

ORDINANCE NO. 6338

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, AMENDING CHAPTER 36 OF THE SONOMA COUNTY CODE (NEW VINEYARD AND ORCHARD DEVELOPMENT, VINEYARD AND ORCHARD REPLANTING, AND AGRICULTURAL GRADING AND DRAINAGE) TO ESTABLISH A REGISTRATION PROCESS FOR LOW-IMPACT VINEYARD REPLANTING AND TO CLARIFY OR STRENGTHEN REQUIREMENTS, PROCEDURES, AND DEFINITIONS, AMENDING CHAPTER 11 OF THE SONOMA COUNTY CODE (CONSTRUCTION GRADING AND DRAINAGE) TO CLARIFY OR STRENGTHEN REQUIREMENTS, PROCEDURES, AND DEFINITIONS TO MAINTAIN CONSISTENCY WITH CHAPTER 36 OF THE SONOMA COUNTY CODE, AND DETERMINING EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Board of Supervisors of the County of Sonoma, State of California, ordains as follows:

Section I. Chapter 36 of the Sonoma County Code (New Vineyard and Orchard Development, Vineyard and Orchard Replanting, and Agricultural Grading and Drainage) is amended to read as set forth in Exhibit “A,” attached hereto and incorporated herein by this reference.

Section II. Chapter 11 of the Sonoma County Code (Construction Grading and Drainage) is amended to read as set forth in Exhibit “B,” attached hereto and incorporated herein by this reference.

Section III. The Board of Supervisors finds and determines that this Ordinance is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to Sections 15307 and 15308 of the State CEQA Guidelines as an action taken to assure the maintenance, restoration, or enhancement of natural resources or the environment where the regulatory process involves procedures for protection of the environment and the action does not include construction activities or relaxation of standards allowing environmental degradation. The Board of Supervisors further finds and determines that this Ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that this Ordinance may have a significant effect on the environment. The basis for these findings and determinations is that this Ordinance only makes changes to Chapter 36 of the Sonoma County Code to establish a registration process for low-impact vineyard replanting and to clarify or strengthen requirements, procedures, and definitions, only makes changes to Chapter 11 of the Sonoma County Code to clarify or strengthen requirements, procedures, and definitions to maintain consistency with Chapter 36 of the Sonoma County Code, and does not involve construction or any other activity that could physically change the environment.

The Agricultural Commissioner and the Director of the Permit and Resource Management Department are directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

Section IV. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance and every section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

Section V. This Ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage and shall be published once before the expiration of fifteen (15) days after said passage, with the names of the Supervisors voting for or against the same, in *The Press Democrat*, a newspaper of general circulation published in the County of Sonoma, State of California.

In regular session of the Board of Supervisors of the County of Sonoma, introduced on the 2nd day of March, 2021, and finally passed and adopted this 16th day of March, 2021, on regular roll call of the members of said Board by the following vote:

SUPERVISORS:

Gorin:	Rabbitt:	Coursey:	Gore:	Hopkins:
Ayes: 5	Noes: 0	Absent: 0	Abstain: 0	

WHEREUPON, the Chair declared the above and foregoing Ordinance duly adopted and

SO ORDERED

Chair, Board of Supervisors
County of Sonoma

ATTEST:

Sheryl Bratton,
Clerk of the Board of Supervisors

EXHIBIT “A”
CHAPTER 36 OF THE SONOMA COUNTY CODE

CHAPTER 36 – NEW VINEYARD AND ORCHARD DEVELOPMENT, VINEYARD AND ORCHARD REPLANTING, AND AGRICULTURAL GRADING AND DRAINAGE

Article 02. General.

Sec. 36.02.010. - Title.

This chapter shall be known and may be cited as the Sonoma County New Vineyard and Orchard Development, Vineyard and Orchard Replanting, and Agricultural Grading and Drainage Regulations. This chapter may also be referred to and cited as the Sonoma County Vineyard and Orchard Erosion and Sediment Control Ordinance or VESCO.

Sec. 36.02.020. - Purpose.

This chapter is enacted for the purpose of regulating new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage in the unincorporated area of the county, and to establish ministerial standards for those activities that:

- A. Protect the public health, safety, and welfare of the county;
- B. Minimize hazards to life and property;
- C. Protect against erosion, and the pollution of watercourses with soil and other pollutants;
- D. Maintain natural and existing drainage patterns;
- E. Protect aquatic resources and wildlife habitat; and
- F. Promote water conservation and groundwater recharge.

Sec. 36.02.030. - Administration.

This chapter shall be administered under the direction of the board of supervisors, by and through the agricultural commissioner.

Sec. 36.02.040. Applicability.

- A. Compliance required. The provisions of this chapter shall apply to all new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage

occurring in the unincorporated area of the county. The permit requirements in this chapter shall apply to all new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage, unless exempted from permit requirements by Section 36.04.010.D, 36.06.010.D, 36.10.010.C, or 36.12.010.C. The registration requirements in this chapter shall apply to all low-impact vineyard replanting. The standards in Article 20 and the department's best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall apply to all new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage, regardless of whether a permit or registration is required by this chapter.

B. Liability. Nothing in this chapter, nor the issuance of a permit or registration pursuant to this chapter, nor compliance with the provisions of this chapter or with any permit conditions, shall relieve any person from responsibility for damage to other persons or property, or impose any liability upon the county, its officers, agents, or employees, for damage to other persons or property.

C. Relationship to other laws. The provisions of this chapter are not intended to and shall not be construed or given effect in a manner that conflicts with state or federal law, or interferes with the achievement of state or federal regulatory objectives. The provisions of this chapter shall be interpreted to be supplementary to and compatible with state and federal enactments, and in furtherance of the public purposes those enactments express. Compliance with the provisions of this chapter, however, does not ensure compliance with state and federal requirements. Further, the provisions of this chapter are not intended to and shall not be construed or given effect in a manner that supersedes other provisions of this code. Where another provision of this code establishes a stricter requirement than a provision of this chapter, that stricter requirement shall prevail.

D. Other permits. Nothing in this chapter shall eliminate the need for any person undertaking any new vineyard or orchard development, vineyard or orchard replanting, or agricultural grading or drainage from having to obtain any other permits, approvals, or authorizations required by this code or state or federal agencies.

Sec. 36.02.050. - Interpretations.

A. Authority to interpret. The agricultural commissioner shall have the authority to interpret the provisions of this chapter. Whenever the agricultural commissioner determines that the meaning or applicability of any requirement of this chapter is subject to interpretation, the agricultural commissioner may issue an official written interpretation. The agricultural commissioner may also refer any issue of interpretation to the board of supervisors for determination.

B. Language. When used in this chapter, the words "shall," "must," "will," "is to," and "are to" are always mandatory. "Should" is not mandatory but is strongly recommended; and "may" is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless

the natural construction of the word indicates otherwise. The words “include,” “includes,” and “including” shall mean “including but not limited to.”

C. Time limits. Whenever a number of days is specified in this chapter, or in any permit, condition of approval, or notice provided in compliance with this chapter, the number of days shall be construed as calendar days, unless business days are specified. A time limit shall extend to 5 p.m. on the following business day where the last of the specified number of days falls on a weekend, county-observed holiday, or other day the county is not open for business.

D. State or federal law requirements. Where this chapter references applicable provisions of state or federal law, the reference shall be construed to be to the applicable state or federal law provisions as they may be amended from time to time.

Sec. 36.02.060 – Best Management Practices.

The agricultural commissioner may adopt, amend, or rescind best management practices to implement or make specific the standards in Article 20. The best management practices shall reference or detail only fixed standards and objective measurements that do not require the exercise of discretion by the agricultural commissioner. Failure by any person to comply with any applicable best management practice adopted or amended pursuant to this section shall be a violation of this chapter. The best management practices adopted or amended pursuant to this section shall be compiled by the agricultural commissioner and made available to the public.

Sec. 36.02.070 – Legislative Intent.

A. Ministerial provisions; exception. It is the intent of the board of supervisors that the provisions of this chapter and the best management practices adopted pursuant to Section 36.02.060 shall be ministerial within the meaning of the California Environmental Quality Act and the State CEQA Guidelines. It is the further intent of the board of supervisors that the review of permit applications and the issuance of permits pursuant to this chapter shall be ministerial acts, except in the case of discretionary permit applications.

B. Interpretation and application. This chapter and the best management practices adopted pursuant to Section 36.02.060 shall be interpreted, administered, and construed in light of the legislative intent expressed in Subsection A. If any provisions, sentences, or words in this chapter or any best management practice adopted pursuant to Section 36.02.060 are ambiguous or capable of more than one interpretation, staff shall interpret, administer, and construe them as conferring only ministerial authority. Staff shall not exercise personal judgment, special discretion or judgment, or personal, subjective judgment in deciding whether or how projects should be carried out, except in the case of discretionary permit applications.

C. Ministerial system of regulation; automatic repeal. It is the intent of the board of supervisors in enacting this chapter to establish and maintain a ministerial system of regulation for new vineyard and orchard development, vineyard and orchard replanting, and agricultural

grading and drainage, consistent with the strong policy direction in the general plan to expedite the processing of agricultural-related permits and not unduly complicate and discourage new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage. The county has heretofore faced lawsuits seeking to transform ministerial permit applications for new vineyard development into discretionary projects subject to the California Environmental Quality Act. As a legislative matter, that result would be contrary to the legislative intent of this chapter, as well as the general plan and its Agricultural Resources Element. As a result, if for any reason a court of competent jurisdiction holds in a final order that a provision of this chapter or a best management practice adopted pursuant to Section 36.02.060 intended to be ministerial is, in fact, discretionary, this chapter shall be automatically repealed without further action by the board of supervisors. A “final order” means an order, writ, judgment, or other finding that is no longer subject to modification or reversal on appeal. If this chapter is repealed by this subsection, new vineyard and orchard development and vineyard and orchard replanting shall be allowed and shall not require separate permitting, like all other forms of agriculture in the county, and agricultural grading and drainage shall become subject to the provisions of Chapter 11 of this code. Nothing in this subsection is intended to affect any court order. This subsection is declarative of existing law.

Article 04. – New Vineyard and Orchard Development Permits.

Sec. 36.04.010. – Permit Requirements.

A. Permit required. A new vineyard and orchard development permit shall be required prior to commencing any new vineyard or orchard development or related work, including preparatory land clearing, vegetation removal, or other ground disturbance, except where exempted from permit requirements by Subsection D. A separate new vineyard and orchard development permit shall be required for each site.

B. Designation and performance. New vineyard and orchard development shall be designated “Level I new development” or “Level II new development” in compliance with Table 36-1, and shall be performed as follows:

1. Level I new development. Level I new development shall be performed in compliance with approved plans and specifications prepared by the property owner, an authorized agent of the property owner, or a licensed professional acting within the scope of their license.

2. Level II new development. Level II new development shall be performed in compliance with approved plans and specifications prepared by a civil engineer.

Table 36-1 New Vineyard and Orchard Development Designation

Parameter	Threshold	
	Level I New Development	Level II New Development
Existing slope of new planting area having no highly erodible soils	Less than 15 percent	15 to 50 percent ¹
Existing slope of new planting area having any highly erodible soils	Less than 10 percent	10 to 50 percent ¹
New planting area on ridgetop	Ridgetop is not located above a blue-line stream or on a designated watershed or sub-watershed divide	Ridgetop is located above a blue-line stream or on a designated watershed or sub-watershed divide

Notes:

1. New vineyard and orchard development are prohibited on existing slopes greater than 50 percent. See Section 36.22.020.A.

C. Biotic resource and focused species assessments.

1. Biotic resource assessment. A biotic resource assessment shall be required for all new vineyard and orchard development on uncultivated land.

2. Focused species assessment. A focused species assessment shall be required for all new vineyard and orchard development on cultivated land in designated critical habitat areas.

D. Exemptions from permit requirements. The following new vineyard and orchard development activities are exempt from the provisions of this section and may be conducted without obtaining a new vineyard and orchard development permit, provided that these activities shall still be subject to the standards in Article 20 and the department’s best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage.

