

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 in order to maintain the rural character and landscape features of the Rancho Santa Fe community. No application for a grading permit or a building permit shall be approved by the Art Jury, or the Board of Directors (“the Board”), where applicable, unless the application complies with this chapter.

41.02 Definitions.

41.0201 Grading. 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.

Contour Grading. A form of grading that rounds all edges and avoids straight lines. Contour Grading is where all contour lines will result in a more natural shape of slopes and where the slopes appear curvilinear in form as seen from above.

Landform Grading. A form of grading that introduces natural forms similar to what Contour Grading accomplishes, but also creates slopes that have concave and convex shapes as would appear from the side if one took a cross section through the slope. This is done by varying different slopes ranging from 2 to 1, 3 to 1 and 4 to 1 ratios (horizontal to vertical) to create a slope that most closely matches natural slopes.

Minor Grading. Where a property owner causes grading up to one hundred cubic yards (100) and less than three-feet (3) in excavation or fill, cumulated over a two-year period. This form of grading will not require a permit or require Art Jury review however, a letter from a civil engineer will be required to confirm minor grading is being done.

Major Grading. Any grading that exceeds one hundred cubic yards (100) in a two-year period is required to obtain grading approval from the Art Jury. (see photo, 100 CY is five of these piles).



Site Retaining Wall. A wall used to retain soil which has finished grades different from the adjacent lands.

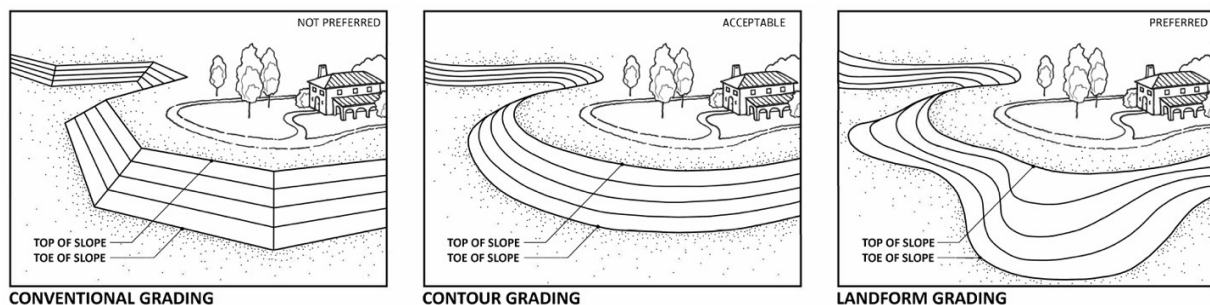
Garden Wall. Garden walls not exceeding 32 inches in height and composed of dry-laid materials, and which observe all setback requirements established for structures in the Protective Covenant, shall be considered minor construction. This type of wall will not require Art Jury review unless these walls are used as a series of walls that would add up to more than eight-feet (8) of retaining.

41.0202 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.

41.03 Restrictions on Building and Grading in Existing Slopes. Any proposed 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 landscape features of the site as much as possible, consistent with the provisions in this chapter.

41.0301 Building or Grading must be aesthetically acceptable to the Art Jury.

41.0302 Cumulative Amount of Development and Quantity of Grading and Site Development. The Art Jury shall assess the proposed development and/or grading in relation to the existing level of development (buildings, previous Grading and landscape features) already occupying a site. The Art Jury shall not approve development or Grading when it considers that (1) the site already contains the maximum amount of development and Grading typically allowed under these regulations, and the Covenant and that further extension of the developed areas would detract from the landscape features of the site and/or (2) such an increased density of development or Grading would not insure "a uniform and reasonably high standard of artistic result" as required by Protective Covenant Paragraph 46.



