

ORDINANCE NO. (O)20-05

AN ORDINANCE OF THE TOWN OF ORO VALLEY, ARIZONA, AMENDING THE ORO VALLEY ZONING CODE REVISED, CHAPTER 22, REVIEW AND APPROVAL PROCESSES, SECTION 22.10, GRADING PERMIT PROCEDURES, CHAPTER 24 SUPPLEMENTARY DISTRICT REGULATIONS, SECTION 24.9, ECONOMIC EXPANSION ZONE, SECTION 27.9, GRADING AND OTHER APPLICABLE SECTIONS OF CODE; REPEALING ALL RESOLUTIONS, ORDINANCES AND RULES OF THE TOWN OF ORO VALLEY IN CONFLICT THEREWITH; PRESERVING THE RIGHTS AND DUTIES THAT HAVE ALREADY MATURED AND PROCEEDINGS THAT HAVE ALREADY BEGUN THEREUNDER

WHEREAS, on March 13, 1981, the Mayor and Council approved Ordinance (O)81-58, adopting that certain document entitled “Oro Valley Zoning Code Revised” (OVZCR); and

WHEREAS, on October 3, 2012, the Mayor and Council approved Ordinance (O)12-15 adopting the creation of an Economic Expansion Zone (EEZ) overlay district; and,

WHEREAS, the proposed amendment to Section 22.10, Grading Permit Procedures and Section 24.9, Economic Expansion Zone and Section 27.9 Grading and other applicable sections, would allow plant removal and earthwork on EEZ before site plan or plat approval and only in areas at least 150’ away from a property used or intended for residential purposes, require public outreach when the Tech-Park development is within 150 feet of a property used or intended for residential purposes, and remove inefficiencies in the development review process; and

WHEREAS, the Planning and Zoning Commission reviewed the proposed amendments to Section 22.10 Grading Permit Procedures and Section 24.9, Economic Expansion Zone at a duly noticed public hearing on December 3, 2019, and recommended approval to the Town Council; and

WHEREAS, the Oro Valley Town Council has considered the proposed amendments to Section 22.10, Grading Permit Procedures Section 24.9, Economic Expansion Zone and Section 27.9 Grading and the Planning and Zoning Commission’s recommendation and finds that they are consistent with the Town’s General Plan and other Town ordinances.

NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Town of Oro Valley, Arizona, that:

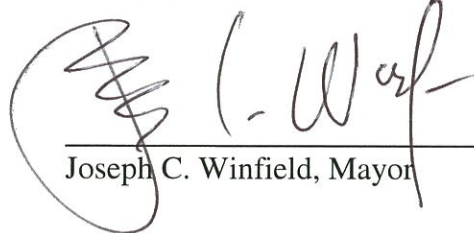
SECTION 1. Section 22.10, Grading Permit Procedures Section 24.9, Economic Expansion Zone, Section 27.9 Grading and other applicable sections of code attached hereto as Exhibit “A”, is hereby amended with additions being shown in ALL CAPS and deletions being shown in ~~strikethrough~~ text.

SECTION 3. All Oro Valley Ordinances, Resolutions, or Motions and parts of Ordinances, Resolutions, or Motions of the Council in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof .

PASSED AND ADOPTED by the Mayor and Council of the Town of Oro Valley, Arizona, this 16th day of September, 2020.

TOWN OF ORO VALLEY



Joseph C. Winfield, Mayor

ATTEST:



Michael Standish, Town Clerk

Date: 9/23/2020

**PUBLISH: DAILY TERRITORIAL
SEPTEMBER 24, 25, 28, 29, 2020**

APPROVED AS TO FORM:



Tobin Sidles, Legal Services Director

Date: 9/23/2020

POSTED: 9/24/20 - 10/24/20

EXHIBIT “A”

Section 22.10 Grading Permit Procedures

A. Applicability

Grading permits are required prior to grading as specified BELOW AND IN CONFORMANCE WITH Section 27.9.

1. TYPES OF GRADING PERMITS

a. B. Type 1 Grading Permits

A TYPE 1 GRADING PERMIT IS REQUIRED FOR THE FOLLOWING:

1. A RESIDENTIAL DEVELOPMENT ON A SINGLE LOT, OTHER THAN THOSE DEFINED AS TYPE 2 OR 3.
2. ALTERATION OF EXISTING STABILIZED SLOPE OF 3:1 OR GREATER, ON A RESIDENTIAL LOT.
3. ADDITION OF PAVED AREAS SUCH AS CONCRETE OR ASPHALT, IN EXCESS OF 1000 SQUARE FEET ON A RESIDENTIAL LOT.
4. IMPORT AND STOCKPILING OF 100 CUBIC YARDS OR MORE OF EARTHEN MATERIALS ON A RESIDENTIAL LOT.
5. CLEARING VEGETATION FROM A RESIDENTIAL LOT, WHICH ENCOMPASSES AN AREA OF 1000 SQUARE FEET OR MORE.

b.. TYPE 2 GRADING PERMIT

A TYPE 2 GRADING PERMIT IS REQUIRED FOR ANY NEW PUBLIC OR PRIVATE STREET OR ROADWAY, A COMMERCIAL, OFFICE OR RESORT PROJECT, OR ANY RESIDENTIAL DEVELOPMENT CONSISTING OF MORE THAN TWO (2) PLATTED LOTS.

c.. TYPE 3 GRADING PERMIT

A TYPE 3 GRADING PERMIT IS REQUIRED FOR THE FOLLOWING:

1. STOCKPILING OF EARTHEN MATERIALS.
2. INSTALLATION OF UTILITIES AND OTHER INFRASTRUCTURE FOR WHICH A TYPE 2 GRADING PERMIT IS NOT REQUIRED.

d. TYPE 4 GRADING PERMIT

A TYPE 4 GRADING PERMIT IS REQUIRED FOR THE ESTABLISHMENT OF FUTURE BUILDING PADS, UTILITY INSTALLATION AND SITE IMPROVEMENTS AS NEEDED FOR DRAINAGE AND ACCESS PRIOR TO SITE PLAN OR FINAL PLAT APPROVAL.

1. A TYPE 4 GRADING PERMIT IS ONLY APPLICABLE TO SITES MEETING THE FOLLOWING LOCATIONAL AND QUALIFYING STANDARDS:

- a. LOCATED IN THE ECONOMIC EXPANSION ZONE, AS DEFINED IN SECTION 24.9.

b. PRIOR TO PERMIT ISSUANCE, THE APPLICANT MUST DEMONSTRATE THE FOLLOWING, SUBJECT TO REVIEW AND APPROVAL BY THE PLANNING AND ZONING ADMINISTRATOR.

i. THE ABILITY TO DEVELOP THE SUBJECT AREA WITHIN FIVE (5) YEARS OF PERMIT ISSUANCE BY DOCUMENTING HOW THE SITE MEETS A SPECIFIC EMPLOYER NEED AND INTEREST IN SOUTHERN ARIZONA.

ii. A VISUAL ANALYSIS TO VERIFY THERE WILL NOT BE A MATERIALLY DETRIMENTAL VISUAL IMPACT TO ADJACENT PROPERTIES USED OR INTENDED FOR RESIDENTIAL PURPOSES AND PUBLIC ROADWAYS.

1. THE VISUAL ANALYSIS SHALL INCLUDE PHOTOGRAPHS AND ACCURATE COMPUTER GRAPHIC RENDERINGS DEPICTING THE PROPOSED EXTENT AND LOCATION OF GRADING WITH MITIGATION MEASURES.

a. THE REQUIREMENT FOR A VISUAL ANALYSIS MAY BE WAIVED BY THE PLANNING AND ZONING ADMINISTRATOR IF THE CHARACTER OF THE SITE, LOCATION OR TERRAIN RENDERS SUCH ANALYSIS UNNECESSARY.

2. AT THE DISCRETION OF THE PLANNING AND ZONING ADMINISTRATOR, CONDITIONS TO ENHANCE THE BUFFER YARDS TO MINIMIZE VIEW IMPACTS MAY BE APPLIED. ENHANCEMENTS INCLUDE, BUT ARE NOT LIMITED TO, INCREASING THE EXTENT OF GROUND COVER, WIDTH OF LANDSCAPE BUFFERS, DENSITY OR TYPE OF PLANTS FOR COMPLIANCE WITH SECTION 27.6.C.4.B.VIII

2. TYPE 4 GRADING PERMITS ARE SUBJECT TO THE FOLLOWING:

a. NO CLEARING, BRUSHING, GRUBBING, EXCAVATING OR FILLING SHALL TAKE PLACE WITHIN ONE HUNDRED AND FIFTY (150) FEET OF A PROPERTY USED OR INTENDED FOR RESIDENTIAL PURPOSES. THE DISTANCE SHALL BE MEASURED FROM THE ABUTTING EDGE OF ANY PROPERTY USED OR INTENDED FOR RESIDENTIAL PURPOSES TO THE CLOSEST PROPERTY LINE OR LEASE LINE OF THE SUBJECT PROPERTY. THE LIMIT OF THE PROPERTY LINE OR LEASE LINE SHALL INCLUDE ALL REQUIRED PARKING, LANDSCAPING, AND SETBACKS OF THE SUBJECT PROPERTY.

