



Rancho Santa Fe Association

Board of Directors

Staff Report – Board of Directors Information

Date: February 4, 2021

By: Maryam Babaki, Building Commissioner

Item: Grading Regulation (Working Draft)

Background:

The Rancho Santa Fe Building Department is updating the Regulatory Code. As presented in November 2020, the Building Department is following the timeline and the work program in bringing the updated draft regulations before the Board. The attached draft of the updated Grading Regulation is a Working Draft for the Board information and input and reflects participation from industry experts and consulting professionals.

Analysis

In October and November of 2020, the Rancho Santa Fe Building Department brought forth a timeline and a work program to update a number of the Rancho Santa Fe Regulation topics (Attachment A). The work program also included an education and communication element for the membership through newsletter articles and other workshops. As specified in the timeline for February 2021, the Building Department is now bringing an updated Working Draft Grading Regulation (Attachment B). Also, as indicated in the timeline, this document was preceded by communication outreach through the newsletter. Over the past couple of months several articles have been published in the newsletter regarding this subject matter. Upon review and input by the Board, the Building Department will hold a zoom workshop to seek further comment and communicate the nuances of the new Grading Regulation to the membership. In generating this updated Working Draft Grading Regulation, the Building Department utilized the input and the expertise of the industry experts as well as professionals in the field.

Fiscal Impact:

There are no fiscal impacts at this time.

Recommendation:

This is an information item provided for the Board of Directors information and input.

Attachments:

Attachment A: Regulation Timeline

Attachment B: Updated Working Draft Grading Regulation

ATTACHMENT A

Building Department 2020-2021



- Communicate Regulation Changes
- A Change in Regulation Timeline

Communicate Regulation Changes:

Establish multi-step process to communicate with members

Step 1

Inform

- Inform membership of upcoming changes
- Publish fact sheets in newsletter and website.
- ***What does this Regulation mean to you?***

Step 2

View

- Allow members to view other comments
- Publish summary for membership information in newsletter and website

Step 3

Draft

- Prepare Draft for Board review

Step 4

Post

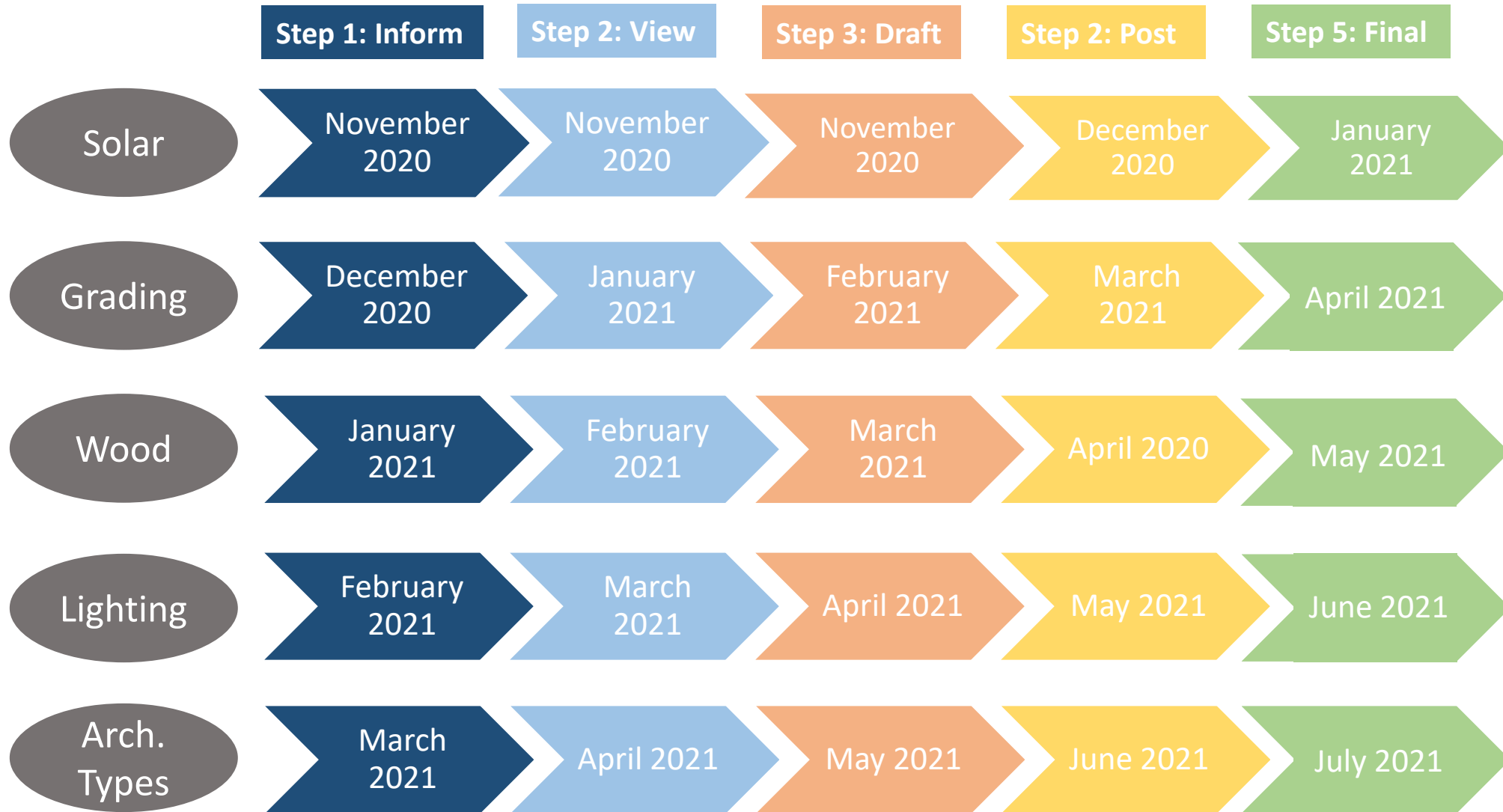
- Post for Membership comment
- Repeat Steps 1-4 if necessary

