

ORDINANCE NO. 5819

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING THE SONOMA COUNTY CODE AND THE PREVIOUSLY ADOPTED 2007 CALIFORNIA BUILDING CODE WITH RESPECT TO THE REGULATION OF GRADING, DRAINAGE, AND VINEYARD AND ORCHARD SITE DEVELOPMENT

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

SECTION VII. A new Chapter 11 is added to the Sonoma County Code, to read:

**CHAPTER 11
GRADING, DRAINAGE, AND VINEYARD
AND ORCHARD SITE DEVELOPMENT**

Article 02. Purpose and Effect.

Sec. 11.02.010. Title.

This chapter is and may be cited as the Sonoma County Grading, Drainage, and Vineyard and Orchard Site Development Regulations.

Sec. 11.02.020. Purpose.

This chapter is enacted for the purpose of regulating grading, drainage improvement, and vineyard and orchard site development within the unincorporated area of the county, and to establish ministerial standards for those activities that:

- A. Minimize hazards to life and property;
- B. Protect against soil loss, and the pollution of watercourses with soil and other pollutants;
- C. Protect the safety, use, and stability of public rights-of-way and watercourses;
- D. Protect watercourses from obstruction, and protect life and property from the deleterious effects of flooding;
- E. Protect against the destruction of human remains and archaeological resources; and
- F. Protect streams, lakes, ponds, and wetlands.

Sec. 11.02.030. Responsibility for administration.

This chapter shall be administered under the direction of the board of supervisors, by and through the director of permit and resource management and the agricultural commissioner.

Sec. 11.02.040. Applicability.

- A. **Compliance required.** The provisions of this chapter shall apply to all grading, drainage improvement, and vineyard and orchard site development occurring within the unincorporated area of the county, except for grading and drainage improvement for timber operations conducted under an approved timber harvesting plan or nonindustrial timber management plan. The permit requirements in this chapter shall apply to all grading, drainage improvement, and vineyard and orchard site development subject to the provisions of this chapter, unless exempted from permit requirements by section 11.04.020, 11.06.020, or 11.08.020. The standards in this chapter shall apply to all grading, drainage improvement, and vineyard and orchard site development subject to the provisions of this chapter, regardless of whether a permit is required by this chapter.
- B. **Liability.** Nothing in this chapter, nor the issuance of a permit pursuant to this chapter, nor compliance with the provisions of this chapter or with any permit conditions, shall relieve any person from responsibility for damage to other persons or property, or impose any liability upon the county, its officers, agents, or employees, for damage to other persons or property.
- C. **Relationship to other laws.** The provisions of this chapter are not intended to and shall not be construed or given effect in a manner that conflicts with state or federal law, or interferes with the achievement of state or federal regulatory objectives. The provisions of this chapter shall be interpreted to be supplementary to and compatible with state and federal enactments, and in furtherance of the public purposes those enactments express. Compliance with the provisions of this chapter, however, does not ensure compliance with state and federal requirements. Further, the provisions of this chapter are not intended to and shall not be construed or given effect in a manner that supersedes other provisions of this code. Where another provision of this code establishes a stricter requirement than a provision of this chapter, that stricter requirement shall prevail.
- D. **Other permits.** Nothing in this chapter shall eliminate the need for grading, drainage improvement, and vineyard and orchard site development to obtain any other permits, approvals, or authorizations required by this code or state or federal agencies.

Sec. 11.02.050. Interpretations.

- A. **Authority to interpret.** The director of permit and resource management and the agricultural commissioner shall have the authority to interpret the provisions of this chapter. Whenever the director of permit and resource management or the agricultural commissioner determines it necessary or appropriate, he or she may issue an official written interpretation or, in the alternative, may refer the issue of interpretation to the board of supervisors for determination.
- B. **Language.** When used in this chapter, the words “shall,” “must,” “will,” “is to,” and “are to” are always mandatory. “Should” is not mandatory but is strongly recommended; and “may” is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the natural construction of the word indicates otherwise. The words “include,” “includes,” and “including” shall mean “including but not limited to.”
- C. **Time limits.** Whenever a number of days are specified in this chapter, or in any permit, condition of approval, or notice provided in compliance with this chapter, the number of days

shall be construed as calendar days, unless business days are specified. A time limit shall extend to 5 p.m. on the following business day where the last of the specified number of days falls on a weekend, county-observed holiday, or other day the county is not open for business.

- D. State law requirements.** Where this chapter references applicable provisions of state law, the reference shall be construed to be to the applicable state law provisions as they may be amended from time to time.

Article 04. Grading Permits.

Sec. 11.04.010. Grading permit requirements.

- A. Permit required.** A grading permit shall be required prior to commencing any grading or related work, including preparatory site clearing and soil disturbance, except where exempted from permit requirements by Section 11.04.020. A separate grading permit shall be required for each site.
- B. Grading designation and performance.** Grading shall be designated in compliance with the requirements in Table 11-1, and shall be performed as follows:
- 1. Regular grading.** Regular grading shall be performed in compliance with approved plans and specifications prepared by the property owner or a licensed professional acting within the scope of their license.
 - 2. Engineered grading.** Engineered grading shall be performed in compliance with approved plans and specifications prepared by a civil engineer.

Table 11-1 - Grading Designation

Parameter	Threshold	
	Regular Grading	Engineered Grading
Volume (combined total of cut and fill)	Does not exceed 5,000 cubic yards	Exceeds 5,000 cubic yards
Cut	No greater than 2 feet in depth and does not create a cut slope greater than 5 feet in height	Greater than 2 feet in depth or creates a cut slope greater than 5 feet in height
Fill	No greater than 3 feet in depth	Greater than 3 feet in depth
Flood-prone urban area or special flood hazard area	No fill is placed in the flood-prone urban area or a special flood hazard area	Fill is placed in the flood-prone urban area or a special flood hazard area
Geologic Hazard Area	Grading area is not in the	Grading area is wholly or

Combining District	Geologic Hazard Area Combining District	partially in the Geologic Hazard Area Combining District ¹
Geologic hazards	Grading area contains no geologic hazards	Grading area contains any geologic hazards ²

Notes:

1. The engineered grading designation shall apply only to the portion of the grading area that is in the Geologic Hazard Area Combining District.
2. The engineered grading designation shall apply only to the portion of the grading area that is directly affected by the geologic hazards.

Sec. 11.04.020. Exemptions from grading permit requirements.

The following grading activities are exempt from the provisions of Section 11.04.010 and may be conducted without obtaining a grading permit; provided that exempt grading shall still be subject to the standards in this chapter.

- A. Cemeteries.** Routine excavations and fills for graves.
- B. Emergency grading.** Grading necessary to protect life or property, or to implement erosion prevention measures, where a situation exists that requires immediate action; provided that only the volume of grading necessary to abate an imminent hazard may be performed prior to obtaining a grading permit. The person performing the emergency grading or the property owner shall notify the permit authority and provide evidence acceptable to the permit authority of the scope and necessity of the grading on or before the next business day after the onset of the emergency situation. The person performing the emergency grading or the property owner shall apply for a grading permit within ten days after the commencement of grading. The permit authority may order grading to be stopped or restricted in scope based upon the nature of the emergency.
- C. Environmental remediation.** Grading for environmental remediation ordered or approved by a public agency exercising regulatory jurisdiction over a site contaminated with hazardous materials, where the ground surface is restored to its previous topographic condition within 60 days after the completion of the work. The permit authority shall be notified in writing at least 30 days prior to the commencement of the work.
- D. Excavations below finished grade subject to valid building permit.** Excavations below finished grade for basements, tanks, vaults, swimming pools, and footings of a building, retaining wall, or other structure, where authorized by a valid building permit. This shall not exempt any excavation with an unsupported height greater than 5 feet after the completion of the structure, or any fill using material from the excavation, except where the material is placed on-site and the placement is shown on the approved building plans.
- E. Exploratory excavations.** Exploratory excavations to investigate subsurface soil conditions and geology, affecting or disturbing an area of less than 10,000 square feet and involving the

movement of less than 50 cubic yards, under the direction of a civil engineer, soils engineer, engineering geologist, or registered environmental health specialist, where the ground surface is restored to its previous topographic condition within 60 days after the completion of the work.

- F. Grading subject to valid encroachment permit.** Grading within a public right-of-way, where authorized by a valid encroachment permit.
- G. Landfills.** Grading at landfills regulated by the State Integrated Waste Management Act.
- H. Maintenance, repair, or resurfacing of private roads.** Maintenance, repair, or resurfacing of existing, lawfully constructed private roads, where the length, width, and design capacity are not changed. This shall not exempt any fill in the flood-prone urban area or any special flood hazard area.
- I. Minor cut.** A cut that does not exceed 50 cubic yards, and:
 - 1. Is no greater than 2 feet in depth; or
 - 2. Does not create a cut slope greater than 5 feet in height and steeper than 2 units horizontal to 1 unit vertical (50 percent).
- J. Minor fill outside flood-prone urban area and special flood hazard areas.** A fill outside the flood-prone urban area and any special flood hazard area that does not exceed 50 cubic yards or alter or obstruct a watercourse, and:
 - 1. Is intended to support structures or surcharges and is no greater than 1 foot in depth and placed on terrain with a natural slope no steeper than 15 percent; or
 - 2. Is not intended to support structures or surcharges and is no greater than 3 feet in depth.
- K. Public projects.** *Grading for public projects on public property undertaken by or on behalf of the county or a local agency governed by the board of supervisors.*
- L. Public trails.** *Grading for public trails, where a public agency takes full responsibility for the work. The permit authority shall be notified in writing at least 30 days prior to the commencement of the work.*
- M. Resource conservation, restoration, or enhancement projects.** Grading for soil, water, wildlife, or other resource conservation, restoration, or enhancement projects, where a public agency assumes full responsibility for the work. The permit authority shall be notified in writing at least 30 days prior to the commencement of the work.
- N. Soil profiling test pits.** Excavations for soil profiling test pits, where the ground surface is restored to its previous topographic condition within 60 days after the completion of the work.

- O. Surface mining.** Mining, quarrying, excavating, processing, or stockpiling rock, sand, gravel, aggregate, or clay in compliance with Chapter 26A of this code.
- P. Water lines, pipelines, and utilities.** Excavations and fills for water lines; routine pipeline maintenance practices; or installation, testing, maintenance, or replacement of utility connections, distribution or transmission systems, and facilities for utilities regulated by the California Public Utilities Commission, including electrical, water, or natural gas, on a single site or within a public right-of-way; where the ground surface is restored to its previous topographic condition within 60 days after the completion of the work.
- Q. Wells and on-site sewage disposal systems subject to valid well or septic permit.** Excavations and fills for wells and on-site sewage disposal systems, where authorized by a valid well or septic permit and the fill material is placed on-site and the placement is shown on the approved well or septic plans.

Article 06. Drainage Permits.

Sec. 11.06.010. Drainage permit requirements.