- b. NO CLEARING, BRUSHING, GRUBBING, EXCAVATION OR FILLING SHALL TAKE PLACE WITHIN TWENTY-FIVE (25) FEET FROM THE BOUNDARIES OF THE FUTURE DEVELOPMENT ENVELOPE OR WITHIN THE REQUIRED LANDSCAPE BUFFER YARD, WHICHEVER IS GREATER; EXCLUDING ANY APPROVED ENTRY POINTS. A MINIMUM FORTY (40) FOOT NATURAL DESERT BUFFERYARD IS REQUIRED ALONG THE FRONT PROPERTY LINE AND PUBLIC ROADWAYS IN ACCORDANCE WITH SECTION 27.6.C.4.b.viii.
- c. NATIVE PLANTS SALVAGED FROM THE SITE MUST BE IMMEDIATELY TRANSPLANTED IN PERMANENT LOCATIONS NOT DESIGNATED FOR FUTURE DEVELOPMENT, SUCH AS BUFFER YARDS, ENVIRONMENTALLY SENSITIVE LANDS OR OTHER AREAS AS APPROVED BY THE PLANNING AND ZONING ADMINISTRATOR.
- d. A TEMPORARY ABOVE-GROUND IRRIGATION SYSTEM MUST BE INSTALLED AND MAINTAINED FOR A MINIMUM OF FIVE YEARS TO ESTABLISH ALL TRANSPLANTED AND MITIGATED PLANT MATERIAL IN ACCORDANCE WITH ALL APPLICABLE REGULATIONS IN SECTION 27.6.D.
- e. DECOMPOSED GRANITE, OR AN EQUIVALENT COVER AS APPROVED BY THE TOWN ENGINEER AND THE PLANNING AND ZONING ADMINISTRATOR, MATCHING THE NATURAL DESERT EARTH TONES SHALL BE UTILIZED TO COVER THE ENTIRE CLEARED OR GRADED AREA IN ACCORDANCE WITH SECTION 27.9.E.6.
- f. ALL PRE-GRADED SITES MUST BE REVEGETATED IN ACCORDANCE WITH SECTION 27.6.C.8 AFTER FIVE YEARS.
 - i. THE APPLICANT MAY SUBMIT A REQUEST IN WRITING TO THE PLANNING AND ZONING ADMINISTRATOR FOR A ONE-TIME EXTENSION. EXTENSIONS MAY ONLY BE GRANTED UPON SUBMITTAL OF A CONTRACT INDICATING SITE DEVELOPMENT WITHIN TWO (2) YEARS.

2. EXEMPTIONS

THE FOLLOWING ACTIVITIES ARE EXEMPTED FROM ACQUIRING A GRADING PERMIT:

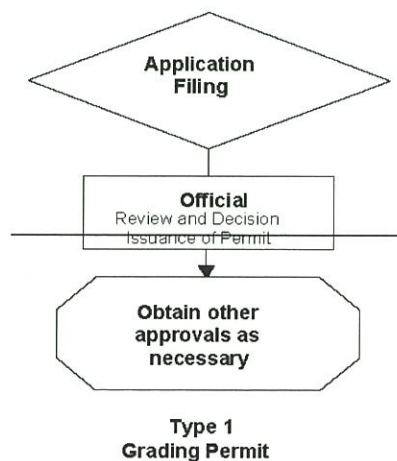
- a. UTILITY AND OTHER INFRASTRUCTURE INSTALLATION CONFINED TO THE TOWN OF ORO VALLEY RIGHT-OF-WAY AND REQUIRING A RIGHT-OF-WAY PERMIT. HOWEVER, A GRADING PLAN PURSUANT TO SECTION 27.9.E.4.A SHALL ACCOMPANY THE RIGHT-OF-WAY PERMIT APPLICATION. THE TOWN MAY WAIVE THE REQUIREMENTS FOR THE GRADING PLAN SHOULD STAFF DETERMINE THAT THE SCOPE OF THE GRADING ACTIVITY DOES NOT WARRANT SUCH A PLAN.
- b. THE CLEARING, BRUSHING OR GRUBBING FOR ACTIVITIES EXEMPTED IN THIS SUBSECTION;
- c. STOCKPILING OF LESS THAN 100 CUBIC YARDS OF UNCOMPACTED EARTH MATERIAL;

- d. RESURFACING OR MAINTENANCE OF AN EXISTING PAVED SURFACE;
- e. NEW PAVEMENT OF LESS THAN 1000 SQUARE FEET;
- f. INDIVIDUAL SEWAGE DISPOSAL SYSTEM WITH A PIMA COUNTY DEPARTMENT OF ENVIRONMENTAL QUALITY PERMIT;
- g. EXCAVATION BELOW FINISHED GRADE FOR A BASEMENT, FOUNDATION, WALL OR SWIMMING POOL AUTHORIZED BY A BUILDING PERMIT OR ZONING CONSTRUCTION PERMIT;
- h. EXCAVATION BELOW EXISTING GRADE FOR ANY STORY OF A STRUCTURE AS LONG AS THE FINISHED GRADE IMMEDIATELY OUTSIDE THE STRUCTURE MEETS ALL OTHER CUT AND FILL LIMITATIONS.
- i. EXPLORATORY EXCAVATION UNDER THE DIRECTION OF A SOIL ENGINEER OR ENGINEERING GEOLOGIST PROVIDED ALL EXCAVATION IS PROPERTY BACKFILLED. WHENEVER POSSIBLE, SUCH EXPLORATORY EXCAVATION AND TESTING SHALL BE CONDUCTED ONLY IN AREAS WHICH HAVE BEEN PREVIOUSLY DISTURBED;
- j. ARCHAEOLOGICAL EXPLORATION CONDUCTED UNDER STATE PERMIT BY A QUALIFIED ARCHAEOLOGIST;
- k. REMOVAL OF SELECTED INDIVIDUAL PLANTS FOR STORAGE AND REPLANTING;
- l. GRADING FOR THE MAINTENANCE OF AN EXISTING PRIVATE ACCESS, ROAD, OR DRIVEWAY, PROVIDED THAT IT EITHER EXISTED PRIOR TO ADOPTION OF, OR WAS ESTABLISHED IN CONFORMANCE WITH, THIS ORDINANCE.

B. GRADING PERMIT PROCEDURES

1. Permit Application and Review

- a. The grading permit application, grading plan, and other required materials ~~should~~ **MUST** be submitted for review to the Town **FOR REVIEW AND APPROVAL**.



- ~~b. The grading permit application shall be completed and signed by the owner or owner's authorized representative.~~

- b. ~~The grading plan~~ GRADING PLANS AND OTHER REQUIRED MATERIALS will be reviewed for consistency with the applicable regulations, ~~and standards,~~ AND ANY CONDITIONS IMPOSED UPON REZONING, DEVELOPMENT PLAN OR SUBDIVISION PLAT APPROVAL. ~~If approved, a grading permit will be issued. The grading permit may be issued with additional conditions as deemed necessary by the Town.~~
- c. TYPE 2 GRADING PLANS, AS REQUIRED IN SECTION 22.10.B.2.AND RELATED SUBMITTALS WILL BE REVIEWED CONCURRENT WITH THE FINAL PLAT OR DEVELOPMENT PLAN SUBMITTED AFTER PLANNING AND ZONING COMMISSION APPROVAL.
- d. AT THE DISCRETION OF THE TOWN ENGINEER AND THE PLANNING AND ZONING ADMINISTRATOR, GRADING ASSURANCES MAY BE REQUIRED IN THE FORM OF ASSURANCE OR OTHER SECURITY ACCEPTABLE TO THE TOWN. IN THE EVENT THAT GRADING IS NOT COMPLETED AS APPROVED, THE ASSURANCES MAY BE APPLIED TO:
 - i. ELIMINATE POTENTIAL HAZARDOUS CONDITIONS; OR
 - ii. MITIGATE THE EFFECTS OF DUST, DRAINAGE, EROSION, VISUAL SCARS OR HAZARDOUS CONDITIONS IN A MANNER ACCEPTABLE TO THE TOWN.
- e. ONCE APPROVED, A GRADING PERMIT WILL BE ISSUED. THE GRADING PERMIT MAY BE ISSUED WITH ADDITIONAL CONDITIONS AS DEEMED NECESSARY BY THE TOWN.
- ~~d. If determined to be inadequate, the materials submitted will be returned for corrections. The applicant may resubmit, without additional fees, corrected plans, or materials necessary to conform to submittal requirements.~~

2. Permit Issuance and Expiration

- a. Upon issuance of a grading permit, a copy of the permit and approved plan shall be kept in a conspicuous and accessible location on the site.
 - i. TYPE 2 GRADING PERMITS AS REQUIRED IN SECTION 22.10.A.1.B. MAY NOT BE ISSUED BY THE TOWN UNTIL THE TOWN COUNCIL HAS APPROVED THE FINAL PLAT OR DEVELOPMENT PLAN AND THE NECESSARY ASSURANCES HAVE BEEN POSTED.
- b. A grading permit shall be null and void if the authorized work has not been completed within 180 days of permit issuance, EXCEPT FOR A TYPE 2 GRADING PERMIT. A TYPE 2 GRADING PERMIT SHALL BE NULL AND VOID IF THE AUTHORIZED WORK HAS NOT BEEN COMPLETED WITHIN TWELVE (12) MONTHS OF PERMIT ISSUANCE.

3. CHANGES TO GRADING PERMITS

- a. HAZARDOUS CONDITIONS: IF DRAINAGE PROBLEMS, FLOOD HAZARDS OR OTHER HAZARDS OCCUR, THE TOWN MAY REQUIRE THAT ENGINEERING MODIFICATIONS BE SUBMITTED IN A REPORT AND THE GRADING DESIGN BE MODIFIED.

MODIFICATIONS SHALL BE IMPLEMENTED IN A TIMELY MANNER AS APPROVED BY THE TOWN ENGINEER AND PLANNING AND ZONING ADMINISTRATOR TO PREVENT FURTHER HAZARDS FROM OCCURRING.