1. Hobby vineyards and orchards. Planting of new hobby vineyards and orchards where the hobby vineyard or orchard is less than one-half acre in size. This exemption may only be used for one hobby vineyard or orchard per legal parcel. This exemption shall not apply where there is an existing commercial vineyard or orchard on the parcel.

Article 06. – Vineyard and Orchard Replanting Permits.

Sec. 36.06.010. – Permit Requirements.

A. Permit required. A vineyard and orchard replanting permit shall be required prior to commencing any vineyard or orchard replanting or related work, including preparatory land clearing, vegetation removal, or other ground disturbance, except where exempted from permit requirements by Subsection D. A separate vineyard and orchard replanting permit shall be required for each site.

B. Designation and performance. Vineyard and orchard replanting shall be designated “Level I replanting” or “Level II replanting” in compliance with Table 36-2, and shall be performed as follows:

1. Level I replanting. Level I replanting shall be performed in compliance with approved plans and specifications prepared by the property owner, an authorized agent of the property owner, or a licensed professional acting within the scope of their license.

2. Level II replanting. Level II replanting shall be performed in compliance with approved plans and specifications prepared by a civil engineer.

Table 36-2 Vineyard and Orchard Replanting Designation

Parameter	Threshold	
	Level I Replanting	Level II Replanting
Existing slope of replanting area having no highly erodible soils	Less than 30 percent	30 percent or greater
Existing slope of replanting area having any highly erodible soils	Less than 15 percent	15 percent or greater

C. Focused species assessment. A focused species assessment shall be required for all vineyard and orchard replanting in designated critical habitat areas.

D. Exemptions from permit requirements. The following vineyard and orchard replanting activities are exempt from the provisions of this section and may be conducted without obtaining a vineyard and orchard replanting permit, provided that these activities shall still be subject to the standards in Article 20 and the department’s best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage.

1. Hobby vineyards and orchards. Replanting of existing hobby vineyards and orchards where the hobby vineyard or orchard is less than one-half acre in size. This exemption

may only be used for one hobby vineyard or orchard per legal parcel. This exemption shall not apply where there is an existing commercial vineyard or orchard on the parcel.

2. Interplanting grapevines or orchard trees. Interplanting young grapevines or orchard trees among established grapevines or orchard trees where the existing vineyard or orchard infrastructure is kept intact.

3. Low-impact vineyard replanting. Low-impact vineyard replanting where authorized by a valid low-impact vineyard replanting registration.

4. Replacing grapevines or orchard trees. Replacing individual missing, dead, or diseased grapevines or orchard trees where less than one-half acre of contiguous grapevines or orchard trees is replaced and the existing vineyard or orchard infrastructure is kept intact.

Article 08. – Low-Impact Vineyard Replanting Registration.

Sec. 36.08.010. – Registration Requirements.

A low-impact vineyard replanting registration shall be required prior to commencing any low-impact vineyard replanting or related work, including preparatory land clearing, vegetation removal, or other ground disturbance. A separate low-impact vineyard replanting registration shall be required for each site.

Article 10. – Agricultural Grading Permits.

Sec. 36.10.010. – Permit Requirements.

A. Permit required. An agricultural grading permit shall be required prior to commencing any agricultural grading or related work, including preparatory land clearing, vegetation removal, or other ground disturbance, except where exempted from permit requirements by Subsection C. A separate agricultural grading permit shall be required for each site.

B. Designation and performance. Agricultural grading shall be designated “regular agricultural grading” or “engineered agricultural grading” in compliance with Table 36-3, and shall be performed as follows:

1. Regular agricultural grading. Regular agricultural grading shall be performed in compliance with approved plans and specifications prepared by the property owner, an authorized agent of the property owner, or a licensed professional acting within the scope of their license.

2. Engineered agricultural grading. Engineered agricultural grading shall be performed in compliance with approved plans and specifications prepared by a civil engineer.

Table 36-3 Agricultural Grading Designation

Parameter	Threshold	
	Regular Agricultural Grading	Engineered Agricultural Grading
Volume (cut or fill)	Does not exceed 5,000 cubic yards	Exceeds 5,000 cubic yards
Cut	No greater than 3 feet in depth and does not create a cut slope greater than 5 feet in height ¹	Greater than 3 feet in depth or creates a cut slope greater than 5 feet in height ¹
Fill	No greater than 3 feet in depth ¹	Greater than 3 feet in depth ¹
Fill inside the flood-prone urban area or special flood hazard areas	Does not exceed 50 cubic yards	Exceeds 50 cubic yards
Existing slope of grading area	No greater than 15 percent	Greater than 15 percent
Geologic Hazard Area Combining District	Grading area is not in the Geologic Hazard Area Combining District	Grading area is wholly or partially in the Geologic Hazard Area Combining District ²
Geologic hazards	Grading area contains no geologic hazards	Grading area contains geologic hazards ³

Notes:

1. The references to depths and heights for cuts and fills are between existing grade and proposed grade.
2. The engineered agricultural grading designation shall apply only to the portion of the grading area that is in the Geologic Hazard Area Combining District.
3. The engineered agricultural grading designation shall apply only to the portion of the grading area that is directly affected by the geologic hazards.

C. Exemptions from permit requirements. The following agricultural grading activities are exempt from the provisions of this section and may be conducted without obtaining an agricultural grading permit, provided that these activities shall still be subject to the standards in Article 20 and the department’s best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage.

1. Agricultural grading for new vineyard and orchard development or vineyard and orchard replanting. Agricultural grading for new vineyard and orchard development or vineyard

and orchard replanting where authorized by a valid new vineyard and orchard development or vineyard and orchard replanting permit.

2. Emergency agricultural grading. Agricultural grading necessary to protect life or property, or to implement erosion prevention or control measures, where a situation exists that requires immediate action. Only the work necessary to abate an imminent hazard may be performed prior to obtaining an agricultural grading permit. The person performing the emergency work or the property owner shall notify the agricultural commissioner and provide evidence acceptable to the agricultural commissioner of the scope and necessity of the work on or before the next business day after the onset of the emergency situation. The property owner, an authorized agent of the property owner, or other person with the written consent of the property owner shall apply for an agricultural grading permit within ten days after the commencement of the emergency work. The agricultural commissioner may order work to be stopped or restricted in scope based upon the nature of the emergency.

3. Environmental remediation. Agricultural grading for environmental remediation ordered or approved by a public agency exercising regulatory jurisdiction over a site contaminated with hazardous materials where the ground surface is restored to its previous topographic condition within 60 days after the completion of the work. The agricultural commissioner shall be notified in writing at least 30 days prior to the commencement of the work.

4. Exploratory excavations. Exploratory excavations to investigate subsurface conditions, affecting or disturbing an area of less than 10,000 square feet and involving the movement of less than 50 cubic yards, under the direction of a civil engineer, soils engineer, geotechnical engineer, professional geologist, or registered environmental health specialist, where the ground surface is restored to its previous topographic condition within 60 days after the completion of the work.

5. Minor cut. A cut that does not exceed 50 cubic yards, and:
- a. Is no greater than 3 feet in depth; or
 - b. Does not create a cut slope greater than 5 feet in height and greater than 2 feet horizontal to 1 foot vertical (50 percent).

6. Minor fill outside the flood-prone urban area and special flood hazard areas. A fill outside the flood-prone urban area and any special flood hazard area that does not exceed 50 cubic yards or alter or obstruct a watercourse or wetland, and is no greater than 3 feet in depth and not intended to support structures or surcharges. This exemption shall not apply to any fill that is engineered agricultural grading.

7. Resource conservation, restoration, or enhancement projects. Agricultural grading for soil, water, wildlife, or other resource conservation, restoration, or enhancement projects where a public agency takes full responsibility for the work. The agricultural

commissioner shall be notified in writing at least 30 days prior to the commencement of the work.

Article 12. – Agricultural Drainage Permits.

Sec. 36.12.010. – Permit Requirements.

A. Permit required. An agricultural drainage permit shall be required prior to commencing any agricultural drainage involving construction or modification of drainage facilities or related work, including preparatory land clearing, vegetation removal, or other ground disturbance, except where exempted from permit requirements by Subsection C. A separate agricultural drainage permit shall be required for each site.

B. Designation and performance. All agricultural drainage involving construction or modification of drainage facilities shall be designated “engineered agricultural drainage,” and shall be performed in compliance with approved plans and specifications prepared by a civil engineer.

C. Exemptions from permit requirements. The following agricultural drainage activities are exempt from the provisions of this section and may be conducted without obtaining an agricultural drainage permit, provided that these activities shall still be subject to the standards in Article 20 and the department’s best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage.

1. Drainage facilities for new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading. Construction or modification of drainage facilities for new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading where authorized by a valid new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading permit.

2. Emergency agricultural drainage. Construction or modification of drainage facilities necessary to protect life or property, or to implement erosion prevention or control measures, where a situation exists that requires immediate action. Only the work necessary to abate an imminent hazard may be performed prior to obtaining an agricultural drainage permit. The person performing the emergency work or the property owner shall notify the agricultural commissioner and provide evidence acceptable to the agricultural commissioner of the scope and necessity of the work on or before the next business day after the onset of the emergency situation. The property owner, an authorized agent of the property owner, or other person with the written consent of the property owner shall apply for an agricultural drainage permit within ten days after the commencement of the emergency work. The agricultural commissioner may order work to be stopped or restricted in scope based upon the nature of the emergency.

3. Existing private drainage facilities. Maintenance, repair, or replacement of existing, lawfully constructed private drainage facilities where the location and design capacity

are not changed. The agricultural commissioner shall be notified in writing at least 30 days prior to the commencement of the work.

4. Minor pipe and vee-ditch swale systems. Construction or modification of pipe and vee-ditch swale systems that meet all of the following criteria:

- a. The drainage area is less than one-half acre for a smooth-walled pipe or vee-ditch swale system, or less than one-quarter acre for a corrugated pipe system.
- b. The pipe or vee-ditch swale system is not in the flood-prone urban area.
- c. The pipe system is a single run, with a minimum diameter of 8 inches and installed slopes between 2 percent and 4 percent, or the vee-ditch swale system is lined with grass or rock, with side slopes no greater than 2 feet horizontal to 1 foot vertical (50 percent), maximum depth of 9 inches, and installed slopes between 2 percent and 4 percent.

5. Resource conservation, restoration, or enhancement projects. Construction or modification of drainage facilities for soil, water, wildlife, or other resource conservation, restoration, or enhancement projects where a public agency takes full responsibility for the work. The agricultural commissioner shall be notified in writing at least 30 days prior to the commencement of the work.

6. Seasonal drainage swales. Construction or modification of seasonal drainage swales that meet all of the following criteria:

- a. The flowline slope of the drainage swale does not exceed 4 percent.
- b. The drainage swale does not exceed 150 feet in length.
- c. The drainage swale is lined with grass, with side slopes no greater than 2 feet horizontal to 1 foot vertical (50 percent), and maximum depth of 9 inches.
- d. The outlet for the drainage swale is protected to prevent erosion.

Article 14. – Permit and Registration Application Filing and Processing.

Sec. 36.14.010. – Purpose.

This article provides procedures and requirements for the preparation, filing, and initial processing of the permit and registration applications required by this chapter.

Sec. 36.14.020. - Authority for Permit and Registration Decisions.

The agricultural commissioner shall be responsible for reviewing and making decisions on each type of permit and registration application required by this chapter.

Sec. 36.14.030. – Permit and Registration Application Preparation and Filing.

A. Pre-application contact. A prospective applicant is encouraged to contact the agricultural commissioner before completing and filing a permit or registration application to determine the information and materials required for application filing. The provision of information by the agricultural commissioner shall not be construed as a recommendation for either approval or disapproval of an application. Any failure by the agricultural commissioner to identify all required information and materials shall not constitute a waiver of those requirements.