- A. Permit required.** A drainage permit shall be required prior to commencing any drainage improvement or related work, including preparatory site clearing and soil disturbance, except where exempted from permit requirements by Section 11.06.020. A separate drainage permit shall be required for each site.
- B. Drainage improvement designation and performance.** Drainage improvement shall be designated in compliance with the requirements in Table 11-2, and shall be performed as follows:
 - 1. Regular drainage improvement.** Regular drainage improvement shall be performed in compliance with approved plans and specifications prepared by the property owner or a licensed professional acting within the scope of their license.
 - 2. Engineered drainage improvement.** Engineered drainage improvement shall be performed in compliance with approved plans and specifications prepared by a civil engineer.

Table 11-2 - Drainage Improvement Designation

Parameter	Threshold ¹	
	Regular Drainage Improvement	Engineered Drainage Improvement
Cross-sectional area of drainage improvement	Does not exceed 2 square feet	Exceeds 2 square feet

1. Examples:

Circular - Diameter is less than or equal to 19 inches or 1.6 feet, effectively 18 inches or 1.5 feet.

Vee-ditch - Depth of 1 foot and top width equal to 4 feet (assumes 2:1 side slopes).

Sec. 11.06.020. Exemptions from drainage permit requirements.

The following drainage improvement activities are exempt from the provisions of Section 11.06.010 and may be conducted without obtaining a drainage permit; provided that exempt drainage improvement shall still be subject to the standards in this chapter.

- A. Drainage improvement subject to valid grading, building, septic, vineyard and orchard site development, or encroachment permit.** Drainage improvement for grading, buildings or structures, septic systems, vineyard or orchard site development, or within a public right-of-way, where authorized by a valid grading, building, septic, vineyard and orchard site development, or encroachment permit.

- B. Maintenance, repair, or replacement of existing private drainage improvements.** Maintenance, repair, or replacement of existing, lawfully constructed private drainage improvements, where the location and design capacity are not changed.

- C. Minor pipe and vee-ditch swale systems.** Construction or installation of pipe and vee-ditch swale systems that meet all of the following criteria.
 - 1. The drainage area is less than one-half acre for a smooth-walled pipe and/or vee-ditch swale system, or less than one-quarter acre for a corrugated pipe system.
 - 2. The pipe or vee-ditch swale system is not located in the flood-prone urban area.
 - 3. The pipe system is a single run, with minimum diameter of 8 inches and installed slopes between 2 percent and 4 percent, or the vee-ditch swale system is made of earth, grass, or rock, with side slopes no steeper than 2 units horizontal to 1 unit vertical (50 percent), maximum depth of 9 inches, and installed slopes between 2 percent and 4 percent.

- D. Public projects.** *Drainage improvement for public projects on public property undertaken by or on behalf of the county or a local agency governed by the board of supervisors.*

- E. **Public trails.** Drainage improvement for public trails, where a public agency takes full responsibility for the work. The permit authority shall be notified in writing at least 30 days prior to the commencement of the work.*
- F. Resource conservation, restoration, or enhancement projects.** Drainage improvement for soil, water, wildlife, or other resource conservation, restoration, or enhancement projects, where a public agency assumes full responsibility for the work. The permit authority shall be notified in writing at least 30 days prior to the commencement of the work.
- G. Seasonal agricultural drainage swales.** Construction or installation of seasonal agricultural drainage swales that meet all of the following criteria.
 - 1. The drainage swale is constructed on contour to the maximum extent practicable.
 - 2. The flowline slope of the drainage swale does not exceed 4 percent.
 - 3. The drainage swale does not exceed 150 feet in length.
 - 4. The outlet for the drainage swale is protected to prevent soil loss.

Article 08. Vineyard and Orchard Site Development Permits.

Sec. 11.08.010. Vineyard and orchard site development permit requirements.

- A. Permit required.** A vineyard and orchard site development permit shall be required prior to commencing any vineyard or orchard site development or related work, including preparatory site clearing and soil disturbance, except where exempted from permit requirements by Section 11.08.020. A separate vineyard and orchard site development permit shall be required for each site.
- B. Vineyard and orchard site development designation and performance.** Vineyard and orchard site development shall be designated in compliance with the requirements in Table 11-3, and shall be performed as follows:
 - 1. Level I vineyard and orchard site development.** Level I vineyard and orchard site development shall be performed in compliance with approved plans and specifications prepared by the property owner or the authorized agent of the property owner.

2. Level II vineyard and orchard site development. Level II vineyard and orchard site development shall be performed in compliance with approved plans and specifications prepared by a civil engineer.

Table 11-3 - Vineyard and Orchard Site Development Designation

Parameter	Threshold	
	Level I Vineyard and Orchard Site Development	Level II Vineyard and Orchard Site Development
Natural slope of planting area having no highly erodible soils	No steeper than 15 percent	Steeper than 15 percent, but in no event steeper than 50 percent
Natural slope of replanting area having no highly erodible soils	No steeper than 30 percent	Steeper than 30 percent
Natural slope of planting area having any highly erodible soils	No steeper than 10 percent	Steeper than 10 percent, but in no event steeper than 50 percent
Natural slope of replanting area having any highly erodible soils	No steeper than 15 percent	Steeper than 15 percent

Sec. 11.08.020. Exemptions from vineyard and orchard site development permit requirements.

The following vineyard and orchard site development activities are exempt from the provisions of Section 11.08.010 and may be conducted without obtaining a vineyard and orchard site development permit; provided that exempt vineyard and orchard site development shall still be subject to the standards in this chapter.

- A. Replacing missing, dead, or diseased grapevines or fruit- or nut-bearing trees.** Interplanting young grapevines or fruit- or nut-bearing trees among established grapevines or fruit- or nut-bearing trees for the purpose of replacing individual missing, dead, or diseased grapevines or trees in a vineyard or orchard, where the drainage system, irrigation system, trellis system, and other infrastructure of the vineyard or orchard is kept intact with minimal disturbance. This shall not exempt the replanting of an entire vineyard or orchard.
- B. Planting and replanting hobby orchard.** Planting and unlimited replanting of an orchard for hobby purposes, where the orchard is less than one-half acre in land area. This exemption may only be used for one hobby orchard per legal parcel.
- C. Planting and replanting hobby vineyard.** Planting and unlimited replanting of a vineyard for hobby purposes, where the vineyard is less than one-half acre in land area. This exemption may only be used for one hobby vineyard per legal parcel.

Article 10. Permit Application Filing and Processing.

Sec. 11.10.010. Permit authority.

The permit authority responsible for reviewing and making decisions on each type of permit application required by this chapter is identified by Table 11-4. Decisions of the permit authority approving or denying discretionary permit applications shall be subject to appeal and direct review pursuant to Article 20 of this chapter.

Table 11-4 - Permit Authority

Type of Permit Application	Permit Authority
Agricultural Grading	Agricultural Commissioner
Construction Grading	Director of Permit and Resource Management
Agricultural Drainage Improvement	Agricultural Commissioner
Construction Drainage Improvement	Director of Permit and Resource Management
Vineyard and Orchard Site Development	Agricultural Commissioner

Sec. 11.10.020. Permit application preparation and filing.

- A. Pre-application contact.** A prospective applicant is encouraged to contact the permit authority before completing and filing a permit application to determine the information and materials required for application filing. The provision of information by the permit authority shall not be construed as a recommendation for either approval or denial of an application. Any failure by the permit authority to identify all required information and materials shall not constitute a waiver of those requirements.
- B. Application contents.** Each permit application shall be filed with the permit authority on a county application form. The permit application shall include all required fees and/or deposits, and all plans and specifications, and other information, materials, and submittals required by the permit authority, including any reports and studies necessary to verify conformance with this chapter (e.g., hydrology study, hydraulic analysis, compaction report, geotechnical or soils report, liquefaction study, wetlands assessment, wetlands delineation).
- C. Eligibility for filing.** A permit application may only be filed by the owner or authorized agent of the owner of the subject property, or other person with the written consent of the property owner.
- D. Request for relief from standards.** A permit application may include a request for relief from the standards in this chapter. The request shall state in writing each standard proposed to be varied, the proposed substitute measure, when it would apply, and its advantages. The permit authority may require additional information to evaluate the requested relief.

E. Ministerial action; exception. The board of supervisors hereby declares that the review of permit applications and the issuance of permits pursuant to this chapter shall be ministerial actions, except where the permit application includes a request pursuant Subsection D for relief from the standards in this chapter. This chapter shall be interpreted, administered, and construed in light of this legislative intent.

Sec. 11.10.030. Application fees.

- A. Fee schedule.** The board of supervisors shall establish a schedule of fees for the processing of permit applications.
- B. Timing of payment.** No permit application shall be deemed complete, and processing shall not commence on any permit application until all required fees and/or deposits have been paid.
- C. Refunds and withdrawals.** The required application fees cover county costs for staff time and the other activities involved in processing permit applications. Therefore, no refund due to disapproval or expiration shall be allowed. In the case of a withdrawal, the permit authority may refund up to 90 percent of the application fee prior to the commencement of plan review.

Sec. 11.10.040. Initial permit application review.

The permit authority shall review each permit application for completeness and accuracy before it is accepted as complete and officially filed. The permit authority's determination of completeness shall be based on the permit authority's list of required application contents and any additional instructions provided the applicant in any pre-application contact.

- A. Notification of applicant when permit application is incomplete.** The permit authority shall inform the applicant in writing within 30 days of filing when a permit application is incomplete. The letter shall specify the additional information required to make the permit application complete.
- B. Expiration of application.** If an applicant fails to provide the additional information specified in the permit authority's letter providing notice of an incomplete permit application within 120 days following the date of the letter, the permit application shall be deemed expired. The permit authority may grant one 90-day extension. After the expiration of a permit application, permit approval shall require the submittal of a new, complete permit application.

Sec. 11.10.050. Environmental review.

After acceptance of a complete permit application, if the permit application includes a request pursuant to Section 11.10.020.D for relief from the standards in this chapter, the proposed activity shall be reviewed as required by CEQA to determine the level of environmental processing required.

Article 12. Permit Application Approval and Permit Issuance.

Sec. 11.12.010. Approval and issuance.

A. Criteria for approval.

- 1. Ministerial permit application.** A ministerial permit application shall be approved, and a grading, drainage, or vineyard and orchard site development permit issued, when the permit authority verifies that:
 - a. The proposed grading, drainage improvement, or vineyard or orchard site development complies with the provisions of this chapter, other applicable provisions of this code, and the conditions of any applicable land use permit or other entitlement; and
 - b. The proposed grading, drainage improvement, or vineyard or orchard site development is not part of a project for which an application for a discretionary land use permit has been submitted, or, if part of such a project, the discretionary land use permit has been issued.

