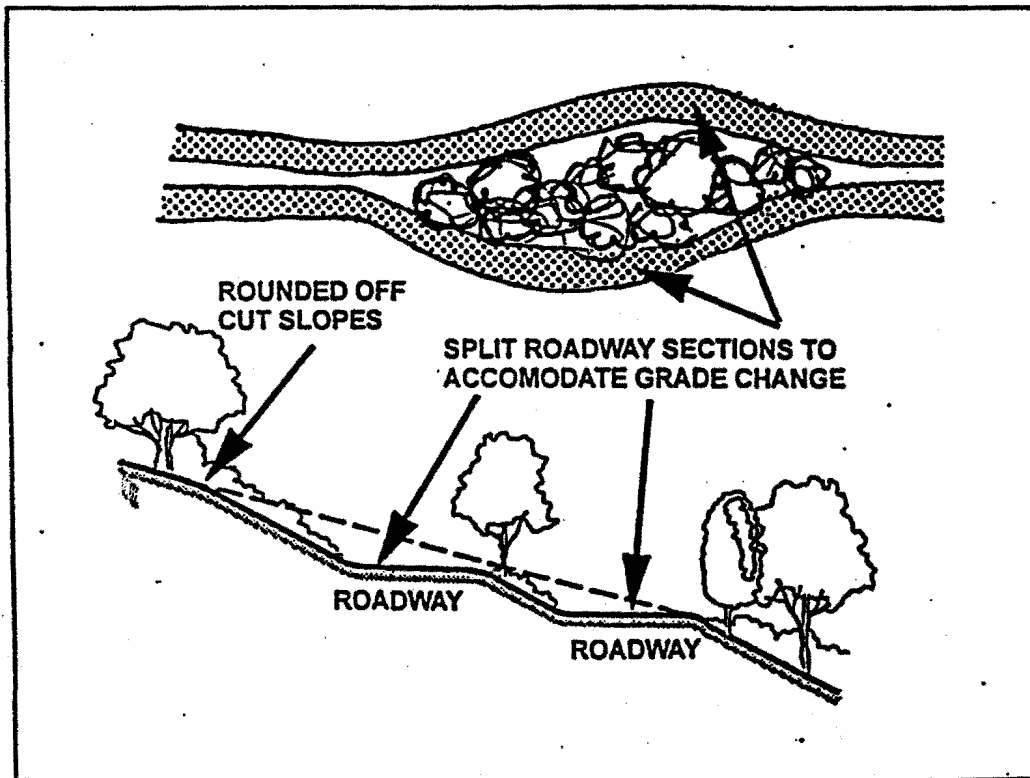
- (2) **Retention of Top Soil.** During grading and excavation, stockpile and protect topsoil for reapplication later. A layer about six inches thick is recommended where naturally available. Topsoil contains seeds of many native shrubs and grasses, as well as beneficial and important microorganisms. Topsoil replacement will enable planted grasses and shrubs to grow rapidly and thus better protect the soil.
- (3) **Review Soil Surveys.** Surveys available from the United States Department of Agriculture/ Natural Resources Conservation Service should be reviewed to determine the impact of disturbance on soils of the site. Large areas of San Luis Obispo County are prone to slips, slides, geologic hazards and constraints, and severe erosion problems. In many situations, it is impossible to effectively stabilize or protect the soil after disturbance occurs. Often, roads, building pads, or subdivisions are inappropriate and can lead to loss of soil, life, structures, or property. An on-site investigation by a certified soils scientist is recommended.
- (4) **Fit Development to the Site.** Shape building pads to conform to the landform or character of the topography. Design lots so that split-levels and divided unit buildings can reduce the amount of grading. Blend with the natural topography using smooth transitions, and avoid harsh or abrupt changes in topography or character. Blend contours, elevations, and shapes of finished surfaces with adjacent natural terrain to achieve a consistent grade and natural appearance. Avoid scars from cuts and fills and permanent scarring of hillsides. Preserve the existing natural scenic value and contours of the site to the maximum practical extent. See following illustrations.



- (5) **Carefully Design Roads.** Minimize the amount of disturbance by limiting the length and width of roads consistent with fitting sensitive development to site and state fire safety regulations. This will also reduce future maintenance costs in most cases. Roads should, whenever practical, parallel the existing contours and blend with the existing topographical conditions. Width of disturbance should be balanced with rounding of slopes, stability, drainage, and erosion potential. See the following diagram.



For example, where steeper terrain exists, a split-level road configuration can be utilized to minimize scarring. Split roadway sections to accommodate grade change are often more appropriate instead of mass grading for one level roadway. See the following diagram.



- (6) **Minimize Vegetation Removal.** Preserving trees and other natural ground cover helps maintain site stability and reduce erosion impacts and costs. Natural vegetation is the most efficient form of erosion control. Vegetation reduces erosion by absorbing raindrop impact, reducing runoff velocity and volume by increasing infiltration into the soil. For

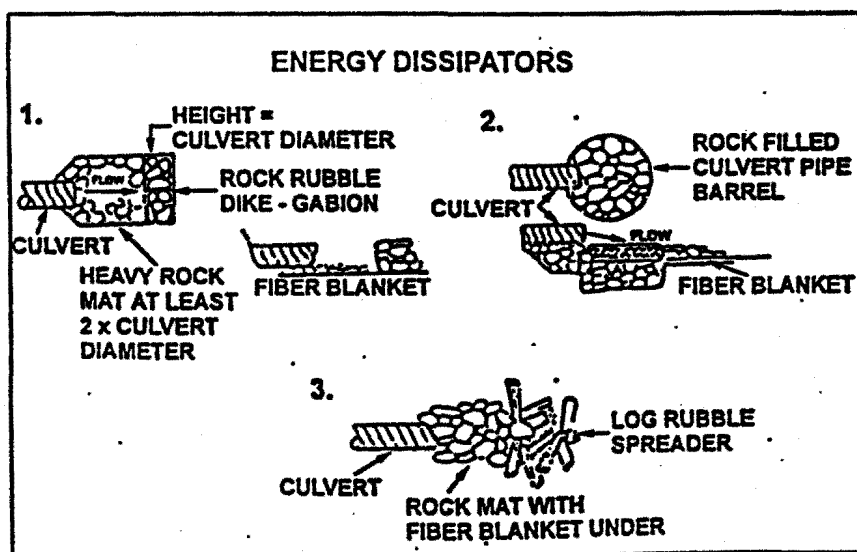
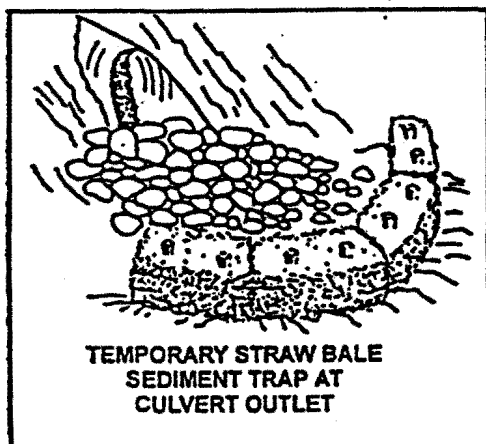
this reason locate driveways and buildings to minimize the need for site clearing. Clear only the minimum area required for construction and leave vegetation on the site as long as possible. It may take many years for new plantings to duplicate the character and sturdy root systems of mature trees and shrubs. It is recommended that the soil within 1.5 times the distance from trunk to dripline of retained trees remain undisturbed. Where it is not possible to avoid dripline disturbance, use accepted arborist's techniques to protect and preserve trees. If tree removal is required, revegetation should occur.

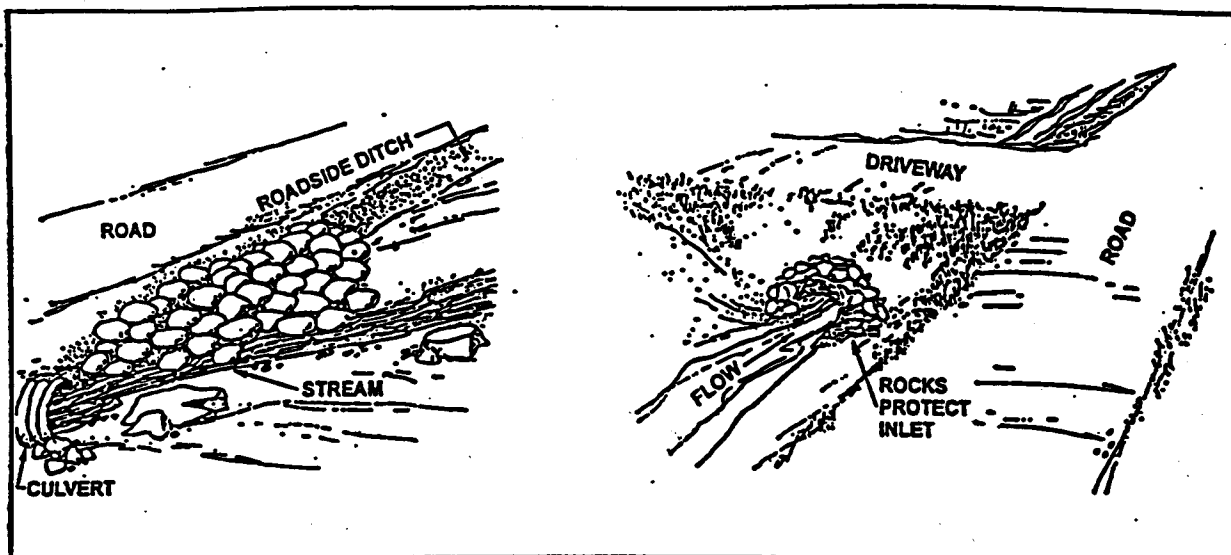
- (7) Avoid Steep Slopes and Ensure Slope Stability. Confine grading activities to the least critical areas of the site. Once steep areas are disturbed, the resulting erosion may be very difficult or impossible to stop. Long or steep slopes have high erosion potential. Design retaining walls, crib walls, drainage devices and other man-made slope stabilization measures to blend with the natural surroundings. Consider the long-term visual impact of engineered solutions. Shield with rock, landscaping, or other compatible materials to create a natural character that is compatible with surrounding land forms.
- (8) Minimize steep slopes, especially south facing ones. Steeper slopes are difficult to plant and maintain, as well as having a much lower success rate for plant survival. Steep slopes also reduce the effectiveness of irrigation systems where needed and increase the amount of water required for the success of plant material. South-facing slopes tend to be drier and harder to revegetate.
- (9) Proper Grading. All efforts should be made to reduce the potential for on-site and cumulative impacts from grading through obtaining appropriate grading permits and/or use of proper techniques to minimize soil and vegetation impacts and avoid unnecessary additional impacts associated with sedimentation and erosion and excessive removal of native vegetation.

b. Drainage.

- (1) Protect Natural Drainageways. Avoid disturbance of natural drainage-ways and don't obstruct or alter existing drainage courses without approval. Include design provisions that preserve off-site natural drainage patterns. The protection of natural drainageways, waterways, and erodible areas from project runoff during the design phase and construction are critical for the protection of our streams, coast line, and other aquatic habitats.
- (2) Keep Runoff Velocities Low. The energy of flowing water dramatically increases as velocity increases. If velocity doubles, the erosive energy quadruples, and the water can move particles 64 times as large. Velocities can be kept low by:
 - (i) Keeping low flow volumes (such as by preserving site vegetation or by dividing runoff into several channels rather than one).
 - (ii) Constructing grade stabilization structures within the channel such as flow barriers at frequent intervals.
 - (iii) Lining channels with rough materials, such as rocks. Rough materials and rocks must be installed properly in the bottom of lined channels so as not to cause a barrier that collects sediment, debris, etc.

- (3) Direct Runoff Away from Erodible Areas. On-site runoff should be minimized. Overflow runoff should be directed onto grassed waterways, well-vegetated areas, storm drains, paved areas, or other well-protected downstream areas not prone to erosion.
- (4) Protect Drainageways and Outlets from Increased Flows. Development changes the characteristics of runoff. When land is paved or vegetation is removed and soil is compacted by construction traffic, the volume of runoff increases. Runoff increases in velocity when flowing over hard or smooth surfaces such as packed earth or pavement. Grading usually causes runoff to concentrate in a single channel instead of being dispersed over a broad area. These changes in runoff will cause channel erosion unless protection measures are installed. It is best to design a project that prevents concentrated or altered drainage so that more costly channel protection measures are unnecessary. Common forms of protection are linings (loose rock, vegetation, grouted rock, concrete, asphalt), pipes or culverts, or outlet protectors (such as rock aprons and energy dissipators). See following diagrams.





NOTE: These artist's conceptual drawings reflect some, but not all options. The type of protective device required is quite often site specific. Each site should be looked at independently with specific site conditions dictating the appropriate type of inlet and outlet required.

- (5) **Evaluate the Need for Subsurface Drainage.** Design subsurface drainage systems to collect and safely disperse subsurface seepage flows that pose a threat to the integrity of structures, improvements, and roadways.
- (6) **Design Project to Enhance Groundwater Recharge.** Eighty-six percent of San Luis Obispo county's water supply is extracted from the ground. Most development that replaces natural vegetation with impervious surfaces or compacted soil reduces the ability of stormwater to percolate and recharge the aquifers. The easiest way to mitigate these impacts is to slow the increased runoff and provide adequate time for percolation to occur.
- (7) **Infiltrate Runoff from Impervious Surfaces.** On undisturbed land, a portion of the rainwater seeps into the ground. Roofs, paved walkways, driveways, and compacted soil limit infiltration. Grading plans must mitigate impacts from these runoff sources. These mitigations can include the use of pervious paving materials such as gravel filled cellular block or directing runoff to a properly designed subsurface infiltration system or retention pond. Roof runoff from gutters can discharge into a gravel filled pit. Runoff from steep slopes can be confined in a lined ditch and directed to a drywell or infiltration trench located along a slope contour or gradient line. If a driveway is on a steep slope, install a lined ditch to route the runoff to a dry well or to an infiltration trench located along a slope contour or gradient line.

c. Erosion and Sediment Control.

- (1) **Time Grading to Minimize Soil Exposure.** Most of California's annual rainfall occurs between October 15 and April 15. Thus, site disturbance activities should generally occur between April 15 and October 15 to minimize impacts. Sites with the potential to create erosion and sedimentation impacts that must be graded during the rainy season must have a pre-approved sedimentation and erosion control plan. Temporary measures are required to be in place before site disturbance begins and maintained throughout site development. Temporary vegetation should be established and maintained as soon as possible during the rainy season. (See agricultural exemptions in Section 22.05.026c).

- (2) **Stabilize Denuded Areas and Stockpiles.** Stabilizing denuded areas is almost always the most cost-effective way to control erosion and sedimentation. All stockpiles, cuts, fills and barren areas shall be protected by October 15 to reduce potential soil erosion and sedimentation. Acceptable methods to protect soil from the erosive forces of raindrop impact and flowing water include establishing vegetation, mulching, and the early application of gravel base on areas to be paved. Appropriate soil stabilization measures should be selected for the time of year, site conditions, and estimated duration. (See agricultural exemptions in Section 22.05.026c).
- (3) **Revegetation.** Design revegetation to achieve both short-term and long-term erosion control. Short term revegetation can be achieved using annual grasses and legumes to stabilize the site and improve soil fertility. Perennial grasses, shrubs, and trees may be phased in after the disturbed area is stabilized for long term erosion control. When disturbance is near sensitive habitats (e.g., creeks, wetlands), replanting with native stock (e.g. seed mixes, cuttings) should be considered. The plant mix should use commercially or locally available native stock that is representative of what is found within the nearby sensitive habitat.
- (4) **Native and Drought Tolerant Plant Materials.** Native and/or drought tolerant plant materials consistent with the water efficient landscape ordinance and fire safety regulations or methods included in the County Land Use Ordinance should generally be used for long-term revegetation. In most instances, this plant material will generally require much less water and also be more compatible with the undisturbed surrounding area.
- (5) **Trap Sediment on Site.** Some erosion during construction is unavoidable. Sediment-laden runoff must be detained on-site so that the soil particles can settle out before the runoff reaches a stream or neighboring property. Properly installed straw mulch or bales, planted vegetative filter strips, sandbags, sediment basins, silt fences, and traps are examples of acceptable control measures. Detained water will also have an opportunity to percolate to the groundwater aquifer.
- (6) **Protect Adjacent Property.** Protect adjacent and downstream land from erosion and sedimentation. This may be accomplished by preserving a well-vegetated filter strip around the lower perimeter of the land disturbance, by installing perimeter controls such as sediment barriers, dikes, silt fences, or sediment basins, and by leaving natural drainages in the affected area undisturbed and protected with existing vegetation. Protect adjacent and upstream land from headcutting type erosion. This may be accomplished by preserving a well-vegetated filter strip around the upper perimeter of the land disturbance by a heavy application of mulch to all disturbed bare ground, by installing interceptor and conveyance structures (around the upper perimeter), or a combination of these measures.

d. **Groundwater Recharge.**

- (1) **The Importance of Infiltrating Runoff from Impervious Surfaces.** Developed areas containing impervious surfaces experience more stormwater runoff and less infiltration than areas having natural groundcover. This increase in stormwater runoff can impact downstream properties and is addressed by proper design of project drainage systems. The reduction in groundwater recharge impacts everyone who utilizes the underlying groundwater basin and is addressed by limiting impervious areas and detaining runoff to enhance percolation.