- b. NON-HAZARDOUS CONDITIONS: IF UNANTICIPATED NON-HAZARDOUS CONDITIONS ARE ENCOUNTERED DURING GRADING, WHICH ARE BEYOND THE SCOPE OF THE GRADING PERMIT, THE PERMIT HOLDER MAY REQUEST ENGINEERING MODIFICATIONS IN A REPORT TO BE REVIEWED AND APPROVED BY THE TOWN.
- c. UPON APPROVAL OF THE MODIFICATIONS, A REVISED PERMIT WILL BE ISSUED BY THE TOWN.

34. Permit Extensions and Reapplication

a. Upon written request by the permit holder, the Town may grant a single extension up to 180 days. Requests must be submitted prior to the date of expiration. Consideration will be given to extension requests when quantifiable evidence is submitted.

~~b. A reapplication for a grading permit shall be treated as a new application. Fees and additional conditions may be imposed as a result.~~

45. Inspections

~~a. Pre-grading (when required by subdivision plat notes): The inspector will verify limitations for building pad and other areas to be graded, and identify vegetation required to be salvaged. The grading limitations must be staked or otherwise clearly identified prior to inspection.~~

~~b. Rough grading (to be done prior to construction of residence): The inspector will verify grading to be within limitations of approved plans. Certification of the building pad elevation by a registered land surveyor or civil engineer shall be presented to the inspector at this time.~~

~~c. Final grading (to be done prior to final building inspection): The inspector will verify that all prescriptive requirements of the approved grading/site plan have been satisfied.~~

1. PRIOR TO COMMENCEMENT OF GRADING OR STOCKPILING, THE PERMIT HOLDER SHALL REQUEST AN INSPECTION OF THE SITE WHERE SAID ACTIVITY IS TO OCCUR TO BE GRADED OR EARTHEN MATERIAL TO BE STOCKPILED AND VEGETATION TO BE SALVAGED SHALL BE CLEARLY IDENTIFIED. ANY FENCING REQUIRED TO PROTECT NATURAL AREAS OR NATIVE PLANTS SHALL BE INSTALLED AND CERTIFICATION OF THE BUILDING PAD ELEVATION BY A REGISTERED LAND SURVEYOR OR CIVIL ENGINEER SHALL BE PRESENTED TO THE INSPECTOR AT THIS TIME
2. ALL GRADING WHICH REQUIRES A TYPE 2 GRADING PERMIT PER SECTION 22.10.A.1.B. WILL ALSO BE INSPECTED FOR THE FOLLOWING:
 - i. AGGREGATE BASE COURSE (ABC) MATERIAL PRIOR TO PAVING AND DURING COMPACTION TESTING OF THE SAME; AND

- ii. PAVING OF PUBLIC AND PRIVATE STREETS AND COMPACTION/MATERIAL TESTING OF THE SAME; AND
 - iii. OPEN WATER LINES AND ALL OTHER UTILITY TRENCHES AND BACKFILL MATERIALS PRIOR TO BURIAL OF TRENCH; AND
 - iv. ANY GRADING ACTIVITY IN ADDITION TO WHAT WAS APPROVED ON THE GRADING PLANS; AND
 - v. STOCKPILING AREAS ON OR OFF SITE; AND
 - vi. ANY SPECIFIC GRADING ACTIVITIES OR AREAS IDENTIFIED BY THE TOWN AT THE PRE-CONSTRUCTION MEETING (HELD BETWEEN STAFF AND THE CONTRACTOR AT THE TIME OF PERMIT ISSUANCE) OR DURING THE COURSE OF CONSTRUCTION ACTIVITIES; AND
 - vii. ANY ON-SITE AND OFF-SITE COMPACTION TESTING OR ASPHALT CORING.
3. UPON COMPLETION OF GRADING ACTIVITY, THE PERMIT HOLDER SHALL REQUEST A FINAL GRADING INSPECTION TO VERIFY THAT ALL REQUIREMENTS OF THE APPROVED GRADING PLAN AND PERMIT HAVE BEEN SATISFIED. A SIMILAR INSPECTION UPON REMOVAL OF STOCKPILED MATERIAL SHALL ALSO BE REQUESTED.
- i. THE FINAL GRADING INSPECTION IS REQUIRED PRIOR TO THE RELEASE OF ASSURANCES FOR CIVIL WORK OR FINALIZATION OF THE PROJECT.
 - ii. WHENEVER GRADING WORK REQUIRING TOWN INSPECTION IS CONCEALED BY ADDITIONAL WORK WITHOUT FIRST HAVING BEEN INSPECTED, THE TOWN MAY REQUIRE, BY WRITTEN NOTICE, THAT SUCH WORK IS:
 - a. EXPOSED, FOR INSPECTION BY THE TOWN, AT NO COST TO THE TOWN; OR
 - b. CERTIFIED BY THE PROJECT CIVIL ENGINEER AS BEING IN CONFORMANCE WITH APPROVED PLANS AND APPLICABLE REGULATIONS VIA REGULAR INSPECTION OBSERVATION NOTES
 - iii. WHERE CONDITIONS OF A GRADING PERMIT OR GRADING PLAN INCLUDE THE ESTABLISHMENT OF VEGETATION OR OTHER FINAL SITE GRADING WORK THAT EXTENDS BEYOND THE EXPIRATION OF THE GRADING PERMIT, THE PERMIT HOLDER SHALL REQUEST INSPECTIONS PER SUBSECTION 5.C OF THIS SECTION.

56. Incomplete Final Grading; ~~Temporary~~ Occupancy FOR TYPE 1 GRADING PERMITS AS DEFINED IN SECTION 22.10.A.1.a.

- a. In the event that the final grading cannot be completed in its entirety, an assurance, in a form acceptable to the Town, may be posted to allow inspection and occupancy of the residence. This assurance shall be in an amount equivalent to one hundred twenty percent (120%) of the cost to complete the work as shown on the approved

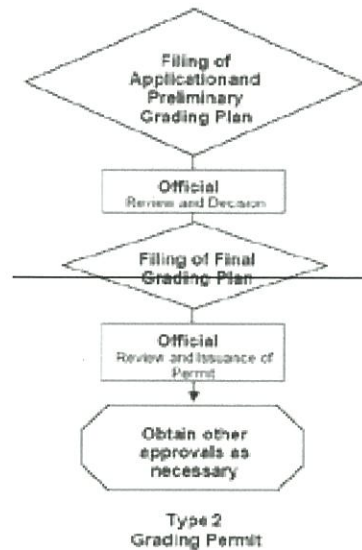
grading plan and/or in compliance with this Code. A cashier's check made payable to the Town is an acceptable form of assurance for this purpose.

- b. The determination of the cost of the remaining work shall be by bids acquired by the permittee. The building official shall make the final judgment as to the adequacy of the assurance amount.
- c. If the balance of the work has not been completed within one hundred twenty (120) days of the date of the ~~temporary~~ certificate of occupancy, the Town may use the assurance to complete the work.
- d. When an assurance is to be posted as a temporary substitute for a final grading inspection, it will still be necessary to have adequate drainage away from the structure. In addition, temporary or permanent means of preventing silting onto public rights-of-way will be required.

C. ~~Type 2 Grading Permits~~

1. ~~Permit Application~~

~~a. The grading permit application, grading plan and other required materials should be submitted to the Town for review and approval.~~



~~b. The grading permit application shall be completed and signed by the property owner or his/her authorized representative.~~

~~c. At the discretion of the Town, grading assurances may be required in the form of assurance or other security acceptable to the Town. In the event that grading is not completed as approved, the assurances may be applied to:~~

- i. ~~Eliminate potential hazardous conditions; or~~
- ii. ~~Mitigate the effects of dust, drainage, erosion, visual scars or hazardous conditions in a manner acceptable to the Town.~~

2. ~~Permit Application Review~~

- a. ~~Grading plans and related submittals will be reviewed concurrent with the final plat or development plan (submitted after Planning and Zoning Commission approval), plant salvage and landscape plan for the project.~~
- b. ~~Grading plans, soils and drainage reports will be reviewed for consistency with applicable regulations and standards, plant salvage and landscape plans and any conditions imposed upon rezoning, development plan or subdivision plat approval. Plans determined to be inadequate or incomplete will be returned for correction and resubmittal. Where inconsistency between plans is evident, the appropriate plan will be resubmitted for review and approval.~~
- c. ~~The Town will provide written review comments and/or redlined plans to the applicant upon review. Should the grading plans need to be submitted three (3) or more times for review by the Town, the applicant shall be required to pay an additional review fee at the time of the third and each subsequent resubmittal of the grading plans for review by the Town.~~
- d. ~~Prior to approval of the grading plan, soils report and drainage report, the Town may inspect the site to determine that the submittals are current and reflect existing conditions.~~
- e. ~~The Town shall require the plans and specifications to be modified to make them consistent with this Code and/or any prior conditions placed upon approval of the project. A grading permit may be issued with additional conditions.~~
- f. ~~When the grading plans (and improvement plans) meet applicable Town Codes to the satisfaction of the Town, the Town Community Development Director or his/her designee will sign the approval block on said plans.~~

3. ~~Preliminary Grading Plan~~

~~A preliminary grading plan shall be submitted concurrently with the initial submittal of a preliminary plat and development plans.~~

4. ~~Permit Issuance and Expiration~~

- a. ~~Issuance: Grading permits may not be issued by the Town until the Town Council has approved the final plat or development plan and the necessary assurances have been~~

posted. A copy of the permit and approved plan shall be kept in a conspicuous and accessible location on the site.

