

**ORDINANCE** No. 23

**AN ORDINANCE OF THE BOARD OF DIRECTORS OF  
THE MONTEREY PENINSULA WATER MANAGEMENT DISTRICT  
TO REGULATE GRADING ACTIVITIES ASSOCIATED WITH  
RIVERBED OR RIVERBANK WORKS WITHIN ZONE NO. 3**

**WHEREAS**, the Board of Directors of the Monterey Peninsula Water Management District finds as follows:

1. The California Legislature has charged the Monterey Peninsula Water Management District with the integrated management of water resources and problems affecting the Monterey Peninsula and Carmel River basin.

2. The Monterey Peninsula Water Management District desires to protect the surface and subsurface flows of the Carmel River, and its surrounding environs.

3. The Monterey Peninsula Water Management District has formed an improvement zone (Zone No. 3) which will facilitate management of the Carmel River and perform works and projects for the benefit of the zone.

4. The Monterey Peninsula Water Management District has approved the **CARMEL RIVER MANAGEMENT PLAN** which sets forth certain designs and specifications for works to be performed on or along the banks of the river.

5. The Monterey Peninsula Water Management District desires to control and regulate all grading activities located within the boundaries of Zone No. 3 and required by reason of riverbed or riverbanks protective works; to safeguard safety, health, and the public welfare; to minimize erosion; to protect fish and wildlife; and to otherwise protect the natural environment of the Carmel River.

6. Exhibit "A", attached, sets forth existing regulations, as adopted by the County of Monterey in Title 16, Chapter 16.08 of the County Code, to control all grading, including excavations, earthwork, road construction, fills and embankments, and establishes the administration procedure for issuance of permits; and provides for approval of plans and inspection of grading construction.

7. The public safety, welfare and convenience will best be served by a single set of uniform grading regulations which is not open to dual or conflicting requirements by overlapping enforcement agencies.

**NOW, THEREFORE, BE IT ORDAINED** that the grading regulations set forth in Chapter 16.08 of Title 16 of the Monterey County Code, as those regulations may be amended from time to time, are adopted as an Ordinance of the Monterey Peninsula Water Management District. The text of this Ordinance shall not be set forth in the District Rules and Regulations, but reference to the existence of this Ordinance shall be made on the cover sheet to those Rules and Regulations.

All references to the term "Building Official" in the County Code shall be construed to refer to the Monterey Peninsula Water Management District General Manager, or a delegated officer of the Monterey Peninsula Water Management District as selected by the General Manager. All references to the term "Board of Supervisors" in the County Code shall be construed to refer to the Board of Directors of the Monterey Peninsula Water Management District. All references to the term "County" shall be construed to include a reference to the Monterey Peninsula Water Management District. All appeals made pursuant to Chapter 16.08.470 shall be heard by the Monterey Peninsula Water Management Board of Directors.

**ON MOTION** of Director McClintock and seconded by Director Heuer, the foregoing Ordinance is passed to print this 11th day of July, 1985, by the following votes:

**AYES:** Directors McClintock, Townsend, DeBerry, Bernardi, Heuer, Williams and Strasser Kauffman

**NAYES:** None

**ABSENT:**None

I, Gladys McKillop, Secretary of the Board of Directors of the Monterey Peninsula Water Management District, hereby certify that the foregoing is a full, true, and correct copy of an ordinance passed to print on the 11th day of July, 1985, and now is of record in my office.

**WITNESS** my hand and seal of the Board of Directors this 12th day of July, 1985.

  
GLADYS MCKILLOP, Secretary

**DRAFT**

EXHIBIT A

**11**

**Title 16**

**ENVIRONMENT**

**Chapters:**

**16.04 Surface Mining and Reclamation**

**16.08 Grading**

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 16.08.520 Violation—Removal of notice.  
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#### 16.08.010 Purpose.

The purpose of this chapter is to safeguard health, safety, and the public welfare, to minimize erosion, protect fish and wildlife, and to otherwise protect the natural environment of Monterey County. (Ord. 2534 § 101, 1979.)

#### 16.08.020 Scope.

This chapter sets forth rules and regulations to control all grading, including excavations, earthwork, road construction, fills and embankments, and establishes the administration procedure for issuance of permits; and provides for approval of plans and inspections of grading construction. (Ord. 2534 § 102, 1979.)

#### 16.08.030 Definitions.

For the purpose of this chapter, the following terms shall have the following meanings indicated in this section:

1. "Approval" means a written engineering or geological opinion concerning the progress and completion of the work.

2. "Bedrock" means the in-place, solid, undisturbed rock either at the ground surface or beneath superficial deposits of gravel, sand or soil.

3. "Building official" means the director of building inspection, an authorized employee charged with the administration and enforcement of this chapter.

4. "Certification" means that the specific inspections or tests required by the building official have been performed, and that the results of such tests are satisfactory and that all work complies with the conditions of the permit and the requirements of this chapter.

5. "Civil engineer" means a professional engineer registered in California to practice civil engineering.

6. "Civil engineering" means the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the valuation, design and construction of civil works for the beneficial uses of mankind.

