

## CHAPTER 41 SLOPE PROTECTION REGULATION FOR GRADING AND BUILDING PERMIT APPLICATIONS

41.01 Purpose and Intent. The purpose of this regulation is to preserve natural landforms, including slopes, ridgelines, and valleys, through the establishment of development and Grading standards and requirements to maintain the rural character and landform features of the community.

41.02 General Grading Regulations. Pursuant to Paragraph 46 of the Protective Covenant, Grading includes alterations or changes (cut or fill) to physical contours and stockpiling (including any importing and placing or stockpiling of soil material excluding base and other paving surfaces). No one shall perform Grading without first obtaining a Grading permit from the Association.



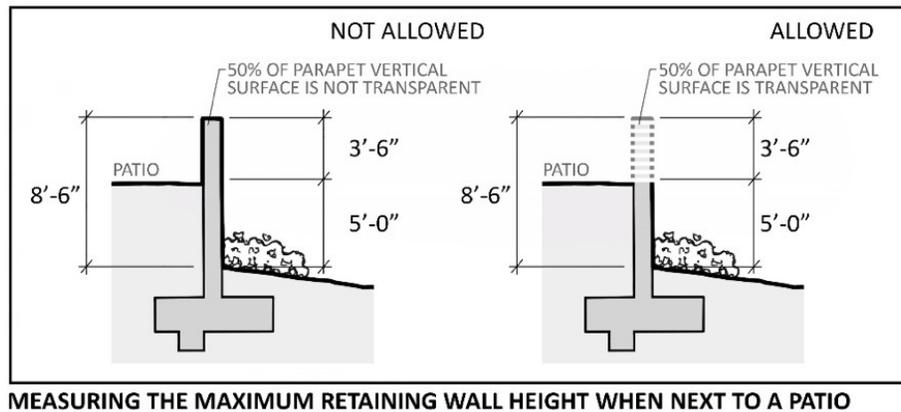
Photo of 20 CY (five piles =100 CY)

41.03 Agricultural Grading. Pursuant to the Art Jury's authority under Paragraph 180 of the Protective Covenant to interpret the provisions in Article III thereof, it is the Art Jury's interpretation that "preparing land for orchard or farm use" as stated in Paragraph 46 of the Protective Covenant means tilling or plowing, but not cutting, filling, or stockpiling. Therefore, no one shall perform cutting or filling of land or stockpiling on land without first obtaining a Grading permit from the Association, even if such cutting, filling, or stockpiling is in connection with preparing such land for orchard or farm use.

41.04 Major Grading. Any grading that exceeds one hundred (100) cubic yards in a two-year period is required to obtain grading approval from the Art Jury before work begins. If grading exceeds (200) cubic yards, a County of San Diego grading permit is also required before work begins.

41.05 Minor Grading. Any grading that does not exceed one hundred (100) cubic yards in a two-

year period is not required to obtain grading approval from the Art Jury before work begins.



41.06 Site Retaining Wall. An exposed or partially exposed masonry or concrete wall exceeding 32-inches in height above finished grade at the “bottom of wall” and a maximum height not exceeding 60-inches at the “top of wall”. Where CBC and safety concerns apply, a guard rail 42-inches high may be added to the “top of wall” without effecting the wall’s calculated height provided at least 50% of the guard rail from top of wall (vertically) is transparent.

41.07 Terraced Walls. Two or more Garden Walls, or Site Retaining Walls used in combination to terrace grade at cuts and or fills, and requiring Art Jury review and approval.

41.08 Garden Wall. A single wall, not exceeding 32 inches in height and composed of dry-laid materials, and which observe all setback requirements established for structures in the Protective Covenant. This type of wall shall be considered minor construction and will not require Art Jury review.