- 2. Discretionary permit application.** A discretionary permit application may be approved, and a grading, drainage, or vineyard and orchard site development permit issued, when the permit authority determines that:
 - a. There are special circumstances affecting the property that make the strict application of the standards in this chapter impractical;
 - b. The proposed grading, drainage improvement, or vineyard or orchard site development is consistent with the purpose and intent of the standards in this chapter, and does not diminish the health, safety, and environmental protection benefits that would be obtained from the strict application of those standards;
 - c. The proposed grading, drainage improvement, or vineyard or orchard site development complies with all other provisions of this chapter, other applicable provisions of this code, and the conditions of any applicable land use permit or other entitlement; and
 - d. The proposed grading, drainage improvement, or vineyard or orchard site development is not part of a project for which an application for a discretionary land use permit has been submitted, or, if part of such a project, the discretionary land use permit has been issued.

B. Permit conditions. In approving a discretionary permit application, the permit authority may impose any conditions deemed reasonable and necessary to protect public health, safety, and welfare, prevent adverse environmental impacts or the creation of hazards to property, and ensure proper completion of work.

C. Effect of permit and approved plans and specifications.

1. **Compliance with plans and specifications required.** All work shall be done in compliance with the approved plans and specifications. The approved plans and specifications shall not be changed without the written approval of the permit authority.
 2. **Modifications.** Proposed modifications to the approved plans and specifications shall be submitted to the permit authority in writing, together with all necessary technical information and design details. A proposed modification shall be approved only if the permit authority verifies that the modification complies with the provisions of this chapter, other applicable provisions of this code, and the conditions of any applicable land use permit or other entitlement.
- D. Distribution of approved plans and specifications.** The permit authority shall retain one or more sets of approved and dated plans and specifications for inspection and record keeping. Two sets of approved and dated plans and specifications shall be provided to the permittee. The permittee shall maintain one set of approved and dated plans and specifications and the permit on the site at all times during the work.

Article 14. Permit Implementation.

Sec. 11.14.010. Effective date of permits.

- A. **Ministerial Permit.** A ministerial permit required by this chapter shall become effective when issued by the permit authority.
- B. **Discretionary Permit.** A discretionary permit required by this chapter shall become effective on the 11th day following the date of permit application approval by the permit authority, provided that no appeal has been filed and/or direct review requested in compliance with Article 20 of this chapter.

Sec. 11.14.020. Permit time limits and extensions.

- A. **Permit time limits.**
 1. **Grading permit.** Grading for which a grading permit is issued shall be completed and finalized within three years from the effective date of the permit, or the permit shall expire, unless an extension has been granted in writing in compliance with Subsection B; provided that the permit authority may limit a grading permit to a lesser time period where the permit is required to abate dangerous or hazardous conditions.
 2. **Drainage permit.** Drainage improvement for which a drainage permit is issued shall be completed and finalized within three years from the effective date of the permit, or the permit shall expire, unless an extension has been granted in writing in compliance with Subsection B; provided that the permit authority may limit a drainage permit to a lesser time period where the permit is required to abate dangerous or hazardous conditions.

3. Vineyard and orchard site development permit. Vineyard and orchard site development for which a vineyard and orchard site development permit is issued shall be completed and finalled within five years from the effective date of the permit, or the permit shall expire, unless an extension has been granted in writing in compliance with Subsection B.

B. Permit extensions. Any permittee holding an unexpired grading, drainage, or vineyard and orchard site development permit may apply for an extension of the time within which grading, drainage improvement, or vineyard or orchard site development must be completed and finalled. The permit authority may extend the expiration date of the permit for a period not exceeding 180 days per extension request, where the permittee has requested the extension in writing and shown that a lawsuit, permit authority error, or other circumstances beyond the control of the permittee have prevented grading, drainage improvement, or vineyard or orchard site development from being started or completed, or that the extension is in the interest of public health and safety.

Sec. 11.14.030. Operations.

Grading, drainage improvement, and vineyard and orchard site development for which a permit is required shall be subject to the following requirements.

- A. Pre-construction consultation.** The permittee and the permit authority shall have a pre-construction consultation prior to the commencement of the work.
- B. Responsibility for the work.** The permittee and the property owner shall be responsible for the work to be performed in accordance with the approved plans and specifications and any permit conditions.
- C. Inspection.** The work shall be subject to inspection as required by the permit authority to verify compliance with the approved plans and specifications and any permit conditions. Inspections shall not be construed to approve a violation of the provisions of this chapter or other provisions of this code. Inspections presuming to give authority to violate or cancel the provisions of this chapter or other provisions of this code shall not be valid.
- 1. Site access.** The permittee shall provide adequate access to the site for inspection by inspectors designated by the permit authority during the performance of all work.
 - 2. Professional inspections and certifications.** The permit authority may require professional inspections and certifications to verify proper completion of the work.
 - a. Type of inspections and certifications.** The professional inspections and certifications may include, but shall not be limited to requiring: the permittee to provide a civil engineer, soils engineer, engineering geologist, professional geologist, registered professional forester, wetlands biologist, or other professional to perform inspections of work in progress and to certify the proper completion of work; inspection and testing by an approved testing agency; and/or the submittal of periodic progress reports.

1. **As-built plans.** A set of as-built plans including original and finished contours at intervals acceptable to the permit authority, parcel drainage patterns with directional arrows, locations and elevations of all surface and subsurface drainage improvements, and locations of all storm water best management practices.
 2. **Testing records.** A complete record of all field and laboratory tests, including the location and elevation of all field tests.
 3. **Professional opinions.** Professional opinions regarding slope stability, soil bearing capacity, and any other information pertinent to the adequacy of the site for its intended use.
 4. **Declarations about completed work.** Declarations by any civil engineer, soils engineer, engineering geologist, professional geologist, registered professional forester, wetlands biologist, or other professional pursuant to Section 11.14.030.C.2, that all work was done in substantial compliance with the recommendations contained in any required soils or other special report, and in compliance with the approved plans and specifications.
- B. Final inspection.** No permittee shall be deemed to have complied with the provisions of this chapter until a final inspection of the work has been completed by the permit authority. The permittee shall notify the permit authority when the work is ready for final inspection. The permit authority shall final a permit when all work, including the installation of all drainage improvements and their protective devices, and all storm water best management practices, have been completed in compliance with the approved plans and specifications, and all reports required by Subsection A have been submitted and accepted.

Article 16. Standards.

Sec. 11.16.010. Purpose.

This article provides ministerial standards for the proper conduct of grading, drainage improvement, and vineyard and orchard site development. All grading, drainage improvement, and vineyard and orchard site development shall be conducted in a manner consistent with the requirements of this article, regardless of whether a permit is required by this chapter.

Sec. 11.16.020. Cuts and fills.

- A. General.** Cuts and fills shall be designed and constructed in compliance with the following requirements.
1. **Areas of cuts and fills.** Cuts and fills shall be limited to the amount necessary for the intended use.
 2. **Final contours.** Contours, elevations, and shapes of finished surfaces shall be blended with adjacent natural terrain to achieve a consistent grade and natural appearance as follows:

- a. The top of cut slopes shall be rounded off to blend with the natural terrain.
 - b. Borders of cut slopes and fills shall be rounded off to a minimum radius of 5 feet to blend with the natural terrain.
- B. Cuts.** Cuts shall be designed and constructed in compliance with the following requirements.
1. **Slope.** The slope of cut surfaces shall be no steeper than 2 units horizontal to 1 unit vertical (50 percent), unless a soils report justifies a steeper slope.
 2. **Terracing and drainage.** Terracing and drainage of cuts shall be provided as required by Subsection D.
- C. Fills.** Fills shall be designed and constructed in compliance with the following requirements.
1. **Fill location.** Fill shall not be placed on natural slopes steeper than 2 units horizontal to 1 unit vertical (50 percent).
 2. **Surface preparation.** Ground surfaces shall be prepared to receive fill by removing vegetation, topsoil, and other unsuitable materials, and scarifying the ground to provide a bond with the fill material.
 3. **Benching.** Benching into sound bedrock or other competent material, as determined by a civil engineer, shall be required where existing grade is at a slope steeper than 5 units horizontal to 1 unit vertical (20 percent) and the depth of the fill exceeds 5 feet. Benching shall be provided in accordance with Figure 11-1, subject also to the following requirements:
 - a. A key at least 10 feet in width and 2 feet in depth shall be installed.
 - b. The key shall be installed at least 1 foot into sound bedrock or other competent material.
 - c. The area beyond the toe of the fill shall be sloped for sheet overflow or a non-erosive drain shall be provided.
 - d. Cuts for benching and keys shall be accepted by a soils engineer as a suitable foundation for fill prior to the placement of the fill material.

Figure 11-1 - Benching Details

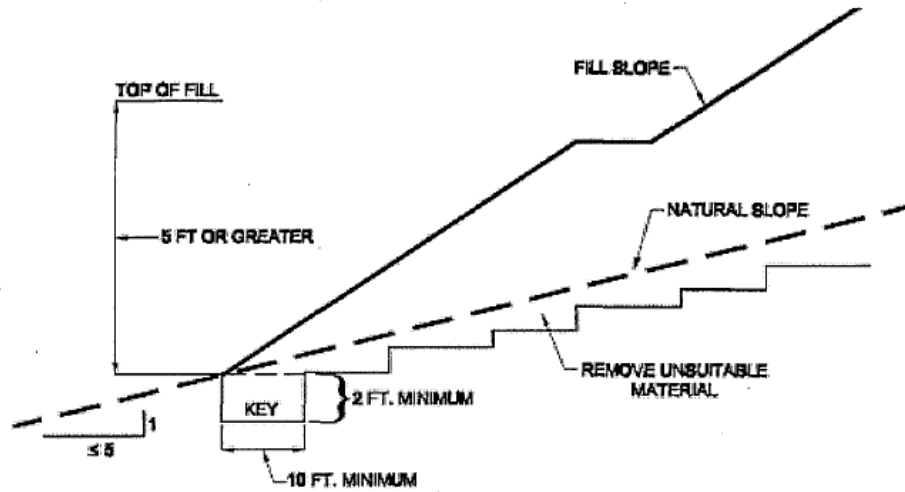


Figure 11-1 - Benching Details

4. **Fill material.** Fill material shall not include organic, frozen, or other deleterious materials. No rock or similar irreducible material greater than 6 inches in any dimension shall be included in fills, except where a soils engineer devises a method of placement of larger rock, continuously inspects its placement, and approves fill stability, subject also to the following requirements:
 - a. Potential rock disposal areas shall be shown on the plans and specifications.
 - b. Rocks shall be placed so as to assure filling of all voids with well-graded soil.
5. **Fill placement.** Fills shall be constructed in lifts not exceeding 8 inches in depth. Completed fills shall be stable, well-integrated, and bonded to adjacent materials and the materials on which they rest. Fills shall be competent to support anticipated loads and be stable at the design slopes shown on the approved plans and specifications.
6. **Compaction.**
 - a. *Fills intended to support structures or surcharges.* Fills intended to support structures or surcharges shall be compacted to a minimum of 90 percent of maximum dry density, as determined by ASTM D 1557, Modified Proctor.
 - b. **Fills not intended to support structures or surcharges.** Fills not intended to support structures or surcharges shall be compacted as follows:

- (1) Fills greater than 3 feet in depth shall be compacted to the density specified by a soils engineer.
 - (2) Fills no greater than 3 feet in depth shall be compacted to the density necessary for the intended use.
7. **Slope.** The slope of fill surfaces shall be no steeper than 2 units horizontal to 1 unit vertical (50 percent), unless a soils report justifies a steeper slope.
 8. **Limitation on fill in flood-prone urban area.** No fill shall be placed in the flood-prone urban area, unless an engineering analysis demonstrates that no adverse impact to drainage within the flood-prone urban area will result from the fill placement and related improvements.
 9. **No net fill in special flood hazard areas.** No fill shall be placed in any special flood hazard area, unless an engineering analysis demonstrates that no reduction in flood storage capacity within the special flood hazard area will result from the fill placement and related improvements.
 10. **Terracing and drainage.** Terracing and drainage of fills shall be provided as required by Subsection D.
- D. Terracing and drainage of cuts and fills.** Terracing and drainage of cuts and fills shall be designed and constructed to ensure the integrity of the cuts and fills. The following requirements shall apply only to cuts and fills with surface slopes steeper than 3 units horizontal to 1 unit vertical (33 percent). Additional requirements applicable to the provision of drainage improvements are established by Section 11.16.040.
1. **Agricultural grading.** Terracing and drainage of cuts and fills for agricultural grading shall be designed by a civil engineer and constructed in compliance with the civil engineer's requirements.
 2. **Construction grading.** *Terracing and drainage of cuts and fills for construction grading shall conform to the following requirements.*
 - a. **Terraces.** *Terraces shall be established on cut and fill slopes to control surface drainage and debris. Suitable access shall be provided to permit proper cleaning and maintenance of terraces.*
 - (1) *For cut and fill slopes up to 30 feet in vertical height, terraces need not be provided.*
 - (2) *For cut and fill slopes greater than 30 feet and up to 60 feet in vertical height, one terrace at least 6 feet in width shall be established at mid-height.*
 - (3) *For cut and fill slopes greater than 60 feet and up to 120 feet in vertical height, terraces at least 6 feet in width shall be established at*

not more than 30-foot intervals or one terrace at least 12 feet in width shall be established at mid-height.

- (4) *For cut and fill slopes greater than 120 feet in vertical height, terrace widths and spacing shall be designed by a civil engineer.*

b. Terrace drainage.

- (1) **Swales or ditches.** *Swales or ditches shall be provided on terraces, and shall:*

- (a) *Have a minimum gradient of 20 units horizontal to 1 unit vertical (5 percent);*
- (b) *Be paved with reinforced concrete not less than three inches in thickness, or with other materials suitable to the application; and*
- (c) *Have a minimum depth of 1 foot and a minimum width of 5 feet.*

- (2) **Limitation on single run of swale or ditch.** *A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a down drain.*

c. Subsurface drainage. *Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.*

d. Building pad drainage. *Building pads shall have a drainage gradient of 50 units horizontal to 1 unit vertical (2 percent) toward approved drainage improvements.*

e. Surface interceptor drains. *Surface interceptor drains shall be installed along the top of all cut and fill slopes where the tributary drainage area above slopes towards the cut or fill and has a drainage path greater than 40 feet measured horizontally. The drains shall be paved with reinforced concrete not less than three inches in thickness, or with other materials suitable to the application. The drains shall be designed to meet the SCWA Flood Control Design Criteria for a 100 year design discharge. This surface interceptor drains requirement shall not apply to outslope constructed roadways designed to prevent the concentration of storm water, provided that the stability of the cut and fill slope is maintained.*

E. Setbacks. *Cut and fill slopes shall be set back from property lines in compliance with the following requirements. Setback dimensions shall be measured perpendicular to the property line and shall be as shown in Figure 11-2.*

- 1. Top of slope.** *The setback at the top of a slope shall be not be less than that shown in Figure 11-2, or than is required to accommodate any required surface interceptor drains, whichever is greater.*

2. **Toe of slope.** The setback at the toe of a slope shall not be less than that shown in Figure 11-2.

Figure 11-2 - Cut and Fill Slope Setback Requirements

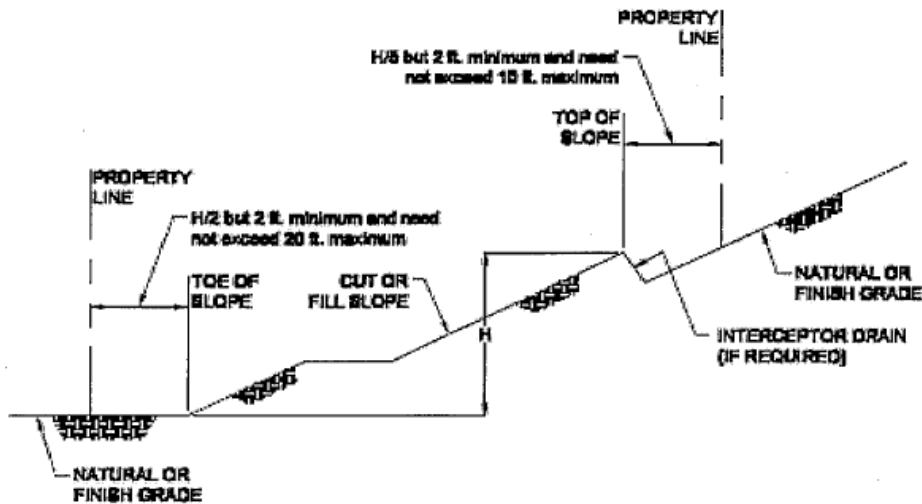


Figure 11-2 - Cut and Fill Slope Setback Requirements

- F. **Protection of footings, buildings, and structures.** Footings that may be affected by any excavation shall be underpinned or otherwise protected against settlement and shall be protected against lateral movement. Fills or other surcharge loads shall not be placed adjacent to any building or structure unless the building or structure is capable of withstanding the additional loads caused by the fill or surcharge. The rights of adjacent affected property owners shall be as set forth in Section 832 of the Civil Code.

Sec. 11.16.030. Dams and reservoirs.

- A. **Dams and reservoirs subject to county jurisdiction.** Dams and reservoirs within the county's jurisdiction shall be designed and constructed in compliance with the requirements of this chapter and the California Division of Safety of Dams Guidelines for Small Dams, except that:
 1. **Minimum freeboard and residual freeboard.** The minimum freeboard (vertical distance from spillway crest to dam crest or reservoir crest where there is no dam) for spillways shall be specified by a civil engineer. The minimum residual freeboard (vertical distance from maximum reservoir stage for spillway design flood to dam crest or reservoir crest where there is no dam) shall be 1.5 feet.
 2. **Compaction.** Embankments shall be compacted to a minimum of 90 percent of maximum dry density, as determined by ASTM D 1557, Modified Proctor.

3. Low level outlet. A low level outlet need not be provided where the reservoir floor is below grade and a pump capable of emptying or lowering the reservoir in case of emergency or for inspection and maintenance is installed.

B. Dams and reservoirs subject to state jurisdiction. Dams and reservoirs within the state's jurisdiction shall be designed and constructed in compliance with the requirements of the California Division of Safety of Dams.

Sec. 11.16.040. Drainage.

A. Management of storm water. Grading and vineyard and orchard site development shall include the drainage improvements and/or other methods necessary to manage storm water runoff in compliance with the permit authority's best management practices guide.

B. Natural drainage patterns and storm water levels. Grading, drainage improvement, and vineyard and orchard site development shall be designed to maintain off-site natural drainage patterns, and limit post-development storm water levels in compliance with the permit authority's best management practices guide.

C. Design and construction of drainage improvements. Drainage improvements shall be designed and constructed in compliance with the permit authority's best management practices guide. Drainage improvements required for cuts and fills are also subject to Section 11.16.020.D.

D. Disposal of storm water. Drainage improvements shall carry storm water to the nearest practicable disposal location and shall dissipate the energy or diffuse the flow prior to releasing the storm water off the site.

E. Prevention of soil loss. Drainage improvements shall prevent or minimize soil loss through the use of storm drain culverts (pipes), storm drain inlets and outlets, storm drain outfalls, energy dissipaters, flow dispersion, check dams, rolling dips, critical dips, proper location and sizing of culverts, revegetation of exposed or disturbed slopes, minimizing cross drains through road outsloping, minimizing the use of artificial slopes, and other best management practices referenced or detailed in the permit authority's best management practices guide.

Sec. 11.16.050. Soil and other pollutant discharges.

Grading, drainage improvement, and vineyard and orchard site development shall be designed and conducted in compliance with the following requirements.

A. During operations, soil and other pollutant discharges shall be prevented or controlled through the use of best management practices in compliance with the permit authority's best management practices guide.

B. Prior to final inspection, all disturbed surfaces shall be revegetated as provided by Section 11.16.090, unless covered with impervious or other improved surfaces authorized by the approved plans and specifications, and permanent best management practices referenced or

detailed in the permit authority's best management practices guide shall be installed to control soil and other pollutant discharges.

- C. Post-development, soil and other pollutant discharges shall be limited in compliance with the permit authority's best management practices guide.

Sec. 11.16.060. Storm water best management practices.

Grading, drainage improvement, and vineyard and orchard site development shall be conducted in compliance with the following requirements.

- A. During the rainy season, storm water best management practices referenced or detailed in the permit authority's best management practices guide shall be implemented and functional on the site at all times.
- B. During the non-rainy season, on any day when the National Weather Service forecast is a chance of rain of 30 percent or greater within the next 24 hours, storm water best management practices referenced or detailed in the permit authority's best management practices guide shall be implemented and functional on the site if necessary to prevent soil and other pollutant discharges.

Sec. 11.16.070. Operations during the rainy season.

Grading, drainage improvement, and vineyard and orchard site development shall be conducted in compliance with the following requirements during the rainy season (October 15 through April 15).

- A. **Construction grading and drainage improvement.** Construction grading and drainage improvement shall be permitted during the rainy season only when on-site soil conditions permit the work to be performed in compliance with this chapter. The area of erodible land exposed at any one time during the work shall not exceed 1 acre or 20 percent of the site, whichever is greater, and the time of exposure shall be minimized to the maximum extent practicable.
- B. **Agricultural grading and drainage improvement, and vineyard and orchard site development.**
 - 1. Agricultural grading and drainage improvement, and initial land preparation work for vineyard and orchard planting, shall be permitted during the rainy season only from April 1 to April 15, and only when on-site soil conditions permit the work to be performed in compliance with this chapter.
 - 2. Initial land preparation work for vineyard and orchard replanting shall be permitted during the rainy season only from October 15 to November 15 and from April 1 to April 15, and only when on-site soil conditions permit the work to be performed in compliance with this chapter.

3. Final land preparation and planting work for vineyard and orchard planting and replanting shall be permitted during the rainy season only when on-site soil conditions permit the work to be performed in compliance with this chapter.

Sec. 11.16.080. Removal of vegetation.

Grading, drainage improvement, and vineyard and orchard site development shall be designed and conducted in compliance with the following requirements.