7. "Compaction" means the densification of a fill by mechanical means.

8. "Contractor" means any person licensed in the state of California authorized to do grading.

9. "Drainage course" means a well defined natural or manmade channel which conveys storm runoff either year-round or intermittently.

10. "Earth Material" means any rock, natural soil, or any combination thereof.

11. "Engineering geologist" means a professional geologist registered in the state of California to practice engineering geology.

12. "Engineering geology" means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

13. "Erosion" means the wearing away of the ground surface as a result of the movement of the wind, water or ice.

14. "Excavation" means the mechanical removal of earth material.

15. "Existing grade" means the grade prior to grading.

16. "Fill" means the deposit of any material by artificial means for any purpose.

17. "Finish grade" means the final grade of the site which conforms to the approved plans.

18. "Grading" means any excavating or filling or combination thereof.

19. "Key" means a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope for the purpose of developing a shearing resistance (see Figure 1 included following this chapter.)

20. "Owner" means the person or persons shown in the county recorder's office as owner of a property.

21. "Road gradient (percent)" means vertical rise multiplied by one hundred and then divided by horizontal run.

22. "Site" means any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

23. "Slope" means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance (see Figure 2 included following this chapter.)

24. "Soil" means naturally occurring, superficial deposits of earth material overlying bedrock.

25. "Soil engineer" means a civil engineer experienced and knowledgeable in the practice of soil engineering.

26. "Soil engineering" means the application of the principles of soil mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

27. "Terrace" means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes. (Ord. 2534 § 103, 1979.)

#### 16.08.040 Permit-Required-Exceptions.

No person shall do, cause, permit, aid, abet, suffer, or furnish equipment or labor for any grading without first obtaining a grading permit from the building official, subject to the following exceptions:

A. Excavations. An excavation which does not exceed one hundred cubic yards 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;

B. Fills. A fill containing earth material only, which is 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 one hundred cubic yards on any one site and does not obstruct a drainage course;

C. Basements and Footings. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit; this shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure;

D. Cemeteries. Cemetery graves;

E. Refuse Disposal. Refuse disposal sites which are permitted and actually being controlled pursuant to other county regulations, and excavations for individual and community sewage disposal systems made pursuant to permit;

F. Casual Grading. Infrequent excavation or filling with earth material on one site which does not exceed an accumulated total volume of one hundred cubic yards;

G. Wells - Utilities. Excavations for wells, tunnels, or utilities;

H. Mining - Quarrying. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay materials where established pursuant to county permit;

I. Soil Testing. Exploratory excavations under the direction of a California licensed civil engineer or engineering geologist where such excavation is to be returned to the original condition under the direction of such engineer or geologist;

J. Agricultural Work. A fill or excavation which is to be used only for agricultural purposes such as cultivation or leveling for crops or orchards, and which does not adversely affect any drainage course; not exempted is the construction of reservoirs;

K. Levees. The construction, repair or alteration of levees is not regulated by this chapter. It is regulated by the flood control and water conservation district engineer. (Ord. 2534 § 104, 1979.)

**16.08.050 Permit—Processed in accordance with county and state guidelines.**

All permits under this chapter shall be processed in accordance, with the Monterey County Environmental Guidelines, State EIR Guidelines, dated May 1978, as amended. (Ord. 2534 § 105, 1979.)

**16.08.060 Permit—Denial.**

A. No grading permit shall be issued in any case where the building official determines that the grading proposed by the applicant will be hazardous by reason of flood, geological hazard, seismic hazard or unstable soils, or is liable to endanger any other property or result in the deposition of debris on any public way or property or drainage course or otherwise create a nuisance.

B. A grading permit will not be issued for development of any building site in any area where it has been shown that adequate sewerage facilities and adequate water supplies cannot be provided.

C. A grading permit will not be issued if the proposed grading plan for the development contemplated does not comply with the requirements of the zoning ordinance. (Ord. 2534 § 106, 1979.)

**16.08.070 Elimination of hazardous conditions.**

Whenever the building official determines that any existing excavation or embankment or fill

**16.04.090 Records.**

A. Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records unless it can be demonstrated to the satisfaction of the county that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The county shall identify such proprietary information as a separate part of each application.

B. A copy of all permits, reclamation plans, reports, applications, and other documents submitted pursuant to this chapter, including proprietary information, shall be furnished to the District Geologist of the State Division of Mines (and Geology) by the county of Monterey.

C. Proprietary information shall be made available to persons other than the State Geologist only when authorized by the mine operator and by the mine owner in accordance with Section 2778, California Surface Mining and Reclamation Act of 1975. (Ord. 2402 § .017, 1978.)

**16.04.100 Periodic site inspection.**

As a condition of approval for the permit or the reclamation plan, or both, a schedule for periodic inspections of the site shall be established to evaluate continuing compliance with the permit and the reclamation plan. (Ord. 2402 § .018, 1978.)

**16.04.110 Amendments to reclamation plan.**

Amendments to an approved reclamation plan may be submitted to the county at any time, detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the county. Amendments to an approved reclamation plan shall be approved by the same procedure as is prescribed for approval of a reclamation plan. (Ord. 2402 § .019, 1978.)