EXHIBIT B

ORDINANCE NO.

AN ORDINANCE AMENDING TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE,
THE COASTAL ZONE LAND USE ORDINANCE,
SECTIONS 23.05.020 THROUGH AND INCLUDING 23.05.050
RELATING TO GRADING, DRAINAGE AND EROSION CONTROL

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Section 23.05.020 through and including 23.05.050 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby deleted and replaced by the following:

23.05.020 - Purpose And Intent of Grading Regulations: The Board of Supervisors expressly finds that the regulations, conditions and provisions of this ordinance constitute minimum grading standards and procedures necessary to protect and preserve life, limb, health, property, and public welfare. The following sections establish standards for grading and excavation activities to mitigate or effectively 1) reduce hazards to life and property, 2) reduce the harmful effects of storm water runoff, 3) reduce drainage problems from new development, 4) protect against erosion and sedimentation, 5) enhance slope stability, and 6) encourage groundwater recharge. In addition, this ordinance: 1) protects natural, scenic, and cultural resources; 2) provides for the safety, use, and stability of public rights-of-way and drainage channels; and 3) prevents related environmental damage to private and public property. Furthermore, the ordinance establishes the administrative procedure for issuance of permits and provides for approval of plans and inspection of grading construction.

23.05.022 - Administrative Procedures. All grading activities are to occur pursuant to the provisions of Chapters 29 and 33 of the currently adopted Uniform Building Code, which is hereby adopted and incorporated into this title by reference as though it were fully set forth herein. In the event of any conflict between the provisions of this chapter and Chapters 29 and 33 of the Uniform Building Code, this title shall apply.

23.05.024 - Grading Permit Required. Except as provided in Section 23.05.026b and c of this Chapter (exemption from permit requirements), no person shall perform any grading, including both excavation or fill, without first obtaining a grading permit for such work. A separate permit shall be required for each site. Contiguous sites being graded as one integrated project may be considered one site for purposes of this section.

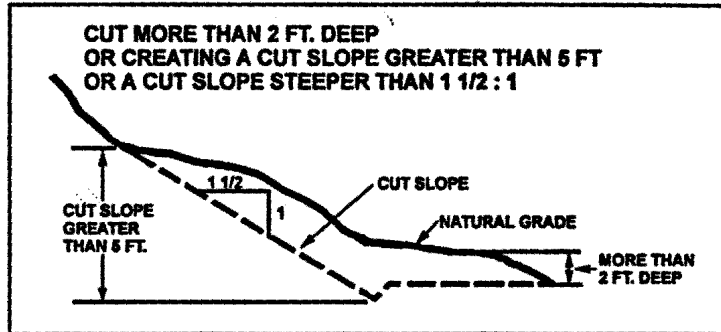
In granting any permit under this Chapter, the director and, where provided, the County Engineer, may impose such conditions as may be necessary to prevent creation of a nuisance or a hazard to public health, public safety, or public or private property or to assure conformity to the County General Plan.

a. **Grading.** For the purposes of this chapter, "grading" is defined as follows:

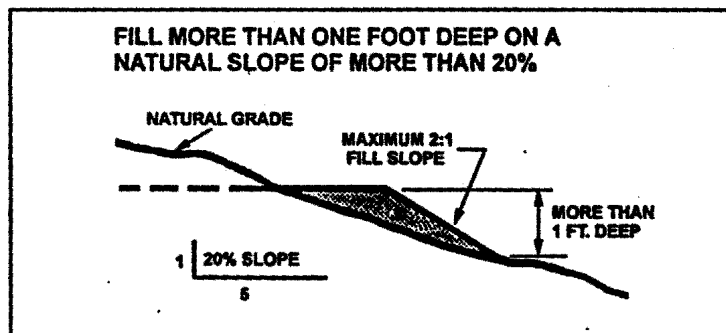
(1) All new earthwork that involves one or more of the following activities: excavations, fills, dams, reservoirs, impoundments, diking, dredging borrow pits, stockpiling, or compaction of fill where the amount of material cumulatively for any of the above mentioned operations exceeds 50 cubic yards; AND

(i) The excavation is more than two feet in depth, OR

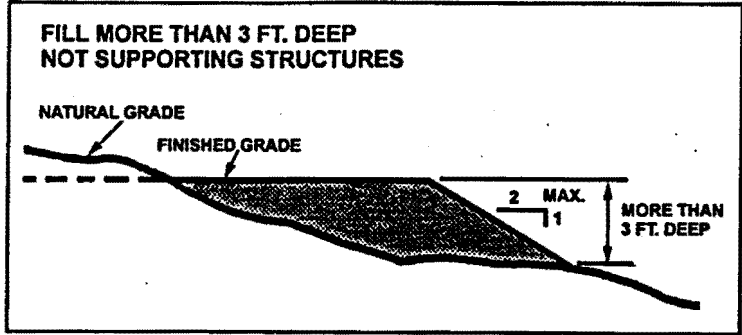
(ii) Creates a cut slope greater than five feet in height and steeper than one and one half horizontal to one vertical; OR



(iii) Where the grading is intended to support structures, the fill is more than one foot in depth and placed on natural terrain with a slope exceeding five horizontal to one vertical; OR



(iv) Where the grading is not intended to support structures, the fill is more than three feet in depth, and does not obstruct or alter a drainage course.



- b. **Timing of Approval.** A grading permit shall not be approved prior to the application for a building permit (if applicable), or prior to approval of a general plan amendment, land use permit or land division if such approvals are necessary to completion of any project on the same site or prior to required approval of any state or federal agencies.
- c. **Alternatives or Modifications to Approved Plans.** The issuance of a permit under this Chapter shall constitute an authorization to do only that work which is described or illustrated on the grading plans and erosion control plans or specifications approved by the director or drainage plans approved by the County Engineer. Any alternatives or modifications to approved plans must be approved by the director or, where applicable, the County Engineer.
- d. **Correction to Hazardous Condition.** Whenever the director determines that any existing excavation, constructed embankment or fill on land subject to County regulations has become a hazard to life and limb, endangers property, adversely affects the safety, use or stability of a public right-of-way or drainage channel, or creates a significant environmental impact, the owner of the property, or other person or agent in control of said property, upon receipt of written notice from the director, shall within the period specified therein, correct, repair or eliminate the condition and conform with the requirements of this code.
- e. **Professionals Qualified to Prepare Grading Plans.** Plans prepared for Minor Grading Plans (as defined by Section 23.05.030b) may be prepared by anyone who can accurately provide the necessary information for the application and site plan. This may include the applicant, a draftsperson, certified sedimentation and erosion control specialist or licensed individuals who are normally involved with a project such as a civil engineer, architect, landscape architect, or certified sediment and erosion control specialist. Should additional information be required due to unique physical characteristics of the site, this may require the information be prepared by the appropriate licensed professional.
- Plans prepared for an Engineered Grading Plan (as defined by Section 23.050.30c) may be prepared only by professionals licensed by the State of California to prepare grading and drainage plans. The assistance of other licensed professionals, and or a qualified individual approved by the county or those with specialized skills, is encouraged including landscape architects, soil engineers, geologists, engineering geologists, certified sediment erosion control specialists, botanists, biologists, and archaeologists.
- f. **Emergency Work.** Section 23.03.045 establishes the procedures for issuance of emergency permits in situations that constitute an emergency. Corrections, remedies and repairs made necessary by an emergency situation involving the sudden, unexpected occurrence of a break, rupture, flooding or breach of an existing facility which presents an immediate threat to life, health or property, may be made as required before the grading permits are applied for or issued. Written notification and a description of the work shall be submitted to the director as provided by Section 23.03.045. Permits for emergency work shall be applied for within 15 days of commencement of work. This shall include emergency work done under the Emergency Watershed Protection Program in cooperation with the USDA Natural Resources Conservation Service and the Resource Conservation Districts.
- g. **Request for Relief from Ordinance Provisions and Standards.**

- (1) A request for relief from the provisions of this chapter, grading permit conditions of

approval, or plan specifications, may be approved, conditionally approved, or denied by the director. A request for relief must state in writing the provision which is to be varied, the proposed substitute provision, when it would apply, and its advantages. The following findings shall be required to approve or conditionally approve a request for relief:

- (i) there are special individual circumstances or conditions affecting the property that make the strict letter of this ordinance impractical; and
 - (ii) No relief shall be granted unless the relief requested, is consistent with the purpose and intent of this chapter and does not diminish the health and safety benefits that would be obtained in the absence of a grant of relief.
- (2) The director may require additional information from professional engineering, engineering geology or geotechnical engineering or erosion control specialists opinions which are necessary to evaluate the requested relief.
 - (3) As contemplated in this section, the director may grant alternative methods of construction or modifications for projects which could be constructed under the basic standard established in this chapter, but which if relief is granted, can be better or equal to and more economically designed and constructed than if relief were not given. Relief shall not be granted if it would have the effect of allowing the construction of a project which would not be possible under the provisions of the county code without the relief.

- h. Professional Education Program.** In the event that the county adopts a Certification Program for grading contractors, where state law requires that earthwork, grading, excavation or fill be performed by a licensed contractor, that licensed contractor shall also be certified by San Luis Obispo County. Certification requirements shall be as established by the San Luis Obispo County Board of Supervisors, and may include, but not necessarily be limited to, satisfactory knowledge and understanding of the County Grading, Drainage and Erosion Control Ordinance, and/or familiarity with and continuing education in accepted grading, drainage, erosion and sedimentation control methods.

23.05.026 - Exemptions from Grading Permits.

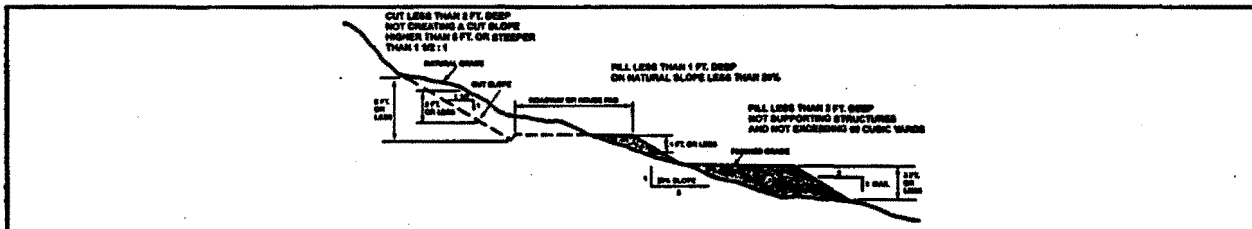
- a. Minimum Requirements to Determine Exempt Status.** The following considerations must be addressed in determining if grading activities qualify for an exemption under Section 23.05.026b (Non-agricultural exemptions) or Section 23.05.026c (Agricultural exemptions).
- (1) Grading activities are not exempt within a geologic study area as shown in the Land Use Element, except for agricultural grading as provided under Section 23.05.026c and geotechnical/geologic exploration.
 - (2) Grading activities shall receive any necessary approvals from other county, state or federal agencies whether the activity is exempt under this ordinance or not.
- b. Exempt Grading - Non-Agricultural.** The following section applies to all grading that

does not satisfy the description for agricultural grading pursuant to Section 23.05.026c.

- (1) Exemption from grading permit requirements. The following grading does not require a grading permit. Exempt grading activities must conform to the minimum standards identified in Section 23.05.026a.

(i) **Excavations or Fills.**

- (a) The excavation of material below finished grade for tanks, vaults, basements, retaining walls, swimming pools or footings of a building or structure where such excavations are authorized and under the provisions of a valid county building permit. This does not exempt any fill made with the material from such excavation.
- (b) Cemetery graves.
- (c) An excavation where the natural slope of the site is less than 20 percent and 1) less than two feet in depth, not exceeding 50 cubic yards of cumulative grading, or 2) does not create a cut slope greater than five feet in height, steeper than one and one-half horizontal to one vertical, not exceeding 50 cubic yards of cumulative grading (see following diagram).



- (d) A fill less than one (1) foot in depth, intended to support structures or improvements, placed on natural terrain with a slope flatter than five (5) horizontal to one (1) vertical. (See previous diagram.)

- (e) A fill less than three (3) feet in depth, NOT intended to support structures, and 1) placed on natural terrain with a slope flatter than five (5) horizontal to one (1) vertical, 2) does not exceed fifty (50) cubic yards on any one (1) lot, and 3) does not obstruct a drainage course. (See previous diagram.)
 - (f) Excavations or fills for construction associated with improvement plans for final subdivision maps or public projects conducted or approved by the County Engineering Department if consistent with the standards, guidelines and provisions identified in this chapter.
 - (g) Excavation or fill within a property dedicated, used, or to be used for cemetery purposes, unless grading is intended to support structures or affects natural drainage patterns.
 - (h) Maintenance and construction work within the prescribed easements of the San Luis Obispo County Flood Control and Water Conservation District as long as width, height, length or capacity is not increased.
- (ii) Exploratory Excavations.
- (a) Temporary holes or trenches for geological, geotechnical and archaeological exploration, (not to include construction or modification of required access roads), which meet all the following criteria:
 1. Affect or disturb areas less than 3,000 square feet in size;
 2. Do not involve more than a cumulative of 50 cubic yards of material;
 3. The natural slope of the site does not exceed 20 percent;
 4. Are under the direction and supervision of a soil engineer or engineering geologist or (where applicable) archaeologist;
 5. Does not result in impacts to archaeological resources or the removal of trees or native riparian or wetland vegetation, or rare, threatened or endangered species. After consultation with the Environmental Coordinator, on-site monitoring may be required.
 6. Holes or trenches are protected as required by occupational safety and health agency standards.

7. Effective erosion control measures are used as set forth in Section 23.05.040d for all disturbed areas to be protected, restored and revegetation established before October 15 or within 45 days after the completion of work. This 45 days may be extended where work is completed earlier in the year and an extension is necessary for rainfall to assist in site revegetation.
- (b) Provided the exemption specified in subsection (a) does not apply to such excavations in the following areas:
1. Any area designated as appealable pursuant to Section 23.01.043;
 2. Within an archaeologically sensitive area as shown in the Land Use Element;
 3. Within 100 feet of an Environmentally Sensitive Habitat as shown in the Land Use Element; Extensions of water or sewage service outside of an urban services line as shown in the Land Use Element.

(iii) **Excavations for Public Utility Connections.**

- (a) Excavations for the installation, testing, maintenance, or replacement of distribution or service facilities for utilities regulated by the California Public Utilities Commission, including electrical, water, or natural gas lines (not to include construction or modification of required access roads), which meet all the following criteria:
1. The natural slope of the excavated portion of the site does not exceed 20 percent;
 2. Does not involve removal of trees or native riparian or wetland vegetation, or rare, threatened or endangered species.
 3. Effective erosion control measures are used in accordance with Section 23.05.040d to protect, restore and revegetate all disturbed area within 45 days after the completion of work or before October 15;
- (b) Excavation and fill of trenches for utility lines not exceeding twenty-four (24) inches wide or an average of five feet deep, or holes for utility poles or anchors and limited accessory grading.

