

**BOARD OF SUPERVISORS
COUNTY OF SIERRA
STATE OF CALIFORNIA**

ORDINANCE No. _____

**ORDINANCE AMENDING
SIERRA COUNTY CODE PART 12
REGARDING GRADING REGULATIONS**

THE BOARD OF SUPERVISORS OF THE COUNTY OF SIERRA ORDAINS as follows:

Ordinance Section One:

Section 12.04.080 of the Sierra County Code is amended to delete adoption (incorporation by reference) of Appendix J of the 2007 California Building Code.

Ordinance Section Two:

Part 12, Chapter 8 of the Sierra County Code entitled "Grading, Erosion and Sediment Control" is hereby adopted and shall read as follows:

CHAPTER 12.08 GRADING, EROSION AND SEDIMENT CONTROL

12.08.010 Title

This chapter shall be known as the grading ordinance of Sierra County.

12.08.020 Purpose

The ordinance codified in this chapter is enacted for the purpose of regulating grading on property within the unincorporated area of Sierra County to safeguard life, limb, health, property and public welfare; to avoid pollution of watercourses with hazardous materials, nutrients, sediments, or other earthen materials generated on or caused by surface runoff on or across the permit area; and to ensure that the intended use of a graded site is consistent with the Sierra County General Plan, any specific plans adopted thereto and applicable Sierra County ordinances including the zoning ordinance (Part 15), floodplain management ordinance (Part 32), environmental review ordinance (Part 38), and applicable chapters of the California Building Code. In the event of conflict between applicable chapters and this chapter, the most restrictive shall prevail.

12.08.030 Definitions

Unless the particular provision or the context otherwise requires, wherever the following terms are used in this chapter, they shall have the meaning ascribed to them in this section:

"Agricultural operation" means any land related activity for the purpose of cultivating or raising plants grown in the ground or raising animals or conserving or protecting lands for such purposes and is not surface mining or borrow pit operations.

“Bedding plane” means a nearly flat surface, which may have been tilted up or folded by tectonic forces, separating two beds (or layers or strata) of sedimentary rock. Each bedding plane marks the end of one deposit and the beginning of another having different characteristics (also known as strata, or beds).

“Bedrock” is the solid undisturbed rock in place either exposed at the ground surface or beneath surficial deposits of loose rock or soil.

“Bench” means a relatively level step excavated into sloping natural ground on which engineered fill or embankment fill is to be placed.

“Best Management Practices” means generally accepted grading, erosion control and other construction trade processes and procedures which have proven themselves over time for large numbers of people, and been demonstrated repeatedly to be both efficient and effective. See “Erosion & Sediment Control Guidelines for Developing Areas of the Sierra Foothills and Mountains” prepared by the High Sierra RC&D Council (October 1991).

BMP. See “Best Management Practices.”

“Board” is the Board of Supervisors of the County of Sierra.

“California Environmental Quality Act” is the fundamental environmental law and policy in California enacted by the Legislature in 1970 (Pub. Resources Code, §21000 *et seq.*). CEQA requires public agency decision makers to document and consider the environmental implications of their actions. The primary objectives of CEQA are to disclose to state and local government decision makers and the public any potentially significant environmental effects of proposed activities, and to identify ways to avoid or reduce such effects.

CEQA. See “California Environmental Quality Act.”

“Civil Engineer” is a professional engineer currently registered as a civil engineer by the State of California.

“Compaction” is the increase of density of a soil or rock fill by mechanical means.

Contractor, earthwork and paving. “Earthwork and Paving Contractor” means a Class C-12 specialty contractor currently licensed by the California Department of Consumer Affairs, Contractors State License Board, who digs, moves, and places material forming the surface of the earth, other than water, in such a manner that a cut, fill, excavation, grade, trench, backfill, or tunnel (if incidental thereto) can be executed, including the use of explosives for these purposes. This classification includes the mixing, fabricating and placing of paving and any other surfacing materials. An Earthwork and Paving Contractor is neither a “General Engineering Contractor” nor a civil, geotechnical, soils, or structural engineer, unless separately and currently licensed as such by the State of California’s Board for Professional Engineers and Land Surveyors (BPELS).

Cut. See “Excavation.”

“Days” means calendar days, except that such time limits shall extend to the following working day where the last of the specified number of days falls on a Saturday, Sunday or any County holiday.

“Depth of fill” means the vertical dimension from the exposed fill surface to the original ground surface.

“Depth of excavation (cut)” means the vertical dimension from the exposed cut surface to the original ground surface.

“Director” means the head of the Planning Department of Sierra County.

“Director of environmental health” means the director of the department of health and human services, Sierra County, California acting either directly or through authorized deputies.

“Director of Planning” means the director of planning and building departments of Sierra County, California, acting either directly or through authorized deputies.

“Drainage way” means a depression in the earth’s surface such as swales, ravines, gullies, draws, hollows or ditches in which surface waters collect for drainage, but which otherwise are destitute of water.

Embankment. See “Fill.”

“Engineering geologist” means a currently registered geologist certified as an engineering geologist by the State of California.

“Engineering geology” means the application of geologic knowledge in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

“Ephemeral stream” means a stream or part of a stream that flows only in direct response to precipitation; it receives little or no water from springs, melting snow, or other sources; and, its channel is at all times above the water table.

“Erosion” means the wearing away and transportation of earth material as a result of the movement of wind, water, or ice.

“Excavation (cut)” means the removal of naturally occurring earth materials by mechanical means, and includes the conditions resulting therefrom.

“Existing grade” means the elevation of the ground surface at a given point prior to excavating or filling.

“Expansive soil” means any soil which exhibits significant expansive properties as determined by a geotechnical engineer or civil engineer in a report approved by the Planning Department or County Engineer.

“Fill (embankment)” means the deposit of soil, rock or other materials placed by man and includes the conditions resulting therefrom.

“Finish grade” means the final grade of the site after excavating or filling which conforms to the approved final grading plan. The finish grade is also the grade at the top of a paved surface.

“Foliation plane” means a linear plane formed in metamorphic rock caused by heat and pressure. The planes in the Sierra foothills usually trend north-south and are tilted at a steep slope with folds and intrusions.

“General Engineering Contractor” means a Class A contractor currently licensed by the California Department of Consumer Affairs, Contractors State License Board, whose principal contracting business is in connection with fixed works requiring specialized engineering knowledge and skill, including the following divisions or subjects: irrigation, drainage, water power, water supply, flood control, inland waterways, harbors, docks and wharves, shipyards and ports, dams and

hydroelectric projects, levees, river control and reclamation works, railroads, highways, streets and roads, tunnels, airports and airways, sewers and sewage disposal plants and systems, waste reduction plants, bridges, overpasses, underpasses and other similar works, pipelines and other systems for the transmission of petroleum and other liquid or gaseous substances, parks, playgrounds and other recreational works, refineries, chemical plants and similar industrial plants requiring specialized engineering knowledge and skill, powerhouses, power plants and other utility plants and installations, mines and metallurgical plants, land leveling and earthmoving projects, excavating, grading, trenching, paving and surfacing work and cement and concrete works in connection with the above mentioned fixed works. A "General Engineering Contractor" is not a civil, geotechnical, soils, or structural engineer, unless separately and currently licensed as such by the State of California's Board for Professional Engineers and Land Surveyors (BPELS).

"Geologic hazard" means any condition in naturally occurring earth materials, which may endanger life, health or property.

"Geotechnical Engineer" means a civil engineer registered by the State of California who is qualified in the field of soil mechanics and soil engineering and has the authority to use the title "soils engineer."

"Geotechnical engineering" means the application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and may include the inspection, testing and construction thereof.

"Grade" means the vertical location of the ground surface.

Grade, existing. "Existing grade" means the grade prior to grading.

Grade, rough. "Rough grade" means the stage at which the grade approximately conforms to the approved plan.

"Grading" means any land excavation or filling or combination thereof, or the removal, plowing under or burial of vegetative groundcover.

"Grading contractor" means a person who is either currently licensed by the State of California as a Class A "General Engineering Contractor" or a Class C-12 "Earthwork and Paving Contractor" or one who is exempt from a license but has been additionally insured by the owner of a grading project or the owner him-/herself who operates to perform a grading project subject to this chapter.

"Grading plan" means a plan prepared in accordance with this chapter showing grading and related work.

"Grading work" is grading and related work, such as, but not limited to, drainage improvements and erosion and sediment control.

"Hazardous materials" is as defined in Health and Safety Code Sections 25501 et seq.

"High Water Line" is the line found by examining the bed and banks and ascertaining where the presence and action of water are so common and usual, and so long continued in all ordinary years, as to mark upon the soil of the bed a character distinct from that of the banks, evidenced by: a clear natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, or the presence of litter and debris, etc.

"Intermittent stream" means a stream that flows only when it receives water from rainfall runoff or springs, or from some surface source such as melting snow.

“Joint” means a fracture in rock that is produced by expansion, contraction, and tectonic forces, and along which there has been no movement.