**16.04.120 Variances from reclamation plan.**

Variances from an approved reclamation plan may be allowed upon request of the operator and applicant, if they are not one and the same, and upon a finding by the planning agency that each requested variance is necessary to achieve the prescribed or higher post-mining use of the reclaimed land. (Ord. 2402 § .020, 1978.)

**16.04.130 Review of provisions.**

This chapter shall be continuously reviewed and revised, as necessary, in order to ensure that it is in accordance with the state policy for mined lands reclamation. (Ord. 2402 § .014(d), 1978.)

**16.04.140 Enforcement.**

The provisions of this chapter shall be enforced by any authorized member of the planning department of the county of Monterey or such other persons as may be designated by the board. (Ord. 2402 § .021, 1978.)

**16.04.150 Appeal.**

Any person aggrieved by an act or determination of the planning department administrator in the exercise of the authority granted in this chapter shall have the right to appeal to the planning agency and the board of supervisors. Any appeal must be filed on forms provided within ten days after the rendition, in writing, of the decision. (Ord. 2402 § .022, 1978.)

**Chapter 16.08****GRADING****Sections:**

- 16.08.010 Purpose.**
- 16.08.020 Scope.**
- 16.08.030 Definitions.**
- 16.08.040 Permit—Required—Exceptions.**
- 16.08.050 Permit—Processed in accordance with county and state guidelines.**

has become a hazard to life and limb, or endangers property, or adversely affects the safety, use, or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of said property, upon receipt of notice in writing from the building official, shall within the period specified in the notice repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter. (Ord. 2534 § 107, 1979.)

**16.08.080 Permit—Required for private road construction.**

Except as otherwise exempted by this chapter, no person shall do any grading, or make any cuts or fills for private road construction or cause, permit, aid, abet, suffer, or furnish equipment or labor for doing any grading, or making any cuts or fills for private road construction without first obtaining a grading permit from the building official. A separate permit shall be required for each site, and may cover both excavations and fills. (Ord. 2534 § 108(a), 1979.)

**16.08.090 Permit—Plans and specifications—Required.**

Two sets of plans will be required with all applications for grading permits. All applications shall be signed by owners of each parcel of property on which grading will be done. Plans and specifications shall be prepared and signed by a civil engineer when the grading is over five thousand cubic yards or a drainage structure over five square feet in flow area is required. (Ord. 2534 § 108(b), 1979.)

**16.08.100 Permit—Plans and specifications—Information required.**

A. Plans shall be drawn to scale upon substantial reproducible material and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this chapter and all relevant laws, ordinances and regulations.

The location of the work, the name and address of the owner, and the parcel number of the property on which the grading is to be done shall be clearly shown on each set of plans.

B. The plans shall include the following information:

1. A statement as to the specific intentions or ultimate purpose for which the grading is being done;

2. General location of the proposed site;

3. Property lines and relative contours of the existing ground and details of terrain and area drainage;

4. Elevations, dimensions, location, extent and slopes of all proposed grading by contours or other suitable means;

5. 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 the estimated runoff at the area served by any drains;

6. Location of any buildings or structures on the property where the work is to be performed performed and the location of any buildings or structures on land of adjacent owners which are within fifteen feet of the property or which may be affected by the proposed grading operations;

7. A statement of the quantity of excavation and fill, and estimated starting and completion dates;

8. Specifications, when required, shall contain information covering construction and material requirements. (Ord. 2534 § 109, 1979.)

**16.08.110 Permit—Soil engineering and engineering geology reports.**

A. Application for a grading permit shall be accompanied by supporting data consisting of a soil engineering report and an engineering geology report, unless waived by the building official because information of record is available showing such data is not needed.

B. The soil engineering report shall include data regarding the nature, distribution and



strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary, and opinions and recommendations covering adequacy of sites to be developed by the proposed grading.

C. The engineering geology report shall include an adequate description of the geology of the site, 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.

D. Recommendations included in the report and approved by the building official shall be incorporated in the grading plans and specifications. (Ord. 2534 § 110, 1979.)

#### **16.08.120 Permit—Limitations of work authorized.**

The issuance of a grading permit shall constitute an authorization to do only that work which is described or illustrated on the application for the permit or on the site plans and specifications approved by the building official. (Ord. 2534 § 111(a), 1979.)

#### **16.08.130 Permit—Plan checking.**

The application, plans and specifications filed by an applicant for a permit shall be checked by the building official within thirty days after receipt of all information required for issuance of the permit. The building official shall approve an application for permit if the plans filed therewith conform to the requirements of this chapter, zoning ordinances, use permit and design review conditions and other applicable laws. (Ord. 2534 § 111(b), 1979.)

#### **16.08.140 Permit—Conditions of approval.**

A. In granting any permit under this chapter, the building official shall attach such conditions as necessary to prevent creation of a nuisance or other hazard to public or private property.

