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 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 to physical contours and stockpiling. No one shall perform Grading without first obtaining a Grading permit from the Association.

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 Slopes. Any proposed Grading and building design 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 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 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%. On slopes less than 25%, the more that buildings are integrated with the natural landscape features of the site by stepping buildings, minimizing Grading and retaining walls is more desirable. Buildings shall generally be located on flatter topography. Limited cut slopes are preferred to fill. If limited Grading is proposed, contour Grading and limited height retaining walls shall be used. 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 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 and compatible with development on adjacent parcels.

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, in addition to compliance with §43.0307, a finding is made that either:

41.0401 It is not possible to build on the lot unless Grading takes place in the restricted slopes and the Grading, architecture and building locations are all designed to 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; or

41.0402 The intrusion is minor in terms of a very small area affected and no material effect on a significant landform will result; or

41.0403 The Grading is for a driveway or roadway, and the proposed alignment 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 ten (10) vertical feet from existing grade provided that the design is aesthetically pleasing in the opinion of the Art Jury. 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.

41.0601 Exception. This provision does not prohibit basements, building foundations or similar excavations where 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.

41.07 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 one and one-half (1-1/2) feet horizontal to one (1) foot 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 two (2) feet horizontal to one (1) foot vertical.

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 graded (that is, feathered, with varying gradients, blended and/or rounded into the existing terrain) to produce a contoured 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.

41.1004 Grading Plans. Grading plans shall be prepared by a registered civil engineer. The Grading plan shall include a current topographic map, depicting:

a. Applications for new houses shall include topographic 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 green; and
c. All retaining walls with the top of wall (T.O.W.) and bottom of wall (B.O.W.) identified every ten (10) lineal feet.
d. Existing and proposed contours mapped at two (2) foot intervals;
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. 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.

41.1005 Landscape Plans. The applicant shall submit a landscape plan with each Grading plan. The Association may require the landscape plan to be prepared by a licensed landscape architect. The landscape plan shall show landscape restoration of all graded areas in addition to other proposed landscaping.

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.