“Keyway” means a special backfilled excavation, which is constructed beneath the toe area of a planned fill slope on sloping ground to improve the stability of the slope.

“Landscape architect” means a landscape architect registered by the State of California.

“Levee” means a man-made structure, usually an earthen or concrete-reinforced earthen embankment, designed and constructed to contain, control or divert the flow of water so as to provide some level of protection from temporary flooding.

“Level, land leveling operation” means the physical movement of rock or soil which results in a change in the topography of the land, which results in the land being more level than before.

Lot. See “Parcel.”

“NPDES” means the National Pollutant Discharge Elimination System, a Federal program regulating stormwater discharges pursuant to Sections 307, 402, 318 and 405 of the Clean Water Act (33 U.S.C. Section 1251 et seq.), as such Act may be amended from time to time.

Operator. See “Grading contractor.”

“Overland flow” means and includes flow over planar surfaces, including but not limited to roofs, streets, lawns, parking lots and fields.

“Owner” means the person shown as the legal owner of the property on the latest equalized assessment roll in the office of the County Assessor.

“Parcel (lot)” means land described as a lot or parcel in a recorded deed or shown as a lot or parcel on a subdivision map or parcel map on file in the County Recorder’s office.

“Perennial stream” means a stream that normally has water in its channel at all times.

“Permit” means an approved grading permit issued pursuant to this chapter authorizing certain grading work.

“Permittee” means any person to whom a permit is issued pursuant to this chapter.

“Person” means any individual, firm, corporation or public agency whether principal, agent, employee or otherwise.

“Planning Department” means the agency which provides planning and direction over those County functions that provide land use planning, management of natural resources, building, inspection and code enforcement services, and other permit and land use services to the citizens of Sierra County. The agency includes the departments of Planning and Building and land development core functions such as infrastructure planning, surveying and mapping, permits, construction

“Planning Director” means the director of the Planning Department of Sierra County, California, acting directly or through his or her authorized agents.

“Rainy season” means the period of the year during which there is a substantial risk of rainfall. For the purpose of this chapter, the rainy season is defined as from October 15 to May 1, inclusive.

“Record drawings” means drawings for improvements or grading that show changes made during construction.

“Retaining wall” means any constructed wall that holds back earth (or a liquid), and where there is an abrupt change in elevation.

“Sediment” means any material transported or deposited by water, including soil debris or other foreign matter.

“Site” means any lot or parcel of land or combination of contiguous lots or parcels of land, whether held separately or joined together in common ownership or occupancy where grading is to be performed or has been performed.

“Slope” means an inclined ground surface the inclination of which may be expressed as the ratio of horizontal distance to vertical distance or as the ratio of vertical distance per one hundred (100) feet horizontal distance when given as a percent.

“Soil” means all earth material of any origin that overlies bedrock and may include the decomposed zone of bedrock, which can be excavated readily by mechanical equipment.

“Soils Engineer” means a civil engineer currently registered by the State of California who is qualified licensed in the field of soil mechanics and soil engineering and has the authority to use the title “geotechnical engineer,” “soil engineer,” or “soils engineer.”

“Stormwater Pollution Prevention Plan” (SWPPP) is a planning document developed and implemented by an applicant generally in conjunction with a Notice of Intent (NOI) to comply with permit requirements under the State Water Resources Control Board’s National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity, under Water Quality Order 99-08-DWQ and subsequent amendments thereto.

“Stormwater runoff” means water runoff due to storms, (rain, snow melt, etc.).

“Stream environment zone” means perennial, intermittent, and ephemeral streams, meadows and marshes, and other areas of near-surface water influence.

“Structure” means that which is built or constructed or any piece of work artificially built up or composed of parts joined in some definite manner.

“Surcharge” means the additional loading acting above and behind a retaining wall other than from the normal active soil pressures; examples of surcharges include but are not limited to vehicles, buildings, snow, sloped backfill, stockpiles, construction staging areas and equipment.

SWPPP. See “Stormwater Pollution Prevention Plan.”

“Terrace” means a relatively level step constructed in the face of a graded slope surface for drainage, maintenance, or other purposes.

“Vehicular way” means a private roadway or driveway.

“Vegetation” means plant life or total plant cover of an area.

“Watercourse” means any natural or artificial channel flowing continuously or intermittently in a definite direction and course or used for the holding, delay or storage of waters, which functions at any time to convey or store stormwater runoff.

Work. See “Grading work.”

12.08.040 Grading

No person shall do or permit to be done any grading, including cuts, fills or ground disturbances in any manner whatsoever, including the uprooting, tilling under or covering over of vegetation, except as specifically authorized and provided for in a permit issued by the Sierra County Department of Planning and Building, or unless the activity is specifically exempt from this requirement pursuant to Section 12.08.070.

12.08.050 Water obstruction

Except as provided for by a permit, no person shall do, or permit to be done, any grading which may obstruct, impede or interfere with the natural flow of stormwaters, in such manner as to cause flooding where it would not otherwise occur, aggravate any existing flooding condition or cause accelerated erosion. This section applies whether such waters are unconfined upon the surface of the land or confined within land depressions or natural drainage ways, unimproved channels or watercourses, or improved ditches, channels or conduits. In no event shall grading activities cause or contribute to the violation of provisions of any applicable NPDES stormwater discharge permit; nor shall grading activities obstruct, impede or divert the free flow of surface water to those who hold rights to such surface water without first obtaining the written permission of the affected owner/s and the appropriate watermaster, where applicable.

12.08.060 Grading permit required

- (a) Except for the specific exemptions listed in Section 12.08.070 of this chapter, no person shall do or permit to be done any grading on any site in the unincorporated areas of Sierra County without a valid grading permit obtained from the Department of Planning and Building.
- (b) All grading and grading work, as defined in this chapter, shall fall under one of three (3) categories:
 - (1) Exempt Grading (no permit required; ref. Section 12.08.070)
 - (2) Regular Grading (permit required, but not engineering; ref. Section 12.08.280)
 - (3) Engineered Grading (permit and engineered plans required; ref. Section 12.08.290)
- (c) A grading permit is required for any grading and/or other construction activity with ground disturbance of one acre or more.
- (d) A building or grading permit based on engineered plans shall also be required for the following:
 - (1) Retaining walls which are over four (4) feet in height, as measured from bottom of footing to top of the retained soil;
 - (2) Any retaining wall that is subject to surcharge;
 - (3) Private vehicular bridge;

- (4) Swimming pool, pond or reservoir fill operations whereby depth of fill for construction or height of dam or other form of retention exceeds three (3) feet.

12.08.070 Exemptions—Grading permit not required

Unless in conflict with provisions of adopted general and/or specific plans, the following grading may be done without obtaining a permit. Exemption from the requirement of a permit shall not be deemed permission to violate any provision of this chapter:

- (a) Minor projects which have cuts which are less than five (5) feet, and fills which are less than three (3) feet, in vertical height at the highest point measured from the existing ground surface, and which meet all of the following criteria:
 - (1) Involves less than one hundred (100) cubic yards of graded material in a single area, within a two-year period. In calculating the graded material quantity, excavation material used as fill material will not be counted twice. (For example: fifty (50) cubic yards [C.Y.] of excavation material that is also placed as fill material would be calculated as fifty (50) cubic yards, not as 50 C.Y. + 50 C.Y. = 100 C.Y.);
 - (2) The removal, plowing under or burial of less than one acre (43,560 sq.ft.) of vegetation in a single area within a two-year period, or ten thousand (10,000) square feet of vegetation on slopes ten (10) percent or greater;
 - (3) Does not create unstable or erodible slopes;
 - (4) Does not create fill more than one (1) foot in vertical depth intended to support structures;
 - (5) Does not encroach onto sewage disposal systems including leach field areas;
 - (6) Does not encroach into the areas designated as Zone A, AO or AE as shown on the Flood Insurance Rate Maps;
 - (7) Does not obstruct any watercourse; or disturb, or negatively impact any drainage way, wetland, streambed riparian habitat, or water body;
 - (8) Does not divert or obstruct overland flow, or negatively affect other adjacent properties;
 - (9) Includes provisions to effectively prevent discharges of sedimentation and pollutants from the site;
 - (10) Provides for completion of soil disturbing activities within a continuous period of forty-five (45) days, and revegetation of all disturbed areas immediately thereafter;
 - (11) For driveway construction, also meets the requirements set forth in subsection (m), below;
 - (12) For projects located in a "Scenic Corridor" overlay zoning district or other restricted or special treatment area identified in the General Plan, zoning overlays, recorded additional information maps, or other mapped and officially adopted areas of concern, only when approved by the Planning Director or Planning Commission.
- (b) Grading done by or under the supervision or construction control of a public agency that assumes full responsibility for the work;
- (c) Excavations (but not fill operations) in connection with a swimming pool authorized by a valid building permit;
- (d) Retaining walls less than four (4) feet in height, as measured from bottom of footing to the top of the retained soil;
- (e) Excluding roads, grading necessary for agricultural operations, unless such grading will create a cut or fill whose failure could adversely affect neighboring property, or endanger any structure intended for human or animal occupancy or any public road, or could obstruct any watercourse or drainage conduit;