- A. The limits of grading, drainage improvement, and vineyard or orchard site development shall be defined and marked on the site to prevent damage to surrounding vegetation.
- B. Any existing vegetation within the limits of grading, drainage improvement, or vineyard or orchard site development that is to remain undisturbed by the work shall be identified and protected from damage by marking, fencing, or other measures.

Sec. 11.16.090. Revegetation.

Grading, drainage improvement, and vineyard and orchard site development shall replant disturbed surfaces in compliance with the approved plans and specifications and the following requirements.

- A. **Preparation for revegetation.** Topsoil removed from the surface in preparation for grading, drainage improvement, and vineyard and orchard site development shall be stored on or near the site and protected from soil loss while the work is underway, provided that such storage shall not cause damage to root systems of trees intended to be preserved.
- B. **Methods of revegetation.** Mulching, seeding, planting of groundcover, shrubs or trees, or other suitable stabilization measures shall be used to protect exposed soil to minimize soil loss, and to maximize slope stability. Use of drought-tolerant, fire resistant native plant species is encouraged; use of invasive plant species identified in the permit authority's best management practices guide is prohibited.
- C. **Timing of revegetation measures.** Temporary or permanent revegetation shall be installed as soon as practical after vegetation removal, but in all cases prior to:
 1. October 15 for all grading and drainage improvement;
 2. October 15 for all initial land preparation work for vineyard and orchard planting, and all final land preparation and planting work; and
 3. November 15 for all initial land preparation work for vineyard and orchard replanting.

Permanent revegetation or landscaping shall be installed prior to final inspection.

Sec. 11.16.100. Protection of human remains and archaeological resources.

In the event that human remains or archaeological resources are discovered during grading, drainage improvement, and vineyard and orchard site development, all work shall be halted in the vicinity of

the find, the permit authority shall be notified, and the following shall occur before work may be resumed:

- A. Human remains.** If human remains or suspected human remains are discovered, the permittee or the property owner shall notify the county coroner and comply with all state law requirements, including Health and Safety Code section 7050.5 and Public Resources Code section 5097.98, to ensure proper disposition of the human remains or suspected human remains, including those identified to be Native American remains.
- B. Archaeological resources.** If archaeological resources or suspected archaeological resources are discovered, the permit authority shall notify the State Historic Preservation Officer and the Northwest Information Center at Sonoma State University, and the permittee or the property owner shall retain a qualified archeologist to evaluate the find to ensure proper disposition of the archaeological resources or suspected archaeological resources. All costs associated with the evaluation and mitigation of the find shall be the responsibility of the permittee or the property owner. The permit authority shall provide notice of the find to any tribes that have been identified as having cultural ties and affiliation with the geographic area in which the archaeological resources or suspected archaeological resources were discovered, if the tribe or tribes have requested notice and provided a contact person and current address to which the notice is to be sent. The permit authority may consult with and solicit comments from notified tribes to aid in the evaluation, protection, and proper disposition of the archaeological resources or suspected archaeological resources. The need for confidentiality of information concerning the archaeological resources or suspected archaeological resources shall be recognized by all parties. For the purposes of this section, archaeological resources include historic or prehistoric ruins, burial grounds, pottery, arrowheads, midden, or culturally modified soil deposits. Artifacts associated with prehistoric ruins include humanly modified stone, shell, bone, or other cultural materials such as charcoal, ash, and burned rock indicative of food procurement or processing activities. Prehistoric domestic features include hearths, fire pits, or floor depressions; mortuary features are typically represented by human skeletal remains.

Sec. 11.16.110. Protection of watercourses.

Grading, drainage improvement, and vineyard and orchard site development within, adjacent to, or involving the alteration of watercourses shall comply with the provisions of Article II (Water Clarity) of Chapter 23 of this code and the following requirements.

- A. Flood carrying capacity.** The flood carrying capacity of any altered or relocated portion of a watercourse shall be maintained.
- B. Obstruction of watercourses.** Watercourses shall not be obstructed unless alternate drainage improvements complying with Section 11.16.040 are installed.
- C. Fills within watercourses.** Fills placed within watercourses shall have protection against soil loss.

- D. **Heavy equipment.** Heavy equipment shall not cross or disturb channels of actively flowing streams without best management practices referenced or detailed in the permit authority’s best management practices guide in place.
- E. **Materials storage.** Excavated materials and soil amendment and fertilizing materials shall not be deposited or stored in or adjacent to a watercourse where they can be washed away by high water or storm runoff.

Sec. 11.16.120. Setbacks for streams.

Grading and vineyard and orchard site development shall be set back from streams in compliance with the requirements in Table 11-5, unless stricter requirements are established in the general plan, local coastal program, and/or zoning code. Existing vegetation shall be retained in setback areas to filter soil and other pollutants carried in storm water. Vegetative filter strips may be installed in setback areas in compliance with the permit authority’s best management practices guide to enhance filtration. Grassy avenues and turnarounds for agricultural crops may be located within vegetative filter strips. This setback requirement shall not apply to grading for bridges, stream crossings, and approaches; dams and reservoirs; drainage improvements; trails; public projects; resource conservation, restoration, or enhancement projects; or stream bank restoration or stabilization.

Table 11-5 - Stream Setback Requirements

Grading and Vineyard and Orchard Site Development for Vineyard and Orchard PLANTING

Type of Stream	Soils on Grading or Planting Area	Natural Slope of Grading or Planting Area	Setback
Stream designated in the general plan, local coastal program, and/or zoning code	No highly erodible soils	Slope is no steeper than 15 percent	25 feet from the top of bank
Stream designated in the general plan, local coastal program, and/or zoning code	No highly erodible soils	Slope is steeper than 15 percent	50 feet from the top of bank
Stream designated in the general plan, local coastal program, and/or zoning code	Any highly erodible soils	Slope is no steeper than 10 percent	25 feet from the top of bank
Stream	Any highly	Slope is steeper	50 feet from the top of

designated in the general plan, local coastal program, and/or zoning code	erodible soils	than 10 percent	bank
Stream <u>not</u> designated in the general plan, local coastal program, and/or zoning code	Not applicable	Not applicable	25 feet from the top of bank

Vineyard and Orchard Site Development for Vineyard and Orchard REPLANTING

Type of Stream	Soils on Replanting Area	Natural Slope of Replanting Area	Setback
Stream designated in the general plan, local coastal program, and/or zoning code	Not applicable	Not applicable	25 feet from the top of bank
Stream <u>not</u> designated in the general plan, local coastal program, and/or zoning code	Not applicable	Not applicable	25 feet from the top of bank

Sec. 11.16.130. Setbacks for lakes and ponds.

Grading and vineyard and orchard site development shall be set back from lakes and ponds in compliance with the requirements in Table 11-6, unless stricter requirements are established in the general plan, local coastal program, and/or zoning code. Existing vegetation shall be retained in setback areas to filter soil and other pollutants carried in storm water. Vegetative filter strips may be installed in setback areas in compliance with the permit authority’s best management practices guide to enhance filtration. Grassy avenues and turnarounds for agricultural crops may be located within vegetative filter strips. This setback requirement shall not apply to grading for drainage improvements; trails; public projects; resource conservation, restoration, or enhancement projects; or lake or pond maintenance.

Table 11-6 - Lake and Pond Setback Requirements

Type of Water Body	Setback
Lake	50 feet from the high water mark, unless the area slopes away from the lake and the grading or vineyard or orchard site development will not compromise the structural integrity of the lake.
Pond	50 feet from the high water mark, unless the area slopes away from the pond and the grading or vineyard or orchard site development will not compromise the structural integrity of the pond.

Sec. 11.16.140. Setbacks for wetlands.

Grading, drainage improvement, and vineyard and orchard site development shall be set back from wetlands in compliance with the requirements in Table 11-7, unless stricter requirements are established in the general plan, local coastal program, and/or zoning code. Existing vegetation shall be retained in setback areas to filter soil and other pollutants carried in storm water. Vegetative filter strips may be installed in setback areas in compliance with the permit authority’s best management practices guide to enhance filtration. Grassy avenues and turnarounds for agricultural crops may be located within vegetative filter strips.

Table 11-7 - Wetlands Setback Requirements

Type of Wetlands	Setback
Wetlands designated in the general plan, local coastal program, and/or zoning code	100 feet from the delineated edges
Wetlands not designated in the general plan, local coastal program, and/or zoning code	50 feet from the delineated edges, unless a wetlands biologist recommends a lesser setback

Article 18. Prohibited Activities

Sec. 11.18.010. Purpose.

This article establishes prohibitions against certain agricultural grading and vineyard and orchard site development.

Sec. 11.18.020. Prohibited agricultural grading.

Agricultural grading to prepare new land for agricultural crop production shall be prohibited on natural slopes steeper than 50 percent.

Sec. 11.18.030. Prohibited vineyard and orchard site development.

Vineyard and orchard site development for vineyard and orchard planting shall be prohibited on natural slopes steeper than 50 percent.

Article 20. Appeals and Direct Review.

Sec. 11.20.010. Appeals.

- A. Appeal subjects and jurisdiction.** A decision by the permit authority approving or denying a discretionary permit application may be appealed to the board of supervisors. All other decisions of the permit authority under this chapter shall be final, subject only to judicial review.
- B. Eligibility.** An appeal may be filed by any interested person.
- C. Timing and form of appeal.** An appeal shall be filed in writing with the permit authority on a county appeal form within 10 days after the decision that is the subject of the appeal. The appeal shall specifically state the basis for the appeal and shall be accompanied by the required filing fee.
- D. Effect of appeal.** The filing of an appeal shall stay the decision of the permit authority until the board of supervisors takes action in compliance with Subsection F.
- E. Scheduling of hearing and report.** After an appeal has been timely filed, the appeal shall be scheduled for consideration at a public hearing by the board of supervisors. Public notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Article 22 of this chapter. The hearing shall be de novo. Prior to the hearing, the permit authority shall prepare a report on the matter and forward the report to the board of supervisors.
- F. Hearing and decision.** At the appeal hearing, the board of supervisors may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal. After the hearing, the board of supervisors may affirm, affirm in part, modify, or reverse the decision of the permit authority, and such action shall be final.

- G. **Withdrawal of appeal.** After filing, an appeal may not be withdrawn except with the consent of the board of supervisors.

Sec. 11.20.020. Direct review.