41.09 Underground Structures. Below grade structures including basement-types as herein defined, foundations, basement walls, site utility and drainage systems. Where an underground structure access façade is exposed, that portion will be regarded as a story (with the exception of approved light wells and stair wells). However if, in the judgement of the Art Jury, the vertical plane of the entire structure is adequately interrupted between the levels, a ground floor and second story are permissible in accordance with Paragraphs 78, 81 and 121 of the Protective Covenant.<sup>1</sup>

41.09.1 Basement. A basement is defined as an enclosed habitable or non-habitable space with the finished floor below adjacent finished grade (except at the point of access) and where the finish top of basement wall or finished horizontal surface, or the finish floor of

<sup>1</sup>Par. 78. (e) The “curb level” for the purpose of measuring the height of any portion of a building is the mean level of the curb in front of such portion of the building, where the curb level has been established by resolution of the Association... Where no curb elevation has been established or the building sets back or does not adjoin the street, the average ground level of that portion of the lot occupied by the building shall be considered the curb level...”

Par. 81. (h) The “height” of a building is the vertical distance measured from the curb level to the top of the roof of the highest part of the building (except towers or spires).

Par. 121. Section 15. Height Limitations. For the purpose of regulating and limiting the height and bulk of buildings hereafter erected, no building or structure shall be erected, constructed, altered or maintained on said property with a height in excess of two stories, no more than thirty-five (35) feet...

the story above (if any) is no more than (3'-0") above adjacent finish grade (except where access is provided). Light wells and stair wells may be approved.

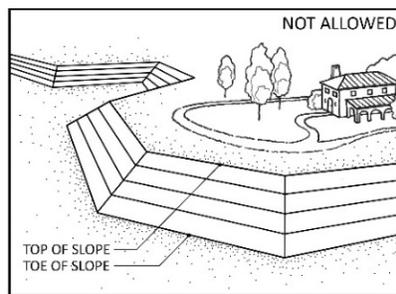
41.09.2 Basement Garage. A basement for vehicle parking with the finish floor below adjacent grade and where the finished top of basement wall or finished horizontal surface, or the finish floor of the story above (if any) is no more than three (3) feet above adjacent finish grade (except where access is provided). Light wells and stair wells may be approved. Where a Basement Garage access façade is exposed, that portion will be regarded as a story (with the exception of approved light wells and stair wells).

41.09.3 Basement Tuck-under Garage. A basement garage, below the first floor of a building (in part or whole) with the finish floor partially below grade and where the finished top of basement wall or finished horizontal surface is no more than three (3) feet above adjacent finish grade (except where access is provided). A Basement Tuck-under Garage is characterized by a stall or stalls arrayed along a portion of the basement, with direct vehicle drive-in and back-out via a driveway apron. Where a Basement Tuck-under Garage façade(s) is exposed, that portion will be regarded as a story (with the exception of approved light wells and stair wells).

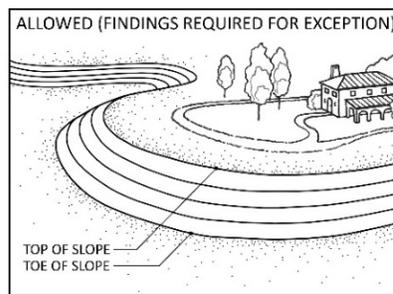
41.09.4 Walk-out Basement. A habitable or non-habitable basement with the finish floor partially below grade and where the finished top of basement wall and/or finished horizontal surface is no more than three (3) feet above adjacent finish grade (except where access is provided). A Walk-out Basement is characterized by access and fenestration along a portion of one or two adjoining sides of the basement. Where a Walk-out Basement façade is exposed, that portion will be regarded as a story (with the exception of approved light wells and stair wells).

41.10 Acceptable Grading Techniques. Any proposed home construction or other site improvements shall be integrated with the natural landform of the site with the intent of limiting Grading. Grading shall preserve the natural topography and landform features of the site as much as possible, consistent with the provisions in this chapter.

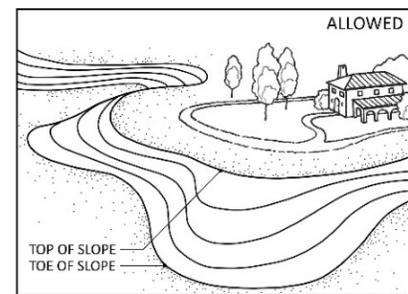
41.10.01 Aesthetically Acceptable Requirements. Building or Grading must be aesthetically acceptable to the Art Jury.