B. Permit and registration application contents. Permit and registration applications shall be filed with the department on a county application form. Each permit or registration application shall include all required fees and deposits, all plans and specifications, maps, reports, and other information and materials required by the department’s list of required application contents for the specific type of permit or registration application, and any other plans and specifications, maps, reports, and other information and materials the agricultural commissioner deems necessary to verify compliance with this chapter.

C. Eligibility for filing or withdrawing. A permit or registration application may only be filed or withdrawn by the property owner, an authorized agent of the property owner, or other person with the written consent of the property owner.

D. Request for relief from standards. A permit application may include a request for relief from the standards in Article 20. The request shall state in writing each standard proposed to be varied, the proposed substitute measure, when it would apply, and its advantages. The agricultural commissioner may require additional information to evaluate the requested relief.

Sec. 36.14.040. - Application Fees.

A. Fee schedule. The board of supervisors shall establish a schedule of fees for the processing of permit and registration applications required by this chapter.

B. Refunds and withdrawals. The required application fees cover county costs for staff time and the other activities involved in processing permit and registration applications. Therefore, no refund due to disapproval or expiration shall be allowed. In the case of a withdrawal, the agricultural commissioner may refund up to 90 percent of the application fee prior to the commencement of application review.

Sec. 36.14.050. - Indemnification.

A. Applicant agreement. At the time of submitting a discretionary permit application, the applicant shall agree, as part of the permit application, to defend (with legal counsel of the county's selection), indemnify, and hold harmless the county and its agents, officers, attorneys, and employees, from any claim, action, or proceeding brought against the county or its agents, officers, attorneys, or employees to attack, set aside, void, or annul, an approval of the county concerning the permit application, which action is brought within the applicable statute of limitations. The required indemnification shall include damages awarded against the county, if any, costs of suit, attorneys' fees, and other costs and expenses incurred in connection with the action.

B. County notification of applicant. In the event that a claim, action, or proceeding referred to in Subsection A is brought, the county shall promptly notify the applicant of the existence of the claim, action, or proceeding and shall cooperate fully in the defense of the claim, action, or proceeding.

Sec. 36.14.060. - Initial Permit and Registration Application Review.

The agricultural commissioner shall review each permit or registration application for completeness and accuracy before it is accepted as complete and officially filed. The agricultural commissioner's determination of completeness shall be based on the department's list of required application contents and any additional instructions provided to the applicant in any pre-application contact, and/or during the initial review period. No permit or registration application shall be deemed complete, and processing shall not commence on any permit or registration application, until all required fees and deposits have been paid, and all required plans and specifications, maps, reports, and other information and materials have been submitted to the agricultural commissioner and reviewed to determine compliance with this chapter, including peer review where necessary to determine compliance with this chapter.

A. Notification of applicant when permit or registration application is incomplete. The agricultural commissioner shall inform the applicant in writing within 30 days of filing when a permit or registration application is incomplete. The letter shall specify the additional information required to make the permit or registration application complete.

B. Withdrawal of application. If an applicant fails to provide the additional information specified in the agricultural commissioner's letter providing notice of an incomplete permit application within 120 days following the date of the letter, the permit or registration application shall be deemed withdrawn without any further action by the agricultural commissioner. The agricultural commissioner may grant one 90-day extension, if the applicant files a written request with the agricultural commissioner before expiration of the original 120-day period. After the withdrawal of a permit or registration application, future consideration by the agricultural commissioner shall require the submittal of a new permit or registration application and associated fees.

Sec. 36.14.070. - Environmental Review.

After a permit application has been accepted as complete, if the permit application is a discretionary permit application, the proposed activity shall be reviewed as required by the California Environmental Quality Act and the State CEQA Guidelines to determine the level of environmental processing required.

Sec. 36.14.080. - Expiration of Permit and Registration Applications.

If a permit or registration is not issued within one year following the filing of a permit or registration application, the permit or registration application shall expire and be deemed withdrawn, without any further action by the agricultural commissioner. The agricultural commissioner may grant one 180-day extension for a permit application, if the applicant files a written request with the agricultural commissioner before expiration of the original one-year period and shows that the extension is warranted due to a lawsuit, staff error, or other circumstances beyond the control of the applicant. After the expiration of a permit or registration application, future consideration by the agricultural commissioner shall require submittal of a new permit or registration application and associated fees. Where a new permit application is filed within 180 days following the expiration of the original permit application, the applicant may resubmit the original plans and specifications and the new permit application shall be processed based on the provisions of this chapter in effect at the time the expired permit application was initially submitted. No expired permit application shall be renewed in this fashion more than once.

Article 16. – Permit and Registration Review Procedures.

Sec. 36.16.010. – Purpose.

This article provides procedures for the final review and approval or disapproval of the permit and registration applications required by this chapter.

Sec. 36.16.020. – Permit Approval and Issuance.

The approval of a permit application and issuance of a new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit by the agricultural commissioner shall occur as follows:

A. Criteria for approval. The agricultural commissioner may approve a permit application and issue a new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit when the following requirements are satisfied:

1. Ministerial permit application. A ministerial permit application shall be approved and a ministerial new vineyard and orchard development, vineyard and orchard

replanting, or agricultural grading or drainage permit issued when the agricultural commissioner determines that the proposed new vineyard or orchard development, vineyard or orchard replanting, or agricultural grading or drainage complies with all applicable requirements of this chapter, all other applicable requirements of this code, and the requirements of any applicable county land use approvals.

2. Discretionary permit application. A discretionary permit application may be approved and a discretionary new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit issued when the agricultural commissioner determines that:

a. There are special circumstances or conditions affecting the site that make the strict application of the standards in Article 20 impractical;

b. The requested relief from the standards in Article 20 is consistent with the purpose of this chapter and does not diminish the health, safety, and environmental protection benefits that would be obtained from the strict application of the standards in Article 20;

c. The proposed new vineyard or orchard development, vineyard or orchard replanting, or agricultural grading or drainage complies with all applicable requirements of this chapter, except for those modified by the permit, all other applicable requirements of this code, and the requirements of any applicable county land use approvals.

B. Permit conditions. In approving a discretionary permit application, the agricultural commissioner may impose any conditions deemed reasonable and necessary to protect the public health, safety, and welfare; prevent adverse environmental impacts or the creation of hazards to property; and ensure proper completion of the work.

C. Permit holder. A new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit shall be issued to the property owner.

D. Effect of permit and approved plans and specifications.

1. Compliance with plans and specifications required. All work for which a new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit is issued shall be done in compliance with the approved plans and specifications and the recommendations of required reports. The approved plans and specifications shall not be changed without the written approval of the agricultural commissioner.

2. Modifications. Proposed modifications to the approved plans and specifications shall be submitted to the agricultural commissioner in writing, together with all necessary technical information and design details. A proposed modification shall be approved only if the agricultural commissioner determines that the modification complies with all

applicable requirements of this chapter, all other applicable requirements of this code, and the requirements of any applicable county land use approvals.

E. Distribution and use of approved plans and specifications. The agricultural commissioner shall retain one or more sets of approved and dated plans and specifications for inspection and record keeping. Two sets of approved and dated plans and specifications shall be provided to the permittee. The permittee shall maintain one set of approved and dated plans and specifications and the permit on the site at all times during the work.

Sec. 36.16.030. – Registration Approval and Issuance.

A. Criteria for approval. The agricultural commissioner shall approve a registration application and issue a low-impact vineyard replanting registration when the agricultural commissioner determines that the proposed low-impact vineyard replanting complies with all applicable requirements of this chapter, all other applicable requirements of this code, and the requirements of any applicable county land use approvals.

B. Registration holder. A low-impact vineyard replanting registration shall be issued to the property owner.

Article 18. – Permit and Registration Implementation, Time Limits, and Extensions.

Sec. 36.18.010. – Purpose.

This article provides requirements for the implementation of the permits and registrations required by this chapter, including time limits and procedures for granting extensions of time.

Sec. 36.18.020. - Effective Date of Permits and Registrations.

A. Ministerial permit. A ministerial new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit shall become effective on the date of ministerial permit application approval.

B. Discretionary permit. A discretionary new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit shall become effective on the 11th day following the date of discretionary permit application approval, provided that no appeal has been filed or direct review requested in compliance with Article 24.

C. Registration. A low-impact vineyard replanting registration shall become effective on the date of registration application approval.

Sec. 36.18.030. - Time Limits and Extensions.

A. Time limits.

1. New vineyard and orchard development permits. New vineyard and orchard development permits shall expire five years from the effective date of the permit, unless an extension has been granted in writing in compliance with Subsection B. All work for which a new vineyard and orchard development permit is issued shall be completed and finalized prior to expiration of the permit or any extension granted pursuant to Subsection B.

2. Vineyard and orchard replanting permits. Vineyard and orchard replanting permits shall expire five years from the effective date of the permit, unless an extension has been granted in writing in compliance with Subsection B. All work for which a vineyard and orchard replanting permit is issued shall be completed and finalized prior to expiration of the permit or any extension granted pursuant to Subsection B.

3. Low-impact vineyard replanting registrations. Low-impact vineyard replanting registrations shall expire one year from the effective date of the registration. All work for which a low-impact vineyard replanting registration is issued shall be completed and finalized prior to expiration of the registration.

4. Agricultural grading permits. Agricultural grading permits shall expire five years from the effective date of the permit, unless an extension has been granted in writing in compliance with Subsection B, provided that the agricultural commissioner may limit an agricultural grading permit to a lesser time period where the permit is required to abate dangerous or hazardous conditions. All work for which an agricultural grading permit is issued shall be completed and finalized prior to expiration of the permit or any extension granted pursuant to Subsection B.

5. Agricultural drainage permits. Agricultural drainage permits shall expire five years from the effective date of the permit, unless an extension has been granted in writing in compliance with Subsection B, provided that the agricultural commissioner may limit an agricultural drainage permit to a lesser time period where the permit is required to abate dangerous or hazardous conditions. All work for which an agricultural drainage permit is issued shall be completed and finalized prior to expiration of the permit or any extension granted pursuant to Subsection B.

B. Extensions of time. Any permittee holding an unexpired new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit may apply for an extension of the time within which the work for which the permit is issued must be completed and finalized. The agricultural commissioner may extend the expiration date of the permit for a period not exceeding 180 days, where the permittee has requested the extension in writing prior to the expiration of the permit and shown that a lawsuit, staff error, or other circumstances beyond the control of the permittee have prevented the work from being started or completed. No permit shall be extended more than once.

C. Tolling of time. Any permittee holding an unexpired new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit may request a tolling of the time within which the work for which the permit is issued must be completed and finalized, where a lawsuit is brought in a court of competent jurisdiction involving the approval of the permit. Upon receipt of a request, the agricultural commissioner shall grant a stay for the period during which the litigation is pending, subject to the following limitations:

1. The stay may not be granted until the county is served with the initial petition or complaint. If the county is not a party to the litigation, the county must be served with a courtesy copy of the initial pleading.
2. The stay may only be granted where the litigation is brought by opponents of the work to attack or overturn the approval.

D. Effect of expiration.

1. Permit. After the expiration of a new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit, no further work shall be done on the site until a new permit is obtained. The new permit shall be subject to the following requirements:
 - a. A new permit issued to recommence work started under an expired permit shall be based on the provisions of this chapter in effect at the time the expired permit was issued. No expired permit shall be renewed in this fashion more than once.
 - b. A new permit issued to commence work under an expired permit shall be based on the provisions of this chapter in effect at the time the new permit application is submitted.
2. Registration. After the expiration of a low-impact vineyard replanting registration, no further work shall be done on the site until a new registration is obtained. The new registration shall be based on the provisions of this chapter in effect at the time the new registration application is submitted.

Sec. 36.18.040. - Performance of Work.

All work for which a new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit, or low-impact vineyard replanting registration, is required shall be subject to the following requirements.

A. Pre-construction consultation. The permittee or registrant and the agricultural commissioner shall have a pre-construction consultation prior to the commencement of the work.