Step 5

Final

- Prepare Final for approval

Regulation Timeline



ATTACHMENT B

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 (cut or fill) to physical contours and stockpiling (including any importing and placing or stockpiling of soil material excluding base and other paving surfaces). No one shall perform Grading without first obtaining a Grading permit from the Association.

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

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

Minor Grading- Where a property owner causes grading up to one hundred cubic yards (100) and less than three-feet (3) in excavation or fill, cumulated over a two year period. This form of grading will not require a permit or require Art Jury review.



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

Retaining Wall- A wall used to retain soil from three-feet (3) to four-feet (4) tall. A series of terraced retaining walls can be used with a maximum of two and one half-feet (2.5) each with a maximum of three (3) terraces to create an overall retained slope of up to eight-feet (8). This upper limit is obtained only through the use of a set of three (3) two and one half-feet (2.5) walls used to retain the same slope. All walls above three-feet (3) wall will require the review of the Art Jury including a series of three walls as described above. .

Site Wall- A short wall under three-feet (3) that is used to define a site, to define spaces and to make up slight grading issues. This type of wall will not require Art Jury review unless these walls are used as a series of walls that would add up to more than eight-feet (8) of retaining.

41.0202 Agricultural Grading. Pursuant to the Art Jury's authority under Paragraph 180 of the Protective Covenant to interpret the provisions in Article III thereof, it is the Art Jury's interpretation that "preparing land for orchard or farm use" as stated in Paragraph 46 of the Protective Covenant means tilling or plowing, but not cutting, filling or stockpiling. Therefore, no one shall perform cutting or filling of land or stockpiling on land without first obtaining a Grading permit from the Association, even if such cutting, filling or stockpiling is in connection with preparing such land for orchard or farm use.

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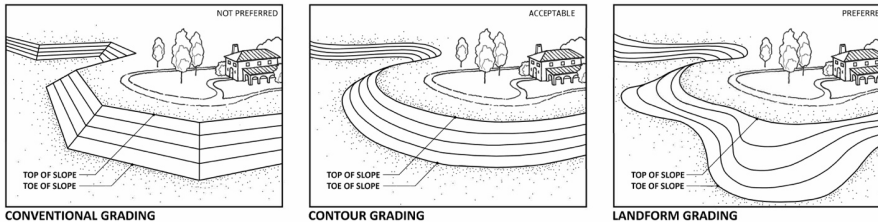
41.03 Restrictions on Building and Grading in Existing Slopes. Any proposed home construction or other site improvements shall be integrated with the natural landform of the site with the intent of limiting Grading. Grading shall preserve the natural topography and landscape features of the site as much as possible, consistent with the provisions in this chapter.