- A. **Request for direct review.** Any member of the board of supervisors may request the board of supervisors to review a decision by the permit authority approving or denying a discretionary permit application.
- B. **Timing and form of request for direct review.** A request for direct review shall be made orally at a board of supervisors meeting, or filed in writing or by e-mail with the clerk of the board of supervisors, prior to the expiration of the appeal period for the decision of the permit authority. A request for direct review need not state the reasons for the request. A request for direct review shall not be deemed to be an allegation of any flaw in or a pre-judgment of the decision of the permit authority.
- C. **Effect of request for direct review.** A request for direct review shall stay the decision of the permit authority until the board of supervisors takes action in compliance with Subsection D, and, if applicable, until the board of supervisors takes action in compliance with Subsection F. The stay shall not extend the time for filing an appeal of the decision that is the subject of the request.
- D. **Consideration of request for direct review.** A request for direct review shall be considered by the board of supervisors at a regular meeting of the board of supervisors.
 - 1. If the board of supervisors grants the request for direct review, the board of supervisors shall assume jurisdiction over the matter and take action in compliance with Subsection F.
 - 2. If the board of supervisors denies the request for direct review, the decision of the permit authority shall stand unless an appeal of the decision was timely filed.
- E. **Scheduling of hearing and report.** After a request for direct review has been granted, the direct review shall be scheduled for consideration at a public hearing by the board of supervisors. Public notice of the hearing shall be provided, and the hearing conducted, in compliance with Article 22 of this chapter. The hearing shall be de novo. Prior to the hearing, the permit authority shall prepare a report on the matter and forward the report to the board of supervisors.
- F. **Hearing and decision.** At the direct review hearing, the board of supervisors may consider any issue involving the matter that is the subject of the direct review. After the hearing, the board of supervisors may affirm, affirm in part, modify, or reverse the decision of the permit authority, and such action shall be final.
- G. **Participation by initiator of request for direct review.** Any member of the board of supervisors who initiates a request for direct review may fully participate in determining whether to approve the request and, if the request is approved, in hearing and deciding upon the matter, including voting, unless actual bias or prejudice is otherwise shown.

H. Withdrawal of request for direct review. After filing, a request for direct review may not be withdrawn except with the consent of the board of supervisors.

Sec. 11.20.030. Simultaneous appeal and direct review.

When a decision by the permit authority is both appealed and jurisdiction is taken by the board of supervisors through direct review, both the appeal and the direct review shall be heard and considered concurrently.

Article 22. Public Hearings.

Sec. 11.22.010. Notice of hearing.

The public shall be provided advance notice of any public hearing by the board of supervisors required by this chapter in compliance with Government Code sections 65090, 65091, and 65092. The failure of any person or entity to receive notice given pursuant to this section shall not constitute grounds for any court to invalidate the actions of the board of supervisors, provided that there has been substantial compliance with the requirements of this section.

Sec. 11.22.020. Hearing procedure.

A hearing by the board of supervisors shall be held at the date, time, and place for which notice was given. Any hearing may be continued without further notice, provided that the board of supervisors announces the date, time, and place to which the hearing will be continued prior to the adjournment or recess of the hearing. For any matter being considered at a hearing in compliance with this chapter, the board of supervisors may announce a tentative decision, and defer its action on a final decision until appropriate findings and/or conditions of approval have been prepared.

Article 24. Enforcement.

Sec. 11.24.010. Power to enforce.

The director of permit and resource management and the agricultural commissioner shall be responsible for enforcing the provisions of this chapter and may issue correction notices, notices of violation, stop work orders, and citations for any violations of this chapter, or any permit issued pursuant to this chapter.

Sec. 11.24.020. Permits in conflict with chapter deemed void.

Any permit issued in conflict with the provisions of this chapter shall be deemed void.

Sec. 11.24.030. Violations.

A. Public nuisance. Any activity performed contrary to the provisions of this chapter is hereby declared to be unlawful and a public nuisance.

B. Criminal violation. Any person, whether an agent, principal, or otherwise, violating or causing the violation of any provision of this chapter or any permit issued pursuant to this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punishable in compliance with Section 1-7 of this code.

C. Stop work order.

1. Any activity in violation of this chapter or any permit issued pursuant to this chapter shall be subject to the issuance of a “stop work order.”
2. Any violation of a stop work order shall constitute a misdemeanor and a public nuisance, and shall be subject to the remedies and penalties established by the county.

Sec. 11.24.040. Suspension, revocation, or modification.

A. Permit authority action. A grading, drainage, or vineyard and orchard site development permit may be suspended, revoked, or modified by the permit authority, if the permit authority determines any of the following:

1. Circumstances under which the permit was granted have changed and the public health, safety, and welfare require the suspension, revocation, or modification;
2. The permit was granted, in whole or in part, on the basis of a misrepresentation or omission of a material statement in the permit application; or
3. One or more of the conditions of the original permit have not been substantially fulfilled or have been violated.

B. Effect of revocation. The revocation of a grading, drainage, or vineyard and orchard site development permit shall have the effect of terminating the permit and denying the privileges granted by the original permit.

Sec. 11.24.050. Enforcement action.

When the permit authority determines that an activity is being performed in violation of the provisions of this chapter, the permit authority may initiate an enforcement action pursuant to Section 1-7.3 of this code.

Sec. 11.24.060. Remedies not exclusive.

The remedies identified in this chapter are in addition to and do not supersede or limit any and all other remedies, civil or criminal. The remedies provided in this chapter shall be cumulative and not exclusive.

Sec. 11.24.070. Additional permit processing fees.

Any person who performs any activity requiring a permit under this chapter without first obtaining the required permit shall pay the additional permit processing fees established by the county’s fee

schedule for the correction of the violations and any applicable penalties, before being granted a permit for the activity.

Sec. 11.24.080. Hazard abatement.

Whenever the permit authority determines that any existing excavation, embankment, or fill on private property has become a hazard to public safety, endangers property, or adversely affects the safety, use, or stability of adjacent property, an overhead or underground utility, or a public way or watercourse, or could adversely affect the water quality of any watercourse or water body, the permit authority shall provide written notice to the owner or other person in control of the property advising of the problem. Upon receipt of the written notice from the permit authority, the owner or other person in control of the property shall, within the time specified in the notice, eliminate the hazard and conform with the requirements of this chapter.

Article 26. Glossary.

Sec. 11.26.010. Purpose.

This article provides definitions of terms and phrases used in this chapter that are technical or specialized, or that may not reflect common usage. If any of the definitions in this article conflict with definitions in other provisions of this code, these definitions shall control for the purposes of this chapter. If a word is not defined in this article, or in other provisions of this code, the permit authority shall determine the correct definition.

Sec. 11.26.020. Definitions of specialized terms and phrases.

As used in this chapter, the following terms and phrases shall have the meanings ascribed to them in this section, unless the context in which they are used clearly requires otherwise. The definition of a term or phrase applies to any of that term's or phrase's variants.

Agricultural Commissioner. The agricultural commissioner-sealer of the county or his or her authorized representative.

Agricultural Crop. Any adapted cultivated crop grown and harvested for commercial purposes. As used in this chapter, agricultural crop does not include trees regulated by the Z' Berg-Nejedly Forest Practice Act of 1973, Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code.

Agricultural Cultivation. The act of preparing the soil for the raising of agricultural crops.

Agricultural Drainage Improvement. Any drainage improvement for agricultural cultivation.

Agricultural Grading. Any grading for agricultural cultivation. As used in this chapter, agricultural grading does not include grading for roads, dams, reservoirs, lakes, ponds, or pads for structures.

Architect. An individual licensed by the state to practice architecture and to use the title, architect.

As-Built Plans. Plans or drawings that depict the final installed configuration of grading, drainage improvement, or vineyard or orchard site development (whether physical or functional). The plans or drawings shall indicate any construction deviations and show all features as actually built. The plans or drawings are intended to provide a permanent record of as-built conditions and aid as key references for future maintenance processes.

Best Management Practice. A program, technology, process, siting criteria, operational method, or engineered system, which when implemented prevents, controls, removes, or reduces pollution.

California Division of Safety of Dams. The Division of Safety of Dams in the California Department of Water Resources.

California Division of Safety of Dams Guidelines for Small Dams. California Department of Water Resources, Division of Safety of Dams, Guidelines for the Design and Construction of Small Embankment Dams, latest edition.

California Environmental Quality Act (CEQA). The California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

Civil Engineer. An individual registered by the state to practice civil engineering and to use the title, civil engineer.

Coastal Zone. The portions of the California Coastal Zone established by the California Coastal Act of 1976, and as defined by Section 30103 of the Public Resources Code, within the county.

Compaction. The densification of a fill by mechanical means.

Construction Drainage Improvement. Any drainage improvement except agricultural drainage improvements.

Construction Grading. Any grading except agricultural grading.

Cut. See excavation.

Dam. Any artificial barrier, together with appurtenant works, that does or may impound or divert water.

Discretionary Land Use Permit. A discretionary permit or approval granted by the county pursuant to the zoning code to use a specific site for a particular purpose.

Discretionary Permit Application. A permit application that includes a request pursuant to Section 11.10.020.D for relief from the standards in this chapter.

Director of Permit and Resource Management. The director of permit and resource management of the county or his or her authorized representative.

Drainage Improvement. Any manmade improvement constructed or installed to collect and convey storm water. As used in this chapter, drainage improvement includes construction, installation, maintenance, repair, replacement, and modification of such improvements.

Earth Material. Any rock or natural soil or combination thereof.

Embankment. A fill consisting of a deposit of soil, rock, or other materials mechanically placed.

Embankment Reservoir. An off-stream reservoir that utilizes embankments on all sides to impound water.

Engineering Geologist. A professional geologist certified by the state as an engineering geologist.

Excavation. The removal of earth material by artificial means, also referred to as a cut.

FEMA. The Federal Emergency Management Agency in the U.S. Department of Homeland Security.

Fill. The deposition of earth material by artificial means. As used in this chapter, fill does not include soil amendment and fertilizing materials.

Final Land Preparation and Planting Work. The light tilling and laying out of vine or tree rows, installation of drip lines or other above-ground irrigation systems, installation of trellis systems, planting of grapevines or trees, and other work undertaken after the completion of initial land preparation work as part of the final phase of vineyard or orchard planting or replanting.

Flood-Prone Urban Area. The area within the boundaries defined on the north by River Road; on the west by the easterly boundary of the Laguna de Santa Rosa to its intersection with Highway 12 and continuing with the easterly limit of the city of Sebastopol to Highway 116; on the south by Highway 116 to its intersection with Old Redwood Highway then south to East Cotati Avenue and east to its intersection with Petaluma Hill Road; and on the east by Petaluma Hill Road, north to Highway 12 then west to Highway 101 and north to River Road.

General Plan. The Sonoma County General Plan.

Geologic Hazard. A geologic condition, either natural or man-made, that poses a potential danger to life and property. Examples include landslides, flooding, faulting, beach erosion, land subsidence, pollution, waste disposal, and foundation and footing failures.

Geologic Hazard Area Combining District. See Article 70 of Chapter 26 and Article XXV of Chapter 26C of this code.

Grading. An excavation or fill or combination thereof. As used in this chapter, grading does not include routine agricultural cultivation activities.

Grading Area. The land area subject to grading.

Highly Erodible Soils. The soils in the Diablo, Dibble, Goldridge, Laughlin, Los Osos, Steinbeck, and Suther soil series.

Initial Land Preparation Work. The disking, ripping, soil chiseling, terracing, and other major soil disturbance; construction of field roads; construction or installation of drainage improvements, water supply systems, and temporary and permanent soil and other pollutant control measures; and other work undertaken as part of the initial phase of vineyard or orchard planting or replanting.