CONVENTIONAL GRADING



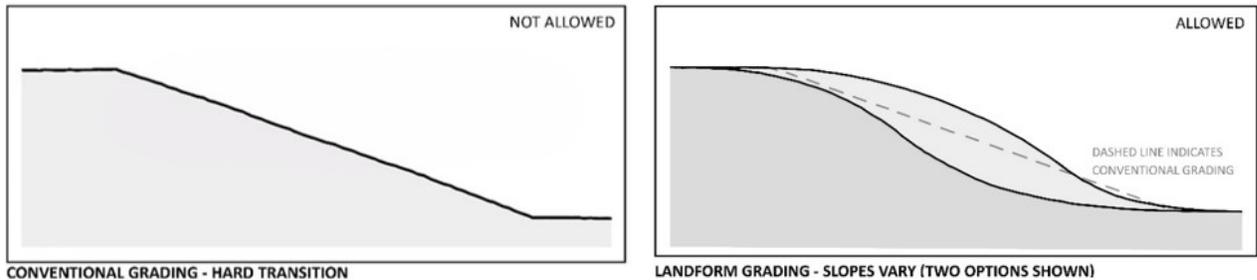
CONTOUR GRADING



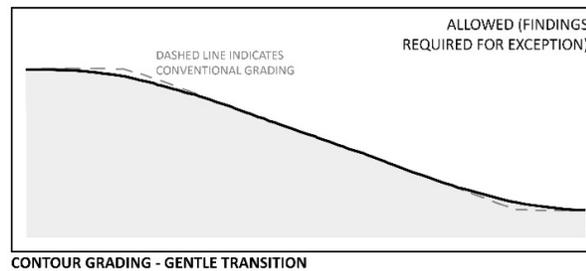
LANDFORM GRADING

41.10.02 Landform Grading. A type of grading similar to Contour Grading which uses curvilinear contours, but also incorporates contours with varying slopes from 2:1 to 3:1

and 4:1, etc. Graded areas appear as convex and concave forms when viewed from the side (in cross-section) and from above (in plan-view). The goal of Landform grading is to lend a more “natural looking” appearance to grading which may more closely match existing natural slopes. With some exceptions, all Grading must be Landform type grading where slopes, viewed from both the side (in section) and from above (in plan), take on convex and or concave curvilinear form with the use of varied slope steepness.



41.10.03 Contour Grading. A type of grading that avoids manufactured looking rectilinear shapes, embankments and straight lines and instead, results in contours and grading that appear curvilinear in shape when viewed from above (in plan-view). For site conditions where Landform Grading may be impractical and result in a poor, aesthetic outcome or, unintended access, drainage, retaining wall and or, construction issue, the Art Jury may grant exceptions for the use of Contour Grading. In such cases cut slopes shall not exceed 2:1, fill slopes shall not be less than 3:1, and contour lines which are straight shall not exceed 20 feet in length.



Findings for granting an exception by the Art Jury shall be related to the general issues described above and shall apply only to that area of the grading which is reasonably affected by the identified finding.

41.10.04 Naturalizing Graded Areas. All cut and fill slopes shall be feathered and blended back into the natural landforms of the site. No hard edge or angle shall be allowed in grading, with the requirement that the last two (2) feet to four (4) feet shall be rounded to blend into the existing shapes and angles found at the joining of existing and constructed slopes. This requirement shall be spelled out on the Grading application plan submittal.