b. ~~Expiration: A grading permit shall be null and void if the authorized work has not been completed within twelve (12) months of permit issuance.~~

c. ~~At the discretion of the Town, a preliminary Type 2 Grading Permit may be issued prior to final plat or development plan approval by the Town Council for the purposes of clearing, brushing and grubbing only, provided:~~

i. ~~The Town staff has reviewed the grading plans and determined that said plan is viable; and~~

ii. ~~The preliminary grading will occur in accordance with the approved preliminary grading plan and no clearing, brushing or grubbing will take place within twenty five (25) feet from the boundaries of the future development envelope, exclusive of approved entry points; and~~

iii. ~~Restoration assurances for the preliminary grading are collected prior to issuance of the preliminary permit; and~~

iv. ~~The Town has received a copy of an archaeological clearance letter; and~~

v. ~~Town staff members responsible for signing/approving the preliminary grading permit concur with issuance of the preliminary grading permit.~~

~~5. Permit Extension and Reapplication~~

a. ~~Upon written request by the permit holder, the Town may grant a single extension of up to one hundred eighty (180) days. Requests must be submitted prior to the date of expiration. Consideration will be given to extension requests when quantifiable evidence is submitted.~~

b. ~~A reapplication (after the one (1) time extension) for a grading permit shall be treated as a new application and additional conditions may be imposed as a result.~~

~~6. Changes to Type 2 Grading Permits~~

a. ~~Hazardous conditions: If drainage problems, flood hazards or other hazards occur, the Town may require that engineering modifications be submitted in a report and that the grading design be modified.~~

b. ~~Non-hazardous conditions: If unanticipated non-hazardous conditions are encountered during grading, which are beyond the scope of the grading permit, the permit holder may request engineering modifications in a report to be reviewed and approved by the Town.~~

7. General Inspections

a. ~~All grading which required a Type 2 Grading Permit will be inspected by the Town. The grading permit applicant (or applicant's representative) shall request that a representative of the Town inspect or be on site for the following:~~

i. ~~Limits of grading and temporary fencing to protect natural areas; and~~

ii. ~~Rough grading to be done prior to construction of the project. The inspector will verify grading to be within the limitations of approved plans. Certification of the building pad elevation by a registered land surveyor or civil engineer shall be presented to the inspector at this time; and~~

iii. ~~Aggregate base course (ABC) material prior to paving and during compaction testing of the same; and~~

iv. ~~Paving of public and private streets and compaction/material testing of the same; and~~

v. ~~Open water line (and other utilities as specified by the Town) trenches and backfill materials prior to burial of trench; and~~

vi. ~~Any grading activity in addition to what was approved on the grading plans; and~~

vii. ~~Stockpiling areas on or off site; and~~

viii. ~~Any specific grading activities or areas identified by the Town at the pre-construction meeting (held between staff and the contractor at the time of permit issuance) or during the course of construction activities; and~~

ix. ~~Any on-site and off-site compaction testing or asphalt coring.~~

b. ~~The permit holder shall provide the Town with an inspection request notification at least twenty-four (24) (preferably forty-eight (48)) hours prior to (or as specified on the grading permit) the time the inspection is needed.~~

c. ~~The Town will provide an inspector within two (2) working days from the time the inspection request is received, with the exception of the final grading inspection done in conjunction with the release of assurance.~~

d. ~~The final grading inspection shall be done with the release of assurances for civil work or finalization of the project. Final grading inspections may be warranted at an earlier point in the project process.~~

~~e. If the Town finds site conditions are not as stated in the approved grading permit conditions or approved grading plan, the Town may order work authorized by the grading permit to stop pursuant to subsection F.3 of this section.~~

~~f. Whenever grading work requiring Town inspection is concealed by additional work without first having been inspected, the Town may require, by written notice, that such work is:~~

~~i. Exposed, for inspection by the Town, at no cost to the Town; or~~

~~ii. Certified by the project civil engineer as being in conformance with approved plans and applicable regulations.~~

~~8. Final Grading Inspection~~

~~a. All required grading work should be completed in accordance with the grading permit prior to final grading inspection by the Town and full release of assurances or final release of the project.~~

~~b. Where conditions of a grading permit or grading plan include the establishment of vegetation or other final site grading work that extends beyond the expiration of the grading permit, the Town will make inspections per subsection C.7 of this section.~~

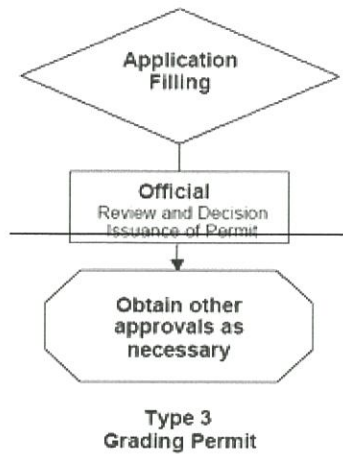
~~9. Maintenance of Revegetation~~

~~The maintenance of revegetated areas shall be in accordance with Section 27.6.L of this Code. ((O)17-05, Amended, 06/07/2017; 6/11 supplement, Amended, 06/2011)~~

~~D. Type 3 Grading Permit~~

~~1. Permit Application and Review~~

~~a. Upon issuance of a grading permit, a copy of the permit and approved plan shall be kept in a conspicuous and accessible location on the site.~~



~~b.— A grading permit shall be null and void if the authorized work has not been completed within 180 days of permit issuance.~~

~~2. Permit Extension and Reapplication~~

~~a.— Upon written request by the permit holder, the Town may grant a single extension up to one hundred eighty (180) days. Requests must be submitted prior to the date of expiration. Consideration will be given to extension requests when quantifiable evidence is submitted.~~

~~b.— A reapplication for a grading permit shall be treated as a new application and additional conditions may be imposed as a result.~~

~~3. Permit Inspections~~

~~a.— Prior to commencement of grading (or stockpiling), the Town shall inspect the site where said activity is to occur. The applicant shall clearly identify areas to be graded (or earthen material stockpiled). Vegetation to be salvaged shall be identified.~~

~~b.— During construction/grading activity, the Town may occasionally inspect to ensure erosion/drainage control measures are in place, functional and maintained.~~

~~c.— Upon completion of grading activity, the Town shall inspect to verify that all prescriptive requirements of the approved grading plan and permit have been satisfied. The Town will do a similar inspection upon removal of stockpiled material.~~

ED. GRADING Exceptions and Interpretation Review

~~1. Exceptions~~

a. Scope: An exception from a provision of this section may be applied for, and may be granted by the Town Council, when the intent of this section can be met by other means and when strict application of these provisions could require unnecessary disturbance to the land, would create a hazard to adjacent property, would be

materially detrimental to persons residing in the vicinity or would be materially detrimental to the public welfare in general.

b. Findings: Applications for Grading Exceptions shall address each of the FOLLOWING findings. ~~The Planning and Zoning Commission will review and provide recommendation to the Town Council on all applications for grading exceptions at scheduled public hearings. When reviewing requests for grading exceptions, the Planning and Zoning Commission and Town Council shall consider each of the findings and address them in their deliberations. To grant an exception the Town Council shall find that the request addresses the concerns of each finding and is in substantial compliance with the findings as a whole.~~

- i. The exception meets the intent and purposes of this code;
- ii. Granting the exception constitutes the minimum to allow the proposed improvement;
- iii. The conditions on the property are unique such that strict adherence to this section would cause an unnecessary hardship which substantially limits the preservation and enjoyment of property rights;
- iv. The exception imposes conditions so as not to constitute a granting of special privilege; and
- v. That the exception will not be materially detrimental to persons residing in the vicinity, to adjacent property, to the neighborhood or the public welfare in general.

c. Conditions: At the Town Council's discretion, conditions may be imposed on the exception that will:

- i. Assure that the intent and purpose of this chapter are met; and
- ii. Provide adequately for the protection of surrounding property owners and residents; and
- iii. Provide mitigation of scarring and restore the site to a natural appearance in terms of contours and vegetation, where possible.

d. Application: The request for exceptions shall be made on a form provided by the Town. Hearing fees shall be required.

e. Review and Notice: The Planning and Zoning Commission will hold a duly noticed public hearing on the exception request and notice of the hearing will be mailed to all property owners within six hundred (600) feet of the grading site prior to such hearing.

- i. If any portion of a subdivision falls within the required notification area, the entire subdivision (as defined by subdivision name or unit number) may be required to be notified if the impacts of the proposal would have impacts affecting the entire subdivision or neighborhood, as determined by the Planning and Zoning Administrator.

F. REVIEW: THE PLANNING AND ZONING COMMISSION WILL REVIEW AND PROVIDE RECOMMENDATION TO THE TOWN COUNCIL ON ALL APPLICATIONS FOR GRADING EXCEPTIONS AT SCHEDULED PUBLIC HEARINGS. WHEN REVIEWING REQUESTS FOR GRADING EXCEPTIONS, THE PLANNING AND ZONING COMMISSION AND TOWN COUNCIL SHALL CONSIDER EACH OF THE FINDINGS AND ADDRESS THEM IN THEIR DELIBERATIONS. TO GRANT AN EXCEPTION THE TOWN COUNCIL SHALL FIND THAT THE REQUEST ADDRESSES THE CONCERNS OF EACH FINDING AND IS IN SUBSTANTIAL COMPLIANCE WITH THE FINDINGS AS A WHOLE.

- g. The decision of the Town Council on a grading exception shall be final.