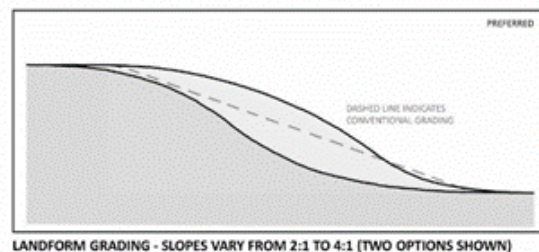
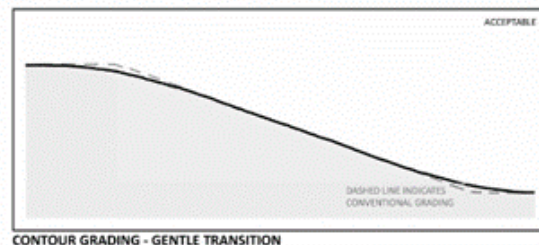
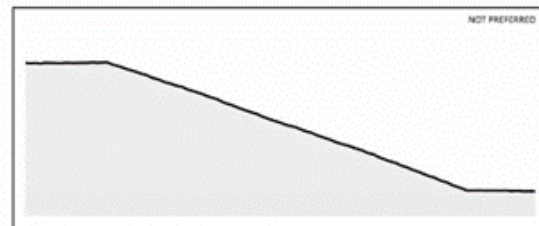
41.0303 Slopes Less Than 25%. For any area of the site that contains a slope that is less than 25%, it is desired to have buildings integrate with the natural features of the site by way of stepping the proposed buildings with the site, minimizing grading, restricting retaining walls to less than five-feet (5 feet vertical) and/or using terraced walls (if Grading requires it) are also limited to a combined limit of 8' of cut or fill. Buildings shall generally be located on flatter topography. Limited cut slopes are preferred to fill. If limited Grading is proposed, Contour Grading and/or Landform Grading shall be used and limited height retaining walls shall be considered.

Grading and placement of buildings on slopes less than 25% shall only be approved if:

- (a) The proposal is integrated with the natural landscape features of the site in an aesthetically pleasing manner by minimizing Grading, retaining walls and visual prominence.
- (b) The proposal “insures a uniform and reasonably high standard of artistic result” as required by Protective Covenant Paragraph 46; and
- (c) The proposal complies with all the requirements of the Protective Covenant and the standards listed herein.

41.0304 25% Restriction. 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 §41.04 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; and

41.0305 Contour Sensitivity. Proposed Grading and building design shall be sensitive to the natural topography, the existing vegetation and consistent with development on adjacent parcels. The use of Contour Grading and Landform Grading will be required in all conditions assuring that all new slopes will taper back into existing contours and further that this Grading be done with curvilinear vertical and



horizontal contours with no abrupt changes in slope either horizontally or vertically.

41.04 25% Restriction Exceptions. The Art Jury or the Board, where applicable, may approve a permit where the application shows Grading or building in restricted slopes if a finding is made that either:

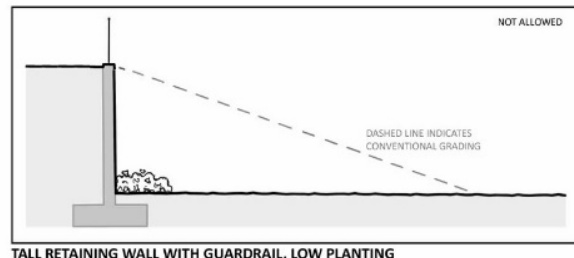
41.0401 It is not reasonably possible to build on the lot unless grading takes place in the restricted slopes then the Art Jury will consider some limited variance. A variance will require that the grading and building locations are all designed to integrate with and preserve as much as possible the natural aesthetic appearance of the property as well as to fit the buildings as unobtrusively as possible into the restricted slopes in conformity with existing community standards; and consider stepped buildings on the site as well as utilize Contour Grading and/or Landform Grading.

41.0402 The intrusion is minor in terms of a very small area affected and no material or visible effect on a significant existing landform will result. Minor intrusion would be defined as less than 10% of the total restricted slopes on the affected landform; or

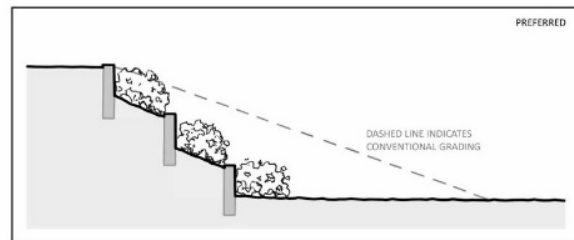
41.0403 The grading is for a driveway or roadway needed to directly access the residence on the site, and the proposed alignment still minimizes adverse impacts upon steep or sensitive terrain.