B. Such conditions may include, but shall not be limited to:

1. Improvement of any existing grading project to bring it up to the standards of this chapter;

2. Requirements for fencing of excavations or fills which would otherwise be hazardous;

3. Haul routes for materials;

4. Hours of operation. (Ord. 2534 § 111(c), 1979.)

#### **16.08.150 Permit—Approved plans.**

When the building official issues the permit, he shall endorse all of the plans and specifications as "APPROVED." Such approved plans and specifications shall not be changed, modified, or altered without written authorization by the building official, and all work shall be done in accordance with the approved plans. (Ord. 2534 § 111(d), 1979.)

#### **16.08.160 Permit—Retention of plans—Return of plans.**

A. One set of approved plans and specifications shall be retained by the building official as a permanent record. One set of approved plans and specifications, setting forth all conditions attached, shall be kept on such grading site by the permittee at all times during which the work authorized thereby is in progress. The permit shall be kept posted so that it is easily visible.

B. Plans which have been submitted for checking and for which no permit is issued may be returned to the last known address of the applicant by the building official if not picked up by the applicant within one hundred twenty days. (Ord. 2534 § 111(e), 1979.)

#### **16.08.170 Permit—Work time limits.**

A. The permittee shall fully perform and complete all of the work required to be done pursuant to the grading permit within the time limit specified. If no time limit is specified, the permittee shall complete the work within one and one-half years after the date of the issuance of the grading permit.

B. If the permittee is unable to complete the work within the specified time, he shall, prior

to the expiration of the permit, present in writing to the building official a request for an extension of time, setting forth the reasons for the requested extension. If, in the opinion of the building official, such an extension is warranted, he may grant additional time for the completion of the work. (Ord. 2534 § 111(f), 1979.)

#### 16.08.180 Permit—Expiration.

Every permit issued by the building official under the provisions of this chapter shall expire if the work authorized by such permit is not commenced within one hundred twenty days from the date of such permit, or if the work authorized by such permit is commenced and then suspended or abandoned for a period of thirty days, unless such suspension is approved by the building official. Before such work can be recommenced, a new permit shall first be obtained, and the fee therefor shall be ten dollars for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work. (Ord. 2534 § 111(g), 1979.)

#### 16.08.190 Permit—Safety precautions.

During the entire time from the date of issuance of the permit to the date of final approval for all grading operations, the permittee shall take all appropriate and necessary precautions to protect adjacent public and private property from any damage that may result from the grading operation. (Ord. 2534 § 111(h), 1979.)

#### 16.08.200 Location of property lines.

Whenever the location of a property line is in question as the result of or during a grading operation, a property survey by a licensed surveyor or civil engineer may be required by the building official to establish the location of the property line. (Ord. 2534 § 111(i), 1979.)

#### 16.08.210 Inclement weather.

The building official may stop grading during periods of inclement weather where weather-generated problems are not being controlled adequately. (Ord. 2534 § 111(j), 1979.)

#### 16.08.220 Permit—Not to be construed as approval of violations—Correction of errors.

A. The issuance or granting of a permit or approval of plans and specifications shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this chapter. No permit presuming to give authority to violate or cancel the provisions of this chapter shall be valid, except insofar as the work or use which it authorizes is lawful.

B. The issuance of a permit based on plans and specifications shall not prevent the building official from thereafter requiring the correction of errors in said plans and specifications or from preventing building operations from being carried on thereunder when in violation of this chapter or of any other law. (Ord. 2534 § 111(k), 1979.)

#### 16.08.230 Permit—Suspension or revocation.

The building official may, in writing, suspend or revoke a permit issued under provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this chapter. (Ord. 2534 § 111(l), 1979.)

#### 16.08.240 Permit—Liability.

Neither the issuance of a permit under the provisions of this chapter nor the compliance with the provisions of this chapter or with any conditions imposed in the permit issued under this chapter shall relieve any person from responsibility for damage to other persons or property, nor impose any liability upon the county, its officers, agents or employees, for damage to other persons or property. (Ord. 2534 § 111(m), 1979.)

**16.08.250 Responsibility for compliance.**

The primary responsibility for compliance with the chapter rests on the permittee and the contractor. Any inspection of the work or materials shall not relieve the permittee of any of his obligations to complete the grading in accordance with the requirements of this chapter. Work and materials not meeting such requirements may be rejected notwithstanding that such work or materials may have been previously inspected by the building official. (Ord. 2534 § 111(n), 1979.)

**16.08.260 Fees—Plan checking.**

A. For excavation and fill on the same site, the fee shall be based on the volume of the excavation or fill, whichever is the greater.

B. Before accepting a set of plans and specifications for checking, the building official shall collect a plan-checking fee.

C. Separate permits and fees shall apply to retaining walls or other structures. There shall be no separate charge for standard terrace drains and similar facilities.

D. The amount of the plan-checking fee for grading plans shall be as established from time to time by resolution of the board of supervisors.

E. The fee for a grading permit authorizing additional work shall be the difference between the fee paid for the original permit, if it is still valid, and the fee shown for the entire project. (Ord. 2534 § 112(a), 1979.)

**16.08.270 Fees—Grading permit.**

A. A fee for administration and inspection of the work authorized by each grading permit shall be paid to the building official as established from time to time by resolution of the board of supervisors.