- (f) Trenching and grading incidental to the construction or installation of approved underground pipe lines, septic tank disposal fields, conduits, electrical or communication facilities, and drilling or excavation for post holes or approved wells;
- (g) Exploratory excavations less than two hundred fifty (250) cubic yards for soil or geological investigations by a geotechnical engineer, civil engineer, or engineering geologist;
- (h) Grading in accordance with plans incorporated in an approved surface mining permit, reclamation plan, or sanitary landfill or environmental remediation project or petroleum product tank removal and installation where governed by other State or County ordinance;
- (i) Maintenance of existing firebreaks and roads to keep the firebreak or road substantially in its original condition;
- (j) Limbing, tree thinning and modification of undergrowth and vegetation around homes to protect property and nearby watersheds from the threat of wildfire and to maintain healthy forests, provided that such activities do not cause or contribute to erosion or sedimentation problems;
- (k) Routine cemetery excavations and fills;
- (l) Performance of emergency work necessary to protect life or property when an urgent necessity arises. The person performing such emergency work shall notify the Sierra County Planning Department promptly of the problem and work required and shall apply for a permit within ten (10) calendar days after commencing such work;
- (m) An excavation below finished grade for basements and footings of a building authorized by a valid building permit;
- (n) Construction or improvement of driveways less than 150 feet in total length, which are under 20% grade at any point, and which provide adequate drainage facilities and erosion control measures (as determined by the Planning Department) designed to access, and incorporated into the plans for, structures authorized by a valid building permit and, if applicable, a valid encroachment permit, and which meet the requirements set forth in subsection (a) above;
- (o) Timber harvest operations conducted under valid State or Federal permit, stream alteration permits, dams under State jurisdiction, etc.

12.08.080 Fees

- (a) The schedule of fees and costs shall be those established and adopted by the Board of Supervisors from time to time by resolution or ordinance. Before a permit is issued, the applicant shall deposit with the Sierra County Planning and Building Department cash or a check, in a sufficient sum to cover the fee for issuance of the permit, charges for review of plans, specifications and reports, other engineering services, field investigations, necessary inspections or other work and routine laboratory tests of materials and compaction, and other consulting services as deemed necessary by the Planning Department and consistent with the latest fee structure for Planning and Building Department services adopted by the Board of Supervisors.
- (b) No fee shall be required of public agencies.
- (c) Public utilities may, at the option of the Planning Department, make payment for the charges in subsection (a) of this section as billed instead of by advance deposit as required in subsection (a) of this section.

- (d) If grading work is done in violation of this chapter or such work is not done in accordance with an approved permit, a fee covering the Planning Department's investigation of any violation and inspection and plan checking of work required to correct such violation may be charged to the violator to cover all actual costs, as provided in subsection 12.08.690, and in addition to any penalty fees authorized by Section 12.04.500 or other County ordinance.

12.08.090 Levee work

No person shall excavate or remove any material from or otherwise alter any levee required for river, creek, reservoir, or local drainage control channel, without prior approval of the local governmental agency, district, or public utility responsible for the maintenance of the levee.

12.08.100 Construction in public rights-of-way

No person shall perform any grading work within the right-of-way of a public road or street, or within a public easement, without first obtaining a valid encroachment permit or prior written approval of the Director.

12.08.110 Hazards

If the Planning Director determines that any grading on private or public property constitutes a hazard to public safety; endangers property; adversely affects the safety, use or stability of adjacent property, an overhead or underground utility, or a public way, watercourse or drainage channel; or could adversely affect the water quality of any water bodies or watercourses, the Planning Department may issue a stop work notice to the owner of the property upon which the condition is located, or other person or agent in control of such property. Upon receipt of such stop work notice, the recipient shall, within the period specified therein, stop all work, obtain a grading permit and conform to the conditions of such permit. The Planning Department in consultation with the County Engineer may require the submission of plans or soil or geological reports, detailed construction recommendations, drainage study or other engineering data prior to and in connection with any corrective or proposed work or activity.

12.08.120 Transfer of permit

No permit issued under this chapter may be transferred or assigned in any manner whatsoever, without the express written consent of the Planning Department.

12.08.130 Right of entry

As a condition of the permit, the property owner shall grant the County a right of entry for the duration of the permit until after final inspection. Whenever necessary to enforce the provisions of this chapter the Code Enforcement Officer, Planning Director or designee may enter the premises to perform any duty imposed by this chapter.

12.08.140 Liability

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

12.08.150 Grading in connection with approved entitlements

- (a) Property owners or subdividers who have an approved tentative map, vesting tentative map or tentative parcel map shall submit improvement plans to the County pursuant to Section

23.16.006 et seq.—Subdivision Improvements, and the approved improvement plans shall constitute an approved permit to commence grading consistent with the approved plans; separate application for a grading permit is not required.

(b) Property owners who submit applications for permits for grading for projects for which the intended use has an approved discretionary zoning permit, (Part 15, Zoning) or is in compliance with the Site Plan Review process (Section 15.12.280[g-h]) must comply with the following requirements:

- (1) A separate grading plan shall be submitted for review and approval by the Planning Department. This plan shall conform to the requirements of this grading ordinance and any applicable conditions and mitigation measures placed on the project as a result of any formal discretionary permit process. The applicant shall acknowledge that any additional grading or revisions to work necessitated by conflicts discovered during the plan check or subsequent construction will be corrected at the applicant's expense.
- (2) If required by the Planning Director, the property owner shall submit a revegetation and winterization plan for review and approval. This plan shall include a performance agreement with Sierra County which includes a specific schedule for performance of the subject grading, an engineer's estimate of cost for implementing the plan, and cash or other approved form of security to insure the timely performance of the plan.
- (3) The applicant shall provide evidence of satisfaction of all conditions of approval and mitigation measures pertinent to the entitlement associated with the grading project, and submit such evidence with the grading permit application.
- (4) Plan check and inspection fee deposit shall be required in the amount of the full plan check fee applicable at the time of submittal and a deposit of the estimated actual cost of inspections and other relevant services, pursuant to Section 12.08.080; and payment of any outstanding balance of costs associated with the processing of the entitlement application.

12.08.160 Not retroactive

The provisions of this chapter shall not apply to construction for which all previously necessary permits were obtained, before the effective date of the ordinance codified in this chapter or any subsequent amendments.

12.08.170 Severability

If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter; and the Board declares that this chapter and each section, subsection, paragraph, subparagraph, sentence, clause, and phrase thereof would have been adopted irrespective of the fact that one or more of such section, subsection, paragraph, subparagraph, sentence, clause or phrase be declared invalid or unconstitutional.

12.08.180 Filing

Applications for permits shall be filed with the Building Department on forms furnished by the Planning Department. Each application shall include a plan-checking fee and other fees as required; grading plans and supporting documentation, and a statement of the intended use of the site. Only one application and grading permit is allowed for grading work to be done on a site at a time. The Planning Department shall determine whether the application is complete and complies with CEQA or whether

additional information is required from the applicant. The applicant shall be notified in a timely manner, and provided outstanding requirements in writing if the application is deemed incomplete.

12.08.190 Compliance with CEQA

The California Environmental Quality Act (CEQA), the Sierra County zoning code (Part 15) and the Sierra County environmental review ordinance (Part 38) may require the preparation of environmental documents concerning a proposed grading project. Supplemental studies and reports may be deemed necessary by the Planning Director due to the project site's location on or proximity to steep slopes, unstable soils, potential wetlands, sensitive habitat, cultural resources, or other constraints. Any required environmental review must be completed before the grading permit application will be deemed complete and a permit issued.

12.08.200 Notice to adjacent utility owners

Applicant shall provide, with the application, documentation that he or she shall have notified by mail the owners of utilities and/or easement for utilities on or abutting the site that an application for a grading permit has been submitted to the County. Potentially affected utilities and/or easements for utilities shall be clearly shown and labeled on the site plan accompanying the grading plans. The notice shall state that the utilities must provide comments to Sierra County Planning Department within thirty (30) calendar days of the date the notice is received by the utility. No permit shall be issued until the utility has either approved the application or the thirty (30) day period has expired. This section may be waived by the Planning Director in his or her sole discretion.

12.08.210 Referral to other public agencies

The Planning Department may refer an application to other interested public agencies for their recommendations.