- (c) The initial excavation and fill necessary to effect such temporary repair or maintenance of oil, gas and utility lines as can be completed within seven days of commencement where such combined excavation and fill does not exceed a total of 100 cubic yards of material, effective erosion control and revegetation measures are used and the site restored.
- (d) Provided the exemption specified in subsection (a) does not apply to such excavations in the following areas:
1. Any area designated as appealable pursuant to Section 23.01.043;
 2. Within an archaeologically sensitive area as shown in the Land Use Element;
 3. Within 100 feet of an Environmentally Sensitive Habitat as shown in the Land Use Element;
 4. Extensions of water or sewage service outside of an urban services line as shown in the Land Use Element.
- (iv) **Clearing of Vegetation and Fuelbreaks.** Clearing of vegetation, (not to include tree removal or removal of vegetation and wildlife protected by the county, state or federal statutes as rare, threatened or endangered) in accordance with CDF recommendations for fuel reduction for forestry or fire protection purposes. Tree removal is governed by Section 23.05.060 of this ordinance.
- (v) **Routine Maintenance.** Routine maintenance of existing, exempt or previously-permitted roads or man-made, engineered flood control channels and levees, and public utility lines as provided in Section 23.05.026b(1)(iii) where width, length, or design capacity is not increased.
- (vi) **Water Wells, Tunnels, and Water Pipeline Maintenance.**
- (a) Excavations for wells, tunnels (except mining -- see Section 23.08.190 et seq.), and water pipeline maintenance (not to include grading for roadwork), disturbing an area which does not exceed an aggregate area of 1000 square feet or exceed total grading (cut plus fill) of 50 cubic yards.

Effective erosion control measures, revegetation, and site restoration are required.

(b) Provided the exemption specified in subsection (a) does not apply to such excavations in the following areas:

1. Any area designated as appealable pursuant to Section 23.01.043;
2. Within an archaeologically sensitive area as shown in the Land Use Element;
3. Within 100 feet of an Environmentally Sensitive Habitat as shown in the Land Use Element;
4. Extensions of water or sewage service outside of an urban services line as shown in the Land Use Element.

(vii) Removal of wind blown sand from ocean fronting properties including:

- (a) Routine maintenance of improved roads and unimproved stub ends streets, including the use of mechanized equipment for sand removal.
- (b) Routine maintenance of improved properties, including the use of mechanized equipment for sand removal in previously disturbed/improved areas.
- (c) Routine maintenance of unimproved areas impacted by wind-blown sand; however use of mechanized equipment is precluded. For work involving mechanized equipment, a coastal development permit is required and a grading permit (if the work exceeds the threshold for a permit--i.e. 50 cubic yards).

(viii) Miscellaneous.

- (a) Refuse disposal sites approved by the County Health Department under the authority of Government Code Sections 66770-66774.
- (b) Surface mining operations approved in accordance with Section 22.08.180 et seq (Surface Mining). However, for conversion of a commercial surface mine to site only use the mine is reclaimed according to the approved reclamation plan and will require a grading permit be obtained.
- (c) Grading that is a soil, water, and/or wildlife conservation/enhancement project for which a State Fish and Game Alteration Agreement and/or an Army Corp of Engineer permit has been secured and which has a design prepared or approved by, and is inspected and certified by the U. S. Natural Resource Conservation Service or the State of California, Department of Water Resources, Central Coast Regional Water Quality Control Board technical staff.

- c. **Exempt Grading Activities - Agricultural.** The county recognizes the importance of agriculture, the need for protection and conservation of agricultural activities and the use, education, and development of safe and environmentally responsible earthwork and erosion control practices. **Exempt grading activities must conform to the minimum standards identified in Section 23.05.026a.**

- (1) **Criteria for Exemption.** All agricultural grading shall meet the following standards:

- (i) All excavated material shall be placed on the same or contiguous parcels.
- (ii) Agricultural grading shall employ sound agricultural management measures and practices such as those recognized by USDA Natural Resource Conservation Service (NRCS) or Cooperative Extension that will not adversely affect slope stability, or groundwater recharge and will prevent off-site drainage, erosion and sedimentation impacts.
- (iii) Cut and fill slopes shall be successfully revegetated and maintained so that they complement continued, sound agricultural management practices such as those recognized by the USDA Natural Resource Conservation Service or the Cooperative Extension to encourage recharge and prevent erosion and sedimentation impacts.

- (2) **Exempt Agricultural Activities.** If the agricultural grading meets the minimum standards established in the section c(1) above, it may be determined to be exempt from a grading permit as follows:

- (i) **Level One:** These grading activities are exempt from the grading permit requirements of Section 23.05.024 or review by NRCS/RCD. Generally, these are on-going routine practices and maintenance activities related to agricultural uses. Appropriate management practices are encouraged to be incorporated in the design and construction such as those in the Field Operations Technical Guide (FOTG) for the USDA Natural Resource Conservation Service. *(The practices referenced in the identified activities are taken from the FOTG, a copy of which is available through the County Department of Planning and Building and the Resource Conservation District).*
 - (a) **Tillage Activities.** Tillage for the production of food and fiber, the growing of plants, and the raising and keeping of livestock.
 - (b) **Creation of New Fields or Range Improvement.** Agricultural grading to prepare new land for crop production on less than 30 percent slopes (includes Practices 202, 462, 464, 466--Field Operations Technical Guide) which employ sound management practices such as those recognized by USDA Natural Resource Conservation Service or University of California Cooperative Extension.

- (c) **Maintenance of Drainage Channels.** Routine maintenance of existing agricultural drainage channels provided that there is compliance with all applicable provisions of the California Department of Fish and Game.
 - (d) **Water Pipelines.** Installation and maintenance of water pipelines to service agricultural fields or livestock. These should be installed under proper practices recognized by the Natural Resources Conservation Service and the University of California Cooperative Extension Service.
 - (e) **Water Wells, Tunnels, and Water Pipeline Maintenance.** Excavations for wells, tunnels (except mining -- see Section 23.08.190 et seq), and water pipeline maintenance (not to include grading for roadwork), that permanently disturb an area which does not exceed an aggregate area of 1000 square feet or exceed total grading (cut plus fill) of 50 cubic yards). Effective erosion control measures, revegetation, and site restoration are required.
 - (f) **Maintenance of Existing Roads.** Routine maintenance of agricultural roads provided the maintenance does not increase the width of the road unless the widening does not exceed the grading criteria as specified in Section 23.05.026a.
 - (g) **Irrigation pit.** A small storage reservoir constructed to regulate or store a supply of water for irrigation and frost protection. (Practice 552A)
- (ii) **Level Two:** These grading activities are exempt from the grading permit requirements of Section 23.05.024 or the Resource Conservation District review required under Level Three when they incorporate and maintain specified applicable management practices as provided in the NRCS Field Operations Technical Guide.
- (a) Creation of hillside improvements on slopes less than 30 percent slopes including related drainage improvements, and trail and pathways serving the practice. (Includes practices 192, 423, 568, 575, and 600).
 - (b) Drainage and irrigation improvements related to improvements for crop production or range improvements. (Includes practices 335, 350, 356, 362, 412, 423, 447, 468, 554, 572, 587, 587A, 620, 638, 640).
 - (c) Streambank protection measures when using NRCS Practices and with appropriate Fish and Game licenses, Regional Water Quality Control permits, and Army Corp permits as required. (Includes practices 195, 204, 582, 584).
 - (d) Agricultural production support activities for trail and recreation enhancements of property. (Includes practices 566, 568).

- (e) Firebreaks where a strip of bare land or vegetation is designed to retard fire. (Practice 394).
- (f) **Soil, Water, or Wildlife Conservation Project.** Grading that is a soil, water, and/or wildlife conservation/enhancement project for which a State Department of Fish and Game Alteration Agreement and/or an Army Corp of Engineers permit has been secured and which has a design prepared or approved by, and is inspected and certified by the U. S. Natural Resource Conservation Service, or the California, Department of Water Resources, or the Central Coast Regional Water Quality Control Board technical staff.

While the above activities are exempt grading for the purposes of this county's ordinance, you may need to contact the Department of Fish and Game, Regional Water Quality Control Board, Army Corp, U.S. Fish and Wildlife Service or California Department of Forestry to ensure the activities conform to their permit or license requirements.

Existing state law requires stopping work and notification of the coroner in the event human remains are discovered. It is recommended that earth disturbing activities be avoided in areas of known or suspected burials or archaeological resources.

- (iii) **Level Three:** The following activities require a grading permit pursuant to Section 23.05.024 unless the applicant elects to use the alternative review, inspection, and sign-off through the Resource Conservation District (RCD) to ensure that appropriate management techniques are incorporated in the project design and construction.

For any Level Three agricultural grading the applicant may request that an alternative review procedure be used in lieu of the grading permit requirements of Section 23.05.030 et seq. The alternative review procedure allows grading to be approved, inspected, and signed-off through the Resource Conservation District (RCD) rather than through a grading permit reviewed by the Department of Planning and Building where it has been determined that the proposed agricultural grading is necessary and appropriate to support a recognized agricultural enterprise for the site and incorporates "best management practices".

- (a) Applicants electing the alternative review procedure shall submit a summary of the agricultural activity proposed and the manner in which it is to be accomplished for review by the Agricultural Commissioner's Office after consultation with the Resource Conservation District. The submittal shall meet all requirements of the Agricultural Commissioner's Office and Resource Conservation District (RCD) including:
 1. Applicant name, address, telephone numbers and agent information where applicable.

2. Site description and location information, physical address or description of the site location or vicinity map.
 3. Historical and current agricultural use of the site.
 4. Project description that includes an explanation of the need or purpose of the grading including how the grading benefits the overall agricultural operation and a site map that characterizes the need or purpose of the grading.
- (b) Activities that are determined to be inappropriate for the site or unnecessary for recognized legitimate agricultural purposes will require a grading permit and environmental review where appropriate.

(c) **Level III agricultural grading includes:**

1. **Offstream Dams and Reservoirs.** Proposed stock ponds and irrigation and frost protection ponds, that are in areas where the USGS map does not designate the site as a lake, marsh, perennial or intermittent "blue line" stream. (Including offstream practices 349, 378, 397, 400, 402, 404, 436, 552B). *This type of grading may require review by the Division of Water Rights and the Department of Fish and Game.*
2. **Slopes over 30 percent.** Hillside benches for orchards and vineyards on slopes over 30 percent. (Practice 192).
3. Waste management system improvements. (Including practices 313, 313B, 359). *This may require review by the Regional Water Quality Control Board, Air Pollution Control District, and Environmental Health.*

(iv) **Level Four: Grading Permit Required from Department of Planning and Building.** The following agricultural and associated grading requires the issuance of a grading permit subject to the requirements of Section 23.05.030 et seq.

- (a) Any excavation or fill to support a structure, (including agriculturally exempt buildings or structures, residential uses, etc.).
- (b) New agricultural roads used to support agricultural crop production, grazing or livestock production activities.
- (c) An access driveway from an existing road to a structure which requires a county construction permit (excluding sub-permits for electrical, plumbing, water wells, etc.)

- (d) Grading for areas which are to be used for nursery specialties that involve the use of a structure, or buildings for which a county construction permit may otherwise be required. Provided that grading to create areas for field grown crops shall be exempt as provided by Section 23.05.026d(2)(ii).
- (e) Grading for horse training, boarding or breeding facilities, horse tracks or arenas, or polo fields. This section applies only to these activities as they are defined in "Specialized Animal Facilities" and "Sports Assembly" (Part I of the Land Use Element/Local Coastal Plan Framework for Planning).
- (f) Major streambank/shoreline protection structures and runoff management systems. (Includes practices 570, 204, 580). *This will also require appropriate review by the Department of Fish and Game and the Army Corp of Engineers.*
- (g) **Instream dams and reservoirs.** This includes stock ponds, irrigation and frost protection ponds unless exempted by Section 23.05.030c(1). (This shall not include those exempt soil, water or wildlife conservation projects as provided in Level II (Section 23.05.026) or offstream exemptions as provided in Level III).
- (h) Grading to obtain source material for improvements on site, which are not covered under the provisions of the Surface Mining and Reclamation Act (SMARA).

23.05.028 - Fees: Fees for grading permits and grading, drainage, and erosion control plan checking shall be as set forth in the fee ordinance adopted by the Board of Supervisors. In accordance with the adopted fee schedule, the Director of Planning and Building may require payment of actual recorded costs, plus overhead, for those applications which will exceed county fees for processing, plan checking, administration, and/or inspection. This section supersedes Section 7007(b) of the Uniform Building Code.

23.05.030 - Grading Permit Requirements:

- a. **Grading Plan Content.** To apply for a grading permit, a plot plan application is to be submitted, together with the additional information required by this section. Where grading that requires a permit is proposed in conjunction with a site plan, minor use permit, or development plan request, those applications may be used to satisfy grading permit information requirements as long as all required information is submitted. This section modifies Section 3309 of the Uniform Building Code. Where a grading permit application proposes a project that is not otherwise subject to the land use permit requirements of Chapters 23.03 or 23.08 or other applicable sections of this title, grading permit approval certifies that the proposed project will satisfy all applicable provisions of this title and thereby constitutes approval of a coastal development permit. Where a grading permit is appealable to the Coastal Commission pursuant to Section 23.01.043, Minor Use Permit approval is also required as set forth in Section 23.02.033.

A grading permit application is to include a grading plan which includes the information specified by this section. A grading plan is to be legible and accurately drawn to scale using standard drafting techniques. Plans shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this chapter and all relevant codes and regulations. Plans shall include, but not be limited to, the following information unless waived by the director:

- (1) The name, address, and phone number of the owner and the person by whom the plans were prepared.
- (2) A description of the land upon which the work is to be performed, including Assessor's Parcel Number, street address, tract, block, and lot number.
- (3) An accurate location map showing the project in relation to the area or surrounding community.
- (4) An accurate map showing limits of grading activities.
- (5) **Contour Information.**
 - (i) For sites with slopes of 10 percent or less, generalized existing contours and drainage channels, including areas of the subject site (and adjoining properties) that will be affected by the disturbance either directly or through drainage alterations.
 - (ii) For sites with slopes greater than 10 percent and less than 30 percent, details of area drainage and accurate contours of existing ground at two-foot intervals; for slopes 30 percent or greater, contours at 5-foot intervals.
- (6) The location of all existing and proposed surface and subsurface drainageways and drainage systems on the site and adjacent property which may affect or be affected by the proposed project.
- (7) Elevations of the edge of pavement or road at driveway entrance.
- (8) Elevation of the finish floor of the garage or other parking areas and ground and finish floor elevations at the base of building corners.
- (9) The location of all existing and proposed buildings, structures, easements, groundwater recharge areas, wells or sewage disposal systems on site, and the approximate location of these items on adjacent property which are within 100 feet

of the property boundary or which may affect or be affected by the proposed project including any wetlands, coastal streams or riparian vegetation. Show spot elevations at corners of existing and proposed buildings or structures and lots where proposed grading will occur.

- (10) Any required retaining walls or other means of retaining cuts or fills.
- (11) An estimate of the volume of earth to be moved, expressed in cubic yards. This may require calculations to support the estimate if determined to be necessary. Specify amounts of cut and fill. Identify location of site(s) to receive fill, showing area and depth of fill. If excavated materials are exported provide statement of method of disposal and proposed location(s).
- (12) Proposed use of the site necessitating grading, where a land use permit has not been issued.
- (13) Location, description, type or topographic description of existing rock outcropping, natural feature, vegetation, wooded area or trees six inches or greater in diameter measured 4.5 feet above ground level proposed for disturbance and/or removal. Botanical, archaeological, or biological surveys prepared by qualified individuals may be required, if warranted. Show centerline of streams and flood plain lines, if applicable. Clearly identify on the plan the boundary and general characteristics of areas within which no disturbance will occur.
- (14) An estimate of the maximum and minimum vertical depth of cuts and fills, expressed in feet and cut and fill slope ratios.
- (15) An estimate of the total area of site disturbance, expressed in square feet or equivalent metric measurement. This total shall include all vegetation removal in addition to soil disturbance.
- (16) An estimate of total area in square feet or equivalent metric measurement of natural vegetation to be removed.
- (17) Other additional plans, drawings, calculations, or information deemed necessary by the director to adequately review, assess, and evaluate the proposed project's impacts and to show that the proposed work conforms with the requirements of this chapter and other applicable provisions of county code.

b. **Minor Grading Plan Requirements.** Where Section 23.05.026a requires a grading permit and the grading will involve less than 5,000 cubic yards; is located on slopes less than 20 percent; is not located within a Geologic Study Area or Flood Hazard combining designation, or less than 100 feet from any Environmentally Sensitive Habitat and is not located on soils identified on public soils surveys as being prone to slides or slippage, the application for a grading permit is to include the following, unless waived by the director:

- (1) All items required by Section 23.05.030a for a grading plan.
- (2) Photograph(s) (attached to plans) which clearly show area to be disturbed and

characteristics of site.