B. The fee for a grading permit authorizing additional work to that under a valid permit shall be the difference between the fee paid for the original permit and the fee shown for the entire project.

C. Whenever a volume change is indicated by the building official as a result of reviewing the

plan, the plan-check and grading permit fees shall be based on the revised volume.

D. If work for which a permit is required by this chapter is begun prior to obtaining a permit, the fees shall be doubled, but the payment of such double fee shall not be relief from fully complying with the requirements of this chapter in the execution of the work, nor from any other penalties described in this chapter. (Ord. 2534 § 112(b), 1979.)

**16.08.280 Fees—Subdivision grading permit.**

Only plan-checking fees shall be charged for a grading permit for property for which a final subdivision map has been recorded (or a tentative subdivision map has been approved subject to a specific condition that grading will be permitted prior to a recording of the final map), provided that all of the contemplated grading is shown on approved improvement plans. (Ord. 2534 § 112(c), 1979.)

**16.08.290 Bonds.**

A. The building official shall require bonds in such form and amounts as may be deemed necessary to assure that the work, if not completed in accordance with the approved plans and specifications will be corrected to eliminate hazardous conditions.

B. In lieu of a surety bond, the applicant may file a cash bond or instrument of credit with the building official in an amount equal to that which would be required in the surety bond.

C. Cash deposits, certificate of deposit, or surety bonds in conformity with the Subdivision Map Act Government Code SS66499. (Ord. 2534 § 113, 1979.)

**16.08.300 Design standards—Excavations.**

Design standards for excavations shall be as follows:

A. Slope. Cut slopes shall be no steeper than two horizontal to one vertical. Steeper slopes may be allowed if the building official determines they will be stable or if a civil engineer or

geologist certifies that the site has been investigated and that the proposed deviation will be and remain structurally stable. The top of cut slopes may be required to be rounded off so as to blend in with the natural terrain.

B. Drainage and Terraces. Drainage and terraces shall be provided as required by Section 117.

C. Vegetation Removal.

1. If vegetation removal takes place prior to a grading operation and the actual grading does not begin within thirty days from the date of removal, then that area shall be planted under the provisions of Section 16.08.340 to control erosion.

2. No vegetation removal or grading will be allowed which will result in siltation of watercourses or uncontrollable erosion. (Ord. 2534 § 114, 1979.)

#### 16.08.310 Design standards—Fills.

Design standards for fills shall be as follows:

A. General. Unless otherwise recommended in the approved soil engineering report, fills shall conform to the provisions of this section.

B. Slopes — Fill Location. Fill slopes shall not be constructed on natural slopes steeper than two to one unless a civil engineer or geologist devises a method of placement which will assure the fill will remain in place. Slough shall not be placed on any slope where it is likely that it will enter a drainage course. Fill slopes shall toe out no closer than twelve feet horizontally to the top of existing or planned cut slopes (see Figure 3 included following this chapter.)

C. Preparation of Ground For Fill. The ground surface shall be prepared to receive fill by the removal of topsoil and other unsuitable materials as determined by the soil engineer and, where the slopes are five to one or steeper, by keying into sound bedrock or other competent material.

D. Preparation of Ground. The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, topsoil and other unsuitable materials scarifying to provide a bond

with the new fill, and, where slopes are steeper than five to one, and the height is greater than five 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 to one shall be at least twelve feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. Where fill is to be placed over a cut, the bench under the toe of fill shall be at least ten feet wide but the cut must be made before placing fill and approved by the soils engineer and engineering geologist as a suitable foundation for fill. Unsuitable soil is soil which, in the opinion of the building official or the civil engineer or the soils engineer or the geologist, is not competent to support other soil or fill, to support structures or to satisfactorily perform the other functions for which the soil is intended.

E. Fill Material Permitted. No organic material shall be permitted in fills except as topsoil used for surface plant growth only and which does not exceed four inches in depth. The building official may permit placement of imported rock over twelve inches in its maximum dimension only when a civil engineer, soils engineer, or engineering geologist properly devises a method of placement, supervises its placement under continuous inspection, and provides assurance of fill stability.

F. Fill Slopes. No compacted fill shall be made which creates an exposed surface steeper in slope than two horizontal to one vertical. The building official may require that the fill be constructed with an exposed surface flatter than one and one-half horizontal to one vertical if he finds this necessary for stability and safety.

G. Compaction of Fills. All fills shall be compacted to a minimum of ninety percent of maximum density as determined by the Uniform Building Code, Standard No. 70-1. Compaction tests may be required on any fill. As a minimum requirement, filed density verification must be submitted for any fill greater than twelve inches in depth where such fill may support the foundation of a structure.

H. Drainage and Terraces. Drainage and terraces shall be provided in the area above fill slopes and the surfaces of terraces shall be graded and paved as required by Section 16.08.330. (Ord. 2534 § 115, 1979.)

**16.08.320 Cut and fill slope setbacks.**

The tops and toes of cut and fill slopes shall be set back from property boundaries as far as necessary for safety of the adjacent properties and to prevent damage resulting from water runoff or erosion of the slopes. Retaining walls may be used to reduce the required setbacks when approved by the building official.