12.08.220 Permit conditions

- (a) No permit shall be granted unless the project conforms to the Sierra County General Plan, any community or specific plans adopted thereto and applicable Sierra County ordinances including the applicable zoning ordinance.
- (b) Where a proposed grading project requires the filing of a tentative map or the intended use requires approval of a discretionary zoning permit, no grading permit shall be granted prior to approval by the applicable planning authority.
- (c) The permit shall be limited to work shown on the grading plans as approved by the Planning Department. In granting a permit, the Planning Department may impose any condition deemed necessary to protect the health, safety and welfare of the public, to prevent the creation of a hazard to public or private property, prevent erosion and to assure proper completion of the grading, including but not limited to:
 - (1) Mitigation of adverse environmental impacts as disclosed by any environmental document findings. This includes the proper disposal of any hazardous material identified in the initial planning phase. The director of health and human services will approve hazardous materials management;
 - (2) Improvement of any existing grading to comply with the standards of this chapter;
 - (3) Requirements for fencing or other protecting of grading which would otherwise be hazardous;

- (4) Requirements for dust, erosion, sediment and noise control, and hours of operation and season of work, weather conditions, sequence of work, access roads and haul routes;
 - (5) Requirements for safeguarding watercourses, whether natural or man-made, from excessive deposition of sediment or debris in quantities exceeding natural levels;
 - (6) Requirements for safeguarding areas reserved for on-site or off-site sewage disposal;
 - (7) Assurance by a qualified professional that the land area in which grading is proposed and for which habitable structures are proposed is not subject to hazards of land slippage or significant settlement or erosion and that the hazards of flooding can be eliminated or adequately reduced;
 - (8) Requirements for safeguarding existing water wells and surface water supplies.
- (d) All disturbed areas shall be stabilized by appropriate erosion and/or sediment control measures by October 15 of each year.
- (e) All grading activities within the Lahontan Regional Water Quality Control Board's "Little Truckee Hydrologic Area" between October 15th and May 1st of each year shall be conducted in such a manner that the project can be winterized within 48 hours. "Winterized" means implementing erosion and/or sediment controls that will prevent the discharge of earthen materials from the site and the controls will remain effective throughout the rainy/snow season without requiring maintenance. In general, this requires stabilizing bare, disturbed soils with mulch, erosion protection blankets, or other suitable materials, and installing perimeter sediment controls such as fiber logs or other similar materials that will remain effective during significant rain and snow events.

12.08.230 Permission of other agencies or owners

No permit shall relieve the permittee of responsibility for securing other permits or approvals required for work which is regulated by any other department or agency of the County, or other local, State or Federal public agency, or for obtaining any easements or authorization for grading on property not owned by the permittee. Proof of issuance of applicable public agency permits may be required before the issuance of a grading permit.

12.08.240 Location of property lines

Whenever the location of a property line or easement or the title thereto is disputed during the application process or during a grading operation, a survey by a licensed land surveyor or civil engineer or resolution of title, all at the expense of the applicant, may be required by the Planning Department.

12.08.250 Validity

The issuance of a permit or approval of plans and specifications shall not be construed as an approval of any violation of the provisions of this chapter or of any other applicable laws, ordinances, rules or regulations.

12.08.260 Appeals

Appeals on decisions pursuant to this chapter shall be made to the Planning Commission in writing, setting forth the specific grounds thereto within ten (10) calendar days from the date of such decision. The written appeal shall be accompanied by an appeal fee as set from time to time by the Board of Supervisors. The planning commission shall consider the appeal after receiving the written appeal. The appeal hearing may be continued from time to time at the request of the appellant or by a majority vote of the membership of the planning commission.

12.08.270 Application—Plans

- (a) Each application for a grading permit shall include the following:
 - (1) A completed and signed application form;
 - (2) Two (2) complete, identical sets of grading plans, plus an electronic copy of the complete plans, if available;
 - (3) Location map and/or site plan showing the entire property and location of the project site, existing improvements in the vicinity (roads, buildings, septic systems, wells, etc.), setback distances to property lines, easements and right-of-ways, typical slopes / topography in the project vicinity, and location of and setback distance from any stream, creek, drainage, lake pond, reservoir, or wet meadow area;
 - (4) Estimate of the quantity of total cuts and fills, expressed in cubic yardage;
 - (5) Quantity of total vegetation disturbance, expressed either in square footage or acreage, including the removal, plowing under or burial of vegetation;
 - (6) Profiles, cross sections, and specifications as required below, including both existing and proposed grades and slopes;
 - (7) A complete drainage report unless waived by the Planning Department;
 - (8) Drainage plan and proposed erosion control measures (temporary and permanent, including revegetation plan, as necessary to ensure proper slope stability and avoid erosion and sedimentation);
 - (9) The application fee as determined by the Board of Supervisors (including application, plan-check, issuance and inspection fees);
 - (10) Evidence of required certifications, permits or approval by other agencies or districts having jurisdiction over any aspect of the proposed project. Examples include: CalTrans encroachment permits, USFS special use permits, Cal-Fire (CDF) 4290 compliance checklist for most driveways or access roads; the Department of Fish and Game's "streambed alteration agreement"; a "dust control plan" approved by the Northern Sierra Air Quality Management District for projects disturbing more than one (1) acre; and evidence of coverage, or application for coverage, under an NPDES general construction permit issued by the State's applicable Regional Water Quality Control Board.

- (b) Regular grading plans and appurtenant documents (section 12.08.280) will be reviewed by the Planning Department. Engineered grading plans (section 12.08.290) will be reviewed by the Planning Department in consultation with the County Engineer. The applicant and/or project engineer will be notified of any necessary changes to the plans. When the plans and other documents have been approved by the Planning Department, a grading permit will be issued for the project. All work must be done in strict conformance with the approved plans and

documents. The approved plans shall not be changed or altered except in accordance with the provisions of this chapter. Substantial amendments to the plans or performance of work which deviates from the approved plans may necessitate a "stop work" notice and require further review by the Planning Department, County Engineer or other departments or agencies before work is permitted to continue.

12.08.280 Grading plans—Regular Grading requirements

- (a) All plans and specifications shall be prepared and signed by a civil engineer except that the Planning Department may waive this requirement if the proposed grading does not:
 - (1) Endanger the public health, safety and welfare;
 - (2) Require cuts and fills involving a disturbance of more than one thousand (1,000) cubic yards of dirt or more;
 - (3) Include cut or fill slopes in excess of 2:1 (H:V), or which does not create unstable or erodible slopes under five (5) feet in height;
 - (4) Include a depth of fill in excess of ten (10) feet, and which is not intended to support structures of any kind;
 - (5) Require a cut or fill that is situated so as to cause unduly increased soil pressure or reduce earth support upon adjacent structure or property;
 - (6) Include the construction of any drainage or sediment control structures, culverts, or facilities or substantial alteration of any existing drainage course;
 - (7) Include the creation or aggravation of an unstable slope condition;
 - (8) Require construction of any retaining wall over four (4) feet in height;
 - (9) Include the construction of a vehicular bridge;
 - (10) Include an access road serving two (2) or more existing or potential residences; or
 - (11) Encroach into the areas designated as Zone A, AO or AE as shown on the Flood Insurance Rate Maps.
- (b) Regular grading plans may omit stationing and include only "typical" cross-sections for various terrain and features, maximum grades and heights of cut and fill slopes, and/or a statement indicating compliance with all of the provisions of subsection (a), above.
- (c) Driveway designs in excess of 150 feet in length which meet the requirements of CalFire's PRC 4290 Guidelines, evidenced by a County-furnished "4290 checklist" completed and signed by an authorized representative of CalFire, and which meet all the requirements of subsection (a), above, may also be processed under this section ("regular grading" requirements) with evidence of certification from a California-licensed engineer that the proposed design meets the safe vehicle weight load requirements of CalFire at the time of application.

12.08.290 Grading plans—Engineered Grading requirements

Grading plans and specifications shall be prepared and signed by a civil engineer, as provided herein.

- (a) The plans shall include everything required in section 12.08.270(a) and the following:
- (1) All plans shall be on twenty-four (24) inch by thirty-six (36) inch sheets unless otherwise approved, and shall be drawn at a scale no less than one inch equals one hundred (100) feet. An identical electronic copy of the plans shall also be furnished to the Planning Department in Adobe Acrobat (.pdf) format or as otherwise approved, to facilitate routing and sharing of comments and requested revisions;
 - (2) A title block. Plans shall be entitled "grading plan" and state the purpose of the proposed grading and the name of the engineer or firm by whom this plan is prepared, owner's name and address, site address, date of preparation and draft or revision number;
 - (3) A vicinity sketch (not at map scale) indicating the location of the site relative to the principal roads, lakes, watercourses and wet meadow areas in the vicinity;
 - (4) North arrow and scale;
 - (5) A site plan indicating the extent of the work and any proposed divisions of land;
 - (6) The complete site boundaries (i.e., property lines) and locations of any existing utilities, easements and rights-of-way traversing or adjacent to the property which may potentially affect, or be affected by, the proposed project;
 - (7) The location of all existing or proposed roads, culverts, buildings, wells, pipelines, tree-lines, wetlands, watercourses, septic systems or areas reserved for on-site sewage disposal, and any other structures, facilities, and features of the site, as well as the location of all improvements on lots within one hundred fifty (150) feet of the proposed work;
 - (8) Location and nature of known or suspected soil or geologic hazard areas, including but not limited to serpentine rock areas, landslides, etc.;
 - (9) Accurate contour lines of the existing terrain and proposed finished grade at intervals not greater than two (2) feet (unless otherwise approved by the County), showing all topographic features and drainage patterns throughout the area where the proposed grading is to occur relative to a bench mark established on site (to-be-shown on the plan). The contour lines shall be extended to a minimum of one hundred fifty (150) feet beyond the affected area, and further, if needed, to define intercepted drainage, and shall be extended a minimum of one hundred (100) feet outside of any future road right-of-way;
 - (10) Approximate location of cut and fill lines extent (top of slope and toe of slope), and finished slopes of all proposed grading, and the limits of grading for all proposed grading work, including borrow and stockpile areas;
 - (11) Location, width, direction of flow and approximate location of any watercourses including tops and toes of banks;
 - (12) Approximate boundaries of any Special Flood Hazard Area as depicted on the latest adopted Flood Information Rate Map or other known flood study, or any areas with histories of flooding based on local information;
 - (13) Cross sections, profiles, elevations, dimensions, and construction details based on accurate field data as may be required after initial review of plans;