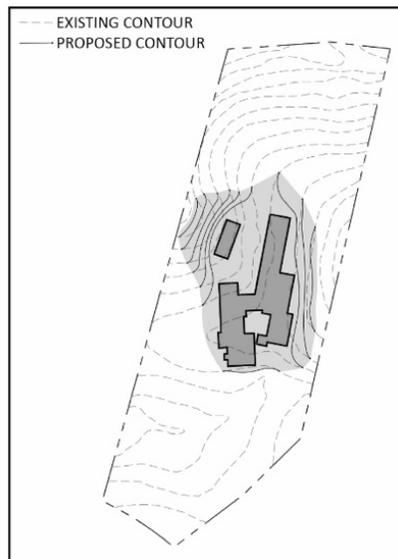
41.10.05 Proper Site Planning and Grading Design. Buildings must integrate with the natural features of a site by incorporating Landform Grading (or Art Jury approved Contour Grading), by stepping of the building pad or pads and, thoughtfully locating retaining and or, garden walls to reduce prominence and grading. Proposed buildings shall generally be

located on the flatter terrain of a site where possible.

41.10.06 Site Sensitivity. The Building footprint and location on a site should be informed by the shape of the lot and general direction of contours. The shape of the footprint and general orientation of the Building parallel to the contours is key in making the new construction fit the site. Driveway and fire access and turn-arounds should also be designed as sensitively as they too affect Grading.

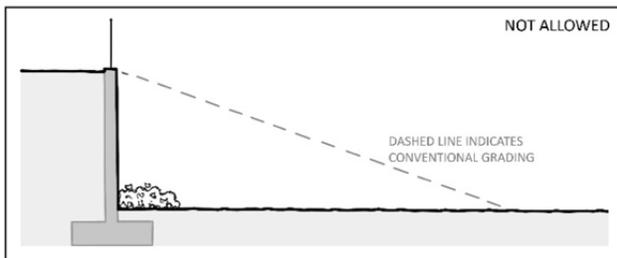


**BUILDINGS PERPENDICULAR TO CONTOURS**  
(Requires more grading and requires less desirable contour grading)

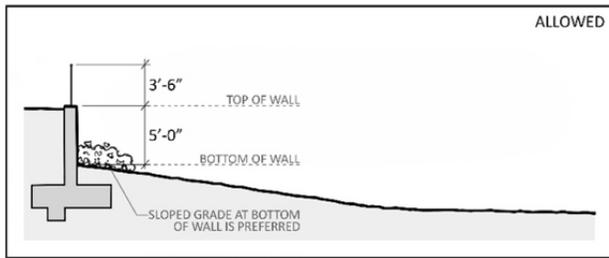


**BUILDINGS PARALLEL TO CONTOURS**  
(Requires less grading and allows for more desirable landform grading)

41.11 Maximum Height of Stand-Alone Site Retaining Walls. The maximum height of a stand-alone site retaining wall is 5-feet from its exposed “bottom of wall” to “top of wall”.

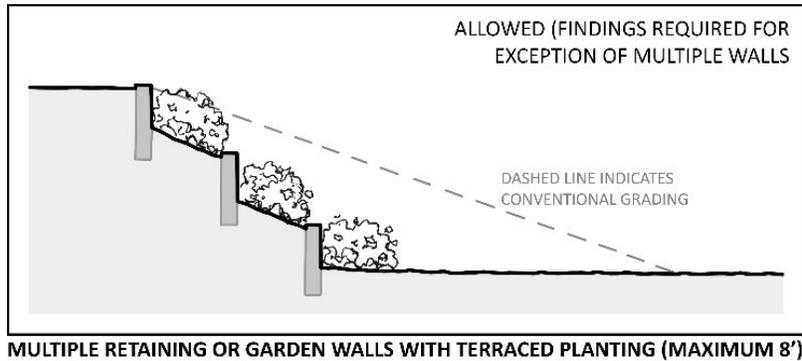


TALL RETAINING WALL WITH GUARDRAIL, LOW PLANTING



MAXIMUM RETAINING WALL HEIGHT WITH OPTIONAL GRADING TO MINIMIZE WALL HEIGHT

41.12 Maximum Height of Terraced Walls. When two or more Garden Walls or Site Retaining Walls are used in combination they are referred to as Terraced Walls. Up to three (3) Garden Walls or Site Retaining Walls may be used with a combined maximum height of eight (8) feet. In both cases the terraced grade may be cut or fill.