41.05 Existing Agreements. The foregoing §41.0401, §41.0402 and §41.0403 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.

41.06 Maximum Depth of Cut and/or Fill. No point on any finished grade shall vary in excess of eight (8) vertical feet from existing grade. This amount is the maximum amount of alteration from all grade, however, the Art Jury may require less cut or fill as they deem appropriate. This provision shall apply whether or not retaining walls are to be used as a part of the proposed grading. Retaining walls may be approved where their use, in the opinion of the Art Jury or the Board where applicable, will further the purpose and intent of this regulation and that all new landforms created by this grading include vertical curvilinear concave or convex shapes (Landform Grading) as well as horizontal curvilinear concave or convex shapes.



TALL RETAINING WALL WITH GUARDRAIL, LOW PLANTING



MULTIPLE SHORT RETAINING WALLS, TERRACED PLANTING
MAXIMUM OF 2'6" EXPOSED ON EACH WALL, TOTAL HEIGHT OF RETAINING WALL/TERRACED PLANTING SHOULD BE 8' MAX.

41.0601 Exception. This provision does not prohibit basements, pools, building foundations or similar excavations that will result in the covering of these walls. Such excavations would result in grading or building which is aesthetically pleasing in the opinion of the Art Jury in accordance with the provisions of the Protective Covenant.

41.0602 Maximum Heights of Retaining Walls. The maximum height of a retaining wall shall not exceed five-feet (5) tall. A series of terraced retaining walls can be used with a maximum of two and one half-feet (2.5) each with a maximum of three (3) terraces to create an overall retained slope of up to eight-feet (8). This upper limit is obtained only through the use of a set of three (3) two and one half-feet (2.5) walls used to retain the same slope. Any wall taller than two and a half-feet (2.5) will require review by the Art Jury including a series of three walls as described above.

41.07 Cut Slope Ratio. In general, cut slopes should be limited in extent and have varying gradients with a natural appearance. Cut slopes shall in no case be steeper than two to one (2:1) with two-feet (2) of horizontal for every one-foot (1) of vertical.

41.08 Fill Slope Ratio. In general, fill slopes should be limited and have varying gradients with a natural appearance. Fill slopes shall in no case be steeper than three to one (3:1) horizontal to one-foot (1) vertical. Slopes of two to one (2:1) will be permitted with variations of three to one (3:1) and four to one (4:1) slopes provided that the two to one (2:1) can only make up twenty-five Percent (25%) of the total horizontal area of the graded slopes.

41.09 Slope Treatments. Except as specifically permitted by the Art Jury or the Board, where applicable, all cut and fill slopes shall be contour and or landscape graded (that is, feathered, with varying gradients, blended and/or rounded into the existing terrain) to produce a smooth transition from cut and/or fill faces to natural grade and create a natural appearance.

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

41.1001 Application form. The application shall be completed and signed by the property owners of record or the owner's authorized representative.

41.1002 Processing fee. The application shall be accompanied by a fee as stated on the current "Rancho Santa Fe Building Department Schedule of Fees". This fee is non-refundable.

41.1003 Sections. Multiple sections through the site shall be submitted showing the maximum differences in elevation (if any) across the property. These sections will show how the slopes will contain both vertical and horizontal convex or concave curvilinear shapes. Alternatively, three dimensional physical or digital

models may be required 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.