- (14) Construction details for roads, easements, watercourses, culverts, ditches, bridges and drainage devices, retaining walls, cribbing, dams, and other improvements existing or to be constructed, together with supporting calculations and maps as may be required after initial review of plans;
 - (15) Proposed provisions for storm drainage control and any existing or proposed flood control facilities or septic tank disposal fields or areas reserved for on-site sewage disposal near the grading;
 - (16) A detailed erosion and sediment control plan including specific locations, construction details, and supporting calculations for temporary and permanent sediment control structures and facilities. NOI and SWPPP references must be noted on the plan;
 - (17) A revegetation plan, including temporary erosion control plantings, permanent slope plantings, replacement of temporary groundcover, and irrigation facilities.
- (b) Additional supporting information which may be required includes, but is not necessarily limited to:
- (1) The location of any borrow site or location for disposal of surplus material;
 - (2) A projected schedule of operations, including, as a minimum, the dates of:
 - a. Commencement of work,
 - b. Start and finish of rough grading,
 - c. Completion of drainage facilities,
 - d. Completion of work in any watercourse,
 - e. Completion of erosion and sediment control facilities,
 - f. Completion of hydromulching and other landscaping. If rough grading is proposed between October 15th and May 1st, a more detailed schedule of grading activities and use of erosion and sediment control facilities may be required;
 - (3) Itemized cost estimate of the proposed grading and related work;
 - (4) A complete drainage study;
 - (5) Geotechnical investigation report and recommendations addressing the proposed work;
 - (6) Biological resources, sensitive habitat and potential wetlands studies;
 - (7) Cultural resources assessment.

12.08.300 Retention of approved plans

One (1) set of approved plans and specifications shall be retained by the Planning Department.

12.08.310 Modification of approved plans

- (a) Proposed modifications of an approved final plan shall be submitted to the Planning Department for written approval.
- (b) All necessary soils and geological information and design details shall accompany any proposed modification.
- (c) The modification shall be compatible with any subdivision map or land use requirements.

12.08.320 Seasonal requirements

Implementation of erosion and sediment control plans shall be based on the season of the year and the stage of construction at forecasted periods of rainfall and heavy storms. Erosion and sediment control plans shall allow for possible changes in construction scheduling, unanticipated field conditions, and relatively minor changes in grading. Modifications to plans may be required after initial plan approval.

12.08.330 Geotechnical investigation required

A soil or geologic investigation report shall accompany the application in any of the following circumstances unless waived by the Planning Director:

- (a) When the proposed grading includes a cut slope in excess of 2:1 (H:V) and exceeding five (5) feet in height, or a fill slope in excess of 2:1 (H:V) and exceeding three (3) feet in height;
- (b) When the proposed grading includes a fill exceeding ten (10) feet in depth at any point;
- (c) When highly expansive or erodable soils are present;
- (d) In areas of known or suspected geological hazards, including landslide hazards and hazards of ground failure stemming from seismically induced ground shaking.

12.08.340 Investigations

Those portions of the soil or geologic investigation that constitutes "civil engineering" as defined by Section 6734 of the Business and Professions Code of the State of California shall be conducted by or under the direct supervision of a geotechnical engineer or civil engineer. Those portions of the investigation that involve the practice of "geology" as defined by Section 7802 of the Business and Professions Code of the State of California shall be conducted by an engineering geologist.

The investigations shall be based on observations and tests of the material exposed by exploratory borings or excavations and inspections made at appropriate locations. Additional studies may be necessary to evaluate soil and rock strength, the effect of moisture variation on soil, bearing capacity, compressibility, expansiveness, stability, keying, subdrainage benching and other factors. Grading factors such as moisture variability, ability to compact the material when wet, etc., should be evaluated.

12.08.350 Reports—General

Any soil or geologic investigation report shall be subject to the approval of the Planning Department in consultation with the County Engineer, either of which may require supplemental reports and data. Recommendations included in the reports and approved by the Planning Department shall be incorporated in the final plans and specifications.

12.08.360 Soil/geologic investigation report

The soil or geologic investigation report shall contain all of the following, as they may be applicable to the subject site:

- (a) An index map showing the regional setting of the site;
- (b) A site map which shows the topographic features of the site and locations of all soil borings and test excavations;
- (c) A classification of the soil types (unified soil classification), pertinent laboratory test data and consequent evaluation regarding the nature, distribution, and strength of existing soils;
- (d) A description of the geology of the site and geology of the adjacent areas when pertinent to the site;
- (e) A suitably scaled map and cross sections showing all identified areas of land slippage;
- (f) A description of any encountered groundwater or excessive moisture conditions;
- (g) A description of the soil and geological investigative techniques employed;
- (h) A log for each soil boring and test excavation showing elevation at ground level and the depth of each soil or rock strata;
- (i) An evaluation of the stability of pertinent natural slopes and recommendations regarding maximum cut and fill slopes of proposed work;
- (j) An evaluation of settlement associated with the placement of any fill;
- (k) Recommendations for grading procedures and specifications, including methods for excavation and subsequent placement of fill;
- (l) Recommendations regarding surface and subsurface drainage and erosion control;
- (m) Recommendations for mitigation of geologic hazards;
- (n) Any other information that is deemed appropriate by the County for grading and/or site improvements.

12.08.370 Final report

Upon completion of rough grading work, in the event a complete record of the work is desired or necessary, the Planning Department may require a final geotechnical report that includes, but is not necessarily limited to the following:

- (a) Record plans showing all approved changes or alterations/photos and inspection diary shall be provided with said plans;
- (b) A complete record of all field and laboratory tests including location and elevation of all field tests. Test locations shall be noted on the record plans;

- (c) A professional opinion regarding slope stability, soil bearing capacity, and any other pertinent information required by the County;
- (d) Recommendations regarding foundation design, including soil bearing potential and building restrictions or setbacks from the top or toe of slopes;
- (e) A declaration by the geotechnical engineer, civil engineer or engineering geologist in the format required by the Planning Department that all work was done in substantial conformance with the recommendations contained in the soil or geologic investigation reports as approved; mitigation measures in the adopted environmental document; and in accordance with the approved plans and specification.

12.08.380 Changed conditions

Where soil or geologic conditions encountered in the grading operation substantially deviate from that anticipated in the soil and geologic investigation reports or where such conditions warrant changes to the recommendations contained in the original soil investigation (as determined by the County), a revised soil or geologic report shall be submitted for the approval of the Planning Department.

12.08.390 Special inspection

- (a) As a condition of the permit, the Planning Department may require the permittee to retain a private geotechnical engineer or civil engineer to directly supervise or perform continuous inspection work, and upon completion of the work to provide a written statement acknowledging that he or she has inspected the work and that in his or her professional judgment the work was performed in accordance with the approved plans and specifications. The permittee shall make his or her own contractual arrangements for such services and shall be responsible for payment of all costs. An Engineering Services Agreement shall be provided to the County evidencing the contractual agreement and ensuring County notification on the consultant's responsible charge and directing County notification on various components of the work. Continuous inspection and testing by a geotechnical engineer or civil engineer shall include, but not be limited to, the following situations:
 - (1) During the preparation of a site for the placement of fills which exceed five feet in depth on slopes which exceed ten (10) percent and during the placing of such fills; however, for vehicular pathways, fill placement shall be continuously inspected when fills exceed ten (10) feet in height;
 - (2) During the preparation of a site for the placement of any fill which is intended to support any building or structure when the fill exceeds three feet in depth;
 - (3) During the installation of subsurface drainage facilities.
- (b) Reports filed by the private geotechnical engineer or civil engineer regarding special inspection shall state in writing that from his or her personal knowledge the work performed during the period covered by the report has been performed in substantial conformance with the approved plans and specifications. All reports and test results shall be filed with the County prior to final approval of the work.
- (c) The use of a private geotechnical engineer or civil engineer for inspections shall not preclude the Planning Department from conducting personal inspections or from requiring permittee-paid inspections by other qualified inspectors as may be necessary, in the determination of the County.