41.13 Restricted Slopes. A Restricted Slope is one where the existing gradient is greater than 25% and where grading and encroachment is restricted. (Note: For Art Jury exceptions and required findings, refer to section 41.13.01). No Grading or building for any purpose, shall be permitted in existing slopes of greater than 25 percent gradient (herein referred to as "Restricted Slopes"), except as specifically permitted under 41.13.03 below. This requirement does not apply to the regrading of cut or fill slopes with a 25 percent or greater gradient created through a previously-approved Association site Grading permit (41.13.03.01 Man-made Slope Exemption).

41.13.01 Slope Encroachment Exceptions. Although exceptions will be considered if findings can be made, the protection of slopes steeper than 25% has primacy and the size, shape, and location of the house may need to be altered to avoid conflicts. If an applicant is requesting an exception in Restricted Slopes, the applicant must provide information that allows the Art Jury to make (or not make) all of the following findings:

- (A) The proposal is integrated with the natural landscape features of the site in an aesthetically pleasing manner by minimizing Grading, minimizing the use of retaining walls, and limiting the amount of mature tree removals above an eight (8) inch caliper; and
- (B) The Grading is needed to avoid more extensive Grading throughout the rest of the property to preserve natural landforms, mature trees above eight (8) inches caliper, and to support the use of Landform Grading using variable slopes; and
- (C) That none of the requested exception will be allowed in the Rancho Santa Fe Association setbacks; and
- (D) The proposal “insures a uniform and reasonably high standard of artistic result” as required by Protective Covenant Paragraph 46.

Note: The approval of exceptions for Grading in Restricted Slopes by the Rancho Santa Fe Association is not a guarantee of approval from the County of San Diego for Grading in slopes greater than 25%.

41.13.02 Maximum Extent of Encroachments. In no case shall encroachments into Restricted Slopes be allowed to exceed the following percentages:

- (A) 2.5% of the Restricted Slopes for properties of 4 or more acres in size.
- (B) 5% of the Restricted Slopes for properties of 3-4 acres in size.

- (C) 7.5% of the Restricted Slopes for properties of 2-3 acres in size.
- (D) 10% of the Restricted Slopes for properties of 1 or less acres in size.

41.13.03 Exemptions to Restricted Slopes. The following conditions are excepted from the Restricted Slope requirements:

41.13.03.01 Man-made Slopes. Regrading of man-made cut or fill slopes with a 25% or steeper gradient created through a previously-approved Association site Grading permit may be approved.

41.13.03.02 Driveways. Grading for a driveway or roadway needed to access the residence on the site may be permitted if the proposed alignment still minimizes adverse impacts to steep or sensitive terrain.

41.13.03.03 Existing Agreements. The foregoing 41.13 shall not allow Grading of Restricted Slopes which is in violation of any slope restriction agreement or covenant to which the Association is a party or beneficiary.

41.13.04 Anomalous Area of Restricted Slope. Should the site survey record an isolated or anomalous area of 25% or greater slope, the Art Jury may (or may not) grant an exemption to grade and/or, build thereon by making all of the following findings:

- (A) In the judgement of the Art Jury, the subject encroachment area is minor relative to the project scope,
- (B) The area is incidental to and not representative of the predominant land form, and
- (C) The proposed work would not materially affect the character of the predominant land form.

41.14 Maximum Depth of Cut and/or Fill. No point on any finished grade / finished surface shall vary in excess of eight (8) feet from existing grade except as exempted herein.

41.14.01 Underground Structure Exemptions. Underground structures, as defined in 41.09, shall be exempt from the maximum depth of cut and fill indicated in 41.15. This exemption shall include Grading for Site Retaining Walls as defined under section 41.06, when constructed for the specific purpose of vehicular and/or pedestrian ingress and egress of underground structures.

41.14.02 Man-made Slope Exemption. A maximum cut and fill can exceed eight (8) feet in man-made slopes if the grading provides restoration to original landforms and is acceptable in the opinion of the Art Jury. This exception may be considered only if the restoration clearly demonstrates historical landforms versus man-made grading.