B. Responsibility for the work.

1. Permittee. The permittee shall be responsible for ensuring that the work is performed in compliance with the approved plans and specifications.
2. Registrant. The registrant shall be responsible for ensuring that the work is performed in compliance with the standards in Article 20.

C. Notification of change in ownership. The permittee or registrant shall notify the agricultural commissioner of any change in ownership of the site prior to completion of the work.

D. Inspection. The work shall be subject to inspection as required by the agricultural commissioner. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or other provisions of this code. Inspections presuming to give authority to violate or cancel the provisions of this chapter or other provisions of this code shall not be valid.

1. Site access. The permittee or registrant shall provide adequate access to the site for inspection by inspectors designated by the agricultural commissioner during the performance of all work and for a minimum of three years after final inspection.
2. Special inspections and certifications. The agricultural commissioner may require special inspections and certifications to verify proper completion of the work.
 - a. Type of inspections and certifications. Special inspections and certifications may include requiring: the permittee to provide a civil engineer, soils engineer, geotechnical engineer, professional biologist, professional forester, professional geologist, or other consultants to perform inspections of work in progress and to certify the proper completion of work; inspection and testing by an approved testing agency; or the submittal of periodic progress reports.
 - b. Notification of noncompliance. Where the use of a civil engineer, soils engineer, geotechnical engineer, professional biologist, professional forester, professional geologist, or other consultant is required, these personnel shall immediately report in writing to the agricultural commissioner and the permittee any instance of work not being done in compliance with this chapter, other applicable provisions of this code, the department's best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage, the approved plans and specifications, and shall also provide recommendations for corrective measures, if determined by the consultant to be necessary.
 - c. Transfer of responsibility for approval. If a required civil engineer, soils engineer, geotechnical engineer, professional biologist, professional forester, professional geologist, or other consultant is changed during the course of the

work, the work shall be stopped until the permittee notifies the agricultural commissioner in writing of the change and the new consultant notifies the agricultural commissioner in writing of their agreement to accept responsibility for approval of the completed work within the area of their technical competence.

E. Field changes. After permit issuance, no change to the approved work shall occur without the prior written approval of the agricultural commissioner. If the agricultural commissioner determines that the changes are minor, the changes shall be shown on the as-built plans. If the agricultural commissioner determines that the changes are significant, a request for a modification to the approved plans and specifications shall be filed as provided in Section 36.16.020.D.2.

F. Protection of utilities. As required by Government Code section 4216.2, the permittee or registrant shall contact the Underground Service Alert (USA) prior to starting any excavation that will be conducted in an area that is known, or reasonably should be known, to contain subsurface utility installations. Contact shall occur at least two working days, but not more than fourteen calendar days, before the excavation starts. If practical, the excavator shall delineate with white paint or other suitable markings the area to be excavated.

G. Stop work orders. The agricultural commissioner may order that any work performed contrary to the requirements of this chapter, other applicable requirements of this code, the approved plans and specifications, or any permit conditions, or any work that has otherwise become hazardous to property or the public, be immediately stopped. It shall be unlawful and a violation of this chapter for any person to resume work that was ordered to be stopped by the agricultural commissioner, unless the agricultural commissioner has required and the permittee or registrant has agreed to any necessary corrective measures, and the agricultural commissioner has authorized resumption of the work in writing. A violation of a stop work order shall be punishable in compliance with Section 36.28.070.B.

Sec. 36.18.050. - Completion of Work.

A. Final reports. Upon final completion of all work for which a new vineyard and orchard development, vineyard and orchard replanting, or agricultural grading or drainage permit is required, the agricultural commissioner may require the following plans and reports, supplements thereto, or other documentation, prepared by the appropriate professionals in the format required by the agricultural commissioner. The agricultural commissioner may also require such plans and reports at other stages of the work.

1. As-built plans. A set of as-built plans including original and finished contours at intervals acceptable to the agricultural commissioner, parcel drainage patterns with directional arrows, and locations and elevations of all surface and subsurface drainage facilities.

2. Testing records. A complete record of all field and laboratory tests, including the location and elevation of all field tests.

3. Declarations about completed work. Declarations by any civil engineer, soils engineer, geotechnical engineer, professional biologist, professional forester, professional geologist, or other consultant required by the agricultural commissioner pursuant to Section 36.18.040.D.2, that all work was done in compliance with the approved plans and specifications and the recommendations of required reports.

B. Final inspection.

1. Permit. No permittee shall be deemed to have complied with the provisions of this chapter until a final inspection of the work has been completed and approved by the agricultural commissioner. The permittee shall notify the agricultural commissioner when the work is ready for final inspection. Final approval shall not be given until all work has been completed in compliance with the approved plans and specifications, and all reports required by Subsection A have been submitted and accepted.

2. Registration. No registrant shall be deemed to have complied with the provisions of this chapter until a final inspection of the work has been completed and approved by the agricultural commissioner. The registrant shall notify the agricultural commissioner when the work is ready for final inspection. Final approval shall not be given until all work has been completed in compliance with the standards in Article 20.

Article 20. - Standards.

Sec. 36.20.010. - Purpose.

This article provides ministerial standards for the proper conduct of new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage. All new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall comply with the requirements of this article, regardless of whether a permit is required by this chapter.

Sec. 36.20.020. – Agricultural Grading.

Agricultural grading shall be designed and constructed in compliance with the following requirements.

A. General.

1. Areas of agricultural grading. Agricultural grading shall be limited to the grading area identified and delineated on the approved plans and specifications.

2. Final contours. Contours, elevations, and shapes of finished surfaces shall be blended with adjacent natural terrain to achieve a consistent grade and natural

appearance. Borders of cut slopes and fills shall be rounded off to a minimum radius of 5 feet to blend with the natural terrain.

3. MS4 permit. Where agricultural grading is within an MS4 permit boundary, the agricultural grading shall comply with the applicable standards and provisions of the MS4 permit.

B. Cuts.

1. Slope. The slope of cut surfaces shall be no greater than 2 feet horizontal to 1 foot vertical (50 percent), unless a soils report justifies a greater slope.

2. Terracing and drainage. Terracing and drainage of cuts shall be provided as required by Subsection D.

C. Fills.

1. Fill location. Fill shall not be placed on existing slopes greater than 2 feet horizontal to 1 foot vertical (50 percent).

2. Surface preparation. Ground surfaces shall be prepared to receive fill by removing vegetation, topsoil, and other unsuitable materials, and scarifying the ground to provide a bond with the fill material.

3. Benching. Benching into sound bedrock or other competent material, as determined by a civil engineer, shall be required where existing grade is at a slope greater than 5 feet horizontal to 1 foot vertical (20 percent) and the depth of the fill exceeds 5 feet. Benching shall be provided in accordance with Figure 36-1, subject also to the following requirements:

a. A key at least 10 feet in width and 2 feet in depth shall be installed.

b. The key shall be installed at least 1 foot into sound bedrock or other competent material.

c. The area beyond the toe of the fill shall be sloped for sheet overflow or a non-erosive drain shall be provided.

d. Cuts for benching and keys shall be accepted by a soils engineer as a suitable foundation for fill prior to the placement of the fill material.

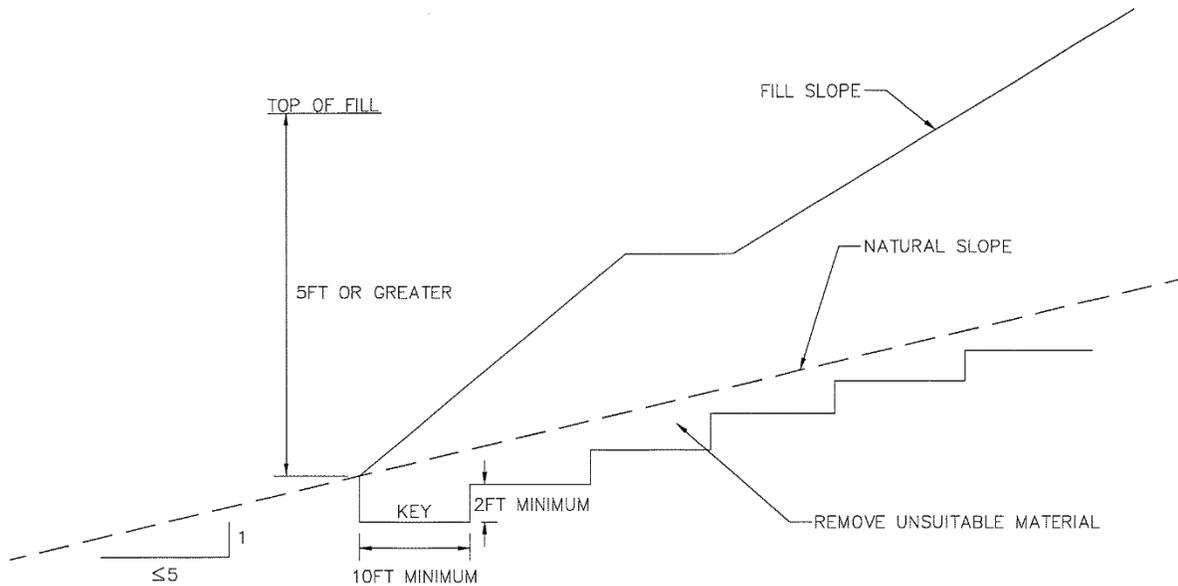


Figure 36-1 Benching Details

4. Fill material. Fill material shall not include organic, frozen, or other deleterious materials. No rock or similar irreducible material greater than 6 inches in any dimension shall be included in fills, except where a soils engineer devises a method of placement of larger rock, continuously inspects its placement, and approves fill stability, subject also to the following requirements:

- a. Potential rock disposal areas shall be shown on the plans and specifications.
- b. Rocks shall be placed so as to assure filling of all voids with well-graded soil.

5. Fill placement. Fills shall be constructed in lifts not exceeding 8 inches in depth. Completed fills shall be stable, well-integrated, and bonded to adjacent materials and the materials on which they rest. Fills shall be competent to support anticipated loads and be stable at the design slopes shown on the approved plans and specifications.

6. Compaction.

- a. Fills below 30 inches from finished grade shall be compacted to a minimum of 90 percent of maximum dry density, as determined by ASTM D 1557, Modified Proctor, or as specified by a soils engineer.
- b. Fills at or above 30 inches from finished grade shall be compacted to a minimum density necessary for the intended use or as specified by a soils engineer.

7. Slope. The slope of fill surfaces shall be no greater than 2 feet horizontal to 1 foot vertical (50 percent), unless a soils report justifies a greater slope.

8. No net fill in flood-prone urban area or special flood hazard areas. No fill shall be placed in the flood-prone urban area or any special flood hazard area, unless prior to permit issuance an analysis comparing the pre-development and proposed post-development site topography demonstrates that no reduction in flood storage capacity in the special flood hazard area will result from the fill placement and related improvements, and prior to the permit being finalized an analysis comparing the pre-development and as-built topography confirms that no reduction in flood storage capacity in the special flood hazard area has resulted from the fill placement and related improvements.

9. Terracing and drainage. Terracing and drainage of fills shall be provided as required by Subsection D.

D. Terracing and drainage of cuts and fills. Terracing and drainage of cuts and fills shall be designed and constructed to ensure the integrity of the cuts and fills. Unless otherwise justified by a soils report, terracing and drainage of cuts and fills with surface slopes greater than 3 feet horizontal to 1 foot vertical (33 percent) shall comply with the following requirements. Additional requirements applicable to the provision of drainage facilities and systems are established by Section 36.20.030.B.

1. Terraces. Terraces shall be established on cut and fill slopes to control surface drainage and debris. Suitable access shall be provided to permit proper cleaning and maintenance of terraces.

a. For cut and fill slopes up to 30 feet in vertical height, terraces need not be provided.

b. For cut and fill slopes greater than 30 feet and up to 60 feet in vertical height, one terrace at least 6 feet in width shall be established at mid-height.

c. For cut and fill slopes greater than 60 feet and up to 120 feet in vertical height, terraces at least 6 feet in width shall be established at not more than 30-foot intervals or one terrace at least 12 feet in width shall be established at mid-height.

d. For cut and fill slopes greater than 120 feet in vertical height, terrace widths and spacing shall be designed by a civil engineer.