2. ~~Requests for Interpretation~~

~~a. Scope: Upon request, the appropriate Town representative shall render an interpretation of the regulations of this chapter. Should any person be aggrieved of said interpretation, a request for review of that interpretation may be made to the Planning and Zoning Commission. At a subsequent meeting, the Planning and Zoning Commission shall review the interpretation in the matter and render its decision, either to uphold the interpretation or to make a different interpretation of this chapter.~~

~~b. The request for review of an interpretation shall cite:~~

~~i. The disputed interpretation;~~

~~ii. The words alleged to have been misinterpreted.~~

~~c. Application: The request shall be made on a form provided by the Planning and Zoning Department and will be heard within sixty (60) days. Hearing fees shall be required.~~

~~d. Review and notice: The Planning and Zoning Commission will hold a public hearing on the interpretation issue and notice of the hearing will be mailed to the applicant and all property owners within six hundred (600) feet of the grading site prior to such hearing.~~

F. Grading Permit Authorization, Liability, Enforcement and Penalties

1. Authorization to Proceed with Work

- a. The issuance of a grading permit shall constitute an authorization to do only that work that is described or illustrated on the application for the permit, or on the site

plans and specifications as approved by the Town. The issuance of a permit, or the approval of drawings and specifications shall not be construed to be a permit for, nor the approval of, any violation of, or deviation from, the provisions of this or any other Town ordinance, code or regulation. A permit issued shall become invalid if, in the work completed, a violation of this Section or deviation there from ensued. When such violation occurs, the permit shall be deemed to be canceled and the ground shall be restored to the condition it was in prior to start of the grading work.

- b. The issuance of a permit, based upon drawings and specifications, shall not prevent the Town from thereafter requiring the correction of errors in said drawings and specifications, or from stopping unlawful construction operations being carried on thereunder.
- c. The Town may require grading operations and project designs be modified if weather-generated problems occur that were not considered at the time the grading permit was issued.

2. Liability

Neither the issuance of a permit under the provisions of this ordinance, nor the compliance with provisions hereof, or with any conditions imposed in the permit issued hereunder, shall relieve any person from responsibility for damage to other persons or property, nor impose any liability upon the Town for damage to other persons or property.

3. Enforcement

- a. The enforcement of this Grading Ordinance and conditions of the grading permit shall be in accordance with this Section.
- b. If the Town makes a determination that noncompliance with the conditions of the grading permit, or any condition imposed by rezoning, plat or plan approval exists, the Town may issue a stop-work order and/or citation. Further, the Town shall hold in abeyance, by written notice, ~~any/all~~ Town review of other submittals related to the subject project and the issuance of Town permits for any aspect of it until remedial actions have received the written approval of the Town.

4. Stop-Work Orders

- a. Whenever the Town determines that grading does not comply with this ordinance or the grading permit conditions, or that the soil or conditions are not as stated on the permit, the Town may order the work stopped by written notice served on any person engaged in doing or causing such work to be done, and/or issue a citation.
- b. Any such person shall immediately stop such work until written authorization is granted by the Town to proceed with the work.

5. Citations

If deemed necessary and appropriate, citations for grading violations may be issued. The Planning and Planning and Zoning Administrator will issue the citation. The Town Engineer shall co-sign citations issued for grading violations occurring within Town right-of-way.

6. Penalties

- a. Failure to obtain a grading permit: Unless exempted by this ordinance, ~~failure to obtain a grading permit~~ prior to commencement of grading shall be a violation of this ordinance. However, the Town may issue an exception permit if the Town finds that an emergency existed that made it impossible first to obtain a permit. Notification must be provided to the town within seventy-two (72) hours of occurrence.
- b. Violations: A violation of this ordinance may result in issuance by the Town of a stop-work order and/or a citation and penalties in accordance with ~~paragraph 3~~ SUBSECTION C of this Section. Payment of fine shall not relieve any person from complying with the requirements of this ordinance.
- c. Penalties: Failure to comply with the approved grading plan, conditions of the grading permit, and/or grading not in compliance with this ordinance shall cause immediate revocation of all permits. At the Town's discretion, a permit may be issued for the purposes of getting the illegally graded site into compliance with the grading ordinance, for the purposes of re-establishing the grades approved on the grading plan, and for replacing and maintaining protected native plant materials or public property destroyed as a result of the illegal grading operation. New permits for continuing the project shall not be issued until the required fines are paid to the Town.

Section 24.9 Economic Expansion Zone

A. Purpose

The purpose of this overlay district is to provide a streamlined review process for development in the innovation park area as well as other business and technology park areas, thereby supporting Town economic development initiatives while preserving and protecting the health, safety, and welfare of the community.

B. Applicability

1. The Economic Expansion Zone (EEZ) review process is available to all NEW DEVELOPMENT, ADDITIONS, EXPANSIONS, OR CHANGES TO EXISTING DEVELOPMENT PROPOSING PERMITTED USES AND COMPLIANT WITH EXISTING

ZONING AND DEVELOPMENT STANDARDS. ~~property located within the EEZ Overlay District boundaries, which include: all Rancho Vistoso areas depicted in the overlay map, attached to the ordinance codified in this section, and all technology park zoned land in the Town with the exception of any property with residential uses.~~

- a. INNOVATION PARK AND SURROUNDING RANCHO VISTOSO AREAS AS DEPICTED IN THE OVERLAY MAP, ATTACHED TO THE ORDINANCE CODIFIED IN THIS SECTION.
- b. ALL TECHNOLOGY PARK ZONED LAND IN THE TOWN WITH THE EXCEPTION OF ANY PROPERTY WITH RESIDENTIAL USES

~~1. The EEZ process is available to new development, additions, expansions, or changes to existing development proposing permitted uses and otherwise consistent with existing zoning and development standards.~~

2. The provisions of this section do not apply to applications for amendments to the zoning or planned area development standards, or applications for conditional use permits.

C. General Provisions

1. ~~ExemptionS from Conceptual Design Review and Approval Process~~

~~Development applications complying with the requirements of subsection B of this section shall be exempted from the following requirements:~~

- a. The submittal of conceptual design review applications AS PROVIDED IN SECTION 22.9.D INCLUDING THE associated Planning and Zoning Commission and Town Council review.
- b. Public outreach requirements of Section 22.15 WITH THE EXCEPTION OF AN OPEN HOUSE WHEN THE SUBJECT PROPERTY IS WITHIN ONE HUNDRED AND FIFTY (150) FEET OF A PROPERTY USED OR INTENDED FOR RESIDENTIAL PURPOSES.
 - i. THE ABOVE DISTANCES SHALL BE MEASURED FROM THE ABUTTING EDGE OF ANY PROPERTY USED OR INTENDED FOR RESIDENTIAL PURPOSES TO THE CLOSEST PROPERTY LINE OR LEASE LINE OF THE SUBJECT PROPERTY. THE LIMIT OF THE PROPERTY LINE OR LEASE LINE SHALL INCLUDE ALL REQUIRED PARKING, LANDSCAPING, AND SETBACKS OF THE TECH-PARK DEVELOPMENT.

- c. APPROVAL OF A FINAL DESIGN PLAN OR FINAL PLAT, PRIOR TO THE ISSUANCE OF A TYPE 4 GRADING PERMIT IN ACCORDANCE WITH SECTION 22.10.A.1.D. 2. ~~Approvals Required~~ DEVELOPMENT REVIEW PROCESS

Development applications ~~complying with the requirements of subsection B of this section shall comply with the following review and approval process:~~ PROCEED THROUGH THE FOLLOWING PROGRESSIVE REVIEW STAGES:

- a. A PREAPPLICATION CONFERENCE IN ACCORDANCE WITH SECTION 22.9.B.
 - b. IF APPLICABLE, THE SUBMITTAL OF A PRELIMINARY GRADING PLAN AND ASSOCIATED PLANS IN ACORDANCE WITH SECTION 22.10 AND SECTION 27.9.
 - c. THE SUBMITTAL OF FINAL DESIGN REVIEW APPLICATIONS AS PROVIDED IN SECTION 22.9.E.3.
3. APPROVALS REQUIRED
- a. IF ALL ELEMENTS OF THE FINAL DESIGN SUBMITTAL MEET ALL TOWN REQUIREMENTS OF SECTION 22.9.E, THE PLANNING AND ZONING ADMINISTRATOR MAY APPROVE THE FINAL DESIGN INCLUDING THE FOLLOWING:
 - i. AN ALTERNATIVE PARKING ANALYSIS, SUBJECT TO THE REVIEW CRITERIA OUTLINED IN SECTION 27.7.C.
 - ii. EXEMPTION FROM PLANNED AREA DEVELOPMENT (PAD) SIGN STANDARDS, AS PERMITTED IN SECTION 28.2.B.3. FOR THE SOLE PURPOSE OF UTILIZING THE REQUIREMENTS UNDER CHAPTER 28
 - iii. SIGN CRITERIA IN CONFORMANCE WITH SECTION 28.2.B.2. AND SECTION 28.2.B.3
 - b. APPROVALS SHALL EXPIRE IF IMPROVEMENTS HAVE NOT BEEN STARTED WITHIN TWO (2) YEARS OF THE APPROVAL DATE. THE APPLICANT SHALL SUBMIT IN WRITING A REQUEST TO EXTEND THE TIME BEYOND TWO (2) YEARS TO THE PLANNING AND ZONING ADMINISTRATOR BEFORE EXPIRATION.
 - i. THE PLANNING AND ZONING ADMINISTRATOR MAY GRANT AN EXTENSION SHOULD THE CIRCUMSTANCES BE JUSTIFIED AND ADEQUATE FINANCIAL ASSURANCES BEEN MADE. IF THE APPROVED FINAL DESIGN IS ABANDONED, THE TOWN WILL RETURN THE FINANCIAL ASSURANCES LESS ANY EXPENSES THE TOWN HAS INCURRED.