41.14.03 Anomalous Topographical Depression. Should the site survey record, or story pole installation reveal an isolated depression that is anomalous or uncharacteristic of adjacent topography, the Art Jury may (or may not) grant an exemption, allowing fill in excess of 8-feet by finding that:

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A) The depression whether natural or man-made is minor relative to the project scope

B) The proposed fill of the anomalous area in excess of 8-feet, is incidental only to the anomalous area; and

C) The exemption to fill in excess of 8-feet does not materially affect aesthetics or the regulatory intent of 41.13.

41.15 Cut Slope Ratio. In general, cut slopes shall be limited in extent and have varying gradients with a natural appearance. Cut slopes shall in no case be steeper than 2:1 for landform grading and as granted by the Art Jury. Cut slopes are preferred over fill slopes because buildings on the resulting pad tend to screen the cut slope.

41.16 Grading and Site Retaining Wall in Setbacks. Grading and Site Retaining Wall shall be avoided in the Rancho Santa Fe Association setbacks except as follows:

41.16.01 Exceptions for Driveways and Entry Areas. Each property is allowed to accomplish the necessary grading to accommodate the entry driveway and fire truck access and turnaround. Site Retaining Walls will only be allowed if they are part of the integral design of the entry experience and serve to limit the extent of Grading. Terraces shall be used wherever possible and all other restrictions on cut and fill slopes, Landform Grading, and maximum wall heights shall apply. Existing driveways shall be used when the site is redeveloped. If a new driveway and entry area is proposed by the applicant and an existing driveway and entry area exists, the applicant shall agree to the restoration of the original entry road and shall return it to a natural landform, including the removal of the road surfaces and any walls that may have been placed there, as well as revegetation as necessary.

41.16.02 Exceptions for Trails and Bioswales. Where trails have been requested or where site drainage requires control of runoff at the lowest point for the site, Grading is allowed in the setback if it is Landform or Contour Graded and it is revegetated where the stormwater treatment allows vegetation in the swale or at a minimum, to screen any unvegetated area.

41.16.03 Exceptions for Allowing Landform Grading. An exception for encroaching into the Rancho Santa Fe Association setbacks will be provided if the Art Jury finds that the benefits of Landform Grading in the setbacks allows for a substantial reduction in Grading, Site Retaining Walls and tree removals on the entire property.

41.17 Grading Plan Application Submittal Requirements. The applicant must submit the following to the Art Jury for review in connection with any application under this Chapter, and other materials as deemed appropriate by the Art Jury to assist in its determination.

41.17.01 Application Form. The application shall be completed and signed by the property owners of record or the owner's authorized representative.

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41.17.02 Processing Fee. The application shall be accompanied by a fee as stated on the current “Rancho Santa Fe Building Department Schedule of Fees”. This is non- refundable.

41.17.03 Sections. Multiple sections through the site shall be submitted showing the proposed differences in elevation (maximum cuts and fills) across the property. Alternatively, three dimensional physical or digital models are acceptable to communicate how the landforms will be made to fit the undisturbed portions of the site and how the landform grading requirements are to be met.

41.17.04 Grading Plans. Grading plans shall be prepared by a registered civil engineer and be designed in consultation with the project architect and landscape architect to assure collaboration and innovation. The maximum heights of cuts, fills, retaining walls, grading or retaining wall intrusion into setbacks, and slope gradients must be clearly indicated, enumerated, and signed by the registered civil engineers. Submittal of a digital grading file may be required at the request of the Art Jury or the Building Commissioner.

