

## **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. 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.

41.03 Definitions. The following definitions apply to this Chapter.

41.0301 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.

41.0302 Basement. A basement is defined as an enclosed habitable or non-habitable space with its finish floor below adjacent grade, and where the finish floor of the story above is no more than (2) feet above finish grade.

41.0303 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).

41.0304 Garden Wall. A single wall, not more than 32-inches in height, made of dry stacked stone and used to define a minor break in site grades, planted areas or for aesthetic effect in the landscape. This type of wall will not require Art Jury review.

41.0305 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.

41.0306 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.

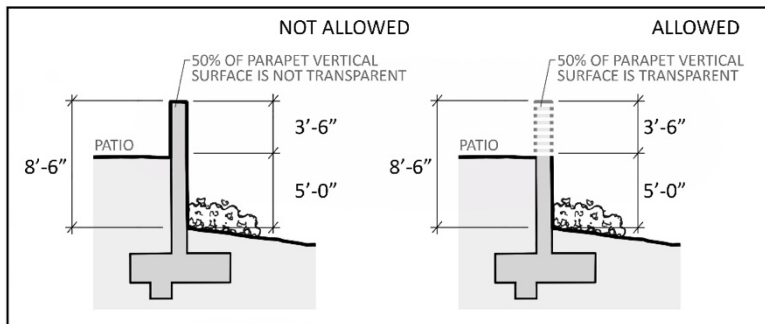


Photo of 20 CY (five piles = 100 CY)

41.0307 Minor 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.

41.0308 Restricted Slope. 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 41.0403).

41.0309 Site Retaining Wall. An exposed or partially exposed masonry or concrete wall exceeding 30-inches in height above finish 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.



MEASURING THE MAXIMUM RETAINING WALL HEIGHT WHEN NEXT TO A PATIO

41.0310 Terraced Walls. Two or more Garden Walls, or Retaining Walls used in combination to terrace grade at cuts and or fills, and requiring Art Jury review and approval.

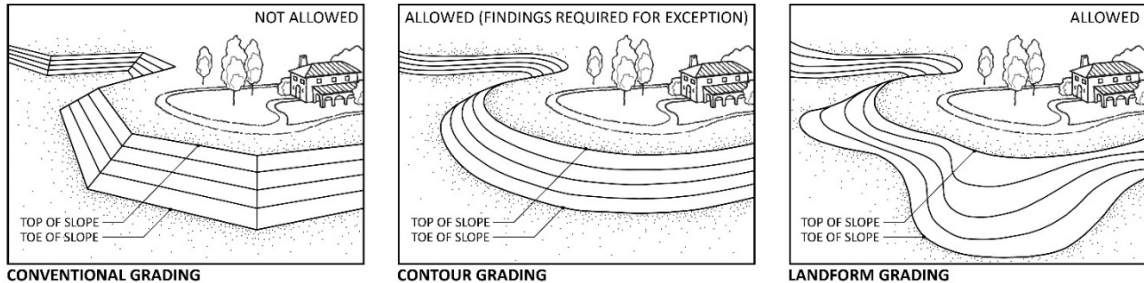
41.0311 Tuck-under Garage. A basement garage constructed below the first floor of a building, with automobile access exposed along a portion of one side of the building. Where a Tuck-under garage façade is exposed, that portion will be regarded as a story.

41.0312 Walk-out Basement. A basement living space constructed below the first floor of a building with access along a portion of one-side of the building. Where a Walk-out Basement façade is exposed, that portion of will be regarded as a story.

41.04 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.

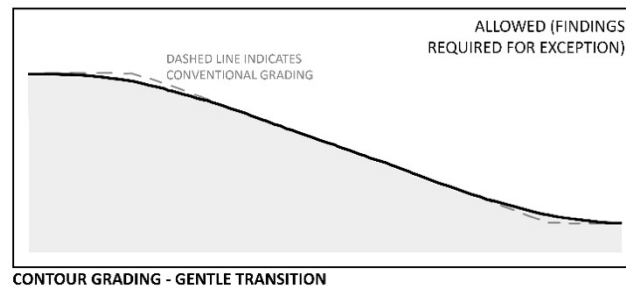
41.0401 Aesthetically Acceptable Requirements. Building or Grading must be aesthetically acceptable to the Art Jury.



41.0402 Landform Grading. 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.



41.0403 Contour Grading. 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.

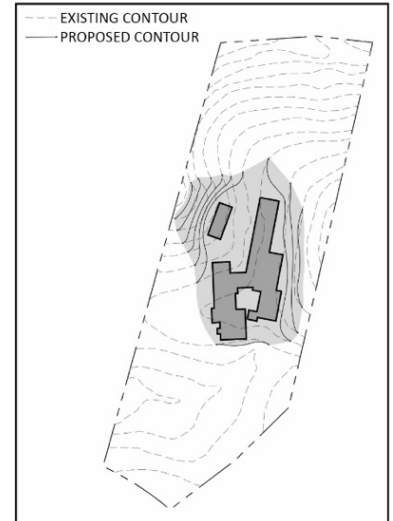
41.0404 Naturalizing Graded Areas. All cut and fill slopes shall be feathered and blended back into the natural landforms of the site. No hard edge or angle shall be allowed in grading, with the requirement that the last two (2) feet to four (4) feet shall be rounded to blend into the existing shapes and angles found at the joining of existing and constructed slopes. This requirement shall be spelled out on the Grading application plan submittals.

41.0405 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.

41.0406 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.