~~a. Final design review as provided in Section 22.9.~~

~~i. The form and content of all submittals shall comply with Section 22.9.D.2.~~

~~ii.—The application shall be distributed for agency review consistent with Section 22.9.D.3.~~

~~iii.—The review time frames shall be consistent with established review periods.~~

~~b.—The Planning and Zoning Administrator shall evaluate conformance of final design review submittals to the Zoning Code, with specific emphasis on:~~

~~i.—Conformance with conceptual design review principles (Sections 22.9.D.5 and 27.3.H).~~

~~ii.—Conformance with Addendum A design standards.~~

~~e.—Upon review of final design applications, the Planning and Zoning Administrator shall make specific findings of compliance with applicable conceptual design principles, Addendum A design standards, and other provisions of the Zoning Code and shall generate a report of said findings.~~

~~d.—The Planning and Zoning Administrator shall approve, disapprove or conditionally approve the final design submittal based on specific findings as outlined in the report.~~

~~e.—Conditions may be imposed in order to fully carry out the provisions and intent of the Zoning Code.~~

~~f.—Upon written request by the applicant, the Planning and Zoning Administrator may approve an alternative parking ratio, subject to the review criteria outlined in Section 27.7.C.2. An alternative parking ratio shall not be deemed inconsistent with the Zoning Code as referenced in subsection B.1 of this section.~~

~~3.—Applicant Appeal of Administrative Decision~~

~~a.—The approval, with or without conditions, or denial of an application shall be final unless, within twenty (20) days from the date of the Planning and Zoning Administrator's decision, the applicant files an appeal in writing to the Town Clerk.~~

~~b.—Such appeal shall be submitted in writing to the Town Clerk and shall indicate where, in the opinion of the appellant, the Planning and Zoning Administrator was in error.~~

~~c.—The Town Clerk shall schedule the appeal for Town Council review and the Town Council, at its meeting, shall uphold, modify or overrule the decision.~~

~~d.—The decision of the Town Council shall be final.~~

~~4.—Town Council Review of Administrative Decision~~

- a. ~~The approval, with or without conditions, or denial of an application shall be final unless, within twenty (20) days from the date of the Planning and Zoning Administrator's decision, a majority of the Town Council requests review of the Planning and Zoning Administrator's decision.~~
- b. ~~The Town Council shall have the right and prerogative to initiate its own review of any decision of the Planning and Zoning Administrator.~~
- c. ~~The Town Council shall uphold, modify, or overrule the decision or may refer the application to the Planning and Zoning Commission for their recommendation prior to taking action.~~
- d. ~~Notice of Town Council-initiated review of an administrative decision shall be given to the applicant by the Town Clerk within ten (10) days of Town Council action.~~
- e. ~~The decision of the Town Council shall be final.~~

Section 27.9 Grading

A. Purpose

The purpose of this ordinance is to provide for the public health, safety, and general welfare and to protect and preserve the aesthetics of the natural DESERT environment through regulation of all types of excavation and earthwork on private and/or public land. IT COMPLEMENTS THE APPLICABLE PROVISIONS OF THE HILLSIDE DEVELOPMENT ZONE AND THE FLOODPLAIN MANAGEMENT ORDINANCE AND DOES NOT AUTHORIZE ANY GRADING ACTIVITY PROHIBITED BY ANY TOWN ORDINANCE.

The grading regulations contained in this ordinance are designed to:

1. Regulate the development of potentially hazardous terrain; and
2. Preserve, where possible, or recreate the natural contours, the native vegetation and the visual character of the site in harmony with the surrounding terrain; and
3. Enhance the quality and value of new development; and
4. Maintain property rights and property values of adjacent developed and undeveloped parcels.

B. Intent

~~The regulations, as set forth in this ordinance, have been prepared in the context of Oro Valley's specific desert environment. They are intended to complement the applicable provisions of the Hillside Development Zone and the Floodplain Management Ordinance, and not to authorize any grading activity prohibited by this ordinance or any Town ordinance.~~

FURTHER, the intent of this grading ordinance is to assure that the design and implementation of all grading projects shall:

1. Avoid scarring and other adverse visual impacts resulting from cut, fill and any other type of ground disturbance; and
2. Blend with the natural contours of the land; and
3. Restrict the areas of disturbance and volume of material displaced to the minimum amount necessary to implement the planned development; and
4. Limit mass grading to residential subdivisions with an average lot size of 15,000 square feet or less; and
5. Employ measures that:
 - a. Ensure that graded hillside, slopes or other areas subject to erosion are stabilized; and
 - b. Reduce the erosion effects of storm water discharge, preserve the flood-carrying capacity of natural or constructed waterways by limiting soil loss, and protect drainageways from siltation; and
 - c. Minimize dust pollution and surface water drainage from graded areas during grading and development; and
 - d. Ensure that proposed development activity is designed and implemented to avoid adverse impacts and appropriate restorative measures; and
 - e. Encourage phased projects, to preserve natural contours and vegetative communities until such time as grading must necessarily occur on a site.

~~C. Protective Cover and Dust Control~~

~~Cleared or graded land shall not be left at any time without dust control nor shall be left uncovered for more than 60 days without temporary or permanent protective cover of the entire cleared or graded area as determined by the Town Engineer.~~

B. Applicability

THE DESIGN, IMPLEMENTATION, AND MITIGATION OF GRADING REGULATED BY THIS ORDINANCE SHALL BE REVIEWED TO ENSURE FULL COMPLIANCE WITH THE REGULATIONS, REQUIREMENTS AND SPECIFIC STANDARDS SET FORTH HEREIN, PRIOR TO THE ISSUANCE OF ANY GRADING PERMIT TYPE AS DEFINED IN SECTION 22.10.B. This ordinance shall apply to all grading operation for which applications were received subsequent to its adoption date (August 19, 1998), unless exempted by ~~Section 27.9.D.4 below~~ SECTION 22.10.A.2. ~~If a conflict between this~~

~~and any other Town ordinance exists, the more restrictive shall apply. This grading ordinance shall not be construed to prevent the enforcement of other laws that prescribe more restrictive limitations, nor shall the provisions of this ordinance be presumed to waive any limitations imposed by other Town ordinances.~~

~~The design, implementation, and mitigation of grading regulated by this ordinance shall be reviewed prior to the issuance of any grading permit, to ensure full compliance with the regulations, requirements, and specific standards as set forth herein.~~

~~Grading permits must be obtained, after plan approval, as follows:~~

~~1. Type 1 Grading Permit~~

~~A Type 1 Grading Permit is required for the following:~~

- ~~a. A residential development on a single lot, other than those defined as Type 2 or 3.~~
- ~~b. Alteration of existing stabilized slope of 3:1 or greater, on a residential lot.~~
- ~~c. Addition of paved areas such as concrete or asphalt, in excess of 1000 square feet on a residential lot.~~
- ~~d. Import and stockpiling of 100 cubic yards or more of earthen materials on a residential lot.~~
- ~~e. Clearing vegetation from a residential lot, which encompasses an area of 1000 square feet or more.~~

~~2. Type 2 Grading Permit~~

~~A Type 2 Grading Permit is required for any new public or private street or roadway, a commercial, office or resort project, or any residential development consisting of more than two (2) platted lots. Mass grading, as defined herein, shall be permitted only for new residential subdivisions, with an average lot size of 10,000 square feet or less (R1-10, R1-7, SDH-6 zoning designations). Mass grading on lots between 10,000 and 15,000 square feet is allowable with an Exception pursuant to Section 27.9.G.1.~~

~~3. Type 3 Grading Permit~~

~~A Type 3 Grading Permit is required for stockpiling of earthen materials. A Type 3 grading permit shall be required for the installation of utilities and other infrastructure for which a Type 2 grading permit is not required. Utility and other infrastructure installation confined to the Town of Oro Valley right-of-way and requiring a right-of-way permit will not be required to obtain a Type 3 grading permit. However, a grading plan pursuant to Section 27.9.E.3.a shall accompany the right-of-way permit application. The Town may waive the requirements for the grading plan should staff determine that the scope of the grading activity does not warrant such a plan.~~

4. Exemptions to this Ordinance

The following activities are exempted from this ordinance:

- a. ~~The clearing, brushing or grubbing for activities exempted in this subsection;~~
- b. ~~Stockpiling of less than 100 cubic yards of uncompacted earth material;~~
- c. ~~Resurfacing or maintenance of an existing paved surface;~~
- d. ~~New pavement of less than 1000 square feet;~~
- e. ~~Individual sewage disposal system with a Pima County Department of Environmental Quality permit;~~
- f. ~~Excavation below finished grade for a basement, foundation, wall or swimming pool authorized by a building permit or zoning construction permit;~~
- g. ~~Excavation below existing grade for any story of a structure as long as the finished grade immediately outside the structure meets all other cut and fill limitations.~~
- h. ~~Exploratory excavation under the direction of a Soil Engineer or Engineering Geologist provided all excavation is properly backfilled. Whenever possible, such exploratory excavation and testing shall be conducted only in areas which have been previously disturbed;~~
- i. ~~Archaeological exploration conducted under state permit by a qualified archaeologist;~~
- j. ~~Removal of selected individual plants for storage and replanting;~~
- k. ~~Grading for the maintenance of an existing private access, road, or driveway, provided that it either existed prior to adoption of, or was established in conformance with, this ordinance.~~

E. General Grading Requirements and Notes

1. Cut and Fill Limitations

Cut and fill slopes shall meet the following requirements:

- a. The maximum depth of a cut or fill shall not exceed six (6) feet measured vertically from the existing grade to the finished elevation. The depth of a cut or fill slope may be increased to eight (8) feet when terracing is utilized in conformance with Illustration 27.9 - 3. The terraces shall be landscaped to the satisfaction of the Town. For any construction, the height of exposed, constructed slopes shall not exceed 12 feet in vertical dimension. Should a PAD (Planned Area Development),

existing at the time of adoption of this ordinance, have conflicting cut and fill limitations, the PAD limitations shall govern grading operations within the PAD area.