Key. A compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

Lake. A permanent natural body of water of any size, or an artificially impounded body of water having a surface area of at least one acre, isolated from the sea, and having an area of open water of sufficient depth and permanency to prevent complete coverage by rooted aquatic plants. As used in this chapter, lake does not include embankment reservoirs.

Landscape Architect. An individual licensed by the state to practice landscape architecture and to use the title, landscape architect.

Land Use Permit. A ministerial or discretionary permit or approval granted by the county pursuant to the zoning code to use a specific site for a particular purpose.

Licensed Professional. An architect, civil engineer, landscape architect, professional geologist, or registered professional forester.

Local Coastal Program. The Sonoma County Local Coastal Program.

Ministerial Permit Application. Any permit application except one that includes a request pursuant to Section 11.10.020.D for relief from the standards in this chapter.

Natural Slope. The slope of the ground prior to any soil disturbance. Natural slope shall be determined by measuring the horizontal distance between adjacent contours on a USGS 7.5 minute quadrangle map or other topographic map acceptable to the county with a scale of not less than 1:24000 (1" = 2000') and contour intervals of not more than 20 feet, and then dividing the difference in elevation between the two contours by the measured horizontal distance. The horizontal distance shall be measured perpendicular to the contours.

Non-rainy Season. The period of the year during which there is not a substantial chance of rainfall. For the purposes of this chapter, the non-rainy season is defined as starting on April 16 and ending on October 14, inclusive.

Orchard. A planting of fruit- or nut-bearing trees. Land devoted to the cultivation of such a planting.

Orchard Planting. The planting of a new orchard or the expansion of the footprint of an existing orchard.

Orchard Replanting. The replanting of an existing orchard where the footprint of the orchard does not change.

Orchard Site Development. Initial land preparation work or final land preparation and planting work or both for orchard planting or replanting.

Permit Application. An application for a permit required by this chapter.

Permit Authority. The individual identified by Table 11-4 as having the responsibility and authority to review, and approve or deny the permit applications described in this chapter.

Permit Authority's Best Management Practices Guide. The best management practices guide for grading, drainage improvement, and vineyard and orchard site development prepared by the director of permit and resource management and the agricultural commissioner. The guide shall reference or detail only fixed standards and objective measurements that do not require the exercise of discretion by the director of permit and resource management or the agricultural commissioner, and do not conflict with the provisions of this chapter.

Permittee. The person to whom a grading, drainage, or vineyard and orchard site development permit is issued.

Person. Any individual, firm, partnership, corporation, company, association, joint stock association; state, tribe, county, city, or district; and includes any trustee, receiver, assignee, or other similar representative thereof.

Planting Area. The land area subject to a vineyard or orchard planting.

Pond. A still, freshwater body that is smaller than a lake and often manmade. A pond can provide water for livestock, fish and wildlife, recreation, fire control, crop and orchard watering, and other related uses. As used in this chapter, pond does not include embankment reservoirs.

Professional Geologist. An individual registered by the state to practice geology and to use the title, professional geologist.

Rainy Season. The period of the year during which there is a substantial chance of rainfall. For the purposes of this chapter, the rainy season is defined as starting on October 15 and ending on April 15, inclusive.

Registered Environmental Health Specialist. An individual registered by the state to practice as an environmental health specialist and to use the title, registered environmental health specialist.

Registered Professional Forester. An individual licensed by the state to practice forestry and to use the title, registered professional forester.

Replanting Area. The land area subject to a vineyard or orchard replanting.

Reservoir. An impounded body of water.

Routine Agricultural Cultivation Activity. Clearing, grubbing, stripping, ripping, plowing, disking, harrowing, tilling, land planing no greater than 3 feet in depth, and similar activities for agricultural cultivation.

SCWA Flood Control Design Criteria. The Flood Control Design Criteria Manual for Waterways, Channels, and Closed Conduits, Sonoma County Water Agency, latest edition.

Slope. An inclined surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance (e.g., 2:1) or as a percentage (e.g., 50 percent).

Site. Any lot or parcel of land or contiguous combination thereof where grading, drainage improvement, or vineyard or orchard site development is performed or permitted.

Site Clearing. Any removal of vegetative ground cover that results in disturbance of soils, or any removal of existing agricultural plants, vines, or trees.

Soil Amendment and Fertilizing Materials. Organic and in-organic substances applied to the existing soil to improve physical properties of the soil or increase available nutrients in the soil. As used in this chapter, soil amendment and fertilizing materials include commercial fertilizers, agricultural minerals such as gypsum and lime, pumice, straw, and manure.

Soil Disturbance. Any alteration to the natural surface of the ground through the use of construction equipment, tractors, and similar equipment.

Soil Loss. The wearing away of the ground surface as a result of the movement of wind, water, or ice.

Soils Engineer. A civil engineer experienced and knowledgeable in the practice of soils engineering.

Soils Engineering. The application of the principles of soils mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials and the inspection or testing of the construction thereof.

Soils Report. A soils report prepared by a soils engineer, which identifies the nature and distribution of existing soils; conclusions and recommendations for grading procedures; soil design criteria for any structures or embankments required to accomplish the proposed grading; and, where necessary, slope stability studies, and recommendations and conclusions regarding site geology.

Special Flood Hazard Area. Any area designated by the Federal Emergency Management Agency as subject to flooding by the 1 percent annual chance flood (100-year flood).

Spillway Design Flood. See the California Division of Safety of Dams Guidelines for Small Dams.

State CEQA Guidelines. The State CEQA Guidelines, California Code of Regulations, title 14, division 6, chapter 3, commencing with section 15000.

Storm Water. Any storm water runoff, snow melt runoff, and surface runoff.

Storm Water Best Management Practice. See best management practice.

Stream. Any natural channel with bed and banks containing flowing water or showing evidence of having contained flowing water (e.g., deposit of rock, sand, gravel, or soil).

Terrace. A relatively level step constructed in the face of a graded slope for drainage and maintenance purposes.

Timber Operations. See Public Resources Code section 4527.

Top of Bank. The points in a cross-section where the stream channel makes a transition to flood plain. Top of bank can be identified by a change in the slope of the land, a transition from terrestrial to riparian vegetation, and/or changes in the composition of substrate materials.

Tribe. A California Native American tribe that is on the contact list maintained by the Native American Heritage Commission.

USGS 7.5 Minute Quadrangle Map. The 7.5 minute series United States Geological Survey quadrangle map most recently published.

Vegetative Filter Strip. A land area seeded to close growing or sod forming grasses, designed to filter out soil and other pollutants carried in storm water or waste water.

Vineyard. A planting of grapevines. Land devoted to the cultivation of such a planting.

Vineyard Planting. The planting of a new vineyard or the expansion of the footprint of an existing vineyard.

Vineyard Replanting. The replanting of an existing vineyard where the footprint of the vineyard does not change.

Vineyard Site Development. Initial land preparation work or final land preparation and planting work or both for vineyard planting or replanting.

Watercourse. Any stream, or any manmade channel constructed to facilitate the use of water or convey storm water.

Wetlands. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands must have one or more of the following three attributes in the Coastal Zone, and two or more of the following three attributes in all other parts of the unincorporated area of the county:

1. The land supports predominantly hydrophytes during the normal wet portion of the growing season.
2. The substrate is predominantly undrained hydric soil.
3. The substrate is saturated with water or covered by shallow water at some time during the normal wet portion of the growing season of each year.

Wetlands Biologist. A biologist experienced and knowledgeable in the delineation of wetlands in California using applicable federal, state, and local criteria.

Zoning Code. Chapters 26 and 26C of this code

SECTION VIII. Section 19-16 is added to the Sonoma County Code, to read:

Sec. 19-16. Protection of defined channels and drainage easements.

(a) No person, municipality, or public district shall commit or cause to be committed any of the acts hereinafter described:

(1) Impair or impede or obstruct the natural flow of storm water or other water running in a watercourse or cause or permit the obstruction of a watercourse.

(2) Deposit any material in a watercourse without complying with the provisions of Chapter 11 of this code.

(3) Alter the surface of land so as to reduce the capacity of a watercourse.

(4) Commit any act, within any easement dedicated for drainage purposes that will impair the use of such easement for such purpose.

(5) Place any material along the sides of a watercourse or so close to the side of a watercourse as to cause such material to be carried away by flood waters passing through the watercourse.

(6) Deposit any material that contains paper, bottles, cans, lumber, garbage, organic matter or other material which will not readily become an integral part of the side of a watercourse.

(7) Deposit car bodies or any unsightly material on the top or sides of any embankment that defines a watercourse.

(b) For the purposes of this section, “watercourse” means any stream, or any manmade channel constructed to facilitate the use of water or convey storm water.

SECTION IX. Section 23A-8 of the Sonoma County Code is amended to read:

Sec. 23A-8. Designation of Additional Ministerial Actions.

The actions that are determined to be ministerial under this code include but are not limited to:

(a) Issuance of building permits pursuant to Chapter 7 of this code, and zoning permits pursuant to Chapter 26 or 26C of this code, for a building or use of land outside a scenic resources combining district and for which design review is not required.

(b) Issuance of flood control, grading, drainage, and storm water quality clearances pursuant to Chapters 7B, 11, and 11A of this code.

(c) Issuance of grading, drainage, and vineyard and orchard site development permits pursuant to Chapter 11 of this code, except where the permit application includes a request for relief from the standards in Chapter 11.

(d) Issuance of encroachment permits pursuant to Article III of Chapter 15 of this code.

(e) Approval of final subdivision maps pursuant to Chapter 25 of this code.

(f) Issuance of water well construction, reconstruction, or demolition permits pursuant to Chapter 25B of this code.

SECTION X. Article V (Vineyard Erosion and Sediment Control) of Chapter 30 of the Sonoma County Code is amended to read:

Article V. Disclosure of Vineyard and Orchard Site Development Regulations.

Sec. 30-40. Disclosure of vineyard and orchard site development regulations to buyers of real property.

(a) Where a transfer of real property by sale, exchange, installment land sale contract, lease with an option to purchase, any other option to purchase, ground lease coupled with improvements, or residential stock cooperative improved with one to four dwelling units is proposed for any real property within the unincorporated area of the county having a zoning designation of LIA (Land Intensive Agriculture), LEA (Land Extensive Agriculture), DA (Diverse Agriculture), RRD (Resources and Rural Development), RRDWA (Resources and Rural Development - Agricultural Preserve), TP (Timber Production), AR (Agriculture and Residential), or RR (Rural Residential) under Chapter 26 or 26C of this code, the transferor shall disclose Chapter 11 of this code and the nature of its requirements for vineyard and orchard site development to the prospective transferee in one of the following ways:

(1) Deliver a general disclosures and disclaimers advisory to the prospective transferee pursuant to local real estate practice that includes a statement disclosing this article and the nature of its requirements. The statement shall be in the following form:

The County of Sonoma, through Chapter 11 of the Sonoma County Code (Sonoma County Grading, Drainage, and Vineyard and Orchard Site Development Regulations), has established permit requirements and standards for vineyard and orchard site development within the unincorporated area of Sonoma County. If at any time you plant a new vineyard or orchard or replant an existing vineyard or orchard on all or any part of the property you are purchasing, you will be required to comply with the requirements of Chapter 11 of the Sonoma County Code. For more information about Chapter 11 of the Sonoma County Code and its requirements for vineyard and orchard site development, please contact the Sonoma County Agricultural Commissioner.