12.08.400 Noncompliance notification by private geotechnical engineer or civil engineer

The permittee shall cause the work to be done in accordance with the approved plans. If during the course of construction the private geotechnical engineer or civil engineer finds that the work is not being done substantially in accordance with the approved plans and specifications, he or she shall immediately notify the person in charge of the work and the Planning Department of the nonconformity and the corrective measures to be taken. When changes in the plans are required, he or she shall prepare or cause to be prepared such proposed changes and submit them to the Planning Department for approval. This noncompliance notification shall be placed as a note on the revised Plans.

12.08.410 Periodic progress reports by private geotechnical engineer or civil engineer

As a condition of the report, periodic progress reports shall be rendered by the private geotechnical engineer or civil engineer as required by the Planning Department including, but not limited to, laboratory tests, slope stability, placement of materials, retaining walls, drainage, utilities and any special permit or plan requirements.

12.08.420 Progress report by permittee

Periodic progress reports shall be rendered by permittee on specified calendar dates and at commencement and completion of major key grading and erosion and sediment control operations. The dates of operations upon which such reports are required and their content shall be as required by the Planning Department in the permit.

12.08.430 Performance of work—Inspection/certification

The Planning Department may inspect any work or require certification by private engineer of any work done under a grading permit. No permittee shall be deemed to have complied with this chapter unless one of the following has occurred:

- (a) A final inspection approval has been issued by the Planning Department; or
- (b) Submittal of certification of completion by the civil engineer, or the geotechnical engineer of record, has been accepted by the Planning Department; or
- (c) The final inspection has been waived in writing by the Planning Department.

The permittee shall provide adequate access to the site for inspection by the Planning Department during the performance of all work and for a minimum period of one year after completion of the work.

If the engineer of record is changed during the grading, the work shall be stopped until a new Engineering Services Agreement is filed with the County which evidences that the replacement has agreed in writing to accept their responsibility within the area of technical competence for approval upon completion of the work. It shall be the duty of the permittee to notify the Planning Director in writing of such change prior to the recommencement of such grading.

12.08.440 Other responsibilities of permittee

The permittee shall also be responsible for the following:

- (a) Protection of Utilities. The permittee shall be responsible for the prevention of damage to any public utilities or services.
- (b) Protection of Adjacent Property. The property owner is responsible for the prevention of damage to adjacent property. No person(s) shall excavate on land sufficiently close to the property line

to endanger any adjoining public street, sidewalk, alley or other public or private property, or easement, without supporting and protecting such property from damage which might result.

- (c) Advance Notice. The permittee shall notify the Planning Department at least twenty-four (24) hours prior to the start of work.
- (d) Erosion and Sediment Control. It shall be the responsibility of the permittee to control discharge of sediment from the site to any watercourse, drainage system, or adjacent property and to protect watercourses and adjacent properties from damage by erosion, flooding or deposition which may result from the permitted grading.
- (e) Hazardous Materials Control. It shall be the responsibility of the permittee to prevent discharge of hazardous materials from the site to any watercourse, drainage system, or adjacent property, and to protect watercourses and adjacent properties by hazardous materials, which may result from, permitted grading.
- (f) Federal, State and Local Permits. It shall be the permittee's responsibility to obtain all necessary permits and follow all permit requirements of agencies having jurisdiction over any aspect of the proposed project. While every project is different in terms of location, site constraints, area of disturbance, proximity to water or wetlands, etc., and therefore may or may not trigger certain jurisdictions' requirements, typical permits and certifications include the following:
 - Encroachment permit (Sierra County Dept. of Transportation or CalTrans) or USFS Special Use Permit (for projects encroaching onto, or directly accessed via, a County, State or Federal public right-of-way, respectively)
 - CalFire (CDF) PRC 4290/4291 compliance checklist (most driveways outside existing townsites)
 - Northern Sierra Air Quality Management District (NSAQMD) approved "Dust Control Plan" (for projects disturbing more than one (1) acre)
 - State Water Resource Control Board NPDES Stormwater Discharge Permit, evidenced by a copy of that agency's Notice of Intent (NOI) receipt letter containing the "Waste Discharger's Identification (WDID) number (for projects disturbing more than one (1) acre; or in Lahontan Region's "Little Truckee Hydrologic Area," more than 10,000 sq.ft.)
 - Department of Fish and Game (DFG) Streambed Alteration Agreement (any work done in a stream corridor from top of bank through the bed of a river, creek or stream to the top of the other bank, including tree and shrub removal, diverting water, filling, and excavation)
 - California Regional Water Quality Control Board / Federal Clean Water Act Section 401 Permit for Water Quality Certification (any filling of materials into waters of the U.S. or waters of the State)
 - United States Army Corps of Engineers (USACE) Federal Clean Water Act Section 404 Permit (any filling of materials into waters of the U.S. or adjacent wetlands, especially shown as a blue line on a USGS topo map as a perennial or intermittent stream, river, or creek, and especially with flows of 5 c.f.s. or more, or with wetlands vegetation like willows, rushes, or sedges)

12.08.450 Excavation

Excavations shall be constructed or protected so that they do not endanger life or property.

12.08.460 Excavation slope

The slope of cut surfaces of permanent excavations shall not be steeper than two horizontal to one vertical (2:1) exclusive of terraces and exclusive of rounding described herein, except as permitted in sections 12.08.070(a) and 12.08.280(a) for slopes less than five (5) feet in total height. For cut slopes in excess of five (5) feet in total height, slopes steeper than 2:1 (H:V) will be permitted in competent bedrock or soils provided such slope inclinations and stabilization design specifications are in

accordance with recommendations contained in the geotechnical or geological report. The bedding planes, foliation planes or principal joint sets in any formation when dipping towards the cut face shall not be daylighted by the cut slope unless the soils and geologic investigations contain recommendations for steeper cut slopes. Cut slopes shall be rounded into the existing terrain to produce a contoured transition from cut face to natural ground.

12.08.470 Fill placement

Fills shall be constructed in layers. The loose thickness of each layer of fill material before compaction shall not exceed twelve (12) inches. Completed fills shall be stable masses of well-integrated material bonded to adjacent materials and to the materials on which they rest. Fills shall be competent to support anticipated loads and be stable at the design slopes shown on the plans. Proper surface and subsurface drainage and other appropriate measures shall be taken to ensure the continuing integrity of fills. Earth materials shall be used which have no more than minor amounts of organic substances and have no rock or similar irreducible material with a maximum dimension greater than twelve (12) inches. Larger material may be used with the approval of the Planning Department and the geotechnical engineer.

12.08.480 Fill compaction

All fills shall be compacted throughout their full extent to a minimum of ninety (90) percent of maximum density as determined by the appropriate Caltrans standard method (Test Method No. Calif 216-C of the Materials and Research Department, State of California, Transportation Department, Division of Highways) or other alternate methods approved by the Planning Department. Tests to determine the density of compacted fills shall be made on the basis of not less than one test for each two-foot vertical lift of the fill but not less than one test for each one thousand (1,000) cubic yards of material placed. Additional density tests at a point approximately one foot below the fill slope surface shall be made on the basis of not less than one test for each one thousand (1,000) square feet in slope surface but not less than one test for each ten (10) foot vertical increase of slope height. All tests shall be reasonably uniformly distributed within the fill or fill slope surface. Results of such testing and location of tests shall be presented in the periodic and final reports. Compaction may be less than ninety (90) percent of maximum density, as determined by the above test, within six inches of the slope surface when such surface material is placed and compacted by a method acceptable to the Planning Department for the planting of the slopes. Compaction of temporary stockpile fills, to be used for a period of not greater than six months, shall not be required, except where the Planning Department determines that compaction is necessary as a safety measure to aid in preventing saturation, sliding, or erosion of the fill.

12.08.490 Ground preparation for fill placement

The natural ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, top soil, and other unsuitable material, and where slopes are six horizontal to one vertical (6:1) or steeper, by benching into competent material in a manner acceptable to the Planning Department. The keyway under the toe, if specified, shall be at least fifteen (15) feet wide, or as specified by the soils engineer of record.

12.08.500 Fill slopes

The slope of permanent fills shall not be steeper than two horizontal to one vertical (2:1) exclusive of terraces and exclusive of roundings described herein, unless a soils report supports a steeper slope, but shall not exceed one and one-half horizontal to one vertical (1.5:1) unless the fill is reinforced as recommended by the geotechnical engineer. The Planning Director or County Engineer may require that the fill be constructed with an exposed surface flatter than two horizontal to one vertical (2:1) or may require such other measures as he or she deems necessary for stability and safety.

12.08.510 Adjacent structures protection

Footings which 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 such building or structure is capable of withstanding the additional loads caused by such fill or surcharge. The rights of coterminous owners shall be as set forth in Section 832 of the Civil Code of the State of California.