41.1004 Grading Plans. Grading plans shall be prepared by a registered civil engineer and be done in consultation with the project architect and landscape architect to assure collaboration and innovation. The Grading plan shall include a current topographic map, depicting:

- (a) Applications for new houses shall include topographic plans (with all trees larger than an 8" caliper shown on the plans) prepared with topographic information obtained 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 restricted slopes (slopes in excess of 25 percent) colored in red; slopes between 10 and 25 percent colored in yellow and slopes between 0 and 10 percent colored in white; and
- (c) All retaining walls with the top of wall (T.O.W.) and bottom of wall (B.O.W.) identified every twenty (20) lineal feet.
- (d) Existing and proposed contours mapped at two (2) foot intervals. Existing contours will be shown as dashed lines and new contours to be shown as solid lines.
- (e) All stockpiling requires prior approval by the Art Jury. Grading plans shall show (1) the size and location of stockpiles; (2) the site grades before, during and after stockpiling; and (3) the time that all stockpiles are proposed to be kept on the site and if any tree removal is required for any existing tree that is larger than 8" in caliper. Stockpiling shall only occur in approved locations in conjunction with a valid project which has been approved by the Art Jury, has a Grading permit and which is under construction.

41.11 Grading and Building Concurrent Review. A single, joint application is required for both Grading and building. 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.

41.12 Grading Approvals.

41.1201 Rough Grading Approvals/Certification. Where Grading is proposed, construction shall not commence on all Association approved structures, including foundation forms until all 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 approval);
- (b) Rough Grading has been completed according to the Rancho Santa Fe Association's approved grading plans;
- (c) Written certification has been provided to the Association by a registered civil engineer that Rough Grading has been completed in accordance with Rancho Santa Fe Association approved grading plans; and
- (d) Such Rough Grading has been inspected and approved in writing by the Building Commissioner or his/her designee.

41.1202 Finished Grading Approvals. Finished Grading shall be inspected and must be approved in writing by the Building Commissioner or his/her designee.

41.1203 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).

41.13 Variance. All terms of this regulation, except as set forth in §§41.05 and 41.04 et. seq., are eligible for a variance application pursuant to Code §1.21. The variance procedures of this Code are inapplicable to Section 41.04 ("25% Restriction Exceptions") because such section is itself a variance procedure; it contains variance provisions from the restrictions in Section 41.0303 ("25% Restriction"). The variance procedures of this Code are inapplicable to Section 41.05 ("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.

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

41.15 Amended Date. This chapter was amended at §§41.01, 41.0301, 41.1101, 41.12 and 41.13 on January 15, 1998. This chapter was amended and restated on November 20, 2008. This chapter was amended XXXXX XX, XXXX.

CHAPTER 41

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OTHER COMMENTS

Art Jury:

1. Maximum allowable retaining wall heights shall be eight-feet (8) for driveways.
2. Maximum allowable height of infinity edge pools shall be 18 inches each: drop and the retention basin, for a maximum of 36 inches total.
3. Grading plans must provide a tentative retention basin location.

Other Input for Alternative Consideration:

1. Grading 20 to 80 % of a parcel depending on the average slope percentage sounds reasonable. The severity of the slopes should determine the allowable “quantity of grading and site development” addressed in section 41.0302. A possible formula would be 80% of a parcel can be graded, but reducing the amount by 4% for each percent the average slopes exceed 5%. Thus, a parcel with 5% slopes can be 80% graded, 10% average slopes could be 60% graded, and 15% average slopes could be 40% graded. This is one of the “big 5 AJ decisions” and it needs to be clarified.
2. Grading in slopes 15 to 24.9%: Pads are to be located in the generally flatter areas. But as the natural slope get steeper it is increasingly more difficult to use fills because the slope area becomes massive, unsightly, and unnatural. In steeper slopes fills should not be used, but instead, if necessary, pads should be created by “cut and export”. With this technique there are no fill slopes in the steeper areas because the pad elevation “daylights” at the existing slope.
3. 41.0403 The exception for a driveway in 25% slopes should not be allowed if a driveway to a pad and building site already exists.
4. 41.06a & b No grading or Retaining Walls in the front, side, and rear Setbacks except for one access driveway, to protect visible landforms. This will prevent prop line to prop line grading.
5. 41.0601 proposes to allow “basements, building foundations or similar excavations” as long as “no more than four feet of these structures are visible above ground”. Basements should be stricken from this section because as written additional building height and visibility could be added for the entire house and could have additional glass areas.
6. Minor Intrusion Into 25% Slopes: Section 41.0402 defines “minor” as being less than 10% of the restricted slopes. This seems too large and perhaps it should be set at 5% maximum because the intrusion will probably occur in a visible location.