2. Terrace drainage.

a. Swales or ditches. Swales or ditches shall be provided on terraces, and shall:

- (1) Have a minimum gradient of 20 feet horizontal to 1 foot vertical (5 percent);
- (2) Be paved with reinforced concrete not less than three inches in thickness, or with other materials suitable to the application; and
- (3) Have a minimum depth of 1 foot and a minimum width of 5 feet.

b. Limitation on single run of swale or ditch. A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a down drain.

3. Subsurface drainage. Cut and fill slopes shall be provided with subsurface drainage as necessary for stability.

4. Surface interceptor drains. Surface interceptor drains shall be installed along the top of all cut and fill slopes receiving drainage from a tributary width greater than 40 feet, measured horizontally upslope. The drains shall be paved with reinforced concrete not less than three inches in thickness, or with other materials suitable to the application. The drains shall be designed in compliance with the Flood Control Design Criteria Manual, or superseding document, for the 100-year design discharge. This surface interceptor drains requirement shall not apply to outslope constructed roadways designed to prevent the concentration of stormwater runoff, provided that the stability of the cut and fill slope is maintained.

E. Setbacks. Cut and fill slopes shall be set back from property lines in compliance with the following requirements. Setback dimensions shall be measured perpendicular to the property line and shall be as shown in Figure 36-2.

1. Top of slope. The setback at the top of a slope shall be not be less than that shown in Figure 36-2, or than is required to accommodate any required surface interceptor drains, whichever is greater.

2. Toe of slope. The setback at the toe of a slope shall not be less than that shown in Figure 36-2.

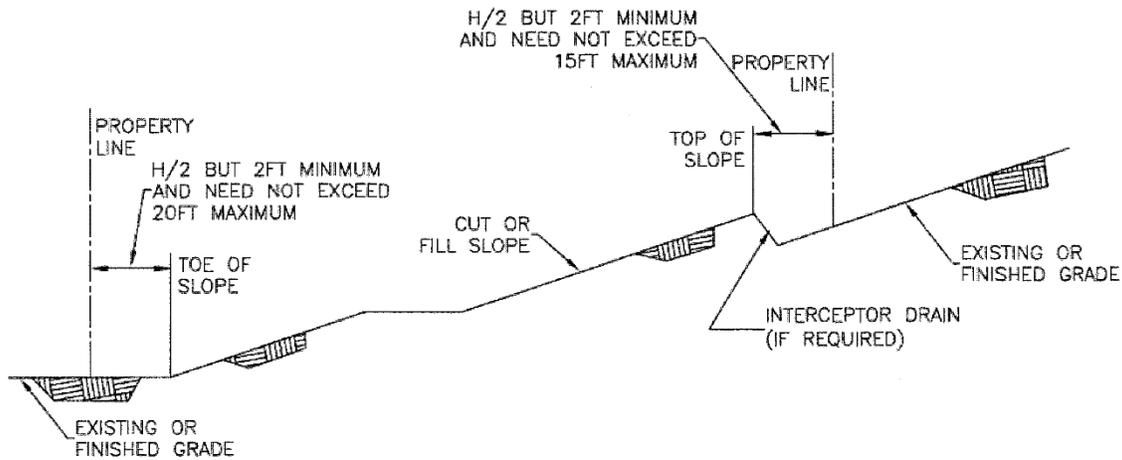


Figure 36-2 Cut and Fill Slope Setback Requirements

F. Protection of footings, buildings, and structures. Footings that may be affected by any excavation shall be underpinned or otherwise protected against settlement and shall be protected against lateral movement. Fills or other surcharge loads shall not be placed adjacent to any building or structure unless the building or structure is capable of withstanding the additional loads caused by the fill or surcharge. The rights of adjacent affected property owners shall be as set forth in Civil Code section 832.

Sec. 36.20.030. - Drainage.

A. Drainage patterns and runoff. New vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall be designed and constructed to maintain natural and existing drainage patterns. Post-development stormwater runoff shall be limited in compliance with the department's best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage.

B. Design and construction of drainage facilities and systems.

1. Drainage facilities and systems shall be designed and constructed in compliance with the Flood Management Design Manual, or superseding document, and the department's best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage for no less than the 25-year design discharge.

2. Drainage facilities required for cuts and fills are also subject to Section 36.20.020.D.

C. Disposal of stormwater runoff. Drainage facilities and systems shall convey stormwater runoff to disposal locations that maximize infiltration and minimize erosion, and shall dissipate

the energy or diffuse the flow prior to releasing the stormwater runoff to any setback area or off the site.

D. Limit erosion. Drainage facilities and systems shall limit erosion in compliance with the department's best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage.

Sec. 36.20.040. - Protection of Human Remains and Archaeological Resources.

Where human remains or archaeological resources are discovered during new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage, all work shall be halted in the vicinity of the find, the agricultural commissioner shall be notified, and the following shall occur before work may be resumed:

A. Human remains. If human remains or suspected human remains are discovered, the permittee shall notify the county coroner and comply with all state law requirements, including Health and Safety Code section 7050.5 and Public Resources Code section 5097.98, to ensure proper disposition of the human remains or suspected human remains, including those identified to be Native American remains.

B. Archaeological resources. If archaeological resources or suspected archaeological resources are discovered, the agricultural commissioner shall notify the State Historic Preservation Officer and the Northwest Information Center at Sonoma State University, and the permittee shall retain a qualified archeologist to evaluate the find to ensure proper disposition of the archaeological resources or suspected archaeological resources. All costs associated with the evaluation and mitigation of the find shall be the responsibility of the permittee. The agricultural commissioner shall provide notice of the find to any tribes that have been identified as having cultural ties and affiliation with the geographic area in which the archaeological resources or suspected archaeological resources were discovered, if the tribe or tribes have requested notice and provided a contact person and current address to which the notice is to be sent. The agricultural commissioner may consult with and solicit comments from notified tribes to aid in the evaluation, protection, and proper disposition of the archaeological resources or suspected archaeological resources. The need for confidentiality of information concerning the archaeological resources or suspected archaeological resources shall be recognized by all parties. For the purposes of this section, archaeological resources include historic or prehistoric ruins, burial grounds, pottery, arrowheads, midden, or culturally modified soil deposits. Artifacts associated with prehistoric ruins include humanly modified stone, shell, bone, or other cultural materials such as charcoal, ash, and burned rock indicative of food procurement or processing activities. Prehistoric domestic features include hearths, fire pits, or floor depressions; mortuary features are typically represented by human skeletal remains.

Sec. 36.20.050. - Protection of Listed Species.

New vineyard and orchard development and vineyard and orchard replanting shall be designed and constructed to avoid the take of any listed species, unless all necessary state and federal permits, approvals, or authorizations to incidentally take listed species have been obtained.

Sec. 36.20.060. - Removal of Trees and Other Vegetation.

New vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall not remove or disturb trees and other vegetation except in compliance with the department's best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage and the approved plans and specifications. New vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall be conducted in compliance with the following requirements.

A. The limits of the development area shall be clearly identified and delineated on the approved plans and specifications, and defined and marked in the field to prevent damage to surrounding trees and other vegetation.

B. Trees and other vegetation within the limits of the development area that are to be retained shall be identified and protected from damage by marking, fencing, or other measures.

Sec. 36.20.070. – Road Networks.

Agricultural road networks for new vineyard and orchard development and vineyard and orchard replanting shall be designed and constructed or modified in compliance with the department's best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage.

Sec. 36.20.080. - Setbacks for Areas of Slope Instability.

Development areas for new vineyard and orchard development and deep ripping for vineyard and orchard replanting shall be set back from areas of slope instability in compliance with the requirements in Table 36-4, unless the area of slope instability is repaired in compliance with this chapter or a geologic report determines that the area of slope instability is suitable for planting or replanting.

Table 36-4 – Area of Slope Instability Setback Requirements

Location	Setback for Development Areas for New Vineyard and Orchard Development	Setback for Deep Ripping for Vineyard and Orchard Replanting
Below and lateral to the area of slope instability	50 feet from the area of slope instability, unless a geologic report recommends a lesser or greater setback	50 feet from the area of slope instability, unless a geologic report recommends a lesser or greater setback
Above the area of slope instability	100 feet from the area of slope instability, unless a geologic report recommends a lesser or greater setback	100 feet from the area of slope instability, unless a geologic report recommends a lesser or greater setback

Sec. 36.20.090. – Setbacks for Lakes, Ponds, and Reservoirs.

Development areas for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading shall be set back from lakes ponds, and reservoirs in compliance with the requirements in Table 36-5, unless a greater setback is required by the general plan, local coastal program, or zoning code.

Table 36-5 – Lake, Pond, and Reservoir Setback Requirements

Type of Waterbody	Setback for Development Areas for New Vineyard and Orchard Development	Setback for Development Areas for Vineyard and Orchard Replanting	Setback for Development Areas for Agricultural Grading
Lake	50 feet from the high water mark, unless a biotic resource assessment recommends a greater setback	Existing setback from the high water mark or 25 feet from the high water mark, whichever is greater, unless a focused species assessment recommends a greater setback	50 Feet from the high water mark

Type of Waterbody	Setback for Development Areas for New Vineyard and Orchard Development	Setback for Development Areas for Vineyard and Orchard Replanting	Setback for Development Areas for Agricultural Grading
Pond	50 feet from the high water mark, unless a biotic resource assessment recommends a greater setback	Existing setback from the high water mark or 25 feet from the high water mark, whichever is greater, unless a focused species assessment recommends a greater setback	50 Feet from the high water mark
Reservoir	25 feet from the high water mark, unless a civil engineer recommends a lesser or greater setback	25 feet from the high water mark, unless a civil engineer recommends a lesser or greater setback	50 Feet from the high water mark

Sec. 36.20.100. - Setback for Ridgetops

Where tree removal is involved, development areas for new vineyard and orchard development on ridgetops shall be set back 50 feet from the delineated slope break of descending existing slopes greater than 50 percent for more than 50 feet in slope length.

Sec. 36.20.110. - Setbacks for Streams.

Development areas for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall be set back from streams in compliance with the requirements in Table 36-6, unless a greater setback is required by the general plan, local coastal program, or zoning code.

Table 36-6 - Stream Setback Requirements

Type of Stream	Setback for Development Areas for New Vineyard and Orchard Development	Setback for Development Areas for Vineyard and Orchard Replanting	Setback for Development Areas for Agricultural Grading and Drainage
Streams designated as Riparian Corridors in the zoning code	Setback for agricultural cultivation required by the zoning code	Existing setback from the top of the higher bank or 25 feet from the top of the higher bank, whichever is greater, unless a focused species assessment recommends a greater setback	Setback for agricultural cultivation required by the zoning code
All other Streams	25 feet from the top of the higher bank, unless a biotic resource assessment recommends a greater setback	25 feet from the top of the higher bank, unless a focused species assessment recommends a greater setback	25 feet from the top of the higher bank

Sec. 36.20.120. - Setbacks for Wetlands.

Development areas for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall be set back from wetlands in compliance with the requirements in Table 36-7, unless:

- A. A greater setback is required by the general plan, local coastal program, or zoning code;
- B. All necessary state and federal permits, approvals, or authorizations to fill the wetlands have been obtained; or
- C. The filling of the wetlands is exempt from state and federal permits, approvals, or authorizations.

Table 36-7 - Wetland Setback Requirements

Type of Wetland	Setback for Development Areas for New Vineyard and Orchard Development, Vineyard and Orchard Replanting, and Agricultural Grading and Drainage
Wetlands designated as Biotic Habitat Areas in the general plan	100 feet from the wetland
All other wetlands	50 feet from the wetland, unless a wetlands report recommends a lesser or greater setback

Sec. 36.20.130. - Soil and Other Pollutant Discharges.

A. During the work. New vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall prevent or control soil and other pollutant discharges during the work through the use of best management practices referenced or detailed in the department’s best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage.