The tops and toes of cut and fill slopes shall be set back from structures as far as is necessary for adequate foundation support and to prevent damage to slopes.

Unless otherwise recommended in the approved soil engineering or engineering geology report and shown on the approved grading plan, setbacks shall be no less than shown in Table B included following this chapter. (Ord. 2534 § 116, 1979.)

**16.08.330 Drainage facilities and terraces.**

A. Drainage Facilities. Whenever a grading operation obstructs or impairs the flow of runoff through a drainage course, a suitable drainage device designed according to approved county design criteria, shall be constructed to convey the flow past the point of impairment or obstruction. The minimum size culvert is twelve inches in diameter. Only material meeting industry standards shall be used.

B. Disposal. All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the building official, if drainage facilities discharge onto natural ground, a suitable means of reducing the velocity of flow to prevent erosion will be required.

C. Setback. The toe of all side-cast material shall be kept above the high-water mark of any adjacent natural stream or manmade drainage channel.

D. Terrace. Terraces at least six feet in width shall be established at not more than thirty-foot vertical intervals to control surface drainage and debris. Suitable access shall be provided to permit proper cleaning and maintenance.

Swales or ditches on terraces shall have a minimum gradient of five percent and must be paved with reinforced concrete not less than three inches in thickness or an approved equal paving. They shall have a depth at the deepest point of one foot and a minimum paved width of five feet. A revegetation and maintenance plan may be approved by the building official in lieu of total width paving.

A single run of swale or ditch shall not collect runoff from a horizontal tributary area exceeding thirteen thousand five hundred square feet without discharging into a down drain.

E. Subsurface Drainage. Cut and fill slopes shall be provided with subsurface drainage facilities as necessary for stability. (Ord. 2534 § 117, 1979.)

**16.08.340 Erosion control.**

All disturbed surfaces resulting from grading operations shall be prepared and maintained to control erosion. This control may consist of effective planting, such as rye grass, barley or some other fast germinating seed. The protection for the slopes shall be installed as soon as practicable and prior to calling for final inspection.

The building official may require watering of planted areas to assure growth.

Where it is determined by the building official that cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted.

Check dams, cribbing, riprap or other devices or methods shall be employed to control erosion.

Dust from grading operation must be controlled. The owner or contractor may be required to keep adequate equipment on the grading site to prevent dust problems. (Ord. 2534 § 118, 1979.)

**16.08.350 Private road standards.**

A. All private road construction involving grading shall be done under permit pursuant to the provisions of this chapter. The building official may modify these requirements for emergency access or temporary roads.

Exemption: All private single-family driveways less than fifty feet in total length shall be exempt from the requirements of subsection B of this section.

B. In addition, all private road construction requiring grading permits shall be subject to the following requirements:

1. Width of roadbed shall be ten feet minimum;

2. Minimum centerline radius shall be thirty feet;

3. In no situation will road gradients be allowed greater than twenty-five percent;

4. The structural section shall consist of a minimum of four inch of Class II aggregate base, except where native materials provide sufficient bearing capacity for all weather use. Additionally, one and one-half inches of asphalt concrete surfacing shall be provided where road gradients exceed fifteen percent.

5. Asphalt berms are required where necessary to control drainage. Discharge shall be at points of natural waterways with energy dissipators installed where necessary to control erosion.

6. Turnouts shall be provided at least every five hundred feet if the traveled way width of the roadbed is less than sixteen feet. (Ord. 2534 § 119, 1979.)

**16.08.360 Modification of approved plans.**

A. No modifications will be permitted on previously approved plans unless prior approval in writing is obtained from the building official.

B. The requirements for all modifications will come under the same provisions of this chapter. (Ord. 2534 § 120, 1979.)

**16.08.370 Transfer of responsibility for certification.**

If the civil engineer, the soil engineer or the engineering geologist of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for certification upon completion of the work. (Ord. 2534 § 121, 1979.)

**16.08.380 Grading inspection—Generally.**

A. All grading operations for which a permit is required shall be subject to inspection by the building official. The building official may require special testing during the grading operation to determine compliance with this chapter.

B. When an engineer has been required to prepare plans or specifications under Section 16.08.090, he shall be responsible for field inspection of his approved plans. He shall certify to the building official when the grading operation is complete according to approved plans or specifications. (Ord. 2534 § 122(a), 1979.)

**16.08.390 Grading inspection—Site.**

A. Prior to the completion of any grading project, the building official may inspect the site to determine that the grading has been completed according to the plans and specifications submitted for the permit.

B. The permittee shall notify the building official for the purpose of inspection:

1. Two days prior to the beginning of the work authorized by the permit;

2. When all work, including installation of all appurtenant structures, and other protective devices, has been completed. (Ord. 2534 § 122(b), 1979.)

**16.08.400 Grading inspection—Stopping work.**

The building official shall conduct such inspection as he deems necessary. Whenever the building official determines that the work does not comply with the terms of the permit, or this chapter, or that the soil or other conditions are

not as stated on the permit, he may order the immediate cessation of all work thereunder, and such work shall cease until such corrective measures have been completed. (Ord. 2534 § 122(c), 1979.)