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

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



41.0303 Slopes Less Than 25%. For any area of the site that contains a slope that is less than 25%, it is desired to have buildings integrate with the natural features of the site by way of stepping the proposed buildings with the site, minimizing Grading, restricting retaining walls to less than four-feet (4 vertical) and/or using terraced walls (if Grading requires it) are also limited to a combined limit of 8' of cut or fill. Buildings shall generally be located on flatter topography. Limited cut slopes are preferred to fill. If limited Grading is proposed, Contour Grading and/or Landform Grading shall be used and limited height retaining walls shall be considered.

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

(a) The proposal is integrated with the natural landscape features of the site in an aesthetically pleasing manner by minimizing Grading, retaining walls and visual prominence.

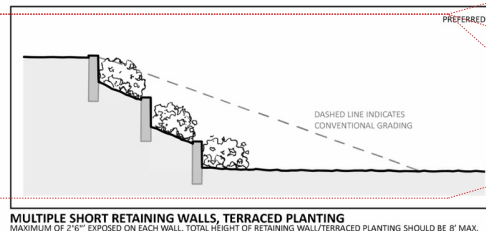
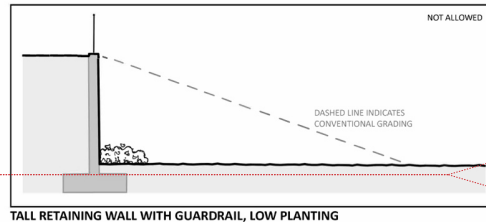
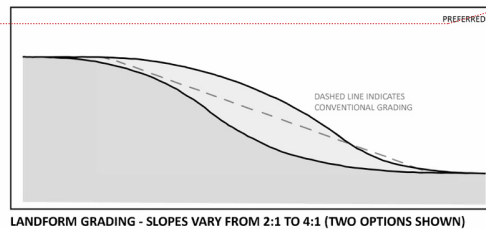
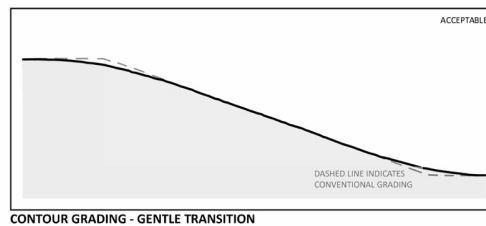
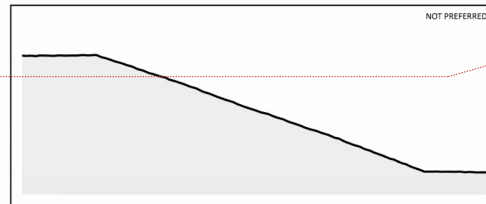
(b) The proposal “insures a uniform and reasonably high standard of artistic result” as required by Protective Covenant Paragraph 46; and
(c) The proposal complies with all the requirements of the Protective Covenant and the standards listed herein.

41.0304 25% Restriction. No Grading or building for any purpose, shall be permitted in existing slopes of greater than 25 percent gradient (herein referred to as “restricted slopes”), except as specifically permitted under §41.04 below. This requirement does not apply to the regrading of cut or fill slopes with a 25 percent or greater gradient created through a previously approved Association site Grading permit; and

41.0305 Contour Sensitivity. Proposed Grading and building design shall be sensitive to the natural topography, the existing vegetation and consistent with development on adjacent parcels. The use of Contour Grading and Landform Grading will be required in all conditions assuring that all new slopes will taper back into existing contours and further that this Grading be done with curvilinear vertical and horizontal contours with no abrupt changes in slope either horizontally or vertically.

41.04 25% Restriction Exceptions. The Art Jury or the Board, where applicable, may approve a permit where the application shows Grading or building in restricted slopes if, in addition to compliance with §43.0307, a finding is made that either:

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



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

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

41.05 Existing Agreements. The foregoing §41.0401, §41.0402 and §41.0403 shall not allow Grading of restricted slopes which is in violation of any slope restriction agreement or covenant to which the Association is a party or beneficiary.

41.06 Maximum depth of cut and/or fill. No point on any finished grade shall vary in excess of ~~eight (8)~~ vertical feet from existing grade provided that the ~~proposed~~ design is aesthetically pleasing in the opinion of the Art Jury ~~and the proposed Grading is consistent with these regulations (excluding this maximum depth).~~ This provision shall apply whether or not retaining walls are to be used as a part of the proposed Grading. Retaining walls may be approved where their use, in the opinion of the Art Jury or the Board where applicable, will further the purpose and intent of this regulation ~~and that all new landforms created by this grading include vertical curvilinear concave or convex shapes (Landform Grading) as well as horizontal curvilinear concave or convex shapes. If retaining walls are included, this section requires that retaining walls be limited to either two (2) four-feet (4) terrace walls or three (3) two and half-feet (2.5) terrace walls. In no instance can one wall exceed four-feet (4) or eight-feet (8) of grading.~~

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41.0601 Exception. This provision does not prohibit basements, building foundations or similar excavations ~~that will result in the covering of these walls so that no more than four-feet (4) of these structures are visible above ground and that~~ 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.