- (3) A copy of a soils map and soils descriptions covering the project site and adjacent properties (available for free through the USDA Natural Resource Conservation Service, Upper Salinas - Las Tablas and Coastal San Luis Resource Conservation Districts).
- (4) Clearly show the groundwater recharge methods that have been incorporated into the project design.
- (5) Proposed sequence and construction schedule of excavation, filling, stockpiling and other land disturbing activities.
- (6) A statement as to the specific intentions or ultimate purpose for which the grading is being performed.
- (7) Drainage plan if required per Section 23.05.032.
- (8) Compaction report, where a site is proposed to be filled to be used for a building pad.
- (9) **Erosion and Sedimentation Control Plan (Section 23.05.034).** Protective measures to be taken during construction, such as hydro-mulching, berms (temporary or permanent), interceptor ditches, subsurface drains, terraces, and/or sediment traps in order to prevent erosion of the cut faces of excavations or of the sloping surfaces of fills. (Such information shall be submitted in the form of a sedimentation and erosion control plan pursuant to Section 23.05.036, when required by that section.)
- (10) Intended means of revegetation, including the location, species, container size and quantity of plant materials proposed, and the proposed time of planting.
- (11) When required by the Director of Planning and Building, each application for a grading permit shall be accompanied by two sets of supporting data consisting of civil engineering report, soil engineering report, engineering geology report, erosion and sedimentation control report, and/or any other reports necessary. In many instances this information may be shown on the face of the plan.

Reports shall be prepared by qualified professionals with experience in report preparation and grading plan implementation. Recommendations included in the reports which are approved by the director shall be incorporated into the grading plan. See Section 23.05.030c, Engineered Grading Requirements.

- (12) **Work Schedule.** Prior to final permit issuance, submit the following information:
 - (i) Proposed grading schedule or construction sequence.
 - (ii) Proposed sequence of all erosion and sediment control methods, practices, and devices, and methods of cleaning and disposing of accumulated sediment collected by temporary and permanent sediment control devices.

- (iii) Amount of time needed to complete grading activities, and the number and types of earth moving equipment to be used.
- (iv) Testing, schedule for compacted fills.

(13) **Miscellaneous.**

- (i) A notation stating the amount and location of any material to be deposited in areas other than those shown on the plan.
- (ii) Proposed source(s) and amount of material to be used for fill from areas other than those shown on the plans. If the source changes due to other materials becoming available, this information shall be provided to the department as known.
- (iii) Proposed routes for hauling material, hours of work, and methods of controlling dust.

When the Director of Planning and Building has cause to believe that geologic hazards may be involved, minor grading shall be required to conform to engineered grading requirements.

c. **Engineered Grading Plan Requirements.** If the grading will involve 5,000 cubic yards or more, is located on slopes of 20 percent or greater, or is located within a Geologic Study Area or Flood Hazard area or within 100 feet of any Environmentally Sensitive Habitat, the grading plan is to be prepared and signed by a qualified registered civil engineer or other qualified professional licensed by the state to perform such work, and is to include specifications covering construction, inspection and material requirements in addition to the information required for minor grading (Section 23.05.030b). The following reports shall be required:

- (1) **Site and Drainage Report.** The Site and Drainage Report, shall include, but not be limited to:
 - (i) The date the report was prepared and the name, address, and phone number of firm or individual who prepared the report.
 - (ii) Hydrology calculations showing maximum peak discharges of water runoff for ten year and 100 year storm frequencies and comparison of runoff with and without project. Hydraulic calculations for existing down stream runoff conveyance systems that will be impacted by the proposed project runoff.

- (iii) Summary of the groundwater recharge methods that have been incorporated into the project design.
- (iv) Inspection and approval to establish lines and grades, design criteria for corrective measures, including the required safe storm drainage capacity of channels both on- and off-site; and
- (v) Soils, geology, or civil engineer's opinions and recommendations concerning adequacy of site to be developed by the proposed grading.
- (vi) Sequence and type of recommended inspections.

(2) **Geotechnical Report.** The Geotechnical Report, shall contain, but need not be limited to, all the following information:

- (i) The date the report was prepared and the name, address and phone number of firm or individual who prepared the report.
- (ii) Data regarding the nature, distribution, and strength of existing soils.
- (iii) Data regarding the nature, distribution, and strength of soil to be placed on the site, if any.
- (iv) Conclusions and recommendations for grading procedures.
- (v) Conclusions and recommended designs for interim soil stabilization devices and measures for permanent soil stabilization after construction is completed.
- (vi) Design criteria for corrective measures including buttress fills, when necessary.
- (vii) Identify existing cuts and fills on site, recommended measures for compaction, slope stability and other factors affecting suitability for support of a structure.
- (viii) Engineer's opinions and recommendations concerning adequacy for the intended use of site to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes.
- (ix) Sequence and type of recommended inspections.

(3) **Engineering Geology Report.** The Engineering Geology Report, shall contain, but need not be limited to, the following information:

- (i) The date the report was prepared and the name, address, and phone number of firm or individual who prepared the report.
- (ii) An adequate description of the geology of the site.

- (iii) Conclusions and recommendations regarding the effect of geologic conditions on the proposed development.
- (iv) An opinion on the adequacy for the intended use of site to be developed by the proposed grading, as affected by geologic factors.
- (v) Need for underground drainage devices or opportunities for underground recharge devices.
- (vi) Sequence and type of recommended inspections.
- (vii) If the proposed grading is for a habitable structure, and the geologist has identified evidence of recent fault ruptures occurring near the proposed structure, additional geological information will be necessary. The guidelines suggested in California Division of Mines and Geology Notes #49 or subsequent additions shall be used to prepare this supplemental report.

23.05.032 - Drainage Plan Required:

a. Requirement Criteria: The requirements of this section apply to all projects and activities required to have land use permit approval. Drainage plans are reviewed and approved by the County Engineer. Drainage plans are to be submitted with or be made part of the Plot Plan, Site Plan, Minor Use Permit, Development Plan or grading permit application for a project that:

- (1) Increases or decreases runoff volume or velocity leaving any point of the site beyond those that existed prior to site disturbance activities; or
- (2) Involves a land disturbance (grading, or removal of vegetation down to duff or bare soil, by any method) of more than 20,000 square feet; or
- (3) Will result in an impervious surface of more than 20,000 square feet; or
- (4) Is subject to local ponding due to soil or topographic condition and lack of identified drainage channel; or
- (5) Is located in an area identified by the County Engineer or building inspector as having a history of flooding or erosion that may be further aggravated by or have a harmful effect on the project or adjoining properties; or
- (6) Is located within a Flood Hazard (FH) combining designation; or
- (7) Is located over a known high recharge area identified by the County Engineer; or

- (8) Involves land disturbance or placement of structures within 100 feet of the top bank of any watercourse shown with a blue line on the most current USGS 7 ½ minute quadrangle map; or
- (9) Involves hillside development on slopes steeper than 10 percent; or
- (10) Involves alteration to any natural or other existing off-site drainage pattern, including but not limited to any change in the direction, velocity or volume of flow; or
- (11) Involves development on a site adjacent to any coastal bluff.

In any case where a drainage plan is required by Section 23.05.042 and an environmental determination is not otherwise required by Sections 23.02.033 or 23.03.034 (Minor Use Permit and Development Plan), Chapter 23.07 (Combining Designations), or Section 23.05.030 (Grading Permit Review and Approval), the project application is to be subject to an environmental determination as set forth in Section 23.02.034b(1) before a decision to approve the application, except for single-family residences which are categorically exempt from the provisions of CEQA.

b. **Drainage Plan Content.** Drainage plans are to be neatly and accurately drawn, at an appropriate scale that will enable ready identification and recognition of submitted information. The County Engineer may require drainage plans to be prepared by a registered civil engineer.

- (1) **Basic Drainage Plan Contents.** Except where an engineered drainage plan is required, a drainage plan is to include the following information about the site:
 - (i) Flow lines of surface and subsurface waters onto and off the site.
 - (ii) Existing and finished contours at two-foot intervals or other topographic information required by the County Engineer.
 - (iii) Building pad, finished floor and street elevations, existing and proposed.
 - (iv) Location and graphic representation of all existing and proposed natural and man made drainage facilities for storage or conveyance of runoff, including drainage swales, ditches, culverts and berms, sumps, sediment basins, channels, ponds, storm drains and drop inlets. In addition, private sewage disposal systems must be shown. Include detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with or as a part of the proposed work, together with a map showing the drainage area and hydraulic calculations showing the facilities flow carrying capacities and justifying the estimated runoff of the area served by any drain. Include design discharges and velocities for conveyance devices, and storage volumes of sumps, ponds, and sediment basins.
 - (v) Estimates of existing and increased runoff resulting from the proposed

improvements and methods for reducing velocity of any increased runoff.

- (vi) Methods for enhancing groundwater recharge that have been incorporated into the project design or an explanation of non-necessity of groundwater recharge for this site.
- (vii) Proposed flood-proofing measures where determined to be necessary by the County Engineer.

- c. **Engineered Plan Content.** Engineered drainage plans are to include an evaluation of the effects of projected runoff on adjacent properties and existing drainage facilities and systems in addition to the information required by subsection b. of this section.

23.05.034 - Erosion and Sedimentation Control Plan Required:

- a. **Requirements.** An erosion and sedimentation control plan shall be required as part of the grading permit application except when all of the following site characteristics exist:

- (1) Site has a maximum slope less than 10 percent in the area to be graded;
- (2) Site is not located within geologically unstable areas;
- (3) Site is located on soils rated as having a low erosion hazard by the USDA Soil Conservation Service (unless area building inspector is aware of the potential for erosion problems in the area).
- (4) Sites is located more than 300 feet from the top bank of any blue line water course or water feature shown on the most current 7 ½ minute USGS quadrangle map.
- (5) The grading will not cause organic or earthen materials from logging, construction or other land disturbance activities to be carried into a swale, drainageway, watercourse, or onto adjacent properties by rainfall or runoff in quantities deleterious to fish, wildlife or other beneficial uses.
- (6) Land disturbance activities, including the removal of less than one-half acre of native vegetation.
- (7) All grading and site disturbance activities will: 1) occur after April 15 and before October 15 and 2) will create minimal site disturbance.

- b. **Erosion and Sediment Control Plan Content.** An erosion and sediment control plan shall address both TEMPORARY and FINAL measures. Measures shall be in place to control erosion and sedimentation prior to the commencement of grading and site disturbance activities unless the director determines temporary measures to be unnecessary based upon location, site characteristics or time of year. Plans may be incorporated into and approved as part of a grading or drainage plan, but must be clearly identified as an erosion and sedimentation control plan. Erosion and sedimentation control plans are reviewed and approved by the Director of Planning and Building. The plan shall be prepared by a certified

sediment and erosion control specialist, a registered civil engineer, registered architect or landscape architect, certified California nurseryman, licensed landscape contractor, Resource Conservation District or USDA Natural Resource Conservation Service Specialist, or other qualified persons acceptable to the Department of Planning and Building with competence and experience in erosion control plan preparation and implementation.

The plan shall consist of graphic and narrative information of sufficient clarity to indicate the nature, extent, location and placement recommendations of the erosion and sedimentation control measures proposed and show in detail that they will conform to the provisions of this chapter. Selection of appropriate control measures shall be based upon evaluation of project design, site conditions, pre-development erosion rates and the environmental sensitivity of adjacent areas. The location of all practices, methods and devices shall be shown on the grading plan, or on a separate plan at the discretion of the director. If separate, it shall be attached to the grading plan used in the field. The plan shall contain, but need not be limited to, all the following information unless some of the information is waived by the director as not needed for the review of a particular site and its characteristics:

- (1) Grading limits shall be graphically defined on the plan and staked out before site disturbance begins.
- (2) Estimates of sediment yields before, during, and after construction of the project for a three year period or until revegetation is established. (One acceptable method is the "Universal Soil Loss Equation" developed by the USDA Agricultural Research Service.)
- (3) Proposed methods and a description of the practices to be used to protect exposed erodible areas during construction, including temporary mulching, seeding, or other recognized surface stabilization measures.
- (4) Proposed temporary and final methods and a description of the practices to be used for cut or fill slopes to prevent erosive surface runoff, including earth or paved interceptors and diversions, energy absorbing structures, or devices and techniques to reduce the velocity of runoff water.
- (5) When revegetation is required for smaller disturbed areas near habitats identified at the state and/or federal levels as sensitive (e.g. near creeks or wetlands, coastal scrub), propose an alternative "native-friendly" mix of seeds and/or cuttings that are compatible with the sensitive habitat. The alternative mix to be used shall a) grow reasonably quick; b) be from locally- or commercially-available native seed or plant stock; c) be compatible with the surrounding native habitat and climate; and d) be free from noxious weed seed of local and statewide importance (as identified by the Agricultural Commissioner's Office). Larger areas to be reseeded should consult with a qualified botanist or other qualified expert of native plants to survey the site and determine the best mix of native species.
- (6) Proposed methods and description of the temporary and final practices to retain sediment on the site, including sediment basins and traps, vegetative filter strips, or other recognized measures, a schedule for their maintenance and upkeep, and

provisions for responsibility of maintenance. Include design criteria for the trapping efficiency and storage capacities of sediment basins for flows from a ten-year storm.

- (7) Proposed methods, application technique, seed and fertilizer rate, sequence, and description of final erosion control practices for revegetation of all surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity, unless covered with impervious or other improved surfaces authorized by approved plans. A schedule for maintenance and upkeep of revegetated areas shall be included. Erosion control methods may include a combination of approved mechanical or vegetative measures, including those described in USDA Soil Conservation Service Bulletin 347 - Controlling Erosion on Construction Sites or the Drainage Improvement Guide for Unpaved Roads.
 - (8) The type, location, and extent of pre-existing and undisturbed vegetation on the site.
 - (9) An estimate of the cost of implementing and maintaining all erosion and sediment control practices where bonds or other financial assurances are proposed or required.
 - (10) A statement by the individual preparing the plan that the plan represents the minimum site disturbance necessary to achieve erosion and sediment control.
 - (11) Descriptions of proposed methods to limit access routes and stabilize all access points, and to delineate clearing limits, easements, setbacks, sensitive areas, buffer areas, and drainage courses.
 - (12) Descriptions of proposed methods to limit access routes and stabilize all access points, and to delineate clearing limits, easements, setbacks, sensitive areas, buffer areas, and drainage courses.
 - (13) Other additional plans, drawings, calculations, photographs, or other information which are necessary to adequately review, assess, and evaluate proposals and to show that they conform with the requirements of this chapter.
- c. **Regional Water Control Board Review.** For projects that disturb greater than five acres of land, the Erosion Control Plan must be part of a Storm Water Pollution Prevention Plan as required for compliance with NPDES Storm Water Discharge General Permits for Construction Activity administered by the State Water Resources Control Board and the Regional Water Quality Control Board.
- d. **Field and Weather Conditions.** If field or weather conditions warrant, the director may require erosion and sedimentation control if not originally required or modification of the erosion and sedimentation control methods, procedures, or devices after grading activities commence.

23.05.035 - Groundwater Recharge.

- a. **Requirements.** Groundwater recharge elements must be included in the project design to mitigate the impacts on recharge caused by the reduction in the permeability of soil areas on the site except when the following site characteristics exist:

- (1) High groundwater in the area limits the effectiveness of recharge efforts or enhancing groundwater recharge would create additional problems related to high groundwater.
- (2) The entire site being developed is shown to contain impervious soils that would not benefit from recharge efforts.
- (3) There is a known geologic instability that would be negatively impacted by increased groundwater recharge.
- (4) It can be demonstrated that no additional runoff will occur from the development.
- (5) Federal or state regulations prohibit recharge.

b. Groundwater Recharge. All areas on the project site that will become impervious or will have their soil permeability impaired (such as compacting soil under an all weather driveway) must be mitigated to the maximum extent practicable with recharge enhancement elsewhere on the parcel. Offsite mitigation is a secondary alternative.

The Design Elements for Enhancing Groundwater Recharge handout available from the Department of Planning and Building has numerous ideas and design elements that can be incorporated into the project. This is not a complete list; developers are encouraged to incorporate other ideas that will retain water in a manner that encourages soil contact and percolation. The project plans should clearly indicated the capacity of each recharge area.

23.05.036 - Review, Approval and Permits:

a. Environmental Review.

- (1) **Environmental Determination.** As required by Title 14 of the California Administrative Code, all grading permit applications are to be reviewed by the Environmental Coordinator for an environmental determination pursuant to the California Environmental Quality Act (CEQA). This section does not apply to those applications that are deemed exempt from the provisions of CEQA pursuant to section 15304 or 15061(b)(3) of the State CEQA Guidelines. Exempt applications are those that propose grading on terrain with slopes less than 10 percent, will involve less than 5,000 cubic yards of earth moving, are not located within a Sensitive Resource Area combining designation, and are consistent with the criteria for approval in subsection b(1) of this section.