41.17.05 Grading Plan Existing and Proposed Conditions Map. The existing and proposed conditions plan shall include a current topographic map, depicting:

- (A) Topographic dashed contour lines in 2-foot intervals, existing driveways, building pads, buildings, and structures. This topographic map shall be prepared with topographic information obtained no more than two years prior to the date of submission of the application or an existing plan recertified by a registered civil engineer or surveyor. Additionally, such topographic plans may be required for other projects at the discretion of the Art Jury at any time.
- (B) Existing slopes categorized as: Restricted Slopes of 25% gradient (shown in red), very steep slopes from 20% to 25% gradient (shown in orange), steep slopes from 15% to 20% gradient (shown in yellow), moderately steep slopes from 10%-15% gradient (shown in green) shallow slopes less than 10% (not shown in any color).
- (C) The outline of the proposed buildings, exterior courtyards, exterior patios, miscellaneous structures, stormwater basins, basements, driveways, and access roads shown in a grayed back color.
- (D) All retaining walls with the top of wall (T.O.W.) and bottom of wall (B.O.W.) identified every ten (10) lineal feet.
- (E) Existing and proposed contours mapped at two (2) foot intervals. Existing contours will be shown as dashed lines and new contours shall be shown as solid lines.

41.17.06 Initial Landscape Plans for Grading. Although a full set of landscape architectural plans are not required with the initial submittal, preliminary landscape plans that show the bioretention basins as well as areas to be revegetated where erosion control is planned to correspond to the Grading Plan are required at the time of the Grading plan submittal. The plans do not need to show specific design treatments on non-slope areas, detailed planting compositions, individual plant layouts, plant sizing, or anticipated species. These preliminary plans can be prepared by the Architect, Landscape Architect, or the Civil Engineer. Subsequent landscape plans will need to be prepared by the project Landscape

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Architect.

41.18 Grading and Building Concurrent Review. A single joint application is required for both Grading and Buildings. Where separate Grading is proposed for landscaping or similar purposes, a separate application for Grading may be submitted only at the discretion of the Art Jury. Speculative Grading or Grading prior to the approval of an associated building is prohibited.

41.19 Grading Approvals. No grading can commence prior to all permits being issued.

41.19.01 Rough Grading Approvals and Certification. Where Grading is proposed, construction shall not commence on all Association approved structures, including foundation forms until all of the following has been completed:

- (A) A Rancho Santa Fe Association Grading permit has been issued (in addition to any necessary County of San Diego approvals);
- (B) Rough Grading has been completed consistent with the Grading permits and plans;
- (C) Written certification has been provided to the Association by a registered civil engineer that rough Grading has been completed in accordance with the Grading permits and plans; and
- (D) Such rough Grading has been inspected and approved in writing by the Building Commissioner or his/her designee.

41.19.02 Finished Grading Approvals. Finished Grading shall be inspected and must be approved in writing by the Building Commissioner or his/her designee. A grading pad certification signed by the civil engineer of record is required.

41.19.03 Conformance with Plans. Grading shall be completed in accordance with the Rancho Santa Fe Association's approved plans, unless otherwise specifically approved in writing by the Art Jury (or the Board, as applicable).

41.20 Post Permit Stockpile Plans. All stockpiling greater than 100 cubic yards will require prior approval by the Rancho Santa Fe Association Building Commissioner. The General Contractor or the Grading Contractor shall make available to the Building Commissioner, the following: Stockpile plans shall show (1) the size and location of stockpiles; (2) the site grades before, during and after stockpiling; and (3) the length of time that all stockpiles are proposed to be kept on the site. Stockpiling shall only occur in locations as approved by the Building Commissioner for a site that has started construction with all Rancho Santa Fe and County of San Diego permits obtained.

41.21 Variances. The variance procedures of this Code are inapplicable to Section 41.13.03.03 ("Existing Agreements") because the method of varying agreements in which the Association is a party or beneficiary is through an amendment executed by the Association rather than through the Code's variance procedures.

41.22 Effective Date. The effective date of the original version of this chapter is February 2, 1995.

41.23 Amended Date. This chapter was amended at 41.01, 41.0301, 41.1101, 41.12 and 41.13 on January 15, 1998 and has since been reformatted. This chapter was amended and restated on

November 20, 2008. The regulation was replaced in its entirety on May 13, 2021. The current draft replacing the May 2021 text was adopted and made effective November 3, 2022.