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

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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-to one (2:1) horizontal to one-foot (1)~~ vertical, ~~assuming these slopes will vary from two (2) to one (1) and use variations of three (3) to 1 and four (4) to 1 slopes. Further, the two (2) to one (1) can only make up twenty-five Percent (25%) of the total horizontal area of the graded slopes.~~

41.09 Slope Treatments. Except as specifically permitted by the Art Jury or the Board, where applicable, all cut and fill slopes shall be contour 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.

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

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

a. Applications for new houses shall include topographic plans (with all trees larger than a 3" caliper shown on the plans) prepared with topographic information obtained two years prior to the date of submission of the application or an existing plan recertified by a registered civil engineer or surveyor. Additionally such topographic plans may be required for other projects at the discretion of the Art Jury at any time.

b. Existing restricted slopes (slopes in excess of 25 percent) colored in red; slopes between 10 and 25 percent colored in yellow and slopes between 0 and 10 percent colored in 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. Existing contours will be shown as dashed lines and new contours to be shown as solid lines.

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e. All stockpiling requires prior approval by the Art Jury. Grading plans shall show (1) the size and location of stockpiles; (2) the site grades before, during and after stockpiling; and (3) the time that all stockpiles are proposed to be kept on the site and if any tree removal are required for any existing tree that is larger than 3" in caliper. Stockpiling shall only occur in approved locations in conjunction with a valid project which has been approved by the Art Jury, has a Grading permit and which is under construction.

41.1005 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 as well as the methods used to obtain the Landform Grading required and the efforts to avoid removal of any trees about a 3" caliper (unless mandated for brush management by the Fire Department).

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.