In any case where a drainage plan is required by Section 23.05.034 and an environmental determination is not otherwise required by Section 23.02.034 (Development Plan), Chapter 23.07 (Combining Designations), Section 23.05.030c(3) (Exemption from Permit Requirements), the project application is to be subject to an environmental determination by the Environmental Coordinator as set forth in Section 23.02.034b(1) before a decision to approve the application, except for single-family residences which are exempt from the provisions of CEQA.

Unless exempt, no action shall be taken to approve, conditionally approve, or deny a grading permit or drainage plan until it is:

- (i) Accompanied by a written determination by the Environmental Coordinator that the project is exempt from the provisions of CEQA; or
 - (ii) Accompanied by a duly issued and effective negative declaration; or
 - (iii) Accompanied by a certified environmental impact report.
- (2) **Environmental Impact Report Required.** Where an environmental impact report is required pursuant to CEQA and;
- (i) If a development plan is not required by other provisions of the title, a grading permit application shall be processed, reviewed, and approved according to all the provisions of Section 23.02.034 (Development Plan), and the criteria of subsection b.(1) (Criteria for Approval) of this section; or
 - (ii) If the development plan is required by other provisions of this title, a grading permit application shall be processed, reviewed, and approved according to the provisions of this section, including a requirement that the grading permit application shall be consistent with and satisfy all condition of approval of the development plan.
- (3) **Environmental Impact Report Not Required.** Where a grading permit is determined to be exempt from the provisions of CEQA or has been granted a proposed negative declaration, the Review Authority may approve the environmental determination and the permit where the proposed grading is in conformity with applicable provisions of this title, provided:
- (i) The Director of Planning and Building may require that grading operations and project designs be modified if delays occur that result in weather-generated problems not addressed at the time the permit was issued.
 - (ii) Where a proposed negative declaration for a grading permit has been issued upon an agreement by the applicant to incorporate mitigation measures into the project that are necessary to reduce its environmental impacts, such mitigation measures shall be added and shown on the grading plans prior to permit issuance, and their completion and inspection shall be required prior to final inspection approval.
 - (iii) The comment period for the negative declaration has expired and no comments have been submitted.
 - (iv) The grading permit received an exemption under CEQA.

Where grading activities are appealable to the Coastal Commission pursuant to Section 23.01.043, the grading permit shall be processed as a Minor Use Permit (Section 23.02.033).

b. **Approvals.**

(1) **Criteria for Approval.**

(i) **Grading Plan.** A grading permit may be issued where the director of Planning and Building first finds, where applicable, that:

- (a) Proposed grading is consistent with erosion control plan requirements (Section 23.05.034) and applicable standards (Section 23.05.040d);
- (b) The proposed grading design is consistent with the characteristics and constraints of the site;
- (c) The extent and nature of proposed grading is appropriate for the use proposed, and will not create site disturbance to an extent greater than that required to establish the use;
- (d) Proposed grading is consistent with the intent of applicable general and specific plans adopted pursuant to the San Luis Obispo County Code;
- (e) Proposed grading will not result in accelerated erosion, stream sedimentation, significantly reduced groundwater recharge or other adverse effects or hazards to life or property;
- (f) Proposed erosion and sedimentation control measures are appropriate for the degree of site disturbance proposed and characteristics of the site and will result in the establishment of a permanent vegetative cover on denuded areas not otherwise permanently stabilized.
- (g) Unless overriding findings have been made, the proposed grading will not create substantial adverse long-term visual effects.
- (h) If the proposed grading is for the creation of a building site, a design for an access road, if necessary, shall be approved with the grading permit and that adequate sewage disposal and water supplies are available.
- (i) Proposed drainage measures have been approved by the County Engineer.

(ii) **Drainage Plan.** All drainage plans are to be submitted to the County Engineer for review, and are subject to the approval of the County Engineer, prior to issuance of a land use, grading or construction permit, as applicable. Actions of the County Engineer on drainage plans may be appealed to the Board of Supervisors in accordance with the procedure set forth in Section 23.01.042a of this title; except that where the site is within a Flood Hazard combining designations, the procedure described in Section 23.07.066d shall be used.

(a) **Plan Check, Inspection and Completion.** Where required by the

County Engineer, a plan check and inspection agreement is to be entered into and the drainage facilities inspected and approved before final project approval is issued.

(2) **Optional Conditions of Approval.** The Director of Planning and Building may refer application materials to appropriate agencies for review and comment prior to grading permit approval. In granting any permit pursuant to this chapter, the Director of Planning and Building may impose such conditions reasonably necessary to prevent creation of an environmental impact, nuisance or unreasonable hazard to person, public or private property, sensitive resources, existing vegetation, or cultural resources. The director may modify or add conditions to any valid permit granted pursuant to this division when it is found that such modification or addition is reasonable and necessary to prevent creation of a nuisance, hazardous condition, or unreasonable hazard to persons, private property, sensitive resources, existing vegetation or cultural resources. Such conditions may include, but need not be limited to:

- (i) Improvement of any existing grading to bring it up to the standards required by this chapter for new grading.
- (ii) Requirements for fencing of excavations or fills which would otherwise be hazardous.
- (iii) Adequate dust control measures by watering or other acceptable methods recommended by the Air Pollution Control District and approved by the Director of Planning and Building.
- (iv) An approved operational plan for creating, using and restoring a borrow area or pit.
- (v) Conformance to the intent of grading, drainage, and erosion and sedimentation control goals (Section 23.05.024c) or Grading, Drainage, or Erosion and Sedimentation Control Standards (Section 23.05.040d.).
- (vi) Requirements for fencing or other protective measures around cultural resources, native trees, riparian or wetland vegetation, or other sensitive resources identified for protection.
- (vii) Mitigation measures identified in the project's negative declaration, developer's agreement, or environmental impact report.
- (viii) Haul routes for materials and hours of operation.
- (ix) Requirements necessary to implement the recommendations identified in the project's civil engineering report, soils engineering report, engineering geology report, or erosion and sedimentation control plan.
- (x) Transfer of responsibility agreement if original civil engineer, soils engineer,

engineering geologist, erosion control specialist, or grading contractor is replaced.

- (xi) Additional groundwater recharge measures if the project site is known as a valuable groundwater recharge area.

(3) **Security.** The Director of Planning and Building shall require guarantees of performance for all engineered grading plans as set forth in Section 7008 of the Uniform Building Code and Section 23.02.060 of this title, to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate hazardous conditions, or restore the site to pre-graded or natural condition. The director may also identify minor grading permits that require such security to ensure that environmental impacts are mitigated.

- (i) A performance agreement and security posted with the County of San Luis Obispo may be required if, in the director's opinion, site characteristics such as slope, proximity to waterways or neighboring structures, or sensitive resources, or the nature of work to be performed warrant said guarantee.
- (ii) The guarantee of performance shall be on one hundred percent, (plus 20 percent for contingencies, engineering and inspection) of the full amount required to assure completion, restoration and/or remediation, based upon estimates approved by the director and a must provide a right of entry from the property owner.
- (iii) Every guarantee of performance shall be made on the conditions that the permit holder shall:
 - (a) Comply with all the provisions of this code, applicable laws and ordinances.
 - (b) Comply with all of the terms and conditions of the grading permit.
 - (c) Complete all grading, drainage and erosion control work contemplated under the grading permit within the time limit specified in the grading permit, or if no time limit is so specified, the time limit specified in this chapter. The director may, for sufficient cause, extend the time specified in the permit, but no such extension shall release the owner or the surety on the bond or person issuing the instrument of credit.
- (iv) Each guarantee of performance shall remain in effect until the completion of the work as specified according to the plans, specifications, and terms and conditions of the grading permit to the satisfaction of the director.
- (v) In the event of failure to complete the work or failure to comply with all of the conditions and terms of the grading permit, the director may order such work as in his opinion is necessary to correct any deficiencies or eliminate

any dangerous conditions and leave the site in a safe condition. The director may order the work authorized by the permit to be completed to a safe and stable condition to the director's satisfaction, or may order restoration of the site to pre-graded or natural condition, or such condition deemed appropriate by the director. The permit holder and/or the surety executing the performance agreement shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the County in causing any and all such work to be completed. In the case of a cash deposit, any unused portion thereof shall be refunded to the permittee.

- (vi) The guarantee of performance, less costs of remedial work, if any, shall be released when the director determines that the erosion, sediment control, and revegetation practices have adequately stabilized the site.
 - (vii) The grading permit may provide for the partial release of the bond or other security required by this section upon the partial acceptance of the work in accordance with Section 23.05.036c(5) (Notification of Completion).
 - (viii) Any contractor or other person engaged in continuous or repeated excavations or, in the case of a construction permit, concurrent with that permit, may provide a blanket security or blanket deposit in the amount sufficient to insure prompt completion of all excavation projects being conducted at any one time. If the number or amount of excavation projects exceeds the amount of the security or deposit, the director may require additional security or deposit to insure completion of all work being done at any one time.
- (4) **Restriction on Grading Approvals.** If grading is for the creation of, or access to, a building site, land disturbance shall not take place until a building permit has been accepted for processing. If grading is for a proposed project which requires discretionary approval, grading shall not take place until approval(s) are received

and required appeal periods expire. If plan approval cannot be issued until determination of adequate water and/or sewage disposal or other required site investigation is made, land disturbance shall be limited to the extent necessary to allow such an investigation. Erosion control measures and/or site restoration shall be required after site investigations are completed. This provision shall not apply to subdivision improvements or road construction required as a condition of approval of a land division.

c. Permits.

(1) **Permit Application Procedure.** An application for grading permit consists of written and graphic information. The written information required is identified in the Section 23.05.030a, Grading Permit Application Content. The graphic information is identified in the Section, Grading Plan Required. Not all applications require the same level of information. In some situations, additional information may be required after initial review based upon the nature, degree, or location of proposed work.

(2) **Time Limits of Permits.**

(i) An approved grading permit is valid for a period of 120 days from the effective date of the permit, after which the permit shall expire unless:

(a) Grading has begun; or

(b) An extension has been granted as set forth in this section.

(ii) Grading operations shall be completed consistent with the time of year limitation listed in Section 23.05.034a(7), and within 180 days from the date of commencement of grading unless an extension has been granted, or the initial approval specifies a longer term for completion. If such grading operations are not completed within 180 days from the date of commencement of grading, the permit shall expire unless an extension has been granted. Grading authorized by a permit that expires pursuant to this paragraph shall constitute a nuisance and shall be subject to abatement pursuant to Chapter 23.10 of this code, unless a new permit is obtained pursuant to Section 19.04.034c of this code, and work is completed.

(iii) **Extension of grading permit.** Any permit holder with an unexpired grading permit may apply for an extension of the time within which grading operations are to be begun or completed. The director may extend the expiration date of the permit for a period not exceeding 180 days, where the permit holder has requested such extension in writing and has shown that circumstances beyond the control of the permit holder have prevented commencement or completion of grading. The director may extend the permit for additional periods of 180 days after a site investigation confirms that grading activities and site conditions conform to the provisions of this title, and where proper completion of grading, temporary and final sedimentation and erosion

control measures (Section 23.05.034) in accordance with the provisions of this title have been assured through a bond or other guarantee of performance (Section 23.02.060).

(3) **Revocation of Permits.**

- (i) Failure to comply with any of the provision of this Chapter or of the permit may cause revocation or suspension of the permit, and in either case, the owner or permit holder shall be notified of such action and the reasons therefor in writing.
- (ii) If the operations of the permit holder create an unreasonable occurrence of dust, noise, excessive traffic or other nuisances, the director may require the permit holder to take measures to abate said nuisance and may suspend the permit until such measures are taken. Continuance of such work without abating such nuisance shall be reason to revoke the permit.

(4) **Denial of Permits - Restoration.**

- (i) If grading operations are commenced before first securing a proper permit, no permit will be issued until all illegal grading has been stopped except to restore the site to its original condition or to correct hazardous conditions to the satisfaction of the director, and all violation fines levied as misdemeanors or civil penalties are paid in full. The director may require approval and implementation of an erosion and sedimentation control plan in the interim if weather or site conditions warrant such action. In the event that no grading permit, erosion control permit, or Land Use Permit can be issued for such operations, the site shall be restored to an acceptable condition as determined by the director.
- (ii) If restoration is required of a site by the director, restoration plans, prepared by a certified Sediment and Erosion Control Specialist or by other additional qualified professionals at the discretion of the director, shall be submitted for review and approval prior to any restoration. The permit holder shall pay a restoration permit fee, in addition to any applicable penalties, which shall be equal to the fee that would be charged for a grading permit fee for the same work. Restoration shall be made in conformity with the approved plans.

- (5) **Notification of Completion.** The permit holder shall notify the director when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage and recharge facilities and their protective devices, and all erosion and sediment control measures have been completed in accordance with the final approved plans, and the required reports have been submitted and approved by the director.

23.05.038 - Construction and Inspections:

a. Construction Procedures.

- (1) **Preconstruction Meeting.** Due to characteristics of the site, nature of proposed work or required mitigation measures, the director may require a meeting prior to any site disturbance or grading activities involving any of the following: applicant, grading contractor, engineer or other professional consultant, grading inspector or other employees of the Environmental Coordinator or Department of Planning and Building.
- (2) **Modifications to Approved Plans.** No work based upon any modifications to the approved plans shall proceed unless and until such modifications have been approved by the Director of Planning and Building, and where applicable, the County Engineer. The proposed change shall not result in greater environmental impacts not considered in the approved environmental document. Change orders must be reviewed expeditiously to allow the job to be able to proceed.
- (3) **Exposure of Work.** Whenever any work for which inspections are required is covered or concealed by other work without having been inspected, the director may require that such work be exposed for examination.
- (4) **Grading Hours - Limitations.** No grading work (except for agricultural exemptions and emergency operations specified in Section 23.05.026(f), which requires a grading permit under the provisions of this Chapter shall take place between the hours of 7:00 p.m. and 7:00 a.m. weekdays and between the hours of 5:00 p.m. and 8:00 a.m. on the weekends, unless the director or approved conditions of a land use permit finds that such operation is not likely to cause a significant public nuisance and authorizes expanded or night operations in writing. Hours of operation on the weekends may be further regulated by conditions of the grading permit.
- (5) **Dust Debris - Control.** All graded surfaces and materials, whether filled, excavated, transported or stockpiled, shall be wetted, protected or contained in conformance with the requirements of the San Luis Obispo County Air Pollution Control District to prevent the generation of dust. Construction equipment and materials on the site shall be used in such a manner as to avoid creating a public nuisance. Roadways and graded areas on the site shall be surfaced or wetted sufficiently to prevent the generation of excessive dust at all times. (See Mitigation Guidelines for Air Quality Impacts from construction prepared by APCD.)
- (6) **Responsibility of Permit Holder.**
 - (i) The permit holder and agents shall carry out the proposed grading in accordance with the approved plans and specifications, conditions of the permit and the requirements of this Chapter and conditions and permits as required by the director.
 - (ii) The permit holder and agents shall maintain all required protective devices,

sedimentation and erosion control devices, and temporary drainage facilities during the progress of the grading work and shall be responsible for observance of working hours, dust controls and methods of hauling. The permit holder and agents shall be responsible for maintenance of the site until final inspection. The permit holder or agents shall become subject to the penalties set forth herein in the event of failure to comply with this Chapter and other applicable laws of the County of San Luis Obispo. No approval shall exonerate the permit holder or agents from the responsibility of complying with the provisions and intent of this chapter.

- (iii) During grading operations the permit holder shall be responsible for the prevention of damage to any roadways, public improvements, utilities or services. This responsibility applies within the limits of grading and along any equipment travel routes.
- (iv) Notwithstanding the minimum standards set forth in this chapter and chapters 29 and 70 of the Uniform Building Code, the permit holder is responsible for the prevention of damage to adjacent property and no person shall excavate on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, structure, trees, vegetation, or any other public or private property without supporting and protecting such property from settling, cracking, or other damage which might result.

b. Inspections.

- (1) **Specific Inspections.** Not all grading projects require the same type or frequency of inspections. One or more of the following inspections will be required, based upon characteristics of the site and nature of work proposed:
 - (i) **Initial Site Inspection** - Prior to permit approval and plan checking.
 - (ii) **Initial Inspection** - After permit issued, but before any site disturbance, grading, demolition, grubbing, brushing, or clearing is started. Erosion and sedimentation control measures must be in place if required.
 - (iii) **Toe Inspection** - After the natural ground is exposed and prepared to receive fill, but before any fill is placed.
 - (iv) **Excavation Inspection** - After the excavation is started but before the vertical depth of the excavation exceeds ten feet.
 - (v) **Fill Inspection** - After the placement of fill is started, but before the vertical height of the fill exceeds ten feet, and at two foot vertical increments thereafter unless waived by the director. In addition, the fill must be inspected by a qualified lab for each 2 feet of fill.