B. During qualifying rain events. New vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall prevent or control soil and other pollutant discharges during qualifying rain events by implementing erosion prevention or control measures referenced or detailed in the department’s best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage at least 48 hours prior to any qualifying rain event, unless the site has been winterized pursuant to Section 36.20.150.

C. Post-development. New vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall be designed to limit post-development soil and other pollutant discharges in compliance with the department’s best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage.

Sec. 36.20.140. - Work During the Rainy Season.

New vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage shall only be permitted during the rainy season in compliance with the requirements in Table 36-8 when on-site soil conditions permit the work to be performed in compliance with this article and the department’s best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage, and sufficient materials are available on-site to implement the erosion prevention or

control measures required by Section 36.20.130.B, if necessary. This section and the requirements in Table 36-8 shall not apply to emergency work to protect life or property, or to implement erosion prevention or control measures.

Table 36-8 – Rainy Season Work Requirements

Type of Activity	Permitted Work Period(s)	Prohibited Work Period
Initial planting work for new vineyard and orchard development	October 1 to October 15 ¹ and April 1 to April 30	October 16 to March 31 ²
Final planting work for new vineyard and orchard development	October 1 to April 30	Not Applicable
Initial replanting work for vineyard and orchard replanting	October 1 to November 15 and April 1 to April 30	November 16 to March 31
Final replanting work for vineyard and orchard replanting	October 1 to April 30	Not Applicable
Agricultural grading and drainage	October 1 to October 15 and April 1 to April 30	October 16 to March 31

Notes:

1. The agricultural commissioner may extend the end date of the permitted work period to no later than October 31 based on precipitation forecast information from the National Weather Service or other good cause.
2. The agricultural commissioner may delay the start date of the prohibited work period to no later than November 1 based on precipitation forecast information from the National Weather Service or other good cause.

Sec. 36.20.150. – Winterization of Sites.

A. Winterization requirements. New vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage sites shall be winterized each year until all work has been completed in compliance with the department’s best management practices for new vineyard and orchard development, vineyard and orchard replanting, and agricultural grading and drainage, the approved plans and specifications, and the requirements in Table 36-9.

B. Installation. The property owner shall be responsible for ensuring that the winterization measures required by Subsection A are installed properly. Each year until all work has been completed, the property owner or an authorized agent of the property owner shall notify the agricultural commissioner in writing when the winterization measures required by Subsection A are in place and functional, and certify that the winterization measures have been installed in compliance with the department’s best management practices for new vineyard and orchard

development, vineyard and orchard replanting, and agricultural grading and drainage, the approved plans and specifications, and the requirements in Table 36-9.

C. Operation and maintenance. The property owner shall be responsible for ensuring that after installation the winterization measures required by Subsection A operate properly and are maintained through March 31 of each year until all work has been completed.

Table 36-9 – Winterization Requirements

Type of Activity	Winterization Deadline
New vineyard and orchard development	October 15 ¹
Vineyard and orchard replanting	November 15
Agricultural grading and drainage	October 15

Notes:

1. The agricultural commissioner may extend the deadline for winterization to no later than November 1 based on precipitation forecast information from the National Weather Service or other good cause.

Article 22. - Prohibited Activities.

Sec. 36.22.010. - Purpose.

This article establishes prohibitions against certain new vineyard and orchard development and agricultural grading.

Sec. 36.22.020. – Prohibited New Vineyard and Orchard Development.

A. Existing slopes greater than 50 percent. New vineyard and orchard development shall be prohibited on existing slopes greater than 50 percent.

B. Fill slopes supporting structures or surcharges. New vineyard and orchard development shall be prohibited on fill slopes supporting structures or surcharges, unless a soils report determines that the fill slope is suitable for planting.

C. Removal of contiguous vegetation. New vineyard and orchard development shall be prohibited from removing existing contiguous vegetation within 200 feet of the top of the higher bank of any blue-line stream.

D. Removal of trees. New vineyard and orchard development shall be prohibited from removing trees on existing slopes greater than 40 percent with non-cohesive soil.

Sec. 36.22.030. - Prohibited agricultural grading.

Agricultural grading to prepare new land for outdoor crop production shall be prohibited on existing slopes greater than 50 percent.

Article 24. – Appeals and Direct Review.

Sec. 36.24.010. – Purpose.

This article establishes procedures for the appeal and review and direct review of certain decisions of the agricultural commissioner.

Sec. 36.24.020. – Appeal and Direct Review Subjects and Jurisdiction.

Decisions of the agricultural commissioner on discretionary permit applications may be appealed to and/or directly reviewed by the board of supervisors. All other decisions of the agricultural commissioner under this chapter shall be final, subject only to judicial review.

Sec. 36.24.030. – Filing and Processing of Appeals.

- A. Eligibility. An appeal in compliance with this article may be filed by any interested person.
- B. Timing and form of appeal. An appeal shall be submitted in writing and filed with the department on a county appeal form within 10 calendar days following the decision that is the subject of the appeal. The appeal shall specifically state the pertinent facts and the basis for the appeal, and shall be accompanied by the required filing fee.
- C. Effect of filing appeal. The filing of an appeal in compliance with this article shall stay the effective date of the decision that is the subject of the appeal until the board of supervisors has acted upon the appeal.
- D. Report and scheduling of hearing. When an appeal has been filed, the agricultural commissioner shall prepare a report on the matter, and schedule the matter for a public hearing by the board of supervisors. The hearing shall be de novo. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Article 26. Any interested person may appear and be heard at the hearing.
- E. Decision. At the hearing on the appeal, the board of supervisors may consider any issue involving the matter that is the subject of the appeal, in addition to the specific grounds for the appeal. After the hearing, the board of supervisors may affirm, affirm in part, modify, or reverse the decision that is the subject of the appeal.

F. Effective date of appeal decision. A decision by the board of supervisors on an appeal is final and shall be effective on the date of the decision.

G. Withdrawal of appeal. After filing, an appeal may not be withdrawn except with the consent of the board of supervisors.

Sec. 36.24.040. – Board Direct Review.

A. Request for direct review. Any member of the board of supervisors may request the board of supervisors, upon its own initiative, to review the decision of the agricultural commissioner on a discretionary permit application.

B. Timing and form of request for direct review. A request for direct review shall be made orally at a board of supervisors meeting, or filed in writing or by e-mail with the clerk of the board of supervisors, before the expiration of the appeal period for the decision that is the subject of the request. A request for direct review need not state the reasons for the request. A request for direct review shall not be deemed to be an allegation of any flaw in or a pre-judgment of the decision of the agricultural commissioner.

C. Effect of request for direct review. A request for direct review shall stay the effective date of the decision that is the subject of the request until the board of supervisors takes action in compliance with Subsection D, below, and, if applicable, until the board of supervisors takes action in compliance with Subsection F, below. The stay shall not extend the time for filing an appeal of the decision that is the subject of the request.

D. Consideration of request for direct review. A request for direct review shall be considered by the board of supervisors at a public meeting.

1. If the board of supervisors approves the request for direct review, the board of supervisors shall assume jurisdiction over the matter and take action in compliance with Subsection F.

2. If the board of supervisors denies the request for direct review, the decision of the agricultural commissioner shall stand, unless an appeal of the decision was timely filed in compliance with this article.

E. Report and scheduling of hearing. When a request for direct review has been approved, the agricultural commissioner shall prepare a report on the matter, and schedule the matter for a public hearing by the board of supervisors. The hearing shall be de novo. Notice of the hearing shall be provided, and the hearing conducted, in compliance with Article 26. Any interested person may appear and be heard at the hearing.

F. Decision. At the hearing on the direct review, the board of supervisors may consider any issue involving the matter that is the subject of the direct review. After the hearing, the board of supervisors may affirm, affirm in part, modify, or reverse the decision of the permit authority that is the subject of the direct review.

G. Effective date of direct review decision. A decision by the board of supervisors on a direct review is final and shall be effective on the date of the decision.

H. Participation by initiator of request for direct review. Any member of the board of supervisors who initiates a request for direct review may fully participate in determining whether to approve the request and, if the request is approved, in hearing and deciding upon the matter, including the right to vote, unless actual bias or prejudice is otherwise shown.

I. Withdrawal of request for direct review. After filing, a request for direct review may not be withdrawn except with the consent of the board of supervisors.

Sec. 36.24.050. - Simultaneous Appeal and Direct Review.

When the decision of the agricultural commissioner on a discretionary permit application is both appealed and jurisdiction is taken by the board of supervisors through direct review, both the appeal and the direct review shall be heard and considered concurrently.

Article 26. - Public Hearings.

Sec. 36.26.010. – Purpose.

This article provides procedures for public hearings by the board of supervisors required by this chapter. When a public hearing is required, advance notice of the hearing shall be given, and the hearing shall be conducted, in compliance with this article.

Sec. 36.26.020. - Notice of Hearing.

When this chapter requires a public hearing by the board of supervisors before a decision on a matter, the public shall be provided notice of the hearing in compliance with Government Code sections 65090, 65091, and 65094, and Public Resources Code section 21000 et seq. The failure of any person or entity to receive notice given pursuant to this section shall not constitute grounds for any court to invalidate the actions of the board of supervisors, provided that there has been substantial compliance with the requirements of this section.

Sec. 36.26.030. - Hearing Procedures.

A. Date, time, and place of hearing. A hearing by the board of supervisors shall be held at the date, time, and place for which notice was given.

B. Continued hearing. Any hearing may be continued from time to time without further notice; provided the chairperson of the board of supervisors announces the date, time, and place to which the hearing will be continued prior to the adjournment or recess of the hearing.

C. Deferral of final decision. The board of supervisors may announce a tentative decision and defer its action on a final decision until appropriate findings or conditions of approval have been prepared.

Sec. 36.26.040. – Decision.

The board of supervisors may announce and record its decision on the matter being considered at the conclusion of a scheduled hearing, or may defer action and continue the matter to a later meeting in compliance with Section 36.26.030.

Article 28. - Enforcement.

Sec. 36.28.010. – Purpose.

This article establishes provisions that are intended to ensure compliance with the requirements of this chapter and permits issued pursuant to this chapter, and provide for the protection of the public health, safety, and welfare of the county.

Sec. 36.28.020. – Decisions in Compliance with Chapter.

All departments, officials, and employees of the county assigned the authority or duty to issue permits shall comply with the provisions of this chapter.

A. Permits in conflict with chapter. Permits for activities that would be in conflict with the provisions of this chapter shall not be issued.

B. Permits deemed void. Any permit for an activity issued in conflict with the provisions of this chapter, or in error, shall be void and of no effect.

C. County may refuse to issue permits. The county may refuse to issue any permit sought pursuant to this chapter for an activity where the property upon which the activity is proposed is in violation of this code.

Sec. 36.28.030. – Authority for Enforcement.

A. Enforcement responsibility. The agricultural commissioner shall be responsible for enforcing the provisions of this chapter and permits issued pursuant to this chapter. The agricultural commissioner may initiate proceedings to suspend, revoke, or modify permits issued

pursuant to this chapter, act as enforcing officer for the purposes of exercising the authority provided in Sections 1-7.1, 1-7.3, and 1-7.6 of this code, and issue letters of correction, notices of violation, notices of proposed action, stop work orders, and citations for any violations of this chapter or any permit issued pursuant to this chapter.

B. Authority to inspect. The agricultural commissioner is authorized, upon reasonable notice to the property owner or permittee, to enter upon and inspect any property where new vineyard or orchard development, vineyard or orchard replanting, or agricultural grading or drainage has been or is being performed, to determine whether the work complies with the provisions of this chapter and any applicable permits issued pursuant to this chapter. These inspections may include the taking of photographs, samples, or other physical evidence, and the making of video and/or audio recordings. If the property owner or permittee refuses permission to enter and/or inspect, the county may seek an inspection warrant pursuant to Section 36.28.060.A.

Sec. 36.28.040. – Administrative Enforcement Action.