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ATTACHMENT C

Change	Section	Page	Action / Changes	Justification for Change in Regulations	Supports RSF and/or Natural Character	Improves Artistic Results	Improves Consistency	Clarifies Language	Closes a Loophole for Better Compliance Control	Allows streamlining	May Cause Increased Review Time	Additional Development Restrictions May Affect Property Values
1	41.0201	1	Added more definitions to better describe stockpiling.	Clarifies that materials for construction do not count against the limit of a stockpile if not soil for grading. Regulation should be on imported soils.				✓		✓		
2	41.0201	1	Added more definitions to better describe stockpiling for Contour Grading and Landform Grading.	Industry standard mass grading practices are not acceptable at the Ranch. Landforms are an important part of the existing character.	✓	✓		✓	✓		✓	
3	41.0201	1	Defined minor grading as being less than 3' of cut or fill and less than or up to 100 Cubic Yards.	This type of grading allows for small changes in a property that are not highly visible or that would not affect character.				✓		✓		
4	41.0201	1	Defined major grading as being more than 3' of cut or fill and more than 100 cubic yards.	Many may not be getting permits anyway because the amount of change is small or they are unnecessarily taking Art Jury and Staff time.				✓	✓	✓		
5	41.0201	1	Provided restrictions on heights of retaining walls to be less than 4' where higher ones were allowed before.	Walls are often short-cuts to make grading work and to reduce costs, but these walls are not an appropriate scale or appropriate for the Ranch.	✓	✓	✓	✓	✓		✓	✓
6	41.0201	1	Identified and defined a garden wall under 3' (or 32") that does not require permit or Art Jury review.	Small Garden walls have little character affect on the property and do not require railing or structural calcs. This type of wall should be encouraged.				✓		✓		
7	41.03	2	Improved clarity by replacing "building designed" with a definition of home as well as other site improvements.	Building Design needed more descriptions of the house, garages and guest houses to make sure it covers all structures and not just the house.				✓	✓			
8	410302	2	Defined development to include buildings, previous Grading and landscape features.	Development can be thought of as just building but in this case it needs to be clear that given the section title.				✓	✓			
9	41.0302	2	Added definition of maximum development by citing the Regulatory Conditions, Covenant and County as the guiding documents.	Since the County also regulates it is important to define what is responsible for determining what is allowed on a site.				✓				
10	41.0303	2	Restructured sentence for clarity and to add revised restrictions on wall height to 4 feet, and total grading heights limited to 8 feet.	These are newly defined restrictions that limit excessive grading and manage modifications to landforms.				✓				✓
11	41.0303	2	Refined definition of visual prominence focused on visual prominence/ different from terms of massing or scale.	Dominance is often described as size, mass, or character. In this case, it needs to be seen and contrast with its setting to be prominent.				✓		✓		✓
12	41.0305	3	Added existing vegetation for sensitivity in design and also changed from compatible to consistent.	The techniques of grading are hard for applicants, staff and Art Jury members to all come to an agreement on. This institutes increased guidance.	✓	✓	✓	✓	✓			
13	41.0305	3	Interjected 2 forms of grading that are acceptable, the requirement for tapering into slopes & described curvilinear grading.	Most contractors and engineers propose grading that is functional but not appropriate for the Ranch. More definitions are needed for grading.	✓	✓	✓	✓	✓		✓	
14	41.0401	3	Added the word reasonably to possible since most everything on a site is possible with enough money.	A property can always be made to handle development. Adding "reasonably" encourages discussion as to what reasonable is.				✓				
15	41.0401	3	Defined as a variance for Grading restrictions & added requirements of stepped bldgs. & landform grading.	If this is intended to be some compromise, it should be listed as a variance. Also the descriptions were not worded well.	✓	✓	✓	✓			✓	✓
16	41.0402	4	Defined extent of what would be considered a minor intrusion into Restricted slopes at 10% of all restricted slopes.	This put a limit on the amount of intrusion into restricted slopes that a variance can provide. This would limit it to minor encroachments.				✓	✓			
17	41.0403	4	Limited the exception of grading a driveway or roadway to the need to access the residence.	A property owner could run roads all across the property and thereby accomplish larger grading. Roads should be focused on access to the house.	✓	✓	✓	✓	✓			
18	41.06	4	Lowered 10' of cut or fill to 8' & clarified allowed grading would meet the 8' max. & still be consistent other regulations.	A 10' cut or fill not only is defined vertically, but require a large horizontal area to be graded that does not fit the character of the Ranch.	✓	✓	✓	✓	✓			✓
19	41.06	4	Clarified the requirements on Grading, retaining walls, their maximums & the need for Landform Grading.	This simply clarifies that even an 8' cut will need to have the landform or contour grading or wall height requirements listed here as well.	✓	✓		✓	✓			✓
20	41.0601	4	Clarified the depth of burial that an structure would have to meet including allowed exposure of walls.	An applicant can obtain greater square footage for any part of the building counted as basement. A basement is defined on how much wall is exposed.	✓	✓		✓	✓			✓
21	41.07	4	Changed the maximum cut slope from 1 1/2 to 1 to 2 to 1.	A 1 1/2 to 1 is too steep for the character of the Ranch and creates slopes that are erodible and difficult to get landscape treatments to work.	✓	✓			✓			✓
22	41.08	4	Better defined varying grades to include more refined landform and Contour grading.	This describes the need to use a variety of slopes in any one cut or fill area since this is needed to provide variation that mimics natural slopes more.	✓	✓		✓	✓			
23	41.1003	5	Need to graphically communicate landform grading in sections & encourage the use of physical & digital models.	Unless you require this, it may be difficult for the Art Jury to see if the intent of the contour or landform grading is being accomplished.				✓				
24	41.0004	5	Added the need to show collaboration and results from the team that would include the architect and landscape architect as well.	Often, teams do not collaborate on grading even if other professionals can help create a better grading plan. This encourages collaboration.		✓			✓			
25	41.1004a	5	Added the need to identify tree removal on grading plans for all plants with more than a 3" caliper.	The most visible change resulting from grading is often the removal of trees. This reminds the applicant that they must indicate removed trees.	✓	✓		✓	✓			
26	41.1004b	5	Clarified how the drafts person is to indicate existing from proposed contours.	Without this clarification, the Art Jury may have difficulty in understanding the plans. Software these days could make this a lot more clear.				✓				
27	41.1004e	5	Added the need for showing trees to be removed on the grading plans.	As stated above, the loss of trees can often be the most visible change. The removal of trees needs to be clear as part of the application package.	✓	✓		✓	✓			
28	41.1005	5	Suggests that landscape & grading plans need notes verifying collaboration with the Architect & Landscape Architect.	To promote collaboration and innovative ideas in grading, slope treatments, retaining walls, and site walls, all need to provide input or review of plans.		✓			✓			