- (vi) **Drainage or Groundwater Recharge Device Inspection** - After forms and pipe are in place, but before any gravel or concrete is placed.
 - (vii) **Key and Bench Inspection** - After keys and benches are excavated, but before fill is placed.
 - (viii) **Rough Grade Inspection** - When all rough grading has been completed.
 - (ix) **Final Inspection** - When all work, including installation of drainage structures, other protective devices, erosion control, planting and slope stabilization have been completed and the "as-graded" plan and required reports have been submitted to the director and accepted as complete.
 - (x) **Other Inspections or Investigations** - In addition to the inspections above, such other inspections of any work to ascertain compliance with the provisions of this Chapter and other laws and regulations as may be required by the director. A licensed landscape architect, qualified biologist, archaeologist, erosion control specialist, or other qualified professional may be required to be present during inspections.
- (3) **Project Inspector.** All grading construction and other work for which a permit is required shall be subject to an initial site investigation prior to commencement of any site disturbance or grading activity and either periodic or continuous inspections by authorized employees of the Department of Planning and Building. Where the director determines it to be necessary to protect the public safety because of the nature and type of material involved, the type of work proposed, or the purpose of the work, the work shall have either continuous or periodic special inspections and supervision by a civil engineer or geotechnical engineer or other individuals if licensed by the State of California to perform this work.

Prior to final approval of grading work under any type of permit, a final inspection shall be made of all construction or work for which a permit has been issued by an authorized employee of the Department of Planning and Building.

(4) **Inspection Process.**

- (i) Grading shall not be commenced until the permit holder or agent have posted an inspection record card in a conspicuous place on the site to allow the inspector to make the required entries thereon regarding inspection of the work. This card shall be maintained and available on the site by the permit holder until final approval.
- (ii) The permit holder, agent, or contractor shall have an approved set of grading, drainage and erosion control plans and specifications on the site and available at all times while work is in progress until final approval. Said plans and specifications shall also include any mitigation measures approved by the Environmental Coordinator.

- (iii) In the absence of a specific work site designation, the director may require the site to be surveyed and staked by a civil engineer or land surveyor licensed by the State of California so that the proper location of the work on the lot or parcel may be determined.
- (iv) Inspections for a grading permit shall be made as provided herein and work shall not continue until approval to proceed has been granted, following inspection. The permit holder shall be responsible for notifying the Department of Planning and Building at least 24 hours prior to the time when an inspection is necessary.
- (v) Where the nature of the project, type of soils, geologic condition, drainage, or weather conditions dictate that special engineering, geotechnical engineering, geological, or erosion and sediment control inspections are necessary to prevent danger to public health, safety or welfare, the director may require the permit holder to retain a licensed professional qualified to perform the following:
 - (a) Supervise and coordinate all field surveys and the setting of grade stakes in conformity with the plans; to check elevations or grades; inclination of slopes; elevation and grades of drainage structures and other matters related to the geometric design of the work, including the design of revised or modified plans and "as-graded" plans, if necessary.
 - (b) Provide either periodic or continuous inspection of soils work, including grading and compaction.
 - (c) Provide geological inspections.
 - (d) Inspect all erosion, sediment, runoff control and revegetation practices applied to the site.
- (vi) Where the nature of the project dictates that special environmental monitors be required, the environmental review process and mitigation measures shall establish the manner and timeframe in which this review shall occur. In these instances, the director may require the permit holder to retain a qualified professional to perform the work identified from these measures.
- (vii) On work requiring the continuous supervision and inspection of a civil engineer, geologist, geotechnical engineer, or certified erosion control specialist, required inspections within their respective areas of expertise may be delegated to the civil engineer, geologist, geotechnical engineer or certified erosion control specialist by the Director of Planning and Building. At plan check, the director shall indicate on each application for a grading permit the types of inspection, if any, to be made by the civil engineer, geologist, geotechnical engineer, or sediment and erosion control specialist.

- (viii) If the civil engineer, geotechnical engineer, geologist, or sediment and erosion control specialist find that the work is not being performed in substantial conformity with this Chapter or the approved plans and specifications, notice shall be given to the person in charge of the grading work and to the director. No work shall proceed unless and until the issuance of such written notice from the director that work may proceed.
 - (ix) If the director determines by inspection that grading as authorized is likely to endanger sensitive resources or public health, safety or welfare in the deposition of debris on any public or private property, or interfere with any existing drainage course, the director shall require that effective precautions be taken to remove such likelihood or danger. Written notice to comply shall be given to the permit holder allowing no more than ten days for corrections to begin unless an imminent hazard to sensitive resources or the public health, safety or welfare exists, in which case the corrective work shall begin immediately.
 - (x) Final inspection, as required in this Chapter, shall be made to the satisfaction of the Director of the Department of Planning and Building.
- (5) **Testing.** The director may also require the applicant to pay for testing to be performed by an independent, approved testing laboratory and that the Civil Engineer issue an opinion to ensure compliance with this ordinance, permit conditions, and/or accordance with the provisions of Sections 306 and 7014 of the Uniform Building Code. The director shall inspect or provide for adequate inspection of the project by appropriate professionals at the various stages of work and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.
- (6) **Transfer of Responsibility.** All work shall immediately stop upon termination of the services of the engineer or other professionals approved to supervise grading work. The permit holder shall terminate all such grading work, and it shall not commence again until the civil engineer, geotechnical engineer, engineering geologist, or sediment and erosion control specialist certifies in writing to the director that the professional has reviewed all reports and phases of the project, is thoroughly familiar with the proposed work and that the professional approves the work already completed and will assume responsibility for making the necessary improvements thereto. Upon receipt of this notice, the director shall give written notice that work may proceed.
- (7) **Final Reports Required.** Upon final completion of the work, the following reports, drawings and supplements are required for engineered grading, when professional inspection is performed for minor grading, as applicable, and for other minor grading, where deemed necessary by the director.

- (i) An as-built grading plan prepared by the civil engineer retained to provide such services in accordance with Section 7014(e) of the Uniform Building Code showing original ground surface elevations, as-graded ground surface elevations, lot drainage patterns, and the locations and elevations of surface drainage and groundwater recharge facilities and of the outlets of subsurface drains. As-constructed locations, elevations and details of subsurface drains or percolation cisterns shall be as reported by the soils engineer. Civil engineers shall state, in writing to the director, that to the best of their knowledge the work within their area of responsibility was done in accordance with the final approved grading plan, and associated drainage, erosion and sedimentation control plans.
- (ii) A report prepared by the soils engineer retained to provide such services in accordance with Section 7014(c) of the Uniform Building Code, including locations and elevations of field density tests, summaries of field and laboratory tests, other substantiating data, and comments on any changes made during grading and their effect on the recommendations made in the approved soils engineering investigation report, soils engineers shall submit a statement that, to the best of their knowledge, the work within their area of responsibility is in accordance with the approved soils engineering report and applicable provisions of the Uniform Building Code and this chapter.
- (iii) A report prepared by the engineering geologist retained to provide such services in accordance with Section 7014(d) of the Uniform Building Code, including a final description of the geology of the site and any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. Engineering geologists shall submit a statement that, to the best of their knowledge, the work within their area of responsibility is in accordance with the approved engineering geology report and applicable provisions of the Uniform Building Code and this chapter.
- (iv) An erosion and sediment control report prepared by the certified sediment and erosion control specialist or other qualified, approved professional including a final description of the erosion, sediment revegetation and runoff control practices applied on the site, including any new information disclosed during site development and the effect of same on recommendations incorporated in the approved grading plan and noting any changes required. Included shall be a statement that, to the best of their knowledge, the work within their area of responsibility is in accordance with the approved erosion and sedimentation control plan and applicable provisions of the Uniform Building Code and this chapter.
- (v) The grading contractor shall submit in a form prescribed by the director a statement of conformance to all as-built plans and specifications.

23.05.040 - Standards:

a. Grading Standards.

- (1) **Area of Cuts and Fills.** Cuts and fills shall be limited to the minimum amount necessary to provide stable embankments for required parking areas or street rights-of-way, structural foundations, and adequate residential yard area or outdoor storage of sales area incidental to a non-residential use.
- (2) **Grading for Siting of New Development.** Grading for the purpose of creating a site for a structure or other development shall be limited to slopes less than 20 percent except:
 - (i) Existing lots in the Residential Single-Family category, if a residence cannot feasibly be sited on a slope less than 20 percent; and
 - (ii) When grading of an access road or driveway is necessary to provide access to building site with less than 20 percent slope, and where there is no less environmentally damaging alternative; and
 - (iii) **Grading adjustment.** Grading on slopes between 20 percent and 30 percent may occur by Minor Use Permit or Development Plan approval subject to the following:
 - (a) The applicable review authority has considered the specific characteristics of the site and surrounding area including: the proximity of nearby streams or wetlands, erosion potential, slope stability, amount of grading necessary, neighborhood drainage characteristics, and measures proposed by the applicant to reduce potential erosion and sedimentation.
 - (b) Grading and erosion control plans have been prepared by a registered civil engineer and accompany the request to allow the grading adjustment.
 - (c) It has been demonstrated that the proposed grading is sensitive to the natural landform on the site and surrounding area.
 - (d) It has been found that there is no other feasible method of establishing an allowable use on the site without grading on slopes between 20 percent and 30 percent.
- (iv) Grading on slopes in excess of 30 percent slopes requires a variance as provided by Section 23.01.045. This requires adoption of findings of special circumstances.

- (3) **Grading Adjacent to Environmentally Sensitive Habitats.** Grading shall not occur within 100 feet of any Environmentally Sensitive Habitat as shown in the Land Use Element except:
- (i) Where a setback adjustment has been granted as set forth in Sections 23.07.172d(2) (Wetlands) or 23.07.174d(2) (Streams and Riparian Vegetation) of this title; or
 - (ii) Within an urban service line when grading is necessary to locate a principally permitted use and where the review authority can find that the application of the 100-foot setback would render the site physically unsuitable for a principally permitted use. In such cases, the 100-foot setback shall only be reduced to a point where the principally-permitted use, as modified as much as practical from a design standpoint, can be located on the site. In no case shall grading occur closer than 50 feet from the Environmentally Sensitive Habitat or as allowed by planning area standard, whichever is greater, unless a variance is granted as provided by Section 23.01.045.
- (4) **Landform Alterations within Public View Corridors.** Grading, vegetation removal and other landform alterations shall be minimized on sites located within areas determined by the director to be a public view corridors from collector or arterial roads. Where feasible, contours of finished grading are to blend with adjacent natural terrain to achieve a consistent grade and appearance.
- (5) **Grading near Watercourses.** Grading, dredging or diking (consistent with Section 23.07.174 shall not alter any intermittent or perennial stream, or natural body of water shown on any USGS 7-1/2 minute map, except as permitted through approval of a county drainage plan and a streambed alteration permit from the California Department of Fish and Game issued under Section 1601 or 1602 of the Fish and Game Code and as provided by Section 3 above. In addition, the grading must be consistent with CWA, Section 404 permits from the US Army Corps of Engineers, SWA, Section 401 Water Quality Certification or Waste Discharge Requirements from the Regional Water Quality Control Board, an appropriate. (Additional standards are contained in Sections 23.07.172 through 174 of this title.) Watercourses shall be protected as follows:
- (i) Watercourses shall not be obstructed unless an alternate drainage facility is approved.
 - (ii) Fills placed within watercourses shall have suitable protection against erosion during flooding.
 - (iii) Grading equipment shall not cross or disturb channels containing live streams without siltation control measures approved by the County Engineer in place.

- (iv) Excavated materials shall not be deposited or stored in or alongside a watercourse where the materials can be washed away by high water or storm runoff.
- (6) **Revegetation.** Where natural vegetation has been removed through grading in areas not affected by the landscaping requirements (Section 23.04.180 et. seq. - Landscaping, Screening and Fencing), and that are not to be occupied by structures, such areas are to be replanted as set forth in this subsection to prevent erosion after construction activities are completed.
- (i) **Preparation for Revegetation.** Topsoil removed from the surface in preparation for grading and construction is to be stored on or near the site and protected from erosion while grading operations are underway, provided that such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved. After completion of such grading, topsoil is to be restored over exposed cut and fill embankments or building pads to provide a suitable base for seeding and planting.
- (ii) **Methods of Revegetation.** Acceptable methods of revegetation include hydro-mulching, or the planting of rye grass, barley or other seed with equivalent germination rates. Where lawn or turf grass is to be established, lawn grass seed or other appropriate landscape cover is to be sown at not less than four pounds to each 1,000 square feet of land area. Other revegetation methods offering equivalent protection may be approved by the Building Official. Plant materials shall be watered at intervals sufficient to assure survival and growth. Native plant materials are encouraged to reduce irrigation demands. Where riparian vegetation has been removed, riparian plant species shall be used for revegetation.
- (iii) **Timing of Revegetation Measures.** Permanent revegetation or landscaping should begin on the construction site as soon as practical and shall begin no later than six months after achieving final grades and utility emplacements.
- (7) **Excavation Standards.** All excavations, whether or not subject to the permit requirements of this title, are to be conducted in accordance with the provisions of Sections 7009 through 7013 of the Uniform Building Code and the following standards:
- (i) No excavation shall be made with a cut face steeper in slope than two horizontal to one vertical, except under one or more of the following conditions:
- (a) The Director of Planning and Building may permit an excavation to be made with a cut face steeper than two horizontal to one vertical if the applicant provides a slope stability analysis prepared by a geotechnical engineer or engineering geologist that the material making up the slope of the excavation and the underlying earth

material is capable of standing on a steeper slope, and a certified soil and erosion control specialist or other qualified professional indicates, in writing, that either it is feasible to mitigate erosion and sedimentation impacts and that successful revegetation of the site can be accomplished or that due to the nature or composition of the cut slope, erosion and sedimentation measures and revegetation are unnecessary.

- (b) A retaining wall or other approved support which also mitigates visual impacts of the device is provided to support the face of the excavation.
 - (ii) The director may require an excavation to be made with cut face flatter in slope than two (2) horizontal to one (1) vertical if a slope stability analysis or other appropriate method of review indicates that the material in which the excavation is to be made is such that the flatter cut slope is necessary for stability, safety, or to prevent erosion and sedimentation impacts.
 - (iii) No cut slope shall exceed a height of 25 feet without intervening terraces having a minimum width of six feet. These terraces shall be vertically spaced at intervals of 25 feet except that for slopes less than 40 feet in vertical height the terrace shall be approximately at mid-height. Suitable access shall be provided to permit cleaning and maintenance. The director may modify this requirement because of geologic or other special conditions.
 - (iv) The border of all cut slopes shall be rounded off to a minimum radius of five (5) feet to blend with the natural terrain.
 - (v) All cut slopes shall be within parcels under one ownership unless written permission is granted by the adjacent owner.
- (8) **Fill Standards.** All fills are to be conducted in accordance with the provisions of Section 7010 of the Uniform Building Code and the following standards:
- (i) No fill shall be made which creates any exposed surface steeper in slope than two horizontal to one vertical, except under one or more of the following conditions:
 - (a) A retaining wall or other approved support which also mitigates any negative visual impacts of the device is provided.
 - (b) The Director of Planning and Building may permit a fill to be made which creates an exposed surface steeper in slope than two horizontal to one vertical if the applicant shows through the investigation and report, to be approved by the director, of a geotechnical engineer that the strength characteristics of the material to be used in the fill are such as to produce a safe and stable slope, that the areas on which the

fill is to be placed are suitable to support the fill, and that the certified soil and erosion control specialist or other qualified professional indicates in writing that it is feasible to prevent erosion and sedimentation impacts and successful revegetation of the site can be accomplished.