Where the agricultural commissioner determines that an activity has been or is being performed in violation of the provisions of this chapter or any permit issued pursuant to this chapter, the agricultural commissioner may initiate an administrative enforcement action pursuant to Section 1-7.3 of this code and seek the imposition of civil penalties and costs, including attorney’s fees.

Sec. 36.28.050. – Violations.

A. Violation of provisions. Any activity performed contrary to the provisions of this chapter shall constitute a violation of this chapter and a public nuisance.

B. Violation of permit requirement. The violation of any requirement of a permit issued pursuant to this chapter shall constitute a violation of this chapter and a public nuisance.

Sec. 36.28.060. – Legal Remedies.

The county may undertake any of the following legal actions to correct and/or abate any violation(s) of this chapter or any permit issued pursuant to this chapter.

A. Inspection warrants. The county counsel may apply to the court for an inspection warrant to enter upon and inspect property and/or collect samples.

B. Civil actions. The county counsel may apply to the court for injunctive relief, abatement, civil penalties and costs, and any other remedies available under law.

C. Criminal actions and penalties.

1. Any person violating or causing the violation of any provision(s) of this chapter or any permit issued pursuant to this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable in compliance with Section 1-7 of this code.

2. Each and every day during any portion of which any violation(s) of this chapter or any permit issued pursuant to this chapter is committed, continued, or allowed to continue by the person shall be deemed a separate offense.

D. Citations.

1. Any person violating or causing the violation of any provision(s) of this chapter or any permit issued pursuant to this chapter may be issued an administrative citation by the agricultural commissioner.

2. Any person issued an administrative citation shall be liable for and shall remit payment of any fine(s) assessed in connection with the citation in compliance with Section 1-7.6 of this code.

3. Any person issued an administrative citation may appeal the citation to a hearing officer in compliance with Section 1-7.6 of this code.

Sec. 36.28.070. – Stop Work Order.

A. Issuance of stop work order. Any activity performed in violation of the provisions of this chapter or any permit issued pursuant to this chapter shall be subject to the issuance of a stop work order.

B. Violation of stop work order. Any violation of a stop work order shall constitute a misdemeanor and a public nuisance, and shall be subject to the remedies and penalties established by this article and this code.

Sec. 36.28.080. – Hazard abatement.

A. Issuance of hazard abatement notice. Whenever the agricultural commissioner determines that any existing excavation, embankment, or fill on cropland, pastureland, or rangeland has become a hazard to public safety, endangers property, or adversely affects the safety, use, or stability of adjacent property, an overhead or underground utility, or a public way or watercourse, or could adversely affect the water quality of any watercourse or water body, the agricultural commissioner shall issue a hazard abatement notice to the owner or other person in control of the property advising of the problem. Upon receipt of the hazard abatement notice, the owner or other person in control of the property shall, within the time specified in the notice, eliminate the hazard and conform to the requirements of this chapter.

B. Violation of hazard abatement notice. Any violation of a hazard abatement notice shall constitute a violation of this chapter and a public nuisance, and shall be subject to the remedies and penalties authorized by this chapter.

Sec. 36.28.090. – Suspension or Revocation.

The agricultural commissioner may suspend or revoke a permit issued pursuant to this chapter if the agricultural commissioner determines any of the following:

- A. Circumstances under which the permit was issued have changed and the public health, safety, and welfare require the suspension or revocation;
- B. The permit was issued on the basis of inaccurate or incomplete information; or
- C. One or more of the requirements of the permit have not been substantially fulfilled or have been violated.

Sec. 36.28.100. – Remedies are Cumulative.

- A. Cumulative, not exclusive. All remedies contained in this chapter for the handling of violations or enforcement of the provisions of this chapter or any permit issued pursuant to this chapter shall be cumulative and in addition to any other remedies available under law.
- B. Other remedies. Should a person be found guilty and convicted of a misdemeanor for the violation of any provision(s) of this chapter or any permit issued pursuant to this chapter, the conviction shall not prevent the county from pursuing any other remedies available under law to correct the violation(s).

Sec. 36.28.110. – Additional Permit Processing Fee.

Any person who performs any activity requiring a permit under this chapter without first obtaining the required permit shall pay the permit processing fees required for the correction of the violation(s), and any applicable civil penalties and costs, including attorney's fees, before being granted a permit for the activity.

Sec. 36.28.120. – Reinspection fees.

- A. A reinspection fee shall be imposed on any person who receives a letter of correction, notice of violation, or stop work order requiring a follow-up inspection(s).
 - 1. The fee shall not apply to the original inspection to document the violation(s) or to the first scheduled compliance inspection made after the issuance of the letter of correction, notice of violation, or stop work order; and

2. The fee shall apply to each subsequent inspection or reinspection conducted when the particular violation for which the inspection or reinspection is scheduled is not fully abated or corrected as directed by, and within the time and manner specified in, the letter of correction, notice of violation, or stop work order.

B. The reinspection fee is intended to compensate for the actual cost of providing county inspections or reinspections, and is not a penalty for violating this chapter, any permit issued pursuant to this chapter, or this code.

C. Any reinspection fees imposed shall be separate and apart from any fines or penalties imposed for violation of this chapter, any permit issued pursuant to this chapter, or this code, or costs incurred by the county for the abatement of a public nuisance.

Article 30. - Glossary.

Sec. 36.30.010. - Purpose.

This article provides definitions of terms and phrases used in this chapter that are technical or specialized, or that may not reflect common usage. If any of the definitions in this article conflict with definitions in other provisions of this code, these definitions shall control for the purposes of this chapter. If a word is not defined in this article, or in other provisions of this code, the agricultural commissioner shall determine the correct definition.

Sec. 36.30.020. - Definitions of specialized terms and phrases.

As used in this chapter, the following terms and phrases shall have the meanings ascribed to them in this section, unless the context in which they are used clearly requires otherwise. The definition of a term or phrase applies to any of that term's or phrase's variants.

Agricultural Avenue. A seasonal road around or through a vineyard or orchard block, or an area at the end of a vine or tree row where vehicles and equipment can turn around.

Agricultural Commissioner. The agricultural commissioner-sealer of the county or his or her authorized representative.

Agricultural Crop. Any cultivated crop grown and harvested for commercial purposes.

Agricultural Drainage. Any drainage alteration for agricultural purposes. Agricultural drainage does not include drainage alteration for private roads and driveways, dams, reservoirs, lakes, ponds, and structures.

Agricultural Drainage Permit. See Section 36.12.010.

Agricultural Grading. Any grading for agricultural purposes. Agricultural grading does not include grading for private roads and driveways, dams, reservoirs, lakes, ponds, and structures.

Agricultural Grading Permit. See Section 36.10.010.

Agricultural Purpose. See agriculture.

Agricultural Road. A year-round road that connects vineyard or orchard blocks.

Agricultural Road Network. The agricultural roads and avenues constructed or modified to serve a vineyard or orchard.

Agriculture. The production of food, fiber, plant materials, and the raising and maintaining of horses, donkeys, mules, and similar livestock and farm animals.

Approved Plans and Specifications. Plans and specifications, including reports, material lists, estimates, maintenance agreements, and professional recommendations, approved by the agricultural commissioner pursuant to this chapter.

Architect. A person licensed by the state to practice architecture.

Area of Slope Instability. An area of soil or rock prone to mass wasting, including slides, falls, slumps, and flows.

As-Built Plans. Plans or drawings that depict the final installed configuration of new vineyard or orchard development, vineyard or orchard replanting, or agricultural grading or drainage (whether physical or functional). The plans or drawings shall indicate any construction deviations and show all features as actually built. The plans or drawings are intended to provide a permanent record of as-built conditions and aid as key references for future maintenance processes.

Bench. A relatively level step excavated into earth material on which fill is to be placed.

Best Management Practice. A program, technology, process, siting criteria, operational method, or engineered system, which when implemented prevents, controls, removes, or reduces pollution or other adverse environmental effects.

Biotic Resource Assessment. A report prepared by a professional biologist in compliance with department guidelines to identify and evaluate biotic resources, listed species, and waterbodies present on a site.

Blue-line Stream. A stream that appears as a broken or solid blue line (or a purple line) on a USGS topographic map.

California Environmental Quality Act (CEQA). Public Resources Code section 21000 et seq.

Civil Engineer. A person licensed by the state to practice civil engineering.

Commercial Orchard. Any orchard producing fruit or nuts for commercial purposes.

Commercial Vineyard. Any vineyard producing wine grapes for commercial purposes.

Compaction. The densification of a fill by mechanical means.

Contiguous vegetation. Vegetation that is physically touching or adjacent, and not separated by features like roads, developed land, or cropland.

County Land Use Approval. A discretionary permit or approval granted by the county pursuant to Chapter 25, 26, or 26C of this code.

Crop Production. The commercial growing and harvesting of agricultural crops, including horticultural or ornamental shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain, and similar food and fiber crops or agricultural commodities, except for cannabis or other controlled substances.

Cultivated Land. Land that has been under active cultivation of perennial or row crops for at least five years immediately preceding the filing of a permit application.

Cut. See excavation.

Deep Ripping. The mechanical manipulation of the soil at depths greater than 16 inches to break up or pierce highly compacted, impermeable or slowly permeable subsurface soil layers, or other similar kinds of restrictive soil layers.

Department. The Department of Agriculture/Weights & Measures of the county.

Department's Best Management Practices for New Vineyard and Orchard Development, Vineyard and Orchard Replanting, and Agricultural Grading and Drainage. The best management practices adopted or amended by the agricultural commissioner pursuant to Section 36.02.060.

Design Discharge. See the Flood Management Design Manual.

Designated Critical Habitat Area. The critical habitat for a listed species designated by the U.S. Fish and Wildlife Service or NOAA Fisheries pursuant to 16 U.S.C. § 1532(5).

Designated Watershed or Sub-Watershed. A watershed or sub-watershed designated in the general plan.

Development Area. All areas subject to ground disturbance related to new vineyard or orchard development, vineyard or orchard replanting, or agricultural grading or drainage, including the new planting, replanting, grading, or drainage alteration area, agricultural road network and other

vineyard or orchard infrastructure, staging areas for vehicles, supplies, and equipment, and material storage areas.

Discretionary Permit Application. A permit application that includes a request pursuant to Section 36.14.030.D for relief from the standards in Article 20.

Down Drain. A device for collecting water from a swale or ditch located on or above a slope, and safely delivering it to an approved drainage facility.

Drainage. Refers to the collection, conveyance, containment, and/or discharge of stormwater runoff.

Drainage Alteration. Construction or modification of any drainage facility or system.

Drainage Alteration Area. The area subject to agricultural drainage.

Drainage Facility. A constructed component of a drainage system.

Drainage System. Constructed and/or natural features that work together to collect, convey, channel, hold, inhibit, retain, detain, infiltrate, divert, treat, or filter stormwater runoff, including detention and retention basins, overland flow paths, pipes, channels, and the inlets and outlets to these features.

Earth Material. Any rock or natural soil or combination thereof.

Embankment. A fill consisting of a deposit of soil, rock, or other materials mechanically placed.

Erosion. The process by which soil particles are detached and transported by the actions of wind, water, or gravity.

Excavation. The removal of earth material by artificial means, also referred to as a cut.

Existing Grade. The grade prior to agricultural grading.

Existing Slope. The slope prior to vineyard or orchard new development or replanting or agricultural grading.

Fill. The deposition of earth material by artificial means. Fill does not include soil amendment and fertilizing materials.

Final Planting Work. The work undertaken as part of the final phase of new vineyard or orchard development, including laying out of vineyard or orchard blocks and vine or tree rows, construction or modification of aboveground vineyard or orchard infrastructure, planting of grapevines or orchard trees, and other similar work.

Final Replanting Work. The work undertaken as part of the final phase of vineyard or orchard replanting, including laying out of vineyard or orchard blocks and vine or tree rows, construction or modification of aboveground vineyard or orchard infrastructure, planting of grapevines or orchard trees, and other similar work.