#### 16.08.410 Final reports.

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

A. An as-graded plan prepared by the civil engineer, including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities; he shall provide approval that the work was done in accordance with the final approved grading plan;

B. A soil grading report, prepared by the soil engineer, including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on the recommendations made in the soil engineering investigation report; he shall provide approval as to the adequacy of the site for the intended use;

C. A geologic grading report, prepared by the engineering geologist, including a final description of the geology of the site including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan; he shall provide approval as to the adequacy of the site for the intended use as affected by geologic factors. (Ord. 2534 § 123(a), 1979.)

#### 16.08.420 Notification of completion.

The permittee or his agent shall notify the building official when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices and all erosion control measures, has been completed in accordance with the final approved grading plan and the required reports have been submitted. (Ord. 2534 § 123(b), 1979.)

#### 16.08.430 Grading violations.

A. Where grading is being performed in violation of this chapter, the site may be posted with a "Stop Work" notice and the owner of record notified of the violation in writing by personal delivery thereof to the person to be notified or by certified mail, return receipt requested, postage prepaid, stating that the owner has ten days in which to correct the violation. All work shall cease immediately upon notice, and shall not begin until a valid permit has been issued therefor pursuant to this chapter.

B. If any grading or clearing of trees and brush over that necessary for normal surveying or ongoing continued land and vegetation maintenance purposes is evident on the property as determined by field inspection prior to the grant of the permit, the building official or the county surveyor or the secretary of the planning commission may withhold approval of the final map or other approval for a term determined by the board of supervisors necessary to allow proper compaction and re-establishment of the disturbed soil, covered by sufficient appropriate vegetation to prevent erosion. (Ord. 2534 § 124, 1979.)

#### 16.08.440 Notification of noncompliance.

If, in the course of fulfilling their responsibility under this chapter, the civil engineer, the soil engineer, or the engineering geologist finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the building official. Recommendations for corrective measures, if necessary, shall be submitted. (Ord. 2534 § 125, 1979.)

#### 16.08.450 Notice of violation recordation.

A. Whenever the building official determines that grading has not been completed in accordance with a grading permit or the plans and specifications relating thereto, or whenever the building official determines that grading has been done without the required permit, the

building official may record a notice of violation with the office of the county recorder. The owner(s) of the property, as revealed by the assessment roll, on which the violation is situated and any other person responsible for the violation shall be notified of the recordation, if their address is available.

B. If the property owner(s) or authorized agent disagree with the determination, he may submit evidence to the building official indicating that there is no violation and then shall have a right to appeal an adverse decision of the building official to the building appeals board and the board of supervisors, in accordance with the provisions of Sections 16.08.460 through 16.08.510. (Ord. 2534 § 126, 1979.)

#### 16.08.460 Board of appeals.

A. In order to determine the suitability of alternate materials and types of construction and to provide for reasonable interpretations of the provisions of the chapter, a board of appeals is created, consisting of five members who shall be qualified by experience and training to pass upon matters pertaining to building construction, who are not employees of the county of Monterey, and who shall be appointed by the board of supervisors and shall hold office at the pleasure of the board of supervisors. The building official shall act as secretary to the board of appeals but is not a member of the board.

B. The board of appeals shall hear appeals from all decisions of the building official, including the denial of a variance from the provisions of this chapter, and shall also hear requests for variances from any provision of this chapter referred to it by the building official. Upon such reference, or upon appeal, it shall have the same power as the building official to grant such variances and impose conditions thereon.

C. Appeals to the board of appeals shall be in writing and shall be filed with its secretary within ten days after written notice of the decision of the building official has been mailed to the applicant. The board of appeals shall hear appeals and applications for variances referred to

it by the building official after not less than five days notice in writing to the building official and the appellant or applicant.

D. Members of the board of appeals shall serve without compensation, but shall receive their actual and necessary travel expenses in the performance of their duties.

E. Attendance by three or more members shall constitute a quorum for all business and decisions. (Ord. 2534 § 127, 1979.)

#### 16.08.470 Appeal—Filing.

An appeal may be made to the board of supervisors from the action of the board of appeals by a public agency, public official, or any person aggrieved by a decision of the board of building appeals. Such appeal shall be in writing and shall be filed with the clerk of the board of supervisors and with the secretary of the board of building appeals within ten days after written notice of the decision has been mailed to the applicant.

Written notice of the decision shall be given promptly and no appeal shall be accepted until the notice of the decision has been given.

At the time of the filing of the appeal, the appellant shall pay the required filing fee, as established from time to time by the board of supervisors, to the clerk of the board of supervisors. (Ord. 2534 § 128(a), 1979.)

#### 16.08.480 Appeal—Contents.

The appellant must specifically state in the notice of appeal:

A. The identity of the appellant and his interest in the decision;

B. The decision from which the appeal is being made;

C. A clear, complete, but brief statement of the reasons why, in the opinion of the appellant, the decision was unjustified or inappropriate because:

1. There was prejudicial error or abuse of discretion, or

2. There was a lack of a fair and impartial hearing, or



3. The decision is not supported by the evidence;

D. The reasons that an additional hearing on the application should be had. (Ord. 2534 § 128(b), 1979.)

#### **16.08.490 Appeal—Form.**

A form for giving notice of appeal may be provided. The form need not be used if the contents of the notice of appeal is complete. (Ord. 2534 § 128(c), 1979.)