- b. Cut or fill slopes 3:1 (horizontal: vertical) or less steep shall be revegetated. At the Town's discretion, the Town may retain sufficient funds from the restoration or landscape assurance to ensure revegetation of slopes again, should the initial revegetation efforts fail to become established to the satisfaction of the Town.
- c. Cut or fill slopes 2:1 or less steep (but steeper than 3:1) shall be rock riprapped with filter fabric installed beneath the rock. Filter fabrics used shall meet specifications found in the latest edition of the "Pima County - City of Tucson Standard Specifications for Public Improvements".
- d. Cut or fill slopes steeper than 2:1 shall have grouted riprap or retaining walls as appropriate. No slope shall exceed 1:1.
- e. Alternative methods of stabilization may be allowed if in accordance with a registered geotechnical (soils) engineer's recommendation and approved by the Town.
- f. Fill shall be compacted and soil tested in accordance with a soil engineer's recommendations and compaction tests shall be presented to the Town for the permanent record.
- g. Any structure used to retain slopes shall be designed to blend with the surrounding natural colors of the native rock and soils of the site. The surface shall be rough textured with heavy shadow patterns, which may be achieved by color-treated or veneered surfaces (or other methods approved by the Town).
- h. It shall be unlawful to dump or push dirt of any quantity over an existing slope (unless approved as part of a ~~Type 1, 2 or 3~~ Grading Plan).

2. Site Revegetation and Stabilization

- a. All graded areas, except those to be used for agriculture or livestock purposes, shall be revegetated, stabilized, and/or constructed prior to the expiration of the grading permit. Should the graded area not be revegetated and/or stabilized per approved grading plans or permit conditions at the time of expiration, the applicant shall have 60 days from the date of permit expiration to revegetate and/or stabilize per approved plans and permit conditions. If after the 60 day period, the applicant has not revegetated and/or stabilized graded areas, the applicant is in violation of this ordinance. The Town may use the posted restoration assurance to restore the native vegetative community or complete the revegetation and stabilization per the approved grading plan.

- b. The applicant shall provide the Town with an assurance in a form approved by the Town (See Section 26.6) equal to 120 percent of the monetary amount necessary to hydroseed and revegetate cut/fill slopes or graded areas. Said assurance shall be posted prior to any site disturbance. The assurance shall be held until such time as the grading operation, infrastructure installation, building construction is completed to the satisfaction of the Town, or until such time as the project is deemed abandoned. If, after 12 months from the date of commencement of work, revegetation efforts fail to establish growth to the satisfaction of the Town, the Town may use the assurances to revegetate or apply other erosion control methods to cut/fill slopes or the graded area.
- c. Upon request by the applicant, an inspection will be performed by the Town for consideration of the release of the restoration assurance.

3. Driveways

All driveways shall be paved with a durable asphalt, concrete, brick, aggregate, or other surface that will maintain a dust free condition.

4. Slope Setbacks

The Town may increase the following slope setbacks, if considered necessary for safety or stability, or to prevent possible damage from water, soil, or debris:

- a. Top of cut slope: The top of cut slopes shall be made not nearer to a site boundary line than one-fifth (1/5) of the vertical height of cut, with a minimum of two (2) feet, unless otherwise approved by the Town Engineer and the Planning and Zoning Administrator and upon written consent from the adjacent property owner. The setback may need to be increased for any required interceptor drains.
- b. Toe of fill slope: The toe of fill slope shall be made not nearer to the site boundary line than one-half (1/2) the height of the slope, with a minimum of two (2) feet, unless otherwise approved by the Town Engineer and the Planning and Zoning Administrator and upon written consent from the adjacent property owner.
- c. Building: Buildings shall be set back from the toe and top of slopes in accordance with the building codes (minimum five (5) feet, see Figure 27.9 – 1) and the approved soils report. In addition, the building setbacks of the applicable zoning district shall apply.
- d. Rights-of-way: The required setback of a slope toe adjacent to a public right-of-way may be reduced with the approval of the Town, if there will be no adverse effect and:
 - i. Easements are not required, or
 - ii. Retaining walls are used.

5. Restriction of Slope Development

- a. For the purposes of this section, a regulated slope is one that has a minimum vertical difference of six (6) feet from its toe to top edge, and the regulated sloped area extends for a distance greater than thirty (30) feet in any horizontal direction.
- b. New subdivisions shall not create lots where access to any individual lot requires crossing a naturally occurring slope that is twenty-five percent (25%) or steeper. Nor shall new subdivisions be created where the actual building area for homes or buildings would require grading activity on slopes of twenty-five percent (25%) or steeper.
- c. The design for new subdivisions shall be created to avoid construction on naturally occurring slopes fifteen percent (15%) or greater. On parcels or lots with fifteen percent (15%) or steeper slopes, any grading on said slopes shall be consistent with restrictions in the Hillside Development Zone, Section 27.10.

6. PROTECTIVE COVER AND DUST CONTROL

CLEARED OR GRADED LAND SHALL NOT BE LEFT AT ANY TIME WITHOUT DUST CONTROL NOR SHALL BE LEFT UNCOVERED FOR MORE THAN 60 DAYS WITHOUT TEMPORARY OR PERMANENT PROTECTIVE COVER OF THE ENTIRE CLEARED OR GRADED AREA AS DETERMINED BY THE TOWN ENGINEER.

7. Erosion Control Systems

a. Permanent Systems

- i. Permanent erosion control measures shall be implemented and property maintained to prevent erosion of slopes, and cleared, brushed, grubbed or graded areas.
- ii. Where cut slopes are not subject to erosion due to the erosion-resistant character of the native materials, erosion control may be omitted upon approval by the Town.
- iii. Stabilization devices to prevent erosion or sediment deposition on off-site property may be required by the Town.
- iv. The shoulders of a paved public or private roadway shall be protected against erosion wherever curbing or constructed spillways are not provided.
- v. Surface drainage:
 - a) Cut and fill slopes shall be protected from erosion by surface drainage with appropriately designed methods (e.g., surface drainage interceptors);
 - b) Drainage control shall be provided to keep drainage away from foundations;

c) Any grading activities within a regulatory floodplain shall comply with the Oro Valley Floodplain Management Ordinance.

d) Subsurface drainage: Should subsurface drainage be encountered or expected by the soils engineer or the Town, then appropriate measures shall be employed to ensure stability and protection of affected properties from ground water seepage. Methods used to minimize impact by subsurface drainage/seepage shall be approved by the Town prior to installation.

b. Interim Systems: Plans for interim erosion control systems shall be submitted with all grading permit applications and shall be approved by the Town. Erosion control measures shall be implemented and properly maintained to prevent erosion of slopes, and cleared, brushed, grubbed or graded areas. Stabilization devices to prevent erosion or sediment deposition on adjacent roads and off-site property shall be required. The applicant shall be responsible for the control of dust emissions and shall use appropriate dust control measures. Applicants who are required to submit a U.S.E.P.A. Notice of Intent (NOI) for coverage under the National Pollution Discharge Elimination System (NPDES) for their project shall provide a copy of the NOI and the Storm Water Pollution Prevention Plan (SWPPP) to the Town prior to issuance of a grading permit.

8. Import and Export of Earth Material

a. Loading of earth material shall occur only within the time limits of subsection F.8 F.9 of this section, and dust emissions shall be controlled through appropriate dust control measures.

b. The transportation of earth material on or across public rights-of-way shall be done in a manner that minimizes blowing soil and other hazards.

9. Hours of Grading

a. Grading equipment operation within one-half (1/2) mile of an occupied residential structure shall only be conducted between 6:00 a.m. and sunset Monday through Friday. Grading equipment operation shall only be conducted between the hours of 8:00 a.m. and 5:00 p.m. on Saturdays and Sundays.

b. Equipment maintenance involving lights, motors, or generators, and occurring within six hundred (600) feet of an occupied residential structure, shall not be conducted after sunset, or before 6:00 a.m.

c. The Town may allow grading equipment operation or maintenance during other hours, if such operations are not detrimental to the health, safety, or welfare of the residents of surrounding properties.

d. Permitted hours of operation or maintenance may be shortened by written notice to the permittee, if the Town finds a substantial adverse effect on the health, safety, or welfare of the surrounding community.

10. Phased Grading

a. Repealed by (O)11-15.

b. For all projects ten (10) acres or larger requiring site plans, a phased grading concept plan may be required with the final site plan submittal. This plan shall be reviewed and approved by the Town Engineer.

c. In considering the phased grading plans, the Planning and Zoning Commission will review documentation and testimony leading to the following:

i. A balance in cut and fills,

ii. Efficient installation of infrastructure,

iii. Minimal need for stockpiling earthen material for more than six (6) months,

iv. Minimize the time that graded areas remain exposed, preferably not more than one (1) year.

11. Restriction of Vehicles

a. No vehicles or equipment shall encroach onto areas designated to remain in a natural state on the approved final plat, development plan, grading, landscape, or native plant salvage plans.

b. Points-of-entry to the site during grading shall be only as designated on the approved grading plan.

c. Access roads to the site during grading shall be only as designated on the approved grading plan.