12.08.520 Setbacks—General

Unless otherwise recommended in a soil or geologic investigation report and approved by the Planning Director, the following shall be used for establishing setbacks for property boundaries, easements, buildings and structures other than fences and retaining walls:

- (a) Boundaries. Cut and fill slopes shall be set back from property lines, easements and rights-of-way in accordance with this section. Setback dimensions shall be measured perpendicular to such boundary lines and shall be as follows:
 - (1) As measured from the top of any cut or fill slope to a boundary line, the setback distance shall be equivalent to the height of the cut or fill slope divided by five (H/5) but no less than two (2) feet and need not exceed ten (10) feet.
 - (2) As measured from the toe or bottom of any cut or fill slope to a boundary line, the setback distance shall be equivalent to the height of the cut or fill slope divided by two (H/2) but no less than two (2) feet and need not exceed twenty (20) feet.
- (b) Top of slope. The setback at the top of a cut slope shall not be less than that described in subsection (a)(1), above, or than is required to accommodate any required interceptor drains, whichever is greater.
- (c) Toe of slope. In addition to the setback described in subsection (a)(2), above, where required to protect adjacent property at the toe of a slope from adverse effects of the grading, additional protection shall be included. Such protection shall be approved by the Planning Department and may include but not be limited to:
 - (1) Setbacks greater than those required in subsection (a)(2), above;
 - (2) Provisions for retaining walls or similar construction;
 - (3) Additional erosion protection of the fill slopes;
 - (4) Provision for the control of surface waters.
- (d) Buildings and structures. Except for fences and retaining walls, excavations and fills shall be set back from buildings and structures a distance of at least one-half the height of the slope (H/2) but no less than five (5) feet, unless a qualified engineer or engineering geologist has recommended otherwise.
- (e) Waterways and wet meadow areas. Any ground disturbing activities associated with a grading project, including the removal or covering over of vegetation, shall be set-back from intermittent or ephemeral streams or drainages a distance of fifty (50) feet; and from perennial streams, ponds, lakes, reservoirs and wet meadow areas a distance of one hundred (100) feet; except when conducted in accordance with the provisions and conditions of all necessary permits approved by the Department of Fish and Game, the Regional Water Quality Control Board, the Department of Forestry and Fire Protection, the U.S. Army Corps of Engineers, or other responsible agency having jurisdiction over the proposed project. The permittee shall be responsible for adequately protecting stream resource values, recreational uses, wildlife habitat, and aesthetic

values of all drainages, waterways and potential wetlands from damage, or from sedimentation or discharges of any kind escaping from the grading project into these features.

- (f) Modification of setbacks. The Planning Director may approve alternate setbacks. The Planning Director may require an investigation and recommendation by a qualified engineer or engineering geologist to demonstrate that the intent of this section has been satisfied.

12.08.530 Drainage—General

Any drainage structure(s) or device(s) carrying surface water runoff required by this chapter shall be designed and constructed in accordance with standards herein and criteria authorized by the Planning Director.

12.08.540 Drainage discharge requirements

All drainage facilities shall be designed and engineered to carry surface and subsurface waters to the nearest adequate street, storm drain, natural watercourse, or other juncture, without unreasonably contributing to erosion or sedimentation problems for off-site drains or drainages in accordance with California law.

12.08.550 Drainage—Water accumulation

All areas shall be graded and drained so that drainage will not cause erosion or endanger the stability of any cut or fill slope or any building or structure.

12.08.560 Drainage protection of adjoining property

Unless otherwise recommended by a qualified engineer and approved by the Planning Director as provided below, drainage across property lines shall not exceed, in quantity or concentration, that which existed prior to grading. Excess or concentrated drainage shall be contained on site or directed to a County-approved drainage facility. Erosion of the ground in the area of discharge shall be prevented by installation of nonerosive down drains or other County-approved devices.

When surface drainage is discharged onto any adjoining property, the following shall apply:

- (a) Drainage shall be discharged in such a manner that it will not cause erosion or endanger any cut or fill slope or any building or structure;
- (b) A report of drainage calculations and design recommendations (which may include, but not be limited to, culvert sizing, adequate energy dissipation, existing drainage ditch capacity improvements, sufficient leach area, etc.) shall be prepared by a qualified civil engineer;
- (c) A drainage plan shall be designed by a qualified civil engineer, incorporated into the plans, and include reference to the drainage calculations report;
- (d) If the discharge is to public property, an approved encroachment permit or special use permit shall first be obtained from the agency having jurisdiction over the affected property, prior to issuance of a grading permit. If the discharge is to private property, a drainage and maintenance easement may be drafted, approved by the County, then recorded evidencing the grant of easement by the affected property owner/s, prior to issuance of a grading permit; or a lot line adjustment may first be approved by the County and recorded; or other legal method allowing sufficient containment and control of drainage to meet the above provisions.

12.08.570 Terrace drainage

Terraces at least eight feet in width shall be established at not more than twenty-five (25) feet in height intervals for all cut and fill slopes exceeding thirty (30) feet in height. Where only one terrace is required, it shall be at approximately mid-height. Suitable access shall be provided to permit proper cleaning and maintenance of terraces and terrace drains. Swales or ditches on terraces shall have a minimum depth of one foot, a minimum longitudinal grade of four percent, a maximum longitudinal grade of twelve (12) percent. Down-drains or drainage outlets shall be provided at approximately three hundred (300) foot intervals along the drainage terrace. Down-drains and drainage outlets shall be of approved materials and of adequate capacity to convey the intercepted waters to the point of disposal. If the drainage discharges onto natural ground, adequate erosion protection shall be provided.

12.08.580 Subsurface drainage

Cut and fill slopes shall be provided with surface and/or subsurface drainage as necessary for stability.

12.08.590 Erosion and sediment control

The faces of cut and fill slopes shall be prepared and maintained to control against erosion. Best Management Practices for erosion and sediment control shall be incorporated into all grading plans, substantially in conformance with those contained in the following publication: *Erosion & Sediment Control Guidelines for Developing Areas of the Sierra Foothills and Mountains* (High Sierra RC&D Council, October 1991), and all subsequent revisions. Alternative BMPs may also be considered by the Planning Department; however in all cases, the following shall apply to the control of erosion and sediment from grading operations:

- (a) Grading plans shall be designed with long-term erosion and sediment control as a primary consideration. Erosion prevention and source control are to be emphasized over sediment controls and treatment.
- (b) Grading operations shall provide erosion and sediment control measures, except upon a clear demonstration, to the satisfaction of the Planning Department that at no stage of the work will there be any substantial risk of increased sediment discharge from the site. Temporary mulch, revegetation, or other stabilization methods shall be applied to areas where permanent revegetation or landscaping cannot be immediately implemented. Unless otherwise exempted in this chapter or by the Planning Director, grading activity must be scheduled to ensure completion or stabilization and winterization by October 15th of each year (ref. §12.08.220[d] and [e]).
- (c) Grading activity shall be conducted such that the smallest practicable area of erodible land is exposed at any one time during grading operations and the time of exposure is minimized. Land disturbance shall be limited to the minimum area necessary for construction.
- (d) Natural features, including vegetation, terrain, watercourses and similar resources shall be protected and preserved wherever possible. Boundaries of grading shall be clearly defined and marked to prevent damage by construction equipment.
- (e) Permanent vegetation and structures for erosion and sediment control shall be installed as soon as possible.
- (f) Adequate provision shall be made for effective maintenance of temporary and permanent erosion and sediment control structures and vegetation. Sediment and other construction-related wastes shall be retained and properly managed on the site or properly disposed of off-site.

- (g) No topsoil shall be removed from the site unless otherwise directed or approved by the Planning Department. Topsoil overburden shall be stockpiled and redistributed where appropriate within the graded area after rough grading to provide a suitable base for seeding and planting. Runoff from the stockpiled area shall be controlled to prevent erosion and resultant sedimentation of receiving water.
- (h) Runoff shall not be discharged from the site in quantities or at velocities substantially above those which occurred before grading except into drainage facilities, whose design has been specifically approved by the Planning Department or County Engineer.
- (i) The permittee shall take reasonable precautions to ensure that vehicles do not track or spill earth materials into public streets and shall immediately remove such materials if this occurs.
- (j) All cut and fill slopes shall be adequately stabilized to prevent erosion and failure through temporary and permanent means.
- (k) Control measures shall be employed to prevent transport of dust off the project site or into any drainage course or water body.

12.08.600 Emergency conditions

Should increased sediment discharge occur or become imminent, the permittee shall take all necessary steps to control or reduce such discharge. Such steps may include construction of additional facilities or removal or alteration of facilities required by approved erosion and sediment control plans. Facilities removed or altered shall be restored as soon as possible afterward or appropriate changes in the plan shall be immediately required pursuant to this chapter. The permittee shall take prompt action to resolve emergency problems; otherwise the Planning Department may institute abatement proceedings pursuant to provisions of Section 12.08.660(b) of this chapter.