#### **16.08.500 Appeal—Acceptance.**

An appeal shall not be accepted by the board of supervisors unless it is complete and complies with all requirements. The clerk or secretary of the board shall not accept a notice of appeal if it is obvious on the face of the notice that it is incomplete. (Ord. 2534 § 128(d), 1979.)

#### **16.08.510 Appeal—Action by board of supervisors.**

A. Upon receipt of the notice of appeal the board shall, within fifteen days following the filing of the appeal, set a date for public hearing thereon.

B. The evidence presented to the board of supervisors on appeal shall be limited to that evidence which was presented to the board of appeals; provided, however, that when relevant new evidence is available at the time of the appeal, the application may be returned to the building official or board of appeals for reconsideration.

C. If the basis of the appeal is the adequacy or weight of the evidence to support the findings, or decision of the building official or the board of appeals, the board of supervisors shall affirm if there is substantial evidence to affirm despite evidence to the contrary.

D. The board of supervisors may reverse or affirm, wholly or in part, or modify the decision or the notice of violation and may make such order as should be made, and such action shall be final. (Ord. 2534 § 128(e), 1979.)

#### **16.08.520 Violation—Removal of notice.**

A. The building official shall submit a removal of notice of violation to the county recorder when:

1. It is determined by the building official, the building appeals board, or the board of supervisors, after review, that no violation of this chapter exists; or

2. All required and corrective work, including replacement and landscaping if required, has been completed and approved by the building official.

B. The fee for the submittal of removal of notice of violation shall be that set from time to time by the board of supervisors. (Ord. 2534 § 129, 1979.)

#### **16.08.530 Violation—Penalty.**

All violations of this chapter by the property owner, contractor, and/or person doing the work shall be misdemeanors. Any person convicted of a misdemeanor, the penalty for which is not prescribed, shall be punished by a fine of not more than five hundred dollars or by imprisonment of not more than six months, or by both such fine and imprisonment. It shall be a separate offense for each and every day during any portion of which any violation of, or failure to comply with, any provision of the permit or this chapter is committed, continued, or permitted. (Ord. 2534 § 130, 1979.)

Figure 1

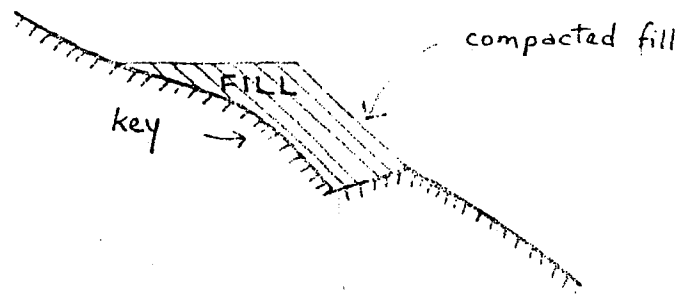


Figure 2

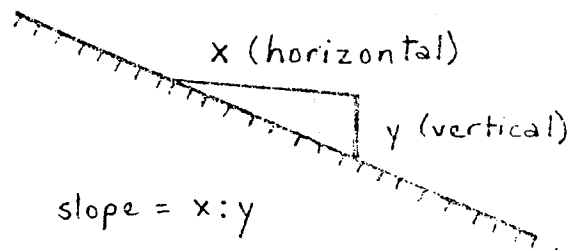
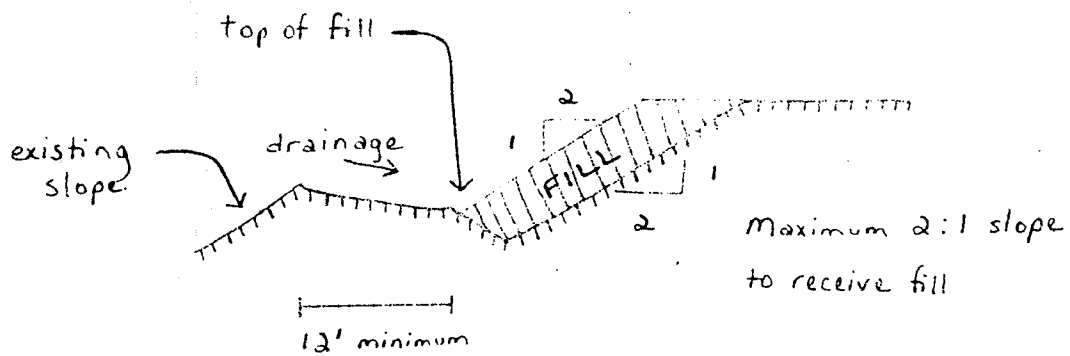


Figure 3



H IN FEET	a	b	c
0 - 10	3'	3'	3'
11 - 30	(H/2)'	(H/5)'	(H/2)'
31 and Over	15'	6'	15'