12. Additional Requirements

a. During grading, and until revegetation or stabilization has taken place, dust shall be minimized through application of approved dust controls in accordance with subsection C of this section.

b. Public rights-of-way, sidewalks, and other improvements shall be maintained during grading in a neat and clean condition, free of loose soil, mud, construction debris, and trash. Any damaged areas shall be restored to original appearance at no cost to the Town of Oro Valley.

- c. Debris, fill, or equipment shall not be stored within a public right-of-way without a right-of-way use permit from the Town.
- d. If applicable, archaeological exploration and mitigation work, as recommended by a qualified archaeologist (see Section 27.3.E.2), shall be performed prior to commencement of grading operations on the affected portion of the site. If, during the grading phase of construction, unexpected archaeological findings are encountered, said grading shall cease and the grading permit shall be temporarily suspended until the significance of said finding is determined and mitigation is provided by a qualified archaeologist. The analysis of any finds shall be provided to the Town prior to reactivation of the grading permit, granting occupancy permits or release of assurances. The expiration date of a reactivated grading permit may be extended for a period equal to the time of suspension necessary to complete archaeological work.
- e. Adjoining property(ies) shall be protected in such a manner as to prevent damage to said property(ies). Protection from caving, settlement, and other similar occurrences shall be the responsibility of the permittee (see Section 22.10.E.2, Liability).

Figure 27.9 - 1.

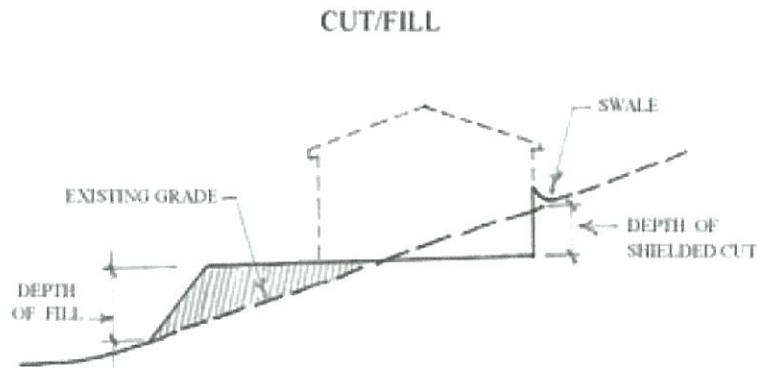


Figure 27.9 - 1 (Continued).

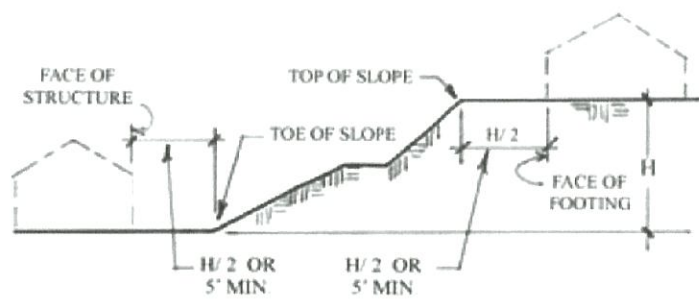
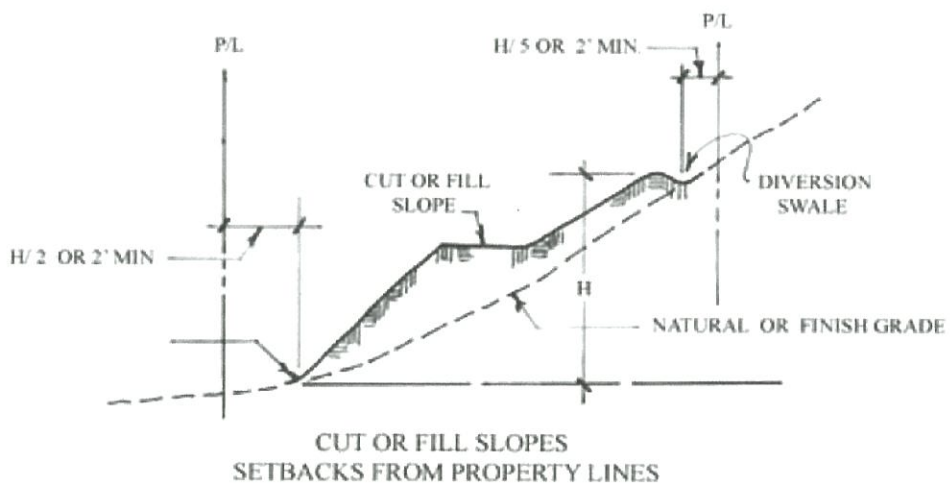


Figure 27.9 - 2 (A).

TYPICAL 'A' LOT

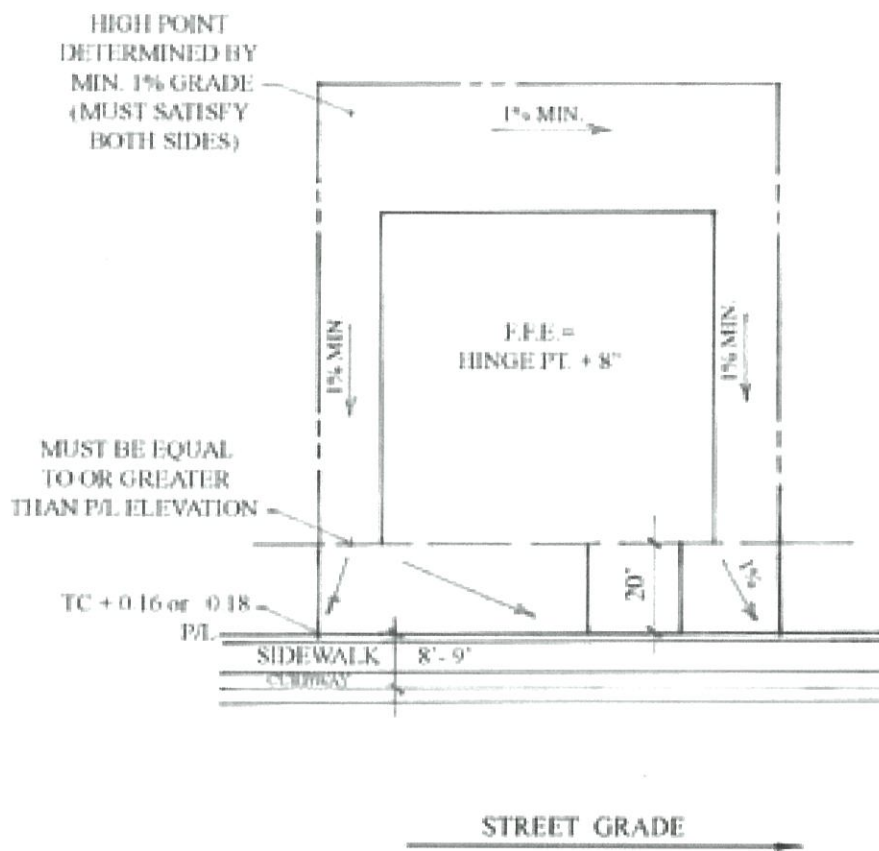


Figure 27.9 - 2 (B).

TYPICAL 'C' LOT

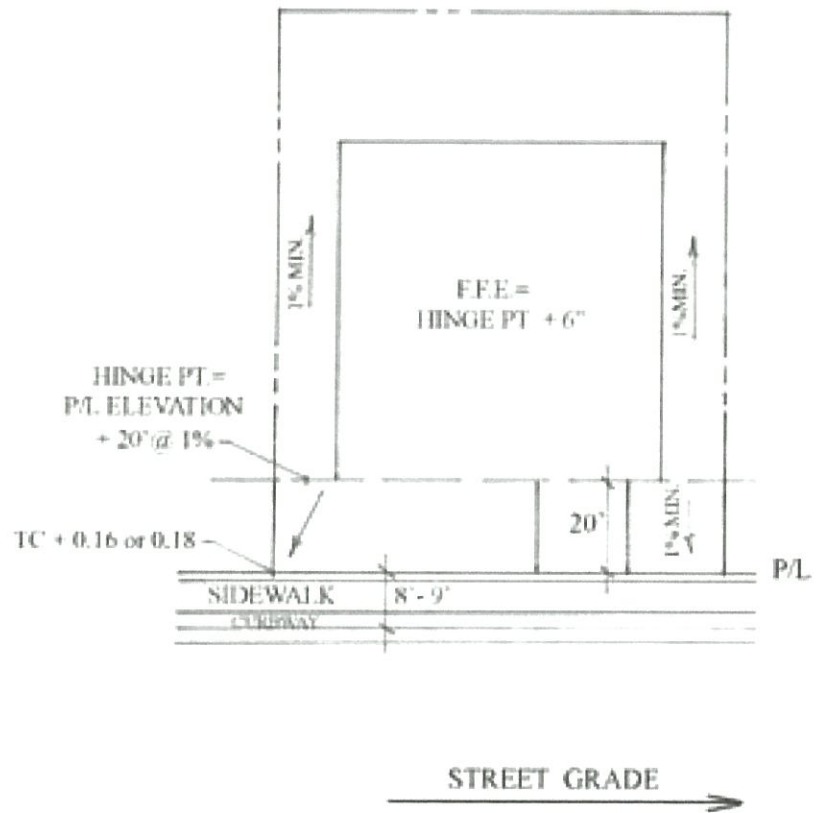


Figure 27.9 - 3.

Mass grading

Grading of the subdivision building site, in its entirety, during the initial development process, as authorized by the approved plans. MASS GRADING SHALL ONLY BE PERMITTED FOR NEW RESIDENTIAL SUBDIVISIONS, WITH AN AVERAGE LOT SIZE OF 15,000 SQUARE FEET OR LESS.