Finished Grade. The grade at the conclusion of all agricultural grading efforts.

Flood Management Design Manual. The Flood Management Design Manual, Sonoma County Water Agency, latest edition.

Flood-Prone Urban Area. The area within the boundaries defined on the north by River Road; on the west by the easterly boundary of the Laguna de Santa Rosa to its intersection with Highway 12 and continuing with the easterly limit of the city of Sebastopol to Highway 116; on the south by Highway 116 to its intersection with Old Redwood Highway then south to East Cotati Avenue and east to its intersection with Petaluma Hill Road; and on the east by Petaluma Hill Road, north to Highway 12 then west to Highway 101 and north to River Road.

Focused Species Assessment. A report prepared by a professional biologist in compliance with department guidelines to identify and evaluate critical habitat, listed species, and waterbodies present on a site.

General Plan. The Sonoma County General Plan.

Geologic Hazard. Slope instability, landsliding, fault displacement, liquefaction, flooding, subsidence, differential settlement, expansive soil, creeping soil, or other similar geologic condition, either mapped or observed in the field.

Geologic Hazard Area Combining District. See Article 70 of Chapter 26 and Article XXV of Chapter 26C of this code.

Geologic Report. A report prepared by a professional geologist in compliance with department guidelines to be utilized in the planning, design, construction, and maintenance of new vineyard or orchard development or vineyard or orchard replanting.

Geotechnical Engineer. A civil engineer licensed by the state to practice geotechnical engineering.

Geotechnical Report. A soils report prepared by a geotechnical engineer.

Grade. The vertical location of the ground surface.

Grading. An excavation or fill or combination thereof. Grading does not include routine farming practices, such as soil preparation, planting, seeding, and other similar activities.

Grading Area. The area subject to agricultural grading.

Grapevine. A perennial grape-bearing vine.

Ground Disturbance. Any activity that disturbs or compacts the ground.

Highly Erodible Soils. Soils in the Diablo, Dibble, Goldridge, Laughlin, Los Osos, Steinbeck, and Suther soil series as mapped by the U.S. Department of Agriculture.

Hobby Orchard. Any orchard producing fruit or nuts for non-commercial hobby purposes.

Hobby Vineyard. Any vineyard producing wine grapes for non-commercial hobby purposes.

Initial Planting Work. The work undertaken as part of the initial phase of new vineyard or orchard development, including land clearing, vegetation removal, soil preparation, agricultural grading, construction or modification of vineyard or orchard infrastructure, and other similar work.

Initial Replanting Work. The work undertaken as part of the initial phase of vineyard or orchard replanting, including removal of existing grapevines or orchard trees, soil preparation, agricultural grading, construction or modification of vineyard or orchard infrastructure, and other similar work.

Invasive Plant Species. A plant species that has a rating of moderate or higher level of invasiveness on the most recent California Invasive Plant Council Invasive Plant Inventory. Examples of invasive plants include Himalayan blackberry (*Rubus armeniacus*), giant reed (*Arundo donax*), salt cedar (*Tamarix sp.*) and star thistle (*Centaurea solstitialis*).

Irrigation System. Equipment and facilities installed to apply water for irrigation and frost protection, including water source, water distribution network, control components, emission devices, and other irrigation equipment.

Key. A compacted fill placed in a trench excavated in earth material beneath the toe of a slope.

Lake. A permanent natural body of water, or an artificially impounded body of water, isolated from the sea, with at least one acre of open water of sufficient depth and permanency to prevent complete coverage by rooted aquatic plants

Land Clearing. The removal of trees, stumps, brush, rocks, and other obstacles from an area.

Landscape Architect. A person licensed by the state to practice landscape architecture.

Level I New Development. See Table 36-1.

Level II New Development. See Table 36-1.

Level I Replanting. See Table 36-2.

Level II Replanting. See Table 36-2.

Licensed Professional. An architect, civil engineer, landscape architect, professional forester, or professional geologist.

Listed Species. Any plant or animal species protected by the federal Endangered Species Act of 1973 (16 U.S.C. § 1531 et seq.) or the state Fish and Game Code.

Local Coastal Program. The Sonoma County Local Coastal Program.

Low-Impact Vineyard Replanting. Vineyard replanting where the replanting area was developed or previously replanted in compliance with this chapter or former provisions of this code regulating new vineyard development and vineyard replanting, no deep ripping is conducted, vine row orientation and vine spacing are not changed, and the existing vineyard infrastructure was lawfully constructed and is not modified.

Low-Impact Vineyard Replanting Registration. See Section 36.08.010.

Ministerial Permit Application. A permit application that does not include a request pursuant to Section 36.14.030.D for relief from the standards in Article 20.

MS4 Permit. A Municipal Separate Storm Sewer Systems National Pollutant Discharge Elimination System Permit.

New Orchard Development. The planting of a new orchard, increasing the footprint of an existing orchard, or replanting all or part of an existing orchard that does not qualify as orchard replanting, as defined herein.

New Planting Area. The area subject to new vineyard or orchard development.

New Vineyard Development. The planting of a new vineyard, increasing the footprint of an existing vineyard, or replanting all or part of an existing vineyard that does not qualify as vineyard replanting, as defined herein.

New Vineyard and Orchard Development Permit. See Section 36.04.010.

Non-Cohesive Soil. Soil where the particle size of the smaller than 2 mm fraction of the soil is coarser than Loam as defined by the Natural Resources Conservation Service soil texture classification scheme.

Orchard. A planting of orchard trees. Land devoted to the cultivation of such a planting.

Orchard Infrastructure. The agricultural road network, drainage system, irrigation system, and other basic facilities and systems needed for the operation of an orchard.

Orchard Replanting. The replanting of all or part of an existing orchard where the orchard is under active cultivation and the footprint of the area to be replanted is not increased.

Orchard Tree. A fruit- or nut-bearing tree.

Permit. A permit required by this chapter.

Permit Application. An application for a permit required by this chapter.

Permit Holder. The property owner. See Section 36.16.020.C.

Permittee. The permit holder or an authorized agent of the permit holder.

Person. Any individual, firm, partnership, corporation, company, association, joint stock association; city, county, state, or district; tribe; and includes any trustee, receiver, assignee, or other similar representative thereof.

Pit. An earthen excavation designed to store water.

Pond. A body of still freshwater smaller than a lake, often artificially impounded.

Professional Biologist. A person possessing academic and professional experience in biological sciences and related resource management activities who is able to identify biotic resources and can recognize and is familiar with the habitats and behaviors of listed species that may be present in the county. The person must have specialized skills and training and any required licenses/permits/certifications specific to the study being conducted (e.g., general botany and plant ecology, wetland ecology and delineation, and wildlife habitat knowledge for biotic resource assessments and focused species assessments, wetland ecology and delineation for wetlands reports, applicable permits to handle special status species for presence/absence surveys).

Professional Forester. A person licensed by the state to practice forestry.

Professional Geologist. A person licensed by the state to practice geology.

Public Agency. Any state or federal agency, any city, county, or special district.

Qualifying Rain Event. Any weather pattern that is forecasted by the National Weather Service to have a 50 percent or greater chance of producing 0.5 inches or more precipitation on a site within a 48 hour or greater period between rain events.

Rain Event. Any weather pattern producing precipitation.

Rainy Season. The period of the year during which there is a substantial chance of precipitation. For the purposes of this chapter, the rainy season is defined as starting on October 1 and ending on April 30.

Registered Environmental Health Specialist. A person licensed by the state to practice as an environmental health specialist.

Registration. A registration required by this chapter.

Registrant. The registration holder or an authorized agent of the registration holder.

Registration Holder. The property owner. See Section 36.16.030.B.

Replanting Area. The area subject to vineyard or orchard replanting.

Reservoir. A water storage structure made by constructing a dam, embankment, or pit with an impermeable liner such as clay or synthetic material.

Ridgetop. A relatively flat topographic divide above divergent and descending slopes where one or more of the descending slopes has an existing slope greater than 50 percent for more than 50 feet in slope length.

Sediment. Solid particulate matter, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

Setback Area. The area within a setback required by Section 36.20.080, 36.20.090, 36.20.100, 36.20.110, or 36.20.120.

Site. All or part(s) of a parcel or adjoining parcels under single ownership or control where new vineyard or orchard development, vineyard or orchard replanting, or agricultural grading or drainage is performed or permitted.

Slope. An inclined surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance (e.g., 2:1) or as a percentage (e.g., 50 percent). Slope shall be calculated using a method acceptable to the agricultural commissioner.

Soil Amendment and Fertilizing Materials. Organic and in-organic substances applied to the existing soil to improve physical properties of the soil or increase available nutrients in the soil. Soil amendment and fertilizing materials include commercial fertilizers, agricultural minerals such as gypsum and lime, pumice, straw, and manure.

Soil Preparation. Deep ripping, chisel plowing, field cultivating, disking, plowing, harrowing, cultipacking, rototilling, application of soil amendment and fertilizing materials, and other similar activities.

Soils Engineer. A civil engineer experienced in the practice of soils engineering.

Soils Report. A report prepared by a soils engineer that contains not less than the following:

1. The nature and distribution of existing soils.
2. Conclusions and recommendations for grading procedures.

3. Soil design criteria for any structures or embankments required to accomplish the proposed grading.
4. Where necessary, slope stability studies, and recommendations and conclusions regarding site geology.

Special Flood Hazard Area. Any area designated by the Federal Emergency Management Agency as subject to flooding by the 1 percent annual chance flood (100-year flood).

State CEQA Guidelines. California Code of Regulations, title 14, section 15000 et seq.

Stormwater Runoff. Surface runoff generated by a rain event.

Stream. Any natural or modified channel with bed and banks containing flowing water or showing evidence of having contained flowing water, such as deposit of rock, sand, gravel, or soil. Stream includes creeks and rivers.

Surface Runoff. Any water that flows over the land surface.

Terrace. A relatively level step constructed in the face of a graded slope for drainage and maintenance purposes.

Tree. A woody perennial plant, typically large with a well-defined stem carrying a definite crown, with a minimum diameter at breast height of five inches, and a minimum height of 15 feet.

Tree Removal. The removal of more than one-half acre of tree canopy in a new planting area.

Tree Canopy. The more or less continuous cover of branches formed by the crowns of adjacent trees other than orchard trees.

Trellis System. Structures put in place to support and train grapevines in vine rows, including end posts, T-posts, wire, and other trellis materials.

Tribe. A California Native American tribe that is on the contact list maintained by the Native American Heritage Commission.

Uncultivated Land. Land that does not qualify as cultivated land, as defined herein.

Vegetation. All natural, non-cultivated plant life, including the root system, stem, trunk, crown, branches, leaves, and blades.

Vegetation Removal. The cutting, breaking, burning, or uprooting of vegetation, the application of herbicide to vegetation, the covering over of vegetation with earth, or the compacting of the

soil under and around vegetation. Vegetation removal does not include the removal of invasive plant species.

Vineyard. A planting of grapevines. Land devoted to the cultivation of such a planting.

Vineyard Infrastructure. The agricultural road network, drainage system, irrigation system, trellis system, and other basic facilities and systems needed for the operation of a vineyard.

Vineyard and Orchard Replanting Permit. See Section 36.06.010.

Vineyard Replanting. The replanting of all or part of an existing vineyard where the vineyard is under active cultivation and the footprint of the area to be replanted is not increased.

Waterbody. See lake, pond, reservoir, and stream.

Watercourse. Any stream, or any artificial channel constructed to facilitate the use of water or convey stormwater runoff.

Wetland. Those areas that meet either the federal definition of wetlands, as set forth in 33 CFR § 328.3, as that section may be amended from time to time, or the state of California definition of wetland as adopted by the State Water Resources Control Board as a State Wetland Definition, as that definition may be amended from time to time. In the event of a conflict between the federal and state definitions, whichever definition is more protective shall control.

Wetlands Report. A report prepared by a professional biologist in compliance with department guidelines to identify and evaluate wetlands present on a site.

Zoning Code. Chapters 26 and 26C of this code.