Deliver a disclosure statement to the prospective transferee pursuant to Article 1.5 (commencing with Section 1102) of Chapter 2 of Title 4 of Part 4 of Division 2 of the Civil Code disclosing this article and the nature of its requirements. The disclosure statement shall be in the following form:

LOCAL OPTION

REAL ESTATE TRANSFER DISCLOSURE STATEMENT

THIS DISCLOSURE STATEMENT CONCERNS THE REAL PROPERTY SITUATED IN THE UNINCORPORATED AREA OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, DESCRIBED AS (Address and Assessor's Parcel Number(s)) . THIS STATEMENT IS A DISCLOSURE OF THE CONDITION OF THE ABOVE DESCRIBED PROPERTY IN COMPLIANCE WITH SECTION 30-40 OF THE SONOMA COUNTY CODE AS OF (date) . IT IS NOT A WARRANTY OF ANY KIND BY THE SELLER(S) OR ANY AGENT(S) REPRESENTING ANY PRINCIPAL(S) IN THIS TRANSACTION, AND IS NOT A SUBSTITUTE FOR ANY INSPECTIONS OR WARRANTIES THE PRINCIPAL(S) MAY WISH TO OBTAIN.

SELLERS INFORMATION

The Seller discloses the following information with the knowledge that even though this is not a warranty, prospective Buyers may rely on this information in deciding whether and on what terms to purchase the subject property. Seller hereby authorizes any agent(s) representing any principal(s) in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

THE FOLLOWING ARE REPRESENTATIONS MADE BY THE SELLER(S) AS REQUIRED BY THE COUNTY OF SONOMA, AND ARE NOT THE REPRESENTATIONS OF THE AGENT(S), IF ANY. THIS INFORMATION IS A DISCLOSURE AND IS NOT INTENDED TO BE PART OF ANY CONTRACT BETWEEN THE BUYER AND SELLER.

The County of Sonoma, through Chapter 11 of the Sonoma County Code (Sonoma County Grading, Drainage, and Vineyard and Orchard Site Development Regulations), has established permit requirements and standards for vineyard and orchard site development within the unincorporated area of Sonoma County. If at any time you plant a new vineyard or orchard or replant an existing vineyard or orchard on all or any part of the property you are purchasing, you will be required to comply with the requirements of Chapter 11 of the Sonoma County Code. For more information about Chapter 11 of the Sonoma County Code and its requirements for vineyard and orchard site development, please contact the Sonoma County Agricultural Commissioner.

Seller certifies that the information herein is true and correct to the best of the Seller's knowledge as of the date signed by the Seller.

Seller _____ Date _____

Seller _____ Date _____

BUYER(S) AND SELLER(S) MAY WISH TO OBTAIN PROFESSIONAL ADVICE AND/OR INSPECTIONS OF THE PROPERTY AND TO PROVIDE FOR APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN BUYER(S) AND SELLER(S) WITH RESPECT TO ANY ADVICE/INSPECTIONS/DEFECTS.

I/WE ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Seller _____ Date _____

Seller _____ Date _____

Buyer _____ Date _____

Buyer _____ Date _____

Agent (Broker Representing Seller) _____ By _____ Date _____
(Associate Licensee or Broker-Signature)

Agent (Broker Obtaining the Offer) _____ By _____ Date _____
(Associate Licensee or Broker-Signature)

A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

(b) If a prospective transferee refuses to sign the general disclosures and disclaimers advisory or disclosure statement required by subsection (a), the transferor may comply with the requirements of this section by delivering the advisory or statement to the prospective transferee as provided in subsection (a) and affixing and signing the following declaration to the advisory or statement:

"I, _____ (name) _____, have delivered a copy of the foregoing _____ (general disclosures and disclaimers advisory/disclosure statement) _____ as required by Section 30-40 of the Sonoma County Code to _____ (transferee's name) _____, who has refused to sign.

I declare the foregoing to be true.

Date: _____ Signature: _____ Print Name: _____

(c) Noncompliance with the provisions of this section shall not affect title to real property, nor prevent the recording of any document.

SECTION XI. The provisions of this ordinance shall apply to all applications for grading, drainage, and vineyard and orchard site development permits that are filed on or after the effective date of this ordinance. The provisions of the ordinance shall also apply to any applications for grading and drainage permits, and notices of

authorized vineyard plantings and replantings that were filed but not accepted as complete for processing prior to the effective date of this ordinance. Any applications for grading and drainage permits, and notices of authorized vineyard plantings and replantings, that were filed and accepted as complete for processing prior to the effective date of this ordinance shall continue to be reviewed and decided upon under the provisions of Chapters 7, 11, and 30 of the Sonoma County Code in effect on the day prior to the effective date of this ordinance.

SECTION XII. Pursuant to Health and Safety Code section 17958.7, the Board of Supervisors finds and determines that this ordinance and the changes or modifications made herein to the Sonoma County Code and the previously adopted 2007 California Building Code with respect to grading are reasonably necessary because of local climatic, geological, and topographical conditions. Sonoma County has many areas with unstable soil conditions, including expansive and liquefiable soils. The county is prone to long periods of dry weather, which shrink expansive soils, and heavy downpours, which promote landslides. In addition, the county is in an extremely active seismic area. These conditions not only make for unstable land under proposed structures, but cause pollution into streams and rivers when soil is disturbed. The special grading regulations set forth in Section VII of this ordinance are needed under these conditions. The Director of the Permit and Resource Management Department is directed to file a copy of this ordinance with the California Building Standards Commission.

SECTION XIII. The Board of Supervisors finds and determines as follows:

(a) This ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Sections 15307 and 15308 of the State CEQA Guidelines as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment, and pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. The basis for this determination is that this ordinance does not in itself approve any construction activities, but instead establishes standards, permit requirements, and other measures that regulate grading, drainage, and vineyard and orchard site development more stringently than existing codes. These standards, permit requirements, and other measures will not result in any direct physical change to the environment on their own, and will instead assure the maintenance, restoration, enhancement, and protection of natural resources and the environment by strengthening existing environmental standards and establishing new limitations. The Director of the Permit and Resource Management Department is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

(b) Notwithstanding any other provision of this ordinance, if for any reason a court of competent jurisdiction holds in a final order, writ, judgment, or other finding that any determination of this section is invalid, such decision shall automatically and immediately render this ordinance inoperative, suspended, and of no further force or effect. The provisions of this ordinance shall be automatically reinstated and given full force and effect if the final order, writ, judgment, or other finding is stayed or reversed by a higher court of competent jurisdiction.

SECTION XIV. The Board of Supervisors finds and determines as follows:

(a) On September 23, 2008, the Board of Supervisors adopted the county’s current general plan - Sonoma County General Plan 2020 (“General Plan 2020”). General Plan 2020 supersedes and replaces the county’s former general plan - 1989 Sonoma County General Plan (“the 1989 General Plan”). In addition to

the state mandated general plan elements, the 1989 General Plan and General Plan 2020 include an Agricultural Resources Element. The Agricultural Resources Element was established in the 1989 General Plan, and continued in General Plan 2020, to acknowledge the importance of agricultural production in and to the county. The purpose of the Agricultural Resources Element is to establish policies to insure the stability and productivity of the county's agricultural lands and industries. The Agricultural Resources Element is intended to provide clear guidelines for decisions in agricultural areas, and to express policies, programs, and measures that promote and protect the current and future needs of the county's agricultural industry. Section 2.9 of the Agricultural Resources Element addresses streamlining permit processing for agricultural uses in designated agricultural land use categories. In that section, Goal AR-9 is to provide agricultural permit processing procedures that are rapid and efficient, Objective AR-9.1 is to establish permit processing procedures that will simplify and shorten the decision making process for permits on agricultural lands, and Policy AR-9c is to establish procedures and standards to distinguish those agricultural uses and activities that may be approved by administrative action and to expedite the processing of permits for agricultural and agriculture related uses. These goals, objectives, and policies, when integrated with the remainder of General Plan 2020, give strong policy direction to expedite, as opposed to complicate, the processing of agricultural related permits for properties bearing one of the county's three agricultural land use designations (Land Intensive Agriculture, Land Extensive Agriculture, and Diverse Agriculture).

(b) Under current county regulations, grading and drainage improvement (both agricultural and construction) are allowed ministerially by permit, vineyard site development (authorized vineyard planting and replanting) is allowed ministerially by written notice and review, and orchard site development is allowed ministerially as a matter of right. Given the ministerial nature of these regulations, and the goals, objectives, and policies cited in Subsection (a) above, it is the intention of the Board of Supervisors, in adopting the comprehensive grading, drainage, and vineyard and orchard site development regulations set forth in Section VII of this ordinance, to ensure that such regulations are administered in a ministerial, as opposed to discretionary, manner, except as otherwise expressly provided in those regulations. The imposition of a discretionary regulatory scheme relating to grading, drainage improvement, and vineyard and orchard site development could, in turn, implicate the provisions of the California Environmental Quality Act ("CEQA"). The application of CEQA to grading, drainage improvement, and vineyard and orchard site development could result in inappropriate and burdensome delays of lawful activities in the county, particularly agricultural production activities. Accordingly, the Board of Supervisors declares its intention, in adopting the comprehensive grading, drainage, and vineyard and orchard site development regulations set forth in Section VII of this ordinance, to achieve certain environmental protections while, at the same time, creating a ministerial system of regulation that is consistent with the current practices of the county and the goals, objectives, and policies cited in Subsection (a) above, and does not unduly complicate and discourage grading, drainage improvement, and vineyard and orchard site development activities.

(c) Notwithstanding any other provision of this ordinance, if for any reason a court of competent jurisdiction holds in a final order, writ, judgment, or other finding that any provision of Section VII of this ordinance which the Board of Supervisors intended to be ministerial is, in fact, discretionary (and therefore subject to CEQA), such decision shall automatically and immediately render this ordinance inoperative, suspended, and of no further force or effect. The provisions of this ordinance shall be automatically reinstated and given full force and effect if the final order, writ, judgment or other finding is stayed or reversed by a higher court of competent jurisdiction.

SECTION XV. Except as otherwise provided in Sections XIII and XIV of this ordinance, if any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or

invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION XVI. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma introduced on the ____th day of _____, 2008, and finally passed and adopted this ____th day of _____, 2008, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

BROWN _____ SMITH _____ KELLEY _____ REILLY _____ KERNS _____

AYES _____ NOES _____ ABSTAIN _____ ABSENT _____

WHEREUPON, the Chair declared the above and foregoing ordinance duly adopted and

SO ORDERED.

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Robert Deis, Clerk of
the Board of Supervisors