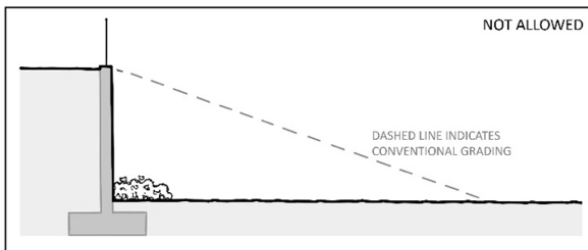


**BUILDINGS PERPENDICULAR TO CONTOURS**  
(Requires more grading and requires less desirable contour grading)

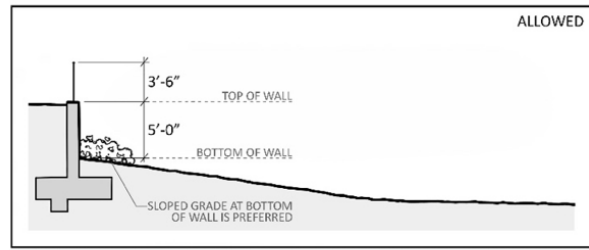


**BUILDINGS PARALLEL TO CONTOURS**  
(Requires less grading and allows for more desirable landform grading)

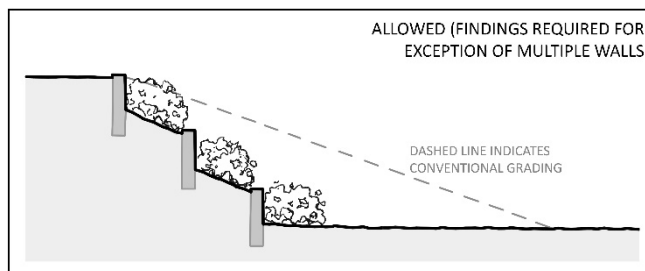
41.05 Maximum Height of Stand-Alone Site Retaining Walls. The maximum height of a stand-alone site retaining wall is 5-feet from its exposed “bottom of wall” to “top of wall”.



TALL RETAINING WALL WITH GUARDRAIL, LOW PLANTING



MAXIMUM RETAINING WALL HEIGHT WITH OPTIONAL GRADING TO MINIMIZE WALL HEIGHT



MULTIPLE RETAINING OR GARDEN WALLS WITH TERRACED PLANTING (MAXIMUM 8')

41.0501 Maximum Height of Terraced Walls. When two or more Garden Walls or Retaining Walls used in combination they are referred to as Terraced Walls with maximum allowable heights. Up to three (3) Garden Walls or Retaining Walls may be used in

combination to a combined maximum height of 8-feet. In both cases the terraced grade may be cut or fill.

41.08 Restricted Slopes. 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 §41.09 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 (41.1003)

41.0801 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 the 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%.

41.0802 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.

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

41.0901 Man-made Slopes. The regrading of man-made cut or fill slopes with a 25% or steeper gradient created through a previously approved Association site Grading permit.

41.0902 Driveways. 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 to steep or sensitive terrain.

41.0903 Existing Agreements. The foregoing 41.08, 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.

41.10 Maximum Depth of Cut and/or Fill. No point on any finished grade / finished surface shall vary in excess of eight (8) vertical feet from existing grade. 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 grading created by this grading include vertical curvilinear concave or convex shapes (Landform Grading) as well as horizontal curvilinear concave or convex shapes. If retaining walls are included, this section requires that retaining walls be limited to terrace walls with either two, four (4) foot retaining walls or three, thirty-two (32) inch tall garden walls. In no instance shall one retaining wall exceed five (5) feet in height.

41.1001 Underground Structure Exemptions. The provision in section 41.10 does not prohibit basements, building foundations, underground structures, or similar excavations that will result in the soil covering the full height of the walls and structures associated with the Building.

41.1002 Exemptions for Basements with Limited Exposed Wall. If the grading results in a build-up of slope (planted soil) against all walls of the basement so that the full perimeter of the basement walls leaves no more than (-2) feet of walls exposed, then this basement shall be exempt from the maximum depth of cut or fill indicated in 41.10.

41.1003 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 pleasing in the opinion of the Art Jury. This exception may be considered only if the restoration clearly demonstrates historical landforms versus man-made grading.

41.11 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

41.12 Fill Slope Ratio. When using Landform Grading, fill slopes shall have varying gradients with a natural appearance. Landform based fill slopes shall in no case be steeper than 2:1, assuming these slopes will vary from 2:1 and use variations of 3:1 and 4:1 slopes. Furthermore, the 2:1 can only make up twenty-five percent (25%) of the total horizontal area of the graded slopes. If Contour Grading is granted through an exception approved by the Art Jury, the maximum fill slope shall be limited to 3:1.

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

41.1301 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. 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.

41.1302 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.

41.1303 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, retaining walls and tree removals on the entire property.

41.14 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.

41.1401 Application Form. The application shall be completed and signed by the property owners of record or the owner's authorized representative.

41.1402 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.

41.1403 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.

41.1404 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 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.

41.1405 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) Depiction of existing mature trees, defined as trees with an eight (8) inch caliper measured at chest height.
- (C) 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).
- (D) 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.
- (E) All retaining walls with the top of wall (T.O.W.) and bottom of wall (B.O.W.) identified every ten (10) lineal feet.
- (F) 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.

41.1406 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 areas to be revegetated or 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 Architect.

41.15 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.

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

41.1601 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.

41.1602 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.

41.1603 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).

41.17 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.

41.18 Variances. All terms of this regulation, except as set forth in 41.1001, 41.1002, 41.0403, and 41.0801 et. seq., are eligible for a variance application pursuant to Code 1.21. The variance procedures of this Code are inapplicable to Section 41.1001, 41.1002, 41.0403, and 41.0801 because such section is itself a variance procedure. The variance procedures of this Code are inapplicable to Section 41.0903 ("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.

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

41.20 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 regulation was replaced in its entirety effective May 13, 2021.