12.08.610 Erosion and sediment control plans

Erosion and sediment control plans prepared pursuant to this chapter shall comply with all of the following:

- (a) The erosion and sediment control plan need not be a separate sheet if all facilities and measures can be shown on the grading sheets without obscuring the clarity of either the grading plan or the erosion and sediment control plan.
- (b) An erosion and sediment control plan shall be required for all engineered grading plans, and whenever:
 - (1) The graded portion of the site includes more than ten thousand (10,000) square feet of area having a slope greater than ten (10) percent;
 - (2) Clearing and grubbing of areas of one acre or more regardless of slope;
 - (3) There is a significant risk that more than two thousand five hundred (2,500) square feet will be unprotected or inadequately protected from erosion during any portion of the rainy season;
 - (4) Grading will occur within one hundred fifty (150) feet of any watercourse;

- (5) The Planning Department in consultation with the County Engineer determines that the grading will or may pose a significant erosion, or sediment discharge hazard for any reason.
- (c) All disturbed areas shall be stabilized by appropriate erosion and/or sediment control measures by October 15 of each year, be capable of being winterized within 48 hours. The Planning Director may require suspension of any and all grading activities between October 15 and May 1 without prior notice.
- (d) Erosion and sediment control plans shall include an effective revegetation program to stabilize all disturbed areas, which will not be otherwise protected. All such areas where grading has been completed between April 1 and October 15 shall be planted by November 1st. Graded areas completed at other times of the year shall be planted within fifteen (15) days. If revegetation is infeasible or cannot be expected to stabilize an erodible area with assurance during any part of the rainy season and the unstable area exceeds two thousand five hundred (2,500) square feet, additional erosion and sediment control measures or irrigation of planted slopes may be required as appropriate to prevent increased sediment discharge.
- (e) Erosion and sediment control plans shall be designed to prevent increased discharge of sediment at all stages of grading and development from initial disturbance of the ground to project completion. Every feasible effort shall be made to ensure that site stabilization is permanent. Plans shall indicate the implementation period and the stage of construction where applicable.
- (f) Erosion and sediment control plans shall comply with the recommendations of the responsible civil engineer, geotechnical engineer, engineering geologist, or landscape architect involved in preparation of the grading plans.
- (g) The structural and hydraulic adequacy of all stormwater containment or conveyance facilities shown on the erosion and sediment control plans shall be verified by a civil engineer, and he or she shall so attest on the plans. Sufficient calculations and supporting material to demonstrate such adequacy shall accompany the plans when submitted.
- (h) Erosion and sediment control plans shall be designed to meet anticipated field conditions.
- (i) Erosion and sediment control plans shall provide for inspection and repair of all erosion and sediment control facilities at the close of each working day during the rainy season and for specific sediment cleanout and vegetation maintenance criteria.
- (j) Erosion and sediment control plans shall comply with any and all standards and specifications adopted herein for the control of erosion and sedimentation on grading sites. These standards and specifications shall be in general compliance with the current Erosion and Sediment Control Guidelines for Developing Areas of the Sierras, published by the High Sierra Resource Conservation District.

12.08.620 Vehicular ways—General

Vehicular ways shall conform to the grading requirements of this chapter, and may require conformance with CalFire’s PRC §4290 fire safe improvement standards.

12.08.630 Vehicular ways—Drainage

Vehicular ways shall be graded and drained in such a manner that will not allow erosion or endanger the stability of any adjacent slope. Surface discharge onto adjoining property shall be controlled in such a manner that it does not cause erosion or endanger existing improvements, and shall conform to the

provisions of sub-section 12.08.560. Bridges and culverts installed over or in watercourses must be approved by the Planning Director and any other required permitting agency (including but not limited to: California Department of Fish and Game, Regional Water Quality Control Board, U.S. Army Corps of Engineers, etc.).

12.08.640 Security required

- (a) As a condition for the issuance of a permit, the Planning Department may require the deposit of improvement security in sufficient amount deemed necessary to assure performance of the work in the event of default on the part of permittee or, in the case of a subdivision, where the permittee does not proceed with preparation and obtaining the approval of a final map. Such security shall be in a form acceptable to Sierra County.
- (b) In the case of subdivisions, the improvement security shall remain in effect until final inspections have been made of all grading work and the Board of Supervisors of Sierra County has accepted the subdivision improvements.
- (c) For projects other than subdivisions, the improvement security shall remain in effect until final inspections have been made and all grading work and erosion control has been approved by the Planning Department.
- (d) In addition to the improvement security, the Planning Department may also require the deposit of maintenance security in sufficient amount deemed necessary to guarantee and maintain the grading work and to assure the proper functioning of drainage systems and adequate erosion and sedimentation control. Such maintenance security shall be in a form acceptable to Sierra County and shall remain in effect for a period of one year after the date of acceptance of the improvements as designated in subsections (b) and (c) of this section.
- (e) Any deposit required by the Planning Department pursuant to this chapter shall be payable to the Sierra County Planning Department.
- (f) Upon satisfaction of applicable provisions of this chapter, the improvement and maintenance security deposits will be released. However, upon failure to complete the work, failure to comply with all of the terms of the permit, or failure of the completed site to function properly to provide proper drainage or erosion and sedimentation control, the County may do the required work, or cause it to be done and collect from the permittee or surety all costs incurred thereto, including administrative, inspection and legal costs.

12.08.650 Violations

Failure to comply with the following shall constitute a violation of this chapter:

- (a) All orders issued by the Planning Department pursuant to the provisions of this chapter;
- (b) All conditions placed on grading permits;
- (c) All rules and regulations of Sierra County.

12.08.660 Nuisance

- (a) Established Nuisances Per Se. The Board of Supervisors of Sierra County ordains that the following violations of this chapter constitute public nuisances:

- (1) A violation has altered natural drainage patterns and has or will cause flooding to or erosion of adjacent property; or
 - (2) A violation has created a threat to public health, safety or welfare.
- (b) Nuisance Abatement Procedure. In accordance with California Government Code Section 25845, the Sierra County Board of Supervisors establishes the procedure for abatement of a nuisance.
- (1) Upon the discovery of a nuisance, County staff shall comply with the procedures set forth in Chapter 1.17 of the Sierra County Code.
 - (2) Notwithstanding the foregoing, nothing in this chapter shall prohibit the summary abatement of a nuisance upon order of the Board of Supervisors, or upon order of any other County officer authorized by law to summarily abate nuisances, if the Board or officer determines that the nuisance constitutes an immediate threat to public health or safety.

12.08.670 Stop work orders

- (a) Whenever any person is performing work in violation of the provisions of this chapter, the Planning Director or his or her designee may issue a written order to the responsible party to stop work on all or the portion of the work where the violation has occurred or upon which the danger exists. If there are no persons present on the premises, the notice may be posted in a conspicuous place. The notice shall state the nature of the violation.
- (b) Upon receipt of such stop work order, the person performing the work shall:
 - (1) Stop work immediately; and
 - (2) Within twenty-four (24) hours, provide the Planning Director with a list of remedies which can be immediately undertaken to bring the work into compliance with this chapter; and
 - (3) Within twenty-four (24) hours after approval of a remedy by the Planning Director, undertake, at the violator's sole expense, such action as is necessary to bring the work into compliance with this chapter.
- (c) If the responsible party fails to comply with the stop work order served pursuant to this section, the County may use any and all remedies available to it under this chapter, in law, or in equity, including but not limited to: shutting down all work on the site; performing the corrective work either with County crews or by contract; stabilizing the disturbed areas; or arresting the responsible party for violation of this chapter.

12.08.680 Misdemeanor violation

Notwithstanding any other provisions of this Code, any person violating any provisions of this chapter shall be guilty and punishable as provided in Chapters 1.16 and 1.17 of either an infraction or a misdemeanor as the Sierra County District Attorney deems appropriate. Each such person shall be charged with a separate offense for each and every day or portion thereof during which any violation of this chapter is committed, continued or permitted.

12.08.690 Investigation fees/work without a permit

Whenever any work for which a permit is required by this chapter has been commenced without first obtaining the permit, the Planning Director may require an investigation before issuing a permit for such work. In this case, the violator shall be charged for the department's labor and costs incurred during the investigation, in addition to the regular permit fees and any additional penalty fee assessed to the grading permit as allowed by Section 12.04.500 or other County ordinance.

12.08.700 Planning Department Director delegation

The Planning Director shall be authorized to delegate any of his or her duties under this chapter to other Sierra County officer(s).

Ordinance Section Three:

This ordinance shall take effect thirty (30) days after the effective date of its passage. Before expiration of fifteen (15) days after passage of this ordinance a summary of the ordinance with the names of those supervisors voting for and against the ordinance shall be published in the Mountain Messenger, a newspaper of general circulation published in the County of Sierra, State of California. The County Clerk shall post a certified copy of the full text of the adopted ordinance along with the names of those supervisors voting for and against the ordinance or amendment in the County Clerk's office.

Introduced at a regular meeting of the Board of Supervisors on the 16th day of February, 2010, and passed and adopted by the Board of Supervisors of the County of Sierra, State of California, on the 16th day of February, 2010 by the following roll call vote, to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF SIERRA

DAVID GOICOECHEA, CHAIRMAN
BOARD OF SUPERVISORS

ATTEST:

APPROVED AS TO FORM:

HEATHER FOSTER
CLERK OF THE BOARD

JAMES A. CURTIS
COUNTY COUNSEL