- (ii) The director may require that fill be constructed with an exposed surface flatter than two (2) horizontal to one (1) vertical if, a slope stability analysis or other appropriate method of review indicates that such flatter surface is necessary for stability, safety, or to prevent erosion and sedimentation impacts.
- (iii) Unless specified as a non-structural land reclamation, erosion control, or agricultural fill, all fills shall be placed, compacted, inspected, and tested in accordance with the following provisions:
 - (a) The natural ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, topsoil and other unsuitable materials. The surface shall be scarified to provide a bond with the new fill and where slopes are steeper than five (5) horizontal to One (1) vertical and the height is greater than five (5) feet, by benching into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than five (5) horizontal to one (1) vertical shall be at least ten (10) feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill shall be at least ten (10) feet wide, but the cut shall be made before placing the fill. The soils engineer, engineering geologist, or both, shall certify that the bench is a suitable foundation for the proposed fill.
 - (b) Except as otherwise permitted by the director, no rock or similar irreducible material with a maximum dimension greater than six (6) inches shall be buried or placed in fills. No organic material shall be permitted in structural fills. The director may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement, and approves the fill stability. The following conditions shall also apply:

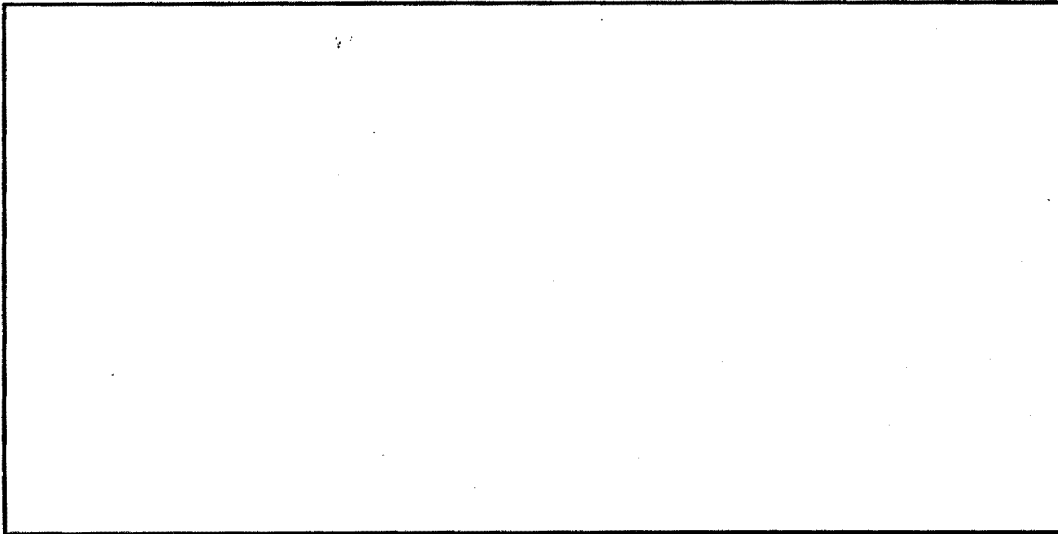
1. Prior to issuance of the grading permit, potential rock disposal areas shall be identified on the grading plan.
 2. Rock sizes greater than six (6) inches in maximum dimension shall be ten (10) feet or more below grade, measured vertically.
 3. Rocks shall be placed so as to assure filling of all voids with well-graded soil.
- (c) A fill shall be spread in a series of horizontal lifts as specified by the geotechnical engineer or other approved professional approved by the director. The distribution of material throughout each layer shall be free of lenses, pockets or layers of material differing substantially in texture or gradation from the surrounding material. All material shall be compacted into a fill of uniform moisture and density as specified in paragraph (d) of this subsection.
- (d) All fills shall be compacted to a minimum of 90 per cent of maximum density as determined by ASTM D 1557-(latest edition) or other approved testing method giving equivalent test results. Field density shall be determined by ASTM D 1556-(latest edition) or other equivalent methods approved by the director.
- (e) A field density test, as herein provided, shall be taken for each 24" of fill, or portion thereof, measured vertically from the lowest point of the area to be filled, and for each 200 cubic yards of fill placed unless a variation is recommended by the Soils Engineer and approved by the director. In addition, in the case of a subdivision, field density tests shall be taken on lots which receive fill based upon the recommendations of a soils engineer.
- (f) All fills regulated by this Chapter shall be tested for relative compaction by a qualified geotechnical testing agency. Final reports, including a letter certifying compliance with the terms of this Chapter, and the grading permit, setting forth densities, relative compaction and other fill characteristics shall be prepared and signed by a geotechnical engineer or soils engineer. This report shall be submitted to and approved by the director before any final approval of the fill is given and before any foundation construction begins except for the digging of trenches and placing of reinforcing steel.
- (iv) Fills toeing out on natural slopes which are steeper than two horizontal to one vertical shall not be permitted unless evaluated and approved by a geotechnical engineer or engineering geologist.
- (v) The border of fill slopes shall be rounded off to a minimum radius of five feet to blend with the natural terrain.

(vi) Contours, elevations and shapes of finished surfaces are to be blended with adjacent natural terrain to achieve a consistent grade and natural appearance. Border of cut slopes and fills are to be rounded off to a minimum radius of five feet to blend with the natural terrain.

(8) **Grading Setback Standards.** Cut and fill slopes shall be set back from site boundaries in accordance with the most current provisions of the Uniform Building Code and the following standards:

(i) **General.** Setback dimensions shall be horizontal distances measured perpendicular to the site boundary. Setback dimensions shall be as shown in the following diagram:

(ii) **Top of Cut Slope.** The top of the cut slopes shall not be closer to a site boundary line than one fifth (1/5) of the vertical height of cut with a



minimum of two (2) feet and a maximum of ten (10) feet. The setback may need to be increased for any required interceptor drains. The director may approve adjustments as a condition of the permit, as required by individual site conditions.

(iii) **Toe of Fill Slope.** The toe of fill slopes shall not be closer to the site boundary line than one half (1/2) the height of the slope with a minimum of two (2) feet and a maximum of twenty (20) feet. Where a fill slope is to be located near the site boundary and the adjacent off-site property is developed, or site conditions warrant, special precautions shall be incorporated in the work as the director deems necessary to protect the adjoining property from damage as a result of such grading. These precautions shall include, but are not limited to the following:

- (a) Additional setbacks.
- (b) Provisions for retaining or slough walls.

- (c) Mechanical or vegetative treatment of the fill slope to minimize erosion.
 - (d) Provisions for the control of surface waters.
 - (iv) **Modification of Slope Location.** The director may approve alternate setbacks. The director may require an investigation and recommendation by a qualified engineer, engineering geologist, or erosion control specialist to demonstrate that the intent of this section has been satisfied.
 - (v) No cut or fill shall be made which is sufficiently close to the property line to endanger any adjoining public or private property or structures without supporting and protecting such property or structures from any settling, cracking, or other damage which might result.
- b. **Drainage Standards.** Drainage systems and facilities subject to drainage plan review and approval that are to be located in existing or future public rights-of-way are to be designed and constructed as set forth in the county Engineering Department Standard Improvement Specifications and Drawings. Other systems and facilities subject to drainage plan review and approval are to be designed in accordance with good engineering practices. A Master Drainage Plan shall be required as part of the grading plan for all grading permit applications. Designs for site area drainage and terraces shall conform to the following provisions:
- (1) Proposed projects are to include design provisions to retain off-site natural drainage patterns and, when required, limit peak runoff to pre-development levels.
 - (2) Runoff conveyance systems shall be capable of carrying the computed runoff volume from a 25-year frequency storm or greater if deemed necessary by the County Engineer. This may be reduced to a 10 year storm for small watersheds.
 - (3) Concrete ditches or other approved methods of intercepting surface runoff waters shall be installed along the top of all cut slopes where the tributary drainage area has a slope 10 percent or greater and a horizontal projection greater than forty feet.
 - (4) Berms or drainage divides at least one foot high and three feet wide at the base shall be constructed at the top of all fill slopes where runoff would be directed towards the top of fill.
 - (5) Over side drains shall be of concrete or corrugated metal pipe having a diameter required by run-off calculations, but not less than 8 inches, and shall be aligned so as to minimize velocity at discharge points. Alternate designs approved by the County Engineer may be permitted.
 - (6) Inlet structures into pipes when required shall be of concrete, galvanized iron, or approved equivalent and shall be provided with overflow structures.
 - (7) Outlet structures shall be provided with approved velocity reducers, diversion walls,

rip-rap, concrete aprons or similar energy dissipaters where necessary and aligned to minimize downstream erosion and maximize recharge at discharge points, and shall be approved by the County Engineer.

- (8) Identify all methods to enhance groundwater recharge that have been incorporated into project design.
- (9) An approved drainage dispersal structure shall be constructed wherever it is necessary to convert channel flow to sheet flow.
- (10) Approved rain gutters shall be provided to receive all roof water and dispose of the water in a groundwater recharge enhancing and non-eroding manner where the Director of Planning and Building determines it to be necessary because of steepness of slope or presence of erodible materials.
- (11) All graded building pads shall slope a minimum of two per cent to an approved drainage device or street. Where used, the drainage device shall be an approved system which conducts the water to a street, recharge area or drainage way. The top of footing stems or finish floor, if a concrete slab, shall extend above the top of street curb or inlet to the drainage device by a minimum of six inches plus two per cent of the distance from the footing to the drainage device or curb. The director may allow 1 percent to be used, if, because of terrain or soils, 2 percent is not reasonably attainable or necessary.
- (12) On graded sites, the director may require that drainage devices calculated to convey runoff from a 25-year frequency storm or greater be installed, if deemed necessary to prevent erosion, to conduct storm water around buildings or structures and to the nearest street, recharge area or drainage way.
- (13) **Appearance of Drainage or Recharge Devices.** Where drainage devices are highly visible from the street or located in the public viewshed, they shall be shielded from view, if practical. Where visible, drainage devices shall be compatible with area character and the existing topography. Exposed concrete oversize drains are prohibited within these situations unless a visual analysis indicates the prohibition to be unnecessary. If they are visible, the size shall be the minimum necessary to handle drainage and ensure ability to maintain all drainage devices which collect from the slopes shall convey drainage by means of underground pipes or rock-lined ditches or other approved materials to blend with the natural topography in character, color and design. Transitions from natural drainage courses to developed areas shall be accomplished with comparable landscaping and grading to blend with existing topography. Detention, retention or recharge basins should be designed as a visual and/or recreational amenity within a project whenever practical.
- (14) **Areas Subject to Flooding.** Buildings or structures are not permitted in an area determined by the County Engineer to be subject to flood hazard by inundation, overflow, high velocity or erosion, except where such buildings or structures are in conformity with the standards in Section 23.07.060 of this title, and provisions are made to eliminate identified hazards to the satisfaction of the County Engineer. Such

provisions may include providing adequate drainage facilities, protective walls, suitable fill, raising the floor level of the building or structure or other means. The placement of the building and other structures (including walls and fences) on the building site shall be such that water or mud flow will not be a hazard to on- or off-site structures or adjacent property. The County Engineer in the application of this standard shall enforce as a minimum the current federal flood plain management regulations as defined in the National Flood Insurance Program authorized by United States Code Section 4001-4128 and contained in Title 44 of the Code of Federal Regulations, Part 59 et seq., which are hereby adopted and incorporated into this title by reference as though they were fully set forth here.

- (15) Flood proofing measures required by the County Engineer shall be designed by a licensed architect or registered civil engineer.
- (16) In areas where underground water is anticipated, the director may require the installation of approved sub-drains.
- (17) Runoff computations may be made by the rational method except where specific methods for calculating individual residential retention basins have been adopted.
- (18) Alternate designs which provide equivalent safety and are approved by the County Engineer may be used in lieu of those contained in this Section.
- (19) The drainage plan shall incorporate measures minimizing increased erosion to coastal bluffs as a result of development.

c. Dam and Reservoir Standards.

NOTE: All surface stream water impoundments require approval of an application to appropriate water from the California State Water Resources Control Board, Division of Water Rights.

- (1) Agricultural stock ponds less than two (2) acre feet in capacity are exempt from permit requirements. Agricultural stock ponds that are between two (2) acre feet and ten (10) acre feet in capacity may be exempted if the plans are determined to be consistent with accepted design and conservation sites are approved by qualified professionals including a civil engineer, U.S. Department of Agriculture, Natural Resource Conservation Services, Resource Conservation District (or its successor agency). All other dams, reservoirs and impoundments require a grading permit unless the design is prepared or approved by, and is inspected and certified by, the U. S. Department of Agriculture, Natural Resource Conservation Service, or State of California Department of Water Resources and the work is exempt from the California Environmental Quality Act.

If required by the Director of Planning and Building, engineered grading shall be under the strict supervision of a registered civil engineer who shall be responsible for the structural design and the supervision of construction of such dam, reservoir or

water impounding structure.

- (2) The proposed site of the pond, reservoir or dam shall not be identified on any U.S. Geological Survey map as a lake, marsh, or solid or broken "blue line" stream unless the project has been reviewed subject to CEQA and determined to not contain significant adverse impacts to the aquatic or riparian resources.
 - (3) The proposed site of the pond, reservoir or dam shall not be in a location identified on any published geologic or soils maps on soils prone to slip or slide.
 - (4) The director, in granting a permit for construction, may require supporting geological and geotechnical engineering reports as deemed necessary for the safe design and construction of such facility. A report from a civil engineer certifying that construction of the facility has been completed in conformity with the approved plans and specifications and this Chapter may be required.
- d. Erosion and Sedimentation Control Standards.** Erosion and sediment control measures shall be required as part of the grading plan requirements. Plan contents and standards shall be as specified in Section 23.05.034 (Erosion Control Plan Required).
- (1) Exposed man-made slopes shall be planted in permanent vegetation to prevent erosion unless determined by the Director of Planning and Building or erosion control specialist to be unnecessary.
 - (2) Grading limits shall be staked out as shown on the approved plans before site disturbance begins. All land disturbance shall be restricted to this area.
 - (3) All earth fills and disturbed areas shall be planted, mulched and maintained, or otherwise protected from the effects of storm runoff and wind erosion. Permanent or temporary soil stabilization must be applied to denuded areas within 15 days after final grade is reached on any portion of the site. Denuded areas which may not be at final grade but which will remain undisturbed for longer than 60 days shall also be stabilized within 15 days. All mulching shall provide the same protection as that resulting from the application of two (2) tons of straw mulch per one acre of surface area. All disturbed or denuded areas created during the period between November 15 and March 15 of the following year shall be mulched or equally protected before quitting time each day.
 - (4) All permanent slopes over three (3) feet high shall be permanently revegetated to achieve a minimum of 70 percent coverage at 24 months. All slopes shall be maintained to assure the success of the plant material and the maintenance of the slope.
 - (5) A minimum of one 1-gallon shrub shall be planted per 100 square feet of slope area where shrubs are appropriate to the area unless equivalent alternate measures are approved by the director. Plant material must be selected to achieve 100 percent coverage of slope at maturity.
 - (6) One 1-gallon tree shall be planted every 500 square feet of slope area where

appropriate to the area unless equivalent alternative measures are approved by the director.

- (7) Temporary or permanent irrigation shall be provided where necessary to assure the successful establishment of the plant material.
- (8) Grading for normal agricultural practices to prepare a field or normal crop or range practices should be protected by recognized agricultural erosion control methods.
- (9) Grading permits may be conditioned to provide landscape and maintenance security.
- (10) Sediment basins shall be designed to trap and store all sediment particles larger than those passing a #200 testing sieve, from the peak discharge of a 25 year frequency storm.
- (11) Runoff shall enter and exit a basin through protected inlets and outlets as approved by the director.
- (12) Sediment removal scheduling and sediment dispersal shall be as approved by the director.
- (13) Temporary drainage control measures during construction to avoid concentration of flow which may cause or exacerbate erosion and sedimentation.

e. **Groundwater Recharge Standards.** Groundwater recharge measures shall be required as part of the site plan requirements. Plan contents and standards shall be as specified in Section 23.05.035 and as listed below:

- (1) Stormwater impound areas shall be located to use the most permeable soils on the project site, where practical.
- (2) Stormwater impound areas shall be sufficiently shallow or properly shielded so that they do not pose a safety hazard.
- (3) Storm water impound areas shall drain fast enough or be designed so that ponded water does not become a vector habitat (mosquito pond).

23.05.042 - Enforcement and Interpretations:

a. **Stop Work Orders.**

- (1) Whenever any grading, construction or earth work is being done contrary to the provisions of any approval or of any rule, regulation, law or ordinance, or whenever approval was based upon purposeful misinformation or misrepresentation, or whenever the public health, safety or welfare is endangered, or any work is not in compliance with the plans or permits approved for the project, the director shall issue a written notice or stop work order on the portion of the work affected. Such notice

or order to stop work shall be served upon the property owner and any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the director to proceed with the work in writing. The notice or order shall state the reason for the notice and no work shall be done on that portion until the matter has been corrected and approval obtained from the director. The order may specify actions necessary to restore the site or provide temporary measures for erosion and sedimentation control until the site has been approved for grading.

- (2) It shall be unlawful for any person to commence or continue any work regulated under the provisions of this Chapter in violation of, or contrary to any stop work notice or stop work order issued pursuant to this Section, except in conformity to the terms of such order or notice of order, or until relief from such order is obtained from the director or, upon appeal, from the Board of Supervisors.

b. **Appeal.** All decisions, interpretations or acts of the Director of Planning and Building regarding the implementation of the grading standards of this Chapter, shall be subject to appeal to the San Luis Obispo County Board of Supervisors in accordance with the procedure set forth in Section 23.01.042a of this title.

c. **Violations and Penalties.**

- (1) Any person, firm, corporation whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any provision of this Chapter is subject to civil or criminal action. The San Luis Obispo County Board of Supervisors hereby declares that any grading done contrary to the provisions of this code is unlawful and a public nuisance. The offense may be filed as either an infraction or a misdemeanor at the discretion of the San Luis Obispo County District Attorney.
- (2) In addition to any penalties prescribed, the Director of Planning and Building shall submit a written report to the appropriate state licensing or professional registration board or society in cases where contractors or professional consultants violate the provisions of this code.

- (3) Unless a different penalty is prescribed for violation of a specific provision of this chapter, any person violating any of the provisions or failing to comply with the requirements of this title is guilty of a misdemeanor, provided, however, that the offense shall be an infraction in the following events:
 - (i) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time of arraignment, after being informed of his rights, elects to have the case proceed as a misdemeanor, or;
 - (ii) The court, with the consent of the defendant, determines that the offense is an infraction, in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.
- (4) Each separate day on which a violation of this chapter exists shall constitute a separate offense.
- (5) Any person convicted of a misdemeanor under this chapter shall be punished by imprisonment in the County jail for a period not exceeding six months, or by a fine not exceeding one thousand (\$1,000), or both such fine and imprisonment.
- (6) Any person convicted of an infraction under this chapter shall be punished by a fine not exceeding \$100 for the first violation; by a fine not exceeding \$200 for a second violation of the same ordinance within one year; and by a fine not exceeding \$500 for each additional violation of the same ordinance committed by that person within one year.
- (7) Paying a fine or serving a jail sentence shall not relieve any person from responsibility for correcting any condition which violates any provision of this chapter.
- (8) Due to the potentially greater environmental effects associated with grading without a permit or using inadequate or improper grading techniques, and the associated additional on-site and cumulative sedimentation and erosion impacts, as well as excessive native vegetation and wildlife impacts, the following shall be completed as a part of the remedial efforts:
 - (i) The applicant shall include additional "cumulative impact" measures above that required for specific on-site remedial work (e.g. contribute to off-site revegetation banking program (where applicable and available), reestablish nearby degraded habitat, removal of surrounding undesirable weedy plants within a sensitive habitat) that is of comparable size as that disturbed, or as determined appropriate by the county.

d. **Injunction, Civil Remedies and Penalties, and Costs.**

- (1) Any person, firm, corporation whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or causes the same to be done, contrary to or in violation of any

provision of this Chapter shall be subject to injunction against such activity and shall be liable for a civil penalty not to exceed \$6,000. The civil penalty provided for by this paragraph is in addition to, and is not to preclude imposition of the civil penalty of up to thirty thousand dollars (\$30,000.00) provided pursuant to California Public Resources Code section 30820 for grading in violation of the San Luis Obispo County Coastal Zone Land Use Ordinance, Title 23, section 23.05.025.

- (2) When the Director of Planning and Building determines that any person has engaged or, is engaged, in any act(s) which constitute a violation of provision(s) of this Chapter, or order issued, the District Attorney or the County Counsel may make application to the Superior Court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing that such person has engaged in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted by a Superior Court having jurisdiction over the cause.
- (3) Any person, firm, corporation whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or causes the same to be done, contrary to or in violation of any provision of this Chapter shall be liable for and obliged to pay to the County of San Luis Obispo for all costs incurred by the County in obtaining abatement or compliance, or which are attributable to or associated with any enforcement or abatement action, whether such action is administrative, injunctive or legal; and for all damages suffered by the County, its agents, officers or employees as a result of such violation or efforts to enforce or abate the violation. See Section 23.10.050, Recovery of Costs.
- (4) Until all costs, fees and penalties assessed under this Chapter are paid in full, no final approval, Certificates of Completion, Certificates of Compliance, Certificates of Occupancy, Land Use Permits or Final Map shall be issued or approved by the Department of Planning and Building, Engineering Department, other county agencies, or the Board of Supervisors.
- (5) In determining the amount of civil penalty to impose, the Court shall consider all relevant circumstances, including but not limited to, the extent of the harm caused by the conduct constituting the violation; the nature and persistence of such conduct; the length of time over which the conduct occurred; the assets, liabilities and net worth of the persons responsible, whether corporate or individual; any corrective action taken by the persons responsible; and the cooperation or lack of cooperation in efforts toward abatement or correction.

23.05.044 - Definitions: The following definitions pertaining to grading and erosion control shall apply to the interpretation and enforcement of this chapter. In addition to the following definitions, the definitions contained in Section 23.11.030 are incorporated into this chapter as though they were fully set forth here. Where any of the definitions conflict with other titles of the County Code, this chapter prevails for the purposes of this title.

NOTE: _ This denotes that the definition is presently found in Chapter 11 of the Coastal Zone Land

Use Ordinance; however some changes have been made in the wording of the definition.

Accelerated Erosion - Rapid erosion caused by human induced alteration of the vegetation, land surface, topography or runoff patterns. Evidence of accelerated erosion is indicated by exposed soils, active gullies, rills, sediment deposits, or slope failures caused by human activities.

Access Driveway - A road to the site of a building or structure which is agriculturally exempt or one for which a county building permit is required.

Acre Foot - An engineering term used to denote a volume one surface acre in area and one foot in depth.

Agricultural Activity - An agricultural activity includes but is not limited to, cultivation, growing, harvesting and production of any agricultural commodity and appurtenant practices incidental to the production of agricultural commodities. The definition includes agricultural grading as described in the text of the ordinance.

Agricultural Drainage Channels - Drainage channels to direct irrigation, natural drainage and tailwaters to and from agricultural fields.

Agricultural Road - Access roads to fields, pastures or similar agricultural use. Does not include a road to an agriculturally exempt building or structure which requires a county construction permit.

Agronomist - Someone who applies the various soil and plant sciences to soil management and the raising of crops.

Applicant - A person, partnership, corporation or public agency applying for a County permit.

Approved - Reviewed and found to be in substantial compliance with requirements of this Chapter and the applicable uniform codes.

Architect - Professional architect holding a valid registration and license from the State of California to practice architecture.

As-Graded - The condition and contour of the ground surface existing upon completion of grading. The location, description and elevations of surface and subsurface drainage facilities.

Bench Drain - Lined or unlined channel that conveys surface waters from slopes to a safe disposal point.

Certification - The statement of a licensed professional that, based upon the appropriate level of observation and testing, and in accordance with applicable principles of the professional's training, background and experience, the work in question has been completed and performed in conformity with the plans and specifications approved and the provisions of the Chapter.

Certification Program - In the event that the County adopts a certification program for grading contractors, requirements shall be as established by the Board of Supervisors.

Clearing - The removal of vegetation, structures or other objects.

Compaction - The densification of a fill by mechanical, hydraulic, or other approved means.

Continuous - At all times throughout the day (24 hours) while work is in progress.

Contour - A line of common elevation.

Creek - (See watercourse).

Cultural Resources - (See Archaeological Resources and Historical Resources).

Cut - (1) An excavation. (2) The difference between a point on the original ground and a designated point of lower elevation on the final grade. (3) The material removed in excavation.

Debris - A term applied to the loose material arising from the disintegration of rocks and vegetative material transportable by landslides, streams or floods.

Dike - A berm of earth or other material constructed to confine or control surface water in an established drainage system.

Diversion - A temporary or permanent structure consisting of a channel or ditch and a ridge constructed across a sloping land surface on the contour or with pre-determined grades to intercept and divert surface runoff before it gains sufficient volume and velocity to cause erosion.

Drainage - The removal of excess surface water or groundwater from land by means of surface or subsurface drains.

Drainage Basin - Drainage facility which is used as a terminal disposal facility or which is used to retard the flow and which has a downstream outlet.

Drainage Pattern - The configuration or arrangement of streams within a drainage basin or other area.

Drainage Way - Natural depression in the earth's surface such as swales, ravines, draws, and hollows in which surface waters collect as a result of rain, but at other times are destitute of water.

Drop-Inlet Spillway - Inlet structure in which the water drops through a vertical riser connected to a discharge conduit.

Drop Structure - A structure for dropping water to a lower level and dissipating its surplus energy; a fall. A drop may be vertical or inclined.

Earth Material - A rock, natural soil and/or any combination thereof.

Easement - A legal right to use or control the property of another for a designated purpose, which appears of record in favor of the owner of the easement.

Energy Dissipater - A device used to reduce the excess energy of flowing water.

Engineered Grading - Grading designed under the direct supervision of a licensed registered civil engineer.

Engineer, Civil - Professional engineer holding a valid registration and license from the State of California in civil engineering.

Engineering Geologist - Individual holding a valid registered geologist license and a valid engineering geologist certification from the State of California

Engineering Geology - The application of geological data and principles to engineering problems dealing with naturally occurring earth material for the purpose of assuring that geological factors are recognized and adequately interpreted in engineering practice.

Engineer, Geotechnical - Professional engineer holding a valid registration and license to practice in geotechnical engineering by the State of California.

Engineering, Soils - The application of soils mechanics in investigations and reports regarding stability of existing or proposed slopes, in the control of fill installation and compaction, in recommending soil bearing values, and in providing design criteria and calculations for earth structures, foundations, fills, subsurface drains and other engineering works.

Erosion - The wearing away of the land surface by running water, wind, ice or other geological agents, including such processes as gravitational creep.

Erosion and Sediment Control Plan - A plan which fully indicates necessary land treatment and structural measures, including a schedule of the timing for their installation which will effectively minimize soil erosion and sediment yield.

Erosion and Sediment Control Specialist - A person who has been certified for having special training and experience in erosion and sedimentation by an organization recognized by the County of San Luis Obispo as specializing in soil and water conservation.

Excavation - Any activity by which earth, sand, gravel, rock or any other similar material is dug into, cut quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting thereof.

Fill - (1) A deposit of earth, sand, gravel, rock, or any other suitable material placed by artificial means; any act by which earth, sand, gravel, rock, or any other suitable material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefor. (2) The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade, as measured in a vertical plane.

Fuelbreak - A strip or block of land on which vegetation above ground has been modified to low volumes of fuel, where fires burning into it can be more readily controlled. The following rule of thumb should be used for clearance widths: one tractor blade width for grassy areas and a double tractor blade width for chaparral areas.

Grading - Any activity which involves the physical movement of earth material. This includes any excavating, filling, stockpiling, movement of material, compaction of soil, creation of borrow pits, or combination thereof, but does not include surface mining or quarrying operations (including the extraction and stockpiling of excavated products and the reclamation of mined lands) operating in conformance with Section 23.08.180.

Groundwater - Subsurface water in a zone of saturation.

Groundwater Recharge - Any of the approved methods that are designed to detain or slow surface water runoff so that percolation is enhanced.

Gully - A channel or miniature valley cut by concentrated runoff but through which water commonly flows only during and immediately after heavy rains.

Habitat, Environmentally Sensitive - A type of Sensitive Resource Area where plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and development. They include wetlands, coastal streams and riparian vegetation, terrestrial and marine habitats and are mapped as Land Use Element combining designations.

Habitat, Important - Habitat that is necessary for the success of those plants and animal species identified as candidate, rare, threatened or endangered, or habitat that is identified by the state .

Habitat, Terrestrial- Sensitive animal or plant habitats on land areas in the Coastal Zone, identified as Combining Designations in the Land Use Element.

Historical Resources - An important resource that is associated with an event or person of recognized significance in California or American history.

Import - Earth material acquired from an off-site location for use in grading on a site.

Interceptor Ditch - Interceptor ditches are permanent structures located on top of man-made or natural slope that divert drainage away from the face of the slope.

Landscape Architect - One who practices landscape architecture holding a license from the State of California to practice landscape architecture.

Native Plant - Plant species and mix that are natural to the site and surrounding area.

Natural Gradient - The slope of the area being worked in its natural state, exclusive of minor deviations.

Periodic - Intermittent while work is in progress.

Permit - Grading - A document issued by the director authorizing grading work.

Rare and Endangered Species - Those plant and animals species identified as candidate, rare, threatened or endangered based upon: State regulations (California Administrative Code, Title 14, Sections 670.2 or 670.5), Federal regulations (Title 50, Code of Federal Regulations, Section 17.11 or 17.12); or where an unlisted species has been shown to meet the criteria for a rare or endangered species.

Revegetation - Any combination of mechanical or other means by which a graded surface is returned to a condition where it supports temporary and permanent natural vegetation.

Rill Erosion - Erosion that occurs or results in rills formed within a watershed.

Runoff - The surface water flow or rate of flow in a given drainage area after a fall of rain.

Scarify - To abrade, scratch or modify the surface, for example, to break the surface of the soil with a narrow blade implement.

Sediment - Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water gravity, or ice and has come to rest on the earth's surface.

Sediment Detention Basin - A sediment detention basin is a reservoir which retains flows sufficiently to cause deposition of transported sediment and debris.

Seepage - (1) Water escaping through or emerging from the ground along an extensive line or surface as contrasted with a spring where the water emerges from a localized spot. (2) The process by which water percolates through the soil.

Sheet Erosion - Erosion resulting from movement of water from sheet flow.

Sheet Flow - Water, usually storm runoff, flowing in a thin layer (from 1 to 3 feet) over the ground surface; overland flow.

Site - Any lot or parcel of land or contiguous combination thereof, under the same ownership, or

with the contiguous owners written consent, where grading is performed or permitted.

Slope - Degree of inclination or percent of slope. An inclined ground surface. The inclination of which is expressed as a ratio of horizontal distance to vertical distance, as in two to one (2:1), meaning a horizontal distance of two (2) feet to one (1) foot vertical.

Slope Drains - Permanent or temporary devices that are used to carry water down cut,, fill or natural slopes to and from bench drains.

Soil (earth) - Sediments or other unconsolidated accumulation of solid particles produced by the physical and chemical disintegration of rocks, and which may or may not contain organic matter.

Stockpiling - The accumulation of earth material in one location.

Stream/Creek, "Blue Line" - any bed, channel or bank of any river, stream or lake as shown with a "blue" line on a USGS 7-1/2 minute (1:24,000) quadrangle map. The surface or subsurface water flow within these "blue" line delineations could be perennial, intermittent, or ephemeral.

Stripping - Any activity which significantly disturbs vegetated or otherwise stabilized soil surface including clearing and brushing operations.

Structure - Any artifact constructed or erected, the use of which requires attachment to the ground, including any building, but not including fences or walls six feet or less in height or open wire fencing.

Swale - A low lying stretch of land which gathers or carries surface water runoff.

Top of Creek Bank - The uppermost ground elevation paralleling a creek or watercourse where the gradient changes from a more defined vertical component to more horizontal.

Topography - (1) The configuration of a surface, including its relief and the position of its natural and man made features. (2) A rendering of the results of a topographical survey.

Unsuitable Material - All vegetation, non-complying fill, soil containing organic matter, compressible earth material and all other earth material which would adversely affect the safety or stability of proposed grading.

Water Conserving Landscape - Landscaping that meets the standards of Section 23.04.180 et seq.

Watercourse - The normal channel or limits of an intermittent or perennial stream, or other body of water, with a well-defined bed and banks.

SECTION 2. That the Board of Supervisors has considered the initial study prepared and conducted with respect to the matter described above. The Board of Supervisors has, as a result of its consideration, and the evidence presented at the hearings on said matter, determined that the proposed negative declaration as heretofore prepared and filed as a result of the said initial study, is

appropriate, and has been prepared and is hereby approved in accordance with the California Environmental Quality Act and the County's regulations implementing said Act. The Board of Supervisors, in adopting this ordinance, has taken into account and reviewed and considered the information contained in the negative declaration approved for this project and all comments that were received during the public hearing process. On the basis of the Initial Study and any comments received, there is no substantial evidence that the adoption of this ordinance will have a significant effect on the environment.

SECTION 3. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 4. This ordinance shall become operative only upon approval without any modifications by the California Coastal Commission and upon acknowledgment by the San Luis Obispo County Board of Supervisors of receipt of the Commission's resolution of certification.

SECTION 5: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 1999, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

**County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California**

[SEAL]

**ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:**

**JAMES B. LINDHOLM, JR.
County Counsel**

**By:
Deputy County Counsel**

Dated: