

Title 16

ENVIRONMENTAL AND RESOURCE PROTECTION

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Chapter 16.01**REGULATIONS FOR PRESERVING AND ENHANCING THE ENVIRONMENT****Sections:**

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16.01.010 Purpose.

The purpose of these regulations is to preserve and enhance the environment of the County of Santa Cruz by providing for the adoption of County environmental review guidelines setting forth regulations and procedures implementing the California Environmental Quality Act (CEQA) and State Environmental Impact Report Guidelines promulgated pursuant thereto. Authority is also granted for the adoption of further measures designed to preserve and enhance the environment of the County as the Board of Supervisors see fit. [Ord. 2117, 1975].

16.01.020 Definitions.

“California Environmental Quality Act (CEQA)” means the Environmental Quality Act of 1970 commencing with Section 21050 of the California Public Resources Code and as amended from time to time.

“County environmental review guidelines” means procedures and regulations adopted by resolution of the Board of Supervisors to implement CEQA and State EIR Guidelines.

“County rules and regulations” means policies, procedures, rules and regulations adopted by the Board of Supervisors by ordinance or resolution to provide for implementing County environmental review guidelines or to adopt further measures designed to preserve and enhance the environment of the County.

“State EIR Guidelines” means the Guidelines for Implementation of the California Environmental Quality Act adopted by the Secretary for Resources pursuant to Section 21083 of CEQA and published in Division 6, Title 14 of the California Administrative Code, commencing with Section 15000, and as amended from time to time. [Ord. 2117, 1975].

16.01.030 Adoption of County environmental review guidelines.

The Board of Supervisors shall adopt County environmental review guidelines not inconsistent with State EIR Guidelines and CEQA. Said County guidelines shall be reviewed periodically to keep them in conformity with CEQA and State EIR Guidelines as they may be amended from time to time. The County may adopt other rules and regulations designed to preserve and enhance the environment of the County. [Ord. 2117, 1975].

16.01.040 Applicants—Information to be furnished.

Applicants for permits or other authorizations under the Santa Cruz County Code shall provide the information required by current County rules and County environmental review guidelines. [Ord. 2117, 1975].

16.01.050 Decisions to consider environmental factors.

Where environmental impact reports are required pursuant to this chapter, the decision-making body shall give such consideration to the facts developed therein as it deems necessary and in accordance with County rules and guidelines. [Ord. 2117, 1975].

16.01.060 Fees.

In addition to the usual fee for a permit or authorization, applicants therefor shall pay the fee prescribed by resolution of the Board of Supervisors or otherwise compensate the County for cost of processing documents required to be prepared by CEQA, State EIR Guidelines, and County environmental review guidelines and County rules. [Ord. 2117, 1975].

Chapter 16.10

GEOLOGIC HAZARDS

Sections:

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Prior legislation: Ords. 4048 and 4149.

16.10.010 Purpose.

The purposes of this chapter are:

(A) Policy Implementation. To implement the policies of the National Flood Insurance Program of the Federal Insurance Administration, the State of California Alquist-Priolo Earthquake Fault Zoning Act, the Santa Cruz County General Plan, and the Land Use Plan of the Local Coastal Program; and

(B) Public Health and Safety. To minimize injury, loss of life, and damage to public and private property caused by the natural physical hazards of earthquakes, floods, landslides, and coastal processes; and

(C) Development Standards. To set forth standards for development and building activities that will reduce public costs by preventing inappropriate land uses and development in areas where natural dynamic processes present a potential threat to the public health, safety, welfare, and property; and

(D) Notice of Hazards. To assure that potential buyers are notified of property located in an area of special flood hazard, and to assure that those who occupy areas of special flood hazard assume responsibility for their actions. [Ord. 4518-C § 2, 1999; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.020 Scope.

This chapter sets forth regulations and review procedures for development and construction activities including grading, septic systems installation, development permits, changes of use as specified in SCCC 16.10.040(19)(h), building permits, minor land divisions, and subdivisions throughout the County and particularly within mapped geologic hazards areas and areas of special flood hazard (SFHAs). These regulations and procedures shall be administered through a system of geologic hazard assessment, technical review, development and building permits. [Ord. 4518-C § 2, 1999; Ord. 3808 § 1, 1986; Ord. 3635 § 1, 1985; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.022 Statutory authorization.

The State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local government units the authority to adopt regulations designed to promote public health, safety, and general welfare of its citizenry through the adoption of the following geologic hazard and floodplain management regulations. [Ord. 4518-C § 2, 1999].

16.10.025 Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the flood insurance study (FIS) dated April 15, 1986, and accompanying flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), dated April 15, 1986, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of the flood regulations contained in this chapter, and may be supplemented by studies for other areas. The FIS, FIRMs, and FBFMs are on file at the County Government Center, Planning Department. [Ord. 4518-C § 2, 1999].

16.10.030 Amendment procedure.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 SCCC and shall be subject to approval by the California Coastal Commission. [Ord. 4518-C § 2, 1999; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.035 Conflict with existing regulations.

This chapter is not intended to repeal, nullify, or impair any existing easements, covenants, or deed restrictions. If this chapter and any other ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. [Ord. 4518-C § 2, 1999].

16.10.036 Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by artificial or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Santa Cruz County, any officer or employee thereof, the State of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. [Ord. 4518-C § 2, 1999].

16.10.037 Severability.

This chapter and the various parts hereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid. [Ord. 4518-C § 2, 1999].

16.10.040 Definitions.

For the purposes of this chapter, the following definitions apply:

- (1) "Accessory use" means any use which is clearly incidental and secondary to the main use and does not change the character of the main use.
- (2) "Active" means a geologic feature (fault or landslide) which shows evidence of movement, surface displacement, or activity within Holocene time (about the last 11,000 years).
- (3) "Addition" means improvement to an existing structure that increases the area, measured in square feet. The use of breeze ways, corridors, or other nonintegral connections between structures shall not cause separate buildings or structures to be considered additions to an existing structure.
- (4) "Adjacent/contiguous parcel" means a parcel touching the subject parcel and not separated from the subject parcel by a road, street or other property.
- (5) "Area of special flood hazard" means an area having special flood hazard as identified by the Federal Insurance Administration, through the Federal Emergency Management Agency, and shown on an FHBM or FIRM map as Zone A, AO, A1—A30, AE, A99, V1—V30, VE or V. Also known as special flood hazard area (SFHA).
- (6) "Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year. For flood insurance purposes "100-year flood" and "base flood" have the same meaning.
- (7) "Basement" means, for the purposes of this chapter, any area of the building having its floor subgrade (below ground level) on all sides.

(8) “Beach erosion” means temporary or permanent reduction, transport or removal of beach sand by littoral drift, tidal actions, storms or tsunamis.

(9) “Certified engineering geologist” means a registered geologist who is licensed by the State of California to practice the subspecialty of engineering geology.

(10) “Coastal bluff” means a bank or cliff along the coast subject to coastal erosion processes. “Coastal bluff” refers to the top edge, face, and base of the subject bluff.

(11) “Coastal dependent uses” means any development or use which would not function or operate unless sited on or adjacent to the ocean.

(12) “Coastal erosion processes” means natural forces that cause the breakdown and transportation of earth or rock materials on or along beaches and bluffs. These forces include landsliding, surface runoff, wave action and tsunamis.

(13) “Coastal hazard areas” means areas which are subject to physical hazards as a result of coastal processes such as landsliding, erosion of a coastal bluff, and inundation or erosion of a beach by wave action.

(14) “Coastal high hazard area” means areas subject to high velocity waters, including tidal and coastal inundation. These areas and base flood elevations are identified on a Flood Insurance Rate Map (FIRM) as Zones V1—30, VE or V.

(15) “County geologist” means a County employee who is registered as a geologist with the State of California (R.G.) and has been authorized by the Planning Director to assist in the administration of this chapter, or a registered geologist under contract by the County who has been authorized by the Planning Director to assist in the administration of this chapter.

(16) “County geologic advisor” means an individual who is registered as a geologist with the State of California (R.G.), who may be employed by the County to provide geologic services.

(17) “Critical structures and facilities” means structures and facilities which are subject to specified seismic safety standards because of their immediate and vital public need or because of the severe hazard presented by their structural failure. These structures include hospitals and medical facilities, fire and police stations, disaster relief and emergency operating centers, large dams and public utilities, public transportation and communications facilities, buildings with involuntary occupancy such as schools, jails, and convalescent homes, and high occupancy structures such as theaters, churches, office buildings, factories, and stores.

(18) “Cumulative improvement” means, for the purposes of calculating “substantial improvement” as defined in subsection (65) of this section, two or more instances of repair, reconstruction, alteration, addition, or improvement to a structure, over the course of five consecutive years. If the value of such activities, when added together, equals or exceeds 50 percent of the market value of the structure, the activity as a whole shall be considered to be a “substantial improvement.”

(19) Development/Development Activities. For the purposes of this chapter, and this chapter only, any project that includes activity in any of the following categories is considered to be development or development activity. This chapter does not supersede SCCC 13.20.040 for purposes of determining whether a certain activity or project is considered development that requires a coastal permit; some activities and projects will require coastal permits although they do not fall under the following specific definition:

(a) The construction or placement of any habitable structure, including a manufactured home and including a non-residential structure occupied by property owners, employees and/or the public;

(b) Modification, reconstruction or replacement of 65 percent of the major structural components—consisting of the foundation, floor framing, exterior wall framing, and roof framing—of an existing habitable structure within any consecutive five-year period, or modification, reconstruction or replacement of 50 percent of the major structural components of an existing critical structure or facility, as defined by this chapter, within any consecutive five-year period, whether the work is done at one time or as the sum of multiple projects. For the purpose of this section, the following are not considered major structural components: exterior siding; nonstructural door and window replacement; roofing material; decks; chimneys; and interior elements including but not limited to interior walls and sheetrock, insulation, kitchen and bathroom fixtures, mechanical, electrical and plumbing fixtures. The extent of alterations to major structural components will be calculated in accordance with administrative guidelines adopted by resolution of the Board of Supervisors;

(c) The addition of habitable square footage to any structure, where the addition increases the habitable square footage by more than 50 percent or 500 square feet, whichever is greater, over the existing habitable space within a consecutive five-year period. This allows a total increase of up to 50 percent of the original habitable space of a structure, whether the additions are constructed at one time or as the sum of multiple additions over a consecutive five-year period;

(d) An addition of any size to a structure that is located on a coastal bluff, dune, or in the coastal hazard area, that extends the existing structure in a seaward direction;

(e) A division of land or the creation of one or more new building sites, except where a land division is accomplished by the acquisition of such land by a public agency for public recreational use;

(f) Any change of use from nonhabitable to habitable, according to the definition of “habitable” found in this section, or a change of use from any noncritical structure to a critical structure;

(g) Any repair, alteration, reconstruction, replacement or addition affecting any structure that meets either of the following criteria:

(i) Posted “Limited Entry” or “Unsafe to Occupy” due to geologic hazards, or

(ii) Located on a site associated with slope stability concerns, such as sites affected by existing or potential debris flows;

(h) Grading activities of any scale in the 100-year floodplain or the coastal hazard area, and any grading activity which requires a permit pursuant to Chapter 16.20 SCCC;

(i) Construction of roads, utilities, or other facilities;

(j) Retaining walls which require a building permit, retaining walls that function as a part of a landslide repair whether or not a building permit is required, sea walls, rip-rap erosion protection or retaining structures, and gabion baskets;

(k) Installation of a septic system;

(l) Any human-made change to developed or undeveloped real estate in the special flood hazard area, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials. This is in addition to any activity listed in subsections (19)(a) through (k) of this section;

(m) Any other project that is defined as development under SCCC 13.20.040, and that will increase the number of people exposed to geologic hazards, or that is located within a mapped geologic hazard area, or that may create or exacerbate an existing geologic hazard, shall be determined by the Planning Director to constitute development for the purposes of geologic review.

(20) “Development envelope” means a designation on a site plan or parcel map indicating where buildings, access roads and septic systems are to be located.

(21) “Fault zones” means a zone or zones of fracture designated in the General Plan or Local Coastal Program Land Use constraints maps, or other maps and source materials authorized by the Planning Director.

(22) “Fill” means the deposit of earth or any other substance or material by artificial means for any purpose, or the condition resulting from a fill taking place.

(23) “Flood boundary floodway map” means the map adopted by the Board of Supervisors and used for land use planning and permit review on which the Federal Insurance Administration has delineated the areas of special flood hazard.

(24) “Flood control structure” means any structure or material, including but not limited to a berm, levee, dam or retaining wall, placed in areas where flooding occurs, and constructed for the purpose of protecting a structure, road, utility or transmission line.

(25) “Flood insurance rate map (FIRM)” means the map adopted by the Board of Supervisors and used for insurance purposes on which the Federal Insurance Administration has delineated the special flood hazard areas, base flood elevations and the risk premium zones applicable to the community. The FIRM became effective on April 15, 1986, for insurance purposes.

(26) “Flood insurance study” means the official report on file with the Planning Department provided by the Federal Emergency Management Agency entitled, “The Flood Insurance Study, Santa Cruz County, California” that includes flood profiles, the FIRM, the flood boundary floodway map, and the water surface elevation of the base flood.

(27) “Floodplain” means any land area susceptible to being inundated by water from any source. The 100-year floodplain is used for planning purposes by Federal agencies and the County. For many larger and more densely populated drainages, the 100-year floodplain is designated on flood boundary and floodway maps prepared by the Federal Insurance Administration. See also “area of special flood hazard.”

(28) “Floodplain Administrator” means the Planning Director, or single staff member that is designated by the Director, to manage the administration and implementation of the National Flood Insurance Program regulations and the flood control provisions of this chapter.

(29) “Floodproofing” means any combination of structural and nonstructural additions, changes or adjustments to non-residential structures which reduce or eliminate flood damage to real estate or improved property.

(30) “Floodway” means the channel of a river or other watercourse and the adjacent land area that must be reserved in order to carry and discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point. Also referred to as the regulatory floodway.

(31) “Geologic hazard” means a threat to life, property, or public safety caused by geologic or hydrologic processes such as flooding, wave inundation, landsliding, erosion, faulting, ground cracking, and secondary seismic effects including liquefaction, landsliding, tsunami and ground shaking.

(32) “Geologic hazards assessment” means a summary of the possible geologic hazards present at a site conducted by the staff geologist.

(33) “Geologic report, full” means a complete geologic investigation conducted by a certified engineering geologist hired by the applicant, and completed in accordance with the County geologic report guidelines.

(34) “Grading” means excavating or filling land, or a combination thereof.

(35) “Habitable” means, for the purposes of this chapter, any structure or portion of a structure, whether or not enclosed, that is usable for living purposes, which include working, sleeping, eating, recreation, or any combination thereof. The purpose and use of the space, as described above, defines the habitable nature of the space. The term “habitable” also includes any space that is heated or cooled, humidified or dehumidified for the provision of human comfort, and/or is insulated and/or finished in plasterboard, and/or contains plumbing other than hose bibs.

(36) “Hardship” means, for the purposes of administering SCCC 16.10.100, the exceptional hardship that would result from failure to grant the requested exception. The specific hardship must be exceptional, unusual, and peculiar to the property involved. Economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, personal preferences, or the disapproval of neighbors also cannot qualify as exceptional hardship, as these problems can be resolved through means other than granting an exception, even if those alternative means are more expensive, require a property owner to build elsewhere, or put the parcel to a different use than originally intended or proposed.

(37) “High and very high liquefaction potential areas” means areas that are prone to liquefaction caused by ground-shaking during a major earthquake. These areas are designated on maps which are on file with the Planning Department.

(38) “Historic structure” means any structure that is: (a) listed individually in the National Register of Historic Places, or preliminarily determined by the Secretary of the Interior to meet the requirements for such listing; (b) certified as or preliminarily determined by the Department of the Interior to be contributing to the historical significance of a registered historical district or a district preliminarily determined to qualify as a historic district by the Secretary of the Interior; (c) individually listed on the State Register of Historic Places which has been approved by the Secretary of the Interior; or (d) individually listed in the inventory of historic structures in a community with a historic preservation program that has been certified either by an approved State program or directly by the Secretary of the Interior.

(39) “Hydrologic investigation” means a report prepared by a certified engineering geologist or civil engineer with expertise in hydrology which analyzes surface hydrology and/or groundwater conditions.

(40) “Littoral drift” means the movement of beach sand parallel to the coast due to wave action and currents.

(41) “Liquefaction” means the process whereby saturated, loose, granular materials are transformed by ground shaking during a major earthquake from a stable state into a fluid-like state.

(42) “Lowest floor” means, for flood purposes, the lowest floor of the lowest enclosed area of a structure, including any basement.

(a) An unfinished or flood resistant enclosure, below the lowest floor, that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, for the purposes of this chapter, is not considered a building’s lowest floor, provided it conforms to applicable nonelevation design requirements, including, but not limited to:

- (i) The wet floodproofing standards in SCCC 16.10.070(F)(3)(h)(i);
- (ii) The anchoring and construction materials and methods in SCCC 16.10.070(F)(3)(b);
- (iii) The standards for septic systems and water supply in SCCC 16.10.070(F)(5) and (6).

(b) For residential structures, all fully enclosed subgrade areas are prohibited as they are considered to be basements. This prohibits garages and storage areas that are below grade on all sides.

(43) “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term “manufactured home” also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

(44) “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for sale or rent.

(45) “Mean sea level” means the National Geodetic Vertical Datum (NGVD) of 1929, or other measurement, to which base flood elevations shown on a community’s flood insurance rate map are referenced.

(46) “Multiple-residential structure” means a single structure containing four or more individual residential units.

(47) “Natural disaster” means any situation in which the force or forces of nature causing destruction are beyond the control of people.

(48) "New construction" means, for the purposes of SCCC 16.10.070(F), (G), and (H), structures for which the start of construction commenced on or after April 15, 1986, including any subsequent improvements to such structures.

(49) "Nonessential public structures" means public structures which are not integral in providing such vital public services as fire and police protection, sewer, water, power and telephone services.

(50) "Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across, or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, snare or collect debris carried by the flow of water, or is likely to be carried downstream.

(51) "One-hundred-year flood" means a flood that statistically could occur once in 100 years on the average, although it could occur in any year. For flood insurance purposes, "100-year flood" and "base flood" have the same meaning. See "base flood."

(52) "Planning Director" means the Planning Director of the County of Santa Cruz or his or her authorized employee.

(53) "Public facilities" means any structure owned and/or operated by the government directly or by a private corporation under a government franchise for the use or benefit of the community.

(54) "Recent" means a geologic feature (fault or landslide) which shows evidence of movement or activity within Holocene time (about the last 11,000 years).

(55) "Registered geologist" means a geologist who is licensed by the State of California to practice geology.

(56) "Registered geotechnical (soils) engineer" means a civil engineer licensed in the State of California, experienced in the practice of soils and foundation engineering.

(57) Regulatory Floodway. See "floodway."

(58) "Recreational vehicle" means a vehicle which is built on a single chassis; is 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for uses as a permanent dwelling but a temporary living quarters for recreation, camping, travel, or seasonal use.

(59) "Shoreline protection structure" means any structure or material, including but not limited to riprap or a seawall, placed in an area where coastal processes operate.

(60) "Soils investigation" means a report prepared by a registered soils engineer, hired by the applicant, and completed in accordance with the County soils report guidelines. This term is synonymous with the term "geotechnical investigation."

(61) Special Flood Hazard Area (SFHA). See "area of special flood hazard."

(62) "Start of construction" means the date the first building permit was issued, provided actual construction, repair, reconstruction, alteration, addition, rehabilitation, placement, or other improvement was begun within the terms of the permit. "Actual construction" means either the first placement of a structure on the site, such as pouring a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds which are not occupied as dwelling units or are not part of the main structure. For the purposes of the phrase "substantial improvement," "actual construction" means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

(63) "Structure" means anything constructed or erected which requires a location on the ground, including, but not limited to, a building, manufactured home, gas or liquid storage tank, or facility such as a road, retaining wall, pipe, flume, conduit, siphon, aqueduct, telephone line, electrical power transmission or distribution line.

(64) "Substantial damage" means damage of any origin, sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure as it existed before the damage occurred.

(65) "Substantial improvement" means any repair, reconstruction, rehabilitation, addition, alteration or improvement to a structure, or the cumulative total of such activities as defined in subsection (18) of this section, the cost of which equals or exceeds 50 percent of the market value of the structure either immediately prior to the issuance of the building permit. This term includes structures that have incurred "substantial damage" regardless of the actual repair work proposed or performed. This term does not include any project or portion of a project to upgrade an existing habitable structure to comply with current State or local health, sanitary, or safety code specifications which are the minimum necessary to assure safe

living conditions, any alteration of an historic structure; provided, that the alteration will not preclude the structure's continued designation as an historic structure. (See also "cumulative improvement.")

(66) "Subsurface geologic investigation" means a geologic report prepared by a certified engineering geologist that provides information on subsurface materials through trenching, test pits and borings.

(67) V-Zone. See "coastal high hazard area."

(68) "Violation" means the failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications or required permits, or other evidence of compliance required in this chapter is presumed to be in violation until such time as the required documentation has been provided.

(69) "Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. "Watercourse" includes specifically designated areas in which substantial flood damage may occur. [Ord. 5119 § 42, 2012; Ord. 4518-C § 2, 1999; Ord. 4160 §§ 4, 5, 1991; Ord. 4112 § 1, 1991; Ord. 4090 § 1, 1990; Ord. 4080 §§ 1, 2, 1990; Ord. 4024 § 4, 1989; Ord. 3997 §§ 1, 2, 1989; Ord. 3892 § 1, 1988; Ord. 3808 § 2, 1986; Ord. 3686 § 1, 1985; Ord. 3598 § 1, 1984; Ord. 3437 § 1, 1983; Ord. 3340 § 1, 1982].

16.10.050 Requirements for geologic assessment.

(A) All development is required to comply with the provisions of this chapter, specifically including, but not limited to, the placement of manufactured homes in the areas designated as SFHAs in the flood insurance study.

(B) Hazard Assessment Required. A geologic hazards assessment shall be required for all development activities in the following designated areas: fault zones, 100-year floodplains and floodways, and coastal hazard areas, except: as specified in subsections (C) (D) and (E) of this section, where a full geologic report will be prepared according to the County guidelines for engineering geologic reports, or where the County Geologist finds that there is adequate information on file. A geologic hazards assessment shall also be required for development located in other areas of geologic hazard, as identified by the County Geologist or designee, using available technical resources, from environmental review, or from other field review.

(C) Geologic Report Required. A full geologic report shall be required:

(1) For all proposed land divisions and critical structures and facilities in the areas defined as earthquake fault zones on the State Alquist-Priolo Earthquake Fault Zoning Act maps;

(2) Whenever a significant potential hazard is identified by a geologic hazards assessment;

(3) For all new reservoirs to serve major water supplies;

(4) Prior to the construction of any critical structure or facility in designated fault zones; and

(5) When a property has been identified as "Unsafe to Occupy" due to adverse geologic conditions, no discretionary approval or building permit (except approvals and permits that are necessary solely to mitigate the geologic hazard) shall be issued prior to the review and approval of geologic reports and the completion of mitigation measures, as necessary.

(D) Potential Liquefaction Area. A site-specific investigation by a certified engineering geologist and/or soil engineer shall be required for all development applications for more than four residential units and for structures greater than one story in areas of high or very high liquefaction potential. Development applications for four units or less, one story structures and nonresidential projects shall be reviewed for liquefaction hazard through environmental review and/or geologic hazards assessment. When a significant hazard may exist, a site specific investigation shall be required.

(E) Additional Report Requirements. Additional information (including but not limited to full geologic, subsurface geologic, hydrologic, geotechnical or other engineering investigations and reports) shall be required when a hazard or foundation constraint requiring further investigation is identified. [Ord. 4518-C § 2, 1999; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.060 Assessment and report preparation and review.

(A) Timing of Geologic Review. Any required geologic, soil, or other technical report shall be completed, reviewed and accepted pursuant to the provisions of this section before any public hearing is scheduled and before any discretionary or development application is approved or issued. The County Geologist may agree to defer the date for completion, review, or acceptance of any technical report where the technical information is (1) unlikely to significantly affect the size or location of the project, and (2) the project is not in the area of the Coastal Zone where decisions are appealable to the Coastal Commission. In no event shall such be deferred until after the approval or issuance of a building permit.

(1) An application for a geologic hazards assessment shall include a plot plan showing the property boundaries and location of proposed development activities. Any other information deemed necessary by the County Geologist (including but not limited to topographic map, building elevations or grading plans) shall be submitted upon request.

(2) An application for a geologic hazards assessment or a technical report review constitutes a grant of permission for the Planning Director, or agents, to enter the property for the purposes of responding to the application.

(B) Report Preparation. The geologic hazards assessment shall be prepared by County staff. Alternately, the assessment may be conducted by a private certified engineering geologist at the applicant's choice and expense. Such privately prepared assessments shall, however, be subject to review and approval as specified in this section.

(C) Report Acceptance. All geologic, geotechnical, engineering, and hydrologic reports or investigations submitted to the County as a part of any development application shall be found to conform to County report guidelines. The Planning Director may require an inspection in the field of all exploratory trenches, test pits, and borings excavated for a technical report.

(D) Hazard Assessment and Report Expiration. A geologic hazards assessment and all recommendations and requirements given therein shall remain valid for three years from the date of completion, unless a shorter period is specified in the report by the preparer. A full geologic report shall be valid and all recommendations therein shall remain in effect for three years from the date of completion of the report. The exception to the three-year period of validity is where a change in site conditions, development proposal, technical information or County policy significantly affects the technical data, analysis, conclusions or requirements of the assessment or report; in which case the Planning Director may require a new or revised assessment or report. [Ord. 4518-C § 2, 1999; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.070 Permit conditions.

The recommendations of the geologic hazards assessment, full geologic report, and/or the recommendations of other technical reports (if evaluated and authorized by the Planning Director), shall be included as permit conditions of any permit or approvals subsequently issued for the development. In addition, the requirements described below for specific geologic hazards shall become standard conditions for development, building and land division permits and approvals. No development, building and land division permits or approvals shall be issued, and no final maps or parcel maps shall be recorded, unless such activity is in compliance with the requirements of this section.

(A) General. If a project is not subject to geologic review because the structure is nonhabitable and is not otherwise considered to be development under this chapter, a declaration of restrictions for the nonhabitable structure shall be recorded that includes an acknowledgment that any change of use to a habitable use, or physical conversion to habitable space, shall be subject to the provisions of this chapter.

(B) Fault Zones.

(1) Location. Development shall be located away from potentially hazardous areas as identified by the geologic hazards assessment or full geologic report.

(2) Setbacks. Habitable structures shall be set back a minimum of 50 feet from the edge of the area of fault induced offset and distortion of active and potentially active fault traces. This setback may be reduced to a minimum of 25 feet from the edge of this zone, based upon paleoseismic studies that include observation trenches. Reductions of the required setback may only occur when both the consulting engineering geologist preparing the study and the County Geologist observe the trench and concur that the reduction is appropriate. Critical structures and facilities shall be set back a minimum of 100 feet from the edge of the area of fault induced offset and distortion of active and potentially active fault traces.

(3) Notice of Hazards. The developer and/or subdivider of a parcel or parcels in an area of geologic hazards shall be required, as a condition of development approval and building permit approval, to record a declaration of geologic hazards with the County Recorder. The declaration shall include a description of the hazards on the parcel, and the level of geologic and/or geotechnical investigation conducted.

(4) Other Conditions. Other permit conditions, including but not limited to project redesign, elimination of building sites, and the delineation of development envelopes, building setbacks and foundation requirements, shall be required as deemed necessary by the Planning Director.

(C) Groundshaking.

(1) New Dams. Dams shall be constructed according to high seismic design standards of the Dam Safety Act and as specified by structural engineering studies.

(2) Public Facilities and Critical Structures and Facilities. All new public facilities and critical structures shall be designed to withstand the expected groundshaking during the design earthquake on the San Andreas fault or San Gregorio fault.

(3) Other Conditions. Other permit conditions including but not limited to structural and foundation requirements shall be required as deemed necessary by the Planning Director.

(D) Liquefaction Potential.

(1) Permit Conditions. Permit conditions including, but not limited to, project redesign, elimination of building sites, delineation of development envelopes and drainage and foundation requirements shall be required as deemed necessary by the Planning Director.

(2) Notice of Hazards. The developer and/or subdivider of a parcel or parcels in an area of geologic hazards shall be required, as a condition of development approval and building permit approval, to record a declaration of geologic hazards with the County Recorder. The declaration shall include a description of the hazards on the parcel, and the level of geologic and/or geotechnical investigation conducted.

(E) Slope Stability.

(1) Location. All development activities shall be located away from potentially unstable areas as identified through the geologic hazards assessment, full geologic report, soils report or other environmental or technical assessment.

(2) Creation of New Parcels. Allow the creation of new parcels in areas with potential slope instability as identified through a geologic hazards assessment, full geologic report, soils report or other environmental or technical assessment only under the following circumstances:

(a) New building sites, roadways, and driveways shall not be permitted on or across slopes exceeding 30 percent grade.

(b) A full geologic report and any other appropriate technical report shall demonstrate that each proposed parcel contains at least one building site and access which are not subject to significant slope instability hazards, and that public utilities and facilities such as sewer, gas, electrical and water systems can be located and constructed to minimize landslide damage and not cause a health hazard.

(c) New building sites shall not be permitted which would require the construction of engineered protective structures such as retaining walls, diversion walls, debris walls or slough walls designed to mitigate potential slope instability problems such as debris flows, slumps or other types of landslides.

(3) Drainage. Drainage plans designed to direct runoff away from unstable areas (as identified from the geologic hazards assessment or other technical report) shall be required. Such plans shall be reviewed and approved by the County Geologist.

(4) Leach Fields. Septic leach fields shall not be permitted in areas subject to landsliding as identified through the geologic hazards assessment, environmental assessment, or full geologic report.

(5) Road Reconstruction. Where washouts or landslides have occurred on public or private roads, road reconstruction shall meet the conditions of appropriate geologic, soils and/or engineering reports and shall have adequate engineering supervision.

(6) Notice of Hazards. The developer and/or subdivider of a parcel or parcels in an area of geologic hazards shall be required to record a declaration of geologic hazards with the County Recorder. The declaration shall include a description of the hazards on the parcel, and the level of geologic and/or geotechnical investigation conducted.

(7) Other Conditions. Other permit conditions including but not limited to project redesign, building site elimination and the development of building and septic system envelopes, building setbacks and foundation and drainage requirements shall be required as deemed necessary by the Planning Director.

(F) Floodplains.

(1) Critical and Public Facilities. Critical facilities and nonessential public structures and additions shall be located outside of the 100-year floodplain unless such facilities are necessary to serve existing uses, there is no other feasible location and construction of these structures will not increase hazards to life or property within or adjacent to the floodplain.

(2) Creation of New Parcels. Allow the creation of new parcels including those created by minor land division or subdivision in the 100-year floodplain only under the following circumstances:

(a) A full hydrologic report and any other appropriate technical report must demonstrate that each proposed parcel contains at least one building site, including a septic system and leach field site, which is not subject to flood hazard, and that public utilities and facilities such as sewer, gas, electrical and water systems can be located and constructed to minimize flood damage and not cause a health hazard.

(b) A declaration indicating the limits and elevations of the 100-year floodplain certified by a registered professional engineer or surveyor must be recorded with the County Recorder.

(c) Adequate drainage to reduce exposure to flood hazards must be provided.

(d) Preliminary land division proposals shall identify all flood hazard areas and the elevation of the base flood.

(3) Development Criteria and Design Requirements. All development within the 100-year floodplain shall meet the following criteria. Any addition, repair, reconstruction, rehabilitation, alteration, or improvement of structures for which building permits were issued prior to April 15, 1986, when subject to the definition of “cumulative improvement,” does not meet the definition of “substantial improvement” (pursuant to SCCC 16.10.040(18) and (65)), is exempt from this section.

(a) Location of proposed structures outside of the 100-year floodplain when a buildable portion of the property exists outside the floodplain;

(b) Anchoring of foundations and the structures attached to them by a method adequate to prevent flotation, collapse and lateral movement of the structures due to the forces that may occur during the base flood, including hydrostatic and hydrodynamic loads and the effects of buoyancy.

A project involving a manufactured home shall achieve this by one of the following methods:

(i) By providing an anchoring system designed to withstand horizontal forces of 15 pounds per square foot and uplift forces of nine pounds per square foot; or

(ii) By the anchoring of the unit’s system, designed to be in compliance with the Department of Housing and Development Mobile Home Construction and Safety Standards;

(c) Shall be constructed with materials and utility equipment resistant to flood damage and using construction methods and practices that minimize flood damage;

(d) Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding;

(e) In flood zones A-O and A-H, provide drainage paths adequate to guide water away from structures and reduce exposure to flood hazards;

(f) For residential structures, including manufactured homes, the lowest floor, including the basement, and the top of the highest horizontal structural member (joist or beam) which provides support directly to the lowest floor, and all elements that function as a part of the structure, such as furnace, hot water heater, etc., shall be elevated at least one foot above the 100-year flood level. Foundations shall be designed to minimize flood water displacement and flow damage. Where a piling or caisson foundation system is used the space below the lowest floor shall be free of obstruction or be enclosed with wood-constructed lattice work or screens designed to collapse or be carried away under the stress of flood waters without jeopardizing the structural support of the building. Compliance with the elevation requirement shall be certified by a registered professional engineer, architect, or surveyor and submitted to the Planning Director prior to a subfloor building inspection. Failure to submit elevation certification may be cause to issue a stop work notice for a project. The Planning Director will maintain records of compliance with elevation requirements;

(g) Nonresidential structures shall be floodproofed if elevation above the 100-year flood level in accordance with subsection (F)(3)(f) of this section is not feasible. Floodproofed structures shall:

(i) Be floodproofed so that below an elevation one foot higher than the 100-year flood level, the structure is watertight with walls substantially impermeable to the passage of water based on structural designs, specifications and plans developed or reviewed by a registered professional engineer or architect;

(ii) Be capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

(iii) Be certified by a registered professional engineer or architect that floodproofing standards and requirements have been complied with; the certification shall be submitted to the Planning Director and shall indicate the elevation to which floodproofing was achieved prior to a final building inspection. The Planning Director shall maintain records of compliance with floodproofing requirements;

(h) In flood zone AO, residential structures shall have the lowest floor at or above the highest adjacent grade, at least as high as the depth number given on the FIRM, and nonresidential structures, where elevation is not feasible, shall have the lowest floor completely floodproofed at or above the highest adjacent grade, at least as high as the depth number given on the FIRM;

(i) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or shall provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices; provided, that they permit the automatic entry and exit of flood waters. Nonresidential structures that are floodproofed in compliance with subsection (F)(3)(g) of this section are an exception to this requirement.

(4) **Recreational Vehicles.** RVs that are placed on a site that is within the A, A1—A30, AH, AO or AE zones as designated in the FIS, and that are not fully licensed and highway ready, shall meet the criteria given in subsections (F)(3)(b) and (3)(f) of this section, unless they are on the site for less than 180 consecutive days. For the purposes of this chapter, “highway ready” means on wheels or jacking system, attached to the site by quick disconnect type utilities and security devices, and having no attached additions.

(5) **Septic Systems.** New septic systems and leach fields shall not be located within the 100-year floodplain. The capacity of existing septic systems in the floodplain shall not be increased.

(6) **Water Supplies and Sanitary Sewage Systems.** All new and replacement water supplies and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(7) **Placement of Fill.** Allow the placement of fill within the 100-year floodplain in the minimum amount necessary, not to exceed 50 cubic yards. Fill shall only be allowed if it can be demonstrated that the fill will not have cumulative adverse impacts.

(8) **Flood Control Structures.** Flood control structures shall be permitted only to protect existing development (including agricultural operations) where no other alternative is feasible or where such protection is needed for public safety. Such structures shall not adversely affect sand supply, increase erosion or cause flooding on adjacent properties or restrict stream flows below minimums necessary to maintain fish and wildlife habitats or be placed further than necessary from the development requiring protection.

(9) **Notice of Hazards.** The developer and/or subdivider of a parcel or parcels in an area of geologic or flood hazards shall be required, as a condition of development approval and building permit approval, to record a declaration of geologic hazards with the County Recorder. The declaration shall include a description of the hazards on the parcel or parcels and the level of prior hydrologic or geologic investigation conducted.

(10) **Other Conditions.** Other permit conditions, including but not limited to project redesign, building site elimination, development of building and septic envelopes, and foundation requirements shall be required as deemed necessary by the Planning Director. When base flood elevation data are not provided in the flood insurance study, the Planning Director shall obtain, review, and reasonably utilize the best base flood data available from Federal, State or other sources, as a basis for elevating residential structures and floodproofing nonresidential structures, to at least one foot above the base flood level. Residential structures shall be elevated no less than two feet above natural grade when base flood data do not exist. Nonresidential structures may elevate or flood proof to meet this standard.

(11) **Alteration or Relocation of Watercourse.** Adjacent communities, the California Department of Water Resources and the Federal Emergency Management Agency shall be notified prior to any alteration or relocation of a major watercourse. The flood carrying capacity of any altered or relocated watercourses must be maintained.

(12) **Permit Requirements.** All other required State and Federal permits must be obtained.

(G) **Permit Conditions—Floodways.** Located within areas of special flood hazard as established in SCCC 16.10.025, and within some areas not mapped as part of the flood insurance study, are areas designated as floodways (see also SCCC 16.10.040(30)). The floodway is an extremely hazardous area due to the quantity and velocity of flood waters, the amount of debris which may be transported, and the high potential for erosion during periods of large stream flows. In the floodway the following provisions apply:

(1) **Development and Building within Floodway Prohibited.** All development activity, except for the reconstruction, repair, alteration or improvement of an existing structure, is prohibited within the floodway unless exempted by State or Federal laws. Any encroachment which would cause any increase in the base flood level is prohibited.

(2) **Sites Where Floodway Not Established.** Where the Flood Insurance Study or other technical report has identified a flood hazard area but has not designated a floodway, the applicant must demonstrate, through hydrologic analysis, that the project will not adversely affect the carrying capacity of the area. For the purposes of this chapter, “adversely affects” means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development in the watershed, will increase the water surface elevation of the base flood more than one foot at any point. The hydrologic analysis must identify the boundaries of the floodway, and the project must comply with the provisions of subsection (G)(1) of this section.

(3) **Setback from Floodway.** Where neither a base flood elevation nor a floodway has been identified by the flood insurance study or by a site-specific hydrologic study, a minimum setback of 20 feet from the top edge of the banks of a drainage course shall be maintained, and all activity that takes up flood storage area within this setback shall be prohibited. This floodway setback may be reduced by the Planning Director only if a full hydrologic analysis identifies the boundaries of the floodway, demonstrates that a smaller setback will not increase the susceptibility of the proposed activity to flood-

related hazards, and there is no alternative location outside of the 20-foot setback. (See also Chapter 16.30 SCCC, Riparian Corridor and Wetlands Protection, for vegetation-related setbacks from streams.)

(4) Location of Septic Systems. New septic systems and leach fields shall not be located in the floodway. The capacity of existing systems in the floodway shall not be increased.

(5) Alteration of Structures in Floodway. Reconstruction, repair, alteration or improvement of a structure in a floodway shall not cause any increase in the base flood elevation. Substantial improvements, regardless of cause, shall only be permitted in accordance with subsection (F) of this section. Repair, reconstruction, alteration, or replacement of a damaged structure which does not exceed the ground floor square area of the structure before the damage occurred shall not be considered an increase in the base flood elevation.

(6) Permit Requirements. All other required local, State and Federal permits must be obtained.

(H) Coastal Bluffs and Beaches.

(1) Criteria in Areas Subject to Coastal Bluff Erosion. Projects in areas subject to coastal bluff erosion shall meet the following criteria:

(a) For all development and for nonhabitable structures, demonstration of the stability of the site, in its current, pre-development application condition, for a minimum of 100 years as determined by either a geologic hazards assessment or a full geologic report.

(b) For all development, including that which is cantilevered, and for nonhabitable structures, a minimum setback shall be established at least 25 feet from the top edge of the coastal bluff, or alternatively, the distance necessary to provide a stable building site over a 100-year lifetime of the structure, whichever is greater.

(c) The determination of the minimum setback shall be based on the existing site conditions and shall not take into consideration the effect of any proposed protection measures, such as shoreline protection structures, retaining walls, or deep piers.

(d) Foundation replacement and/or foundation upgrades that meet the definition of development per SCCC 16.10.040(19) and pursuant to SCCC 16.10.040(18) shall meet the setback described in subsection (H)(1) of this section, except that an exception to the setback requirement may be granted for existing structures that are wholly or partially within the setback, if the Planning Director determines that:

(i) The area of the structure that is within the setback does not exceed 25 percent of the total area of the structure; or

(ii) The structure cannot be relocated to meet the setback because of inadequate parcel size.

(e) Additions, including second story and cantilevered additions, shall comply with the minimum 25-foot and 100-year setback.

(f) The developer and/or the subdivider of a parcel or parcels in an area subject to geologic hazards shall be required, as a condition of development approval and building permit approval, to record a declaration of geologic hazards with the County Recorder. The declaration shall include a description of the hazards on the parcel and the level of geologic and/or geotechnical investigation conducted.

(g) Approval of drainage and landscape plans for the site by the County Geologist.

(h) Service transmission lines and utility facilities are prohibited unless they are necessary to serve existing residences.

(i) All other required local, State and Federal permits shall be obtained.

(2) Exemption.

(a) Any project which does not specifically require a building permit pursuant to subsection (B) of this section is exempt from subsection (H)(1) of this section, with the exception of: nonhabitable accessory structures that are located within the minimum 25-foot setback from the coastal bluff where there is space on the parcel to accommodate the structure outside of the setback, above-ground pools, water tanks, projects (including landscaping) which would unfavorably alter drainage patterns, and projects involving grading.

For the purposes of this section, "the unfavorable alteration of drainage" is defined as a change that would significantly increase or concentrate runoff over the bluff edge or significantly increase infiltration into the bluff. "Grading" is defined as any earthwork other than minor leveling, of the scale typically accomplished by hand, necessary to create beneficial drainage patterns or to install an allowed structure, that does not excavate into the face or base of the bluff.

Examples of projects which may qualify for this exemption include: decks which do not require a building permit and do not unfavorably alter drainage, play structures, showers (where runoff is controlled), benches, statues, landscape boulders, benches, and gazebos which do not require a building permit.

(b) If a structure that is constructed pursuant to this exemption subsequently becomes unstable due to erosion or slope instability, the threat to the exempted structure shall not qualify the parcel for a coastal bluff retaining structure

or shoreline protection structure. If the exempted structure itself becomes a hazard it shall either be removed or relocated, rather than protected in place.

(3) Shoreline protection structures shall be governed by the following:

(a) Shoreline protection structures shall only be allowed on parcels where both adjacent parcels are already similarly protected, or where necessary to protect existing structures from a significant threat, or on vacant parcels which, through lack of protection threaten adjacent developed lots, or to protect public works, public beaches, and coastal dependent uses.

Note: New shoreline protection structures shall not be allowed where the existing structure proposed for protection was granted an exemption pursuant to subsection (H)(2) of this section.

(b) Seawalls, specifically, shall only be considered where there is a significant threat to an existing structure and both adjacent parcels are already similarly protected.

(c) Application for shoreline protective structures shall include thorough analysis of all reasonable alternatives to such structures, including but not limited to relocation or partial removal of the threatened structure, protection of only the upper bluff area or the area immediately adjacent to the threatened structure, beach nourishment, and vertical walls. Structural protection measures on the bluff and beach shall only be permitted where nonstructural measures, such as relocating the structure or changing the design, are infeasible from an engineering standpoint or are not economically viable.

(d) Shoreline protection structures shall be placed as close as possible to the development or structure requiring protection.

(e) Shoreline protection structures shall not reduce or restrict public beach access, adversely affect shoreline processes and sand supply, adversely impact recreational resources, increase erosion on adjacent property, create a significant visual intrusion, or cause harmful impacts to wildlife or fish habitat, archaeological or paleontologic resources. Shoreline protection structures shall minimize visual impact by employing materials that blend with the color of natural materials in the area.

(f) All protection structures shall meet approved engineering standards as determined through environmental review.

(g) All shoreline protection structures shall include a permanent, County approved, monitoring and maintenance program.

(h) Applications for shoreline protection structures shall include a construction and staging plan that minimizes disturbance to the beach, specifies the access and staging areas, and includes a construction schedule that limits presence on the beach, as much as possible, to periods of low visitor demand. The plan for repair projects shall include recovery of rock and other material that has been dislodged onto the beach.

(i) All other required local, State and Federal permits shall be obtained.

(4) Alteration of Damaged Structures. Reconstruction, repair, rebuilding, replacement, alteration, improvement, or addition to damaged structures located on a coastal bluff shall proceed according to the following chart:

Extent of Damage	50% or More of the Value of Structure		Less Than 50% of the Value of Structure	
	Coastal Hazards and Slope Instability	All Other Causes (fire, etc.)	Coastal Hazards and Slope Instability	All Other Causes (fire, etc.)
Cause of Damage (horizontal axis)	Coastal Hazards and Slope Instability	All Other Causes (fire, etc.)	Coastal Hazards and Slope Instability	All Other Causes (fire, etc.)
Location of Existing Structure (vertical axis)				
Existing structure meets setback (less than 10% extends into setback).	Meet all regulations.	Exempt from regulations if repaired/replaced in kind. Otherwise meet all regulations.	Exempt from regulations if repaired/replaced in kind. Otherwise meet all regulations.	Exempt from regulations if repaired/replaced in kind. Otherwise meet all regulations.
Existing structure does not meet setback but could by relocating.	Meet all regulations, including setback for existing structure.	To repair or replace in kind, meet all regulations except setback. Otherwise meet all regulations, including prescribed minimum setback.	Exempt from regulations if repaired/replaced in kind. Otherwise meet all regulations, including prescribed minimum setback.	Exempt from regulations if repaired/replaced in kind. Otherwise meet all regulations, including prescribed minimum setback.

Extent of Damage (horizontal axis)	50% or More of the Value of Structure		Less Than 50% of the Value of Structure	
	Coastal Hazards and Slope Instability	All Other Causes (fire, etc.)	Coastal Hazards and Slope Instability	All Other Causes (fire, etc.)
Location of Existing Structure (vertical axis)				
Existing structure does not meet setback and cannot meet setback by relocating.	If hazard can be mitigated to provide stability for a period of 100 years, repair or replace in kind. Meet all regulations except setback. Cannot be rebuilt, even in kind, if hazard cannot be mitigated to a level that provides stability for a period of 100 years.	May repair or replace in kind. To repair or replace in kind, meet all regulations except setback. Hazards shall be mitigated to a level that provides stability for a period of 100 years, if feasible. Projects in excess of "in-kind" shall meet all regulations, including prescribed minimum setback.	May repair or replace in kind. Hazards shall be mitigated to a level that provides stability for a period of 100 years, if feasible. Projects in excess of "in-kind" shall meet all regulations.	May repair or replace in kind. To repair or replace in kind, meet all regulations except setback. Hazards shall be mitigated to a level that provides stability for a period of 100 years, if feasible. Projects in excess of "in-kind" shall meet all regulations including prescribed minimum setback.

Public beach facilities are exempt from the provisions of this chart.

(5) Coastal High Hazard Area Development Criteria. All development, specifically including the placement of and construction on manufactured homes, shall meet the following criteria. For structures that had a building permit issued prior to April 15, 1986, any addition, repair, reconstruction, rehabilitation, alteration, or improvement, which, when subject to the definition of "cumulative improvement," does not meet the definition of "substantial improvement" (pursuant to SCCC 16.10.040(18) and (65)), is exempt from this section.

(a) Demonstration that the potential hazards on the site can be mitigated, over the 100-year lifetime of the structure, as determined by the geologic hazards assessment or full geologic report and any other appropriate technical reports. Mitigations can include but are not limited to building setbacks, elevation of the proposed structure and foundation design;

(b) Location of the proposed structure landward of the reach of mean high tide and outside of the area of storm wave inundation where a buildable portion of the property is outside of the area of storm wave inundation;

(c) Elevation of all structures (including manufactured homes) on pilings and columns so that the bottom of the lowest portion of the lowest structural member of the lower floor (excluding the pilings or columns) and elements that function as part of the structure, such as furnace, hot water heater, etc., are elevated to or above the base flood level;

(d) Anchoring of the pile or column foundation and structure attached thereto to prevent flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components. Wind and water loading values shall each have a one percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval);

(e) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of subsections (H)(5)(c) and (d) of this section prior to permit issuance;

(f) The space below the lowest floor shall either be free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall be of nonmasonry construction and have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls which do not meet the above material and strength criteria may be permitted only if a registered professional engineer or architect certifies that the designs proposed will permit the breakaway wall to collapse under a water load less than that which would occur during the base flood and that the elevated portion of the building or supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water loads acting simultaneously on all building components. Such enclosed space shall be useable solely for vehicle parking, building access or storage, and shall not be a finished area or habitable area;

(g) The use of fill for structural support of buildings is prohibited;

(h) The alteration of sand dunes which would increase potential flood damage is prohibited;

(i) Compliance with the provisions of subsections (H)(5)(c) and (d) of this section shall be certified by a registered professional engineer or architect and submitted to the Planning Director when the foundation work has been completed. Failure to submit elevation and structural certification may be cause to issue a stop-work notice for a project. The Planning Director shall maintain records of compliance with the elevation requirements;

(j) Recreational vehicles that are placed on a site that is within the V, VI—V30, or VE zones as designated in the FIS, and that are not fully licensed and highway ready, must meet all the provisions of subsection (H)(5) of this section unless they are on the site for less than 180 consecutive days. For the purposes of this chapter, “highway ready” means on wheels or jacking system, attached to the site by quick disconnect utilities and security devices, and having no attached additions;

(k) Determination by the Planning Director on the basis of the geologic hazards assessment or geologic report that the mitigation of the hazards on the site is not dependent on shoreline protection structures except on lots where both adjacent parcels are already similarly protected;

(l) The developer and/or the subdivider of a parcel or parcels in an area subject to geologic hazards shall be required, as a condition of development approval and building permit approval, to record a declaration of geologic hazards with the County Recorder. The declaration shall include a description of the hazards on the parcel, and the level of geologic and/or geotechnical investigation conducted;

(m) All other required State and Federal permits must be obtained.

(6) New Critical Structures and Facilities. Construction of critical structures and facilities, including the expansion of existing critical structures and facilities, and nonessential public structures shall be located outside areas subject to coastal hazards; unless such facilities are necessary to serve existing uses, there is no other feasible location, and construction of these structures will not increase hazards to life and property within or adjacent to coastal inundation areas.

(7) Creation of New Parcels and Location of New Building Sites. New parcels or building sites created by minor land divisions, subdivisions or development approvals or permits, and multi-residential structures in coastal hazard areas shall conform to the following criteria:

(a) Demonstration by a full geologic report that each proposed building site on the parcel is not subject to any potential hazards and that each site meets the minimum setback given in subsection (H)(1) of this section;

(b) Determination by the Planning Director based on the geologic report that the long-term stability and safety of the development does not depend on or require shoreline protection structures;

(c) The proposed development does not reduce or restrict public access and the proposed development does not require the construction of public facilities, structures, or utility transmission lines in coastal hazard areas or within the 25-foot or 100-year stability (whichever is greater) setback;

(d) The developer and/or the subdivider of a parcel or parcels in an area subject to geologic hazards shall be required, as a condition of development approval and building permit approval, to record a declaration of geologic hazards with the County Recorder. The declaration shall include a description of the hazards on the parcel and the level of geologic and/or geotechnical investigation conducted.

(8) Other Conditions. Other permit conditions including, but not limited to, project redesign, building site elimination, delineation of building and septic system envelopes, building elevation, foundation requirements and drainage plans shall be required as deemed necessary by the Planning Director. [Ord. 4836 § 121, 2006; Ord. 4518-C § 2, 1999; Ord. 4346 § 66, 1994; Ord. 4071 §§ 1—4, 1990; Ord. 3997 §§ 3—8, 1989; Ord. 3892 § 3, 1988; Ord. 3808 § 3, 1986; Ord. 3635 § 2, 1985; Ord. 3598 § 1, 1984; Ord. 3437 §§ 2, 3, 4, 1983; Ord. 3340 § 1, 1982; Ord. 2631, 1978; Ord. 2580, 1978; Ord. 2258, 1976; Ord. 2185, 1975; Ord. 2088, 1975].

16.10.080 Project density limitations.

The following requirements shall apply to density calculations for new building sites created through minor land division, subdivision, or other development approval or permit:

(A) Fault Zones.

(1) Exclusion from Density Calculations. The portion of a property within 50 feet of the edge of the area of fault induced offset and distortion of an active or potentially active fault trace shall be excluded from density calculations.

(2) Creation of New Parcels and/or New Building Sites. The following standards shall apply to the creation of new parcels and/or building sites within State Alquist-Priolo earthquake fault zones and County seismic review zones:

(a) All new structures shall meet setbacks as specified in SCCC 16.10.070(B)(2).

(b) Outside of the urban services line and the rural services line, a 20-gross-acre minimum parcel size shall be required, and a 10-gross-acre minimum parcel size shall be required for parcels within the portions of the County seismic

review zones that are not also part of a State Alquist-Priolo earthquake fault zone, and are outside the Coastal Zone, if at least 25 percent of the perimeter of the original parcel to be divided is bounded by parcels of one acre or less in size.

(B) Landslides and Steep Slopes. The portion of a property with slopes over 30 percent in urban areas and 50 percent in rural areas, and the portion of a property within recent or active landslides, shall be excluded from density calculations. Landslide areas determined by a geologic report to be stable and suitable for development shall be granted full density credit.

(C) Floodways. The portion of a parcel within the 100-year floodway shall be excluded from any density calculations.

(D) Floodplains. The portion of a property within the 100-year floodplain shall be excluded from density calculations.

(E) Coastal Hazards. The portions of a property subject to coastal inundation, as determined by a geologic hazards assessment, geologic report, or adopted flood insurance rate map (FIRM), shall be excluded from density calculations. [Ord. 5019 § 1, 2008; Ord. 4518-C § 2, 1999; Ord. 4426 § 3, 1996; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.090 Project denial.

A development permit or the location of a proposed development shall be denied if the Planning Director determines that geologic hazards cannot be adequately mitigated or the project would conflict with National Flood Insurance Program regulations. Development proposals shall be approved only if the project density reflects consideration of the degree of hazard on the site, as determined from the technical information as reviewed and approved by the Planning Director. [Ord. 4518-C § 2, 1999; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.100 Exceptions.

(A) Request for Exception. A request for an exception to the provisions of this chapter or the permit conditions may be considered by the Planning Director if the exception is necessary to mitigate a threat to public health, safety and welfare.

(B) Reason for Request. A request for an exception shall state in writing the reason why the exception is requested, the proposed substitute provisions, when the exception would apply, and the threat to public health, safety, or welfare that would be mitigated.

(C) Required Findings. In granting an exception, the Planning Director shall make the following findings:

- (1) That hardship, as defined in SCCC 16.10.040(36), exists; and
- (2) The project is necessary to mitigate a threat to public health, safety, or welfare; and
- (3) The request is for the smallest amount of variance from the provisions of this chapter as possible; and
- (4) Adequate measures will be taken to ensure consistency with the purposes of this chapter and the County General Plan.

(D) Exceptions for Projects in the Special Flood Hazard Area. For projects in the SFHAs the following additional procedures and provisions also apply:

(1) Nature of Exception. The exception criteria set forth in this section are based on the general principle of zoning law that exceptions pertain to a piece of property and are not personal in nature. An exception may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this chapter would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

The interest in protecting citizens from flooding is compelling, and the cost of insuring a structure built below flood level so onerous that exceptions from the flood elevation or other health and safety requirements in the flood ordinance shall be granted in rare circumstances and only where no other alternative is available.

(2) Criteria for Exceptions.

(a) In considering requests for exceptions, technical evaluations, all other relevant information and standards specified in other sections of this chapter shall be considered, including the following:

- (i) Danger that materials may be swept onto other lands to the injury of others;
- (ii) Danger of life and property due to flooding or erosion damage;
- (iii) Susceptibility of the proposed structure and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
- (iv) Importance of the services provided by the proposed structure to the community;
- (v) Necessity to the structure of a waterfront location, where applicable;
- (vi) Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) Compatibility of the proposed use with existing and anticipated development;

(viii) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(ix) Safety of access to the property in time of flood for ordinary and emergency vehicles;

(x) Expected heights, velocity, duration, rate of rise, and sediment transport of the floodwater expected at the site; and

(xi) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

(b) Any applicant to whom an exception is granted shall be given written notice of the terms and conditions, if any, of the exception, and said notice shall also include the following:

(i) That the issuance of an exception to construct a structure below the base flood level will result in substantially increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and

(ii) That such construction below the base flood level increases risks to life and property; and

(iii) That a copy of the written notice shall be recorded on the deed so that it appears in the chain of title of the affected parcel of land.

(c) The Floodplain Administrator will maintain a record of all exception actions, including justification for their issuance, and report such exceptions issued in its biennial report submitted to the Federal Insurance Administration of the Federal Emergency Management Agency.

(3) Conditions for Exception.

(a) Exceptions may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of SCCC 16.10.050, 16.10.070, and 16.10.080 have been considered. As the lot size increases beyond one-half acre, the justification required for issuing the exception increases.

(b) Exceptions shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result from the project.

(c) Exceptions shall only be issued upon a determination that the exception is the “minimum necessary” considering the flood hazard to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this chapter. For example, in the case of exceptions to an elevation requirement, exceptions need not be granted for permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which will both provide relief and preserve the integrity of the regulatory requirements.

(d) Exceptions shall only be issued upon:

(i) Showing of good and sufficient cause;

(ii) Determination that failure to grant the exception would result in a “hardship” (as defined in SCCC 16.10.040) to the applicant; and

(iii) Determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create a nuisance, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.

(e) Exceptions may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use (a functionally dependent use is one that would not function or operate unless sited on or adjacent to flood prone location in question); provided, that the provisions of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood, does not result in additional threats to public health or safety, and does not create a public nuisance.

(f) Exceptions may be issued for the repair or rehabilitation of historic structures (as defined in SCCC 16.10.040) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and that the exception is the minimum necessary to preserve the historic character and design of the structure.

(g) Upon consideration of the factors in subsection (D)(2)(a) of this section and the purposes of this chapter, conditions may be attached to the granting of exceptions as necessary to further the purposes of this chapter. [Ord. 4518-C § 2, 1999; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.105 Notice of geologic hazards in cases of dangerous conditions.

(A) Whenever a site inspection, geologic hazards assessment or full geologic report identifies the presence of a geologic hazard that causes a site, building, structure, or portions thereof to be rendered unsafe or dangerous, then pursuant

to the Uniform Code for the Abatement of Structural and Geologic Hazards as amended by SCCC 12.10.070(L), the Planning Director may issue a notice of geologic hazard and order thereon, and may record a notice of geologic hazard with the County Recorder.

(B) The Planning Director may initiate abatement procedures pursuant to the Uniform Code for the Abatement of Structural and Geologic Hazards as amended by SCCC 12.10.070(L). [Ord. 4518-C § 2, 1999; Ord. 4392A § 1, 1996; Ord. 4336 § 1, 1994; Ord. 3808 § 4, 1986].

16.10.110 Appeals.

Except as otherwise provided herein, appeals taken pursuant to the provisions of this chapter shall be made in conformance with the procedures of Chapter 18.10 SCCC, including appeal of the requirement for geologic hazard assessment or technical report. All appeals taken concerning the decision to issue and record a notice of geologic hazard pursuant to the provisions of SCCC 16.10.105 shall be governed by the procedures commencing with Section 501 of the Uniform Code for the Abatement of Structural and Geologic Hazards as amended by SCCC 12.10.070(A)(10) through (14). [Ord. 4518-C § 2, 1999; Ord. 4392A § 2, 1996; Ord. 4336 § 2, 1994; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982; Ord. 2281, 1976; Ord. 2088, 1975].

16.10.120 Violations.

(A) Compliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with all the provisions of this chapter and other applicable regulations. Nothing herein shall prevent the taking of lawful action as necessary to prevent or remedy any violation.

(B) Actions Constituting Violation. In the event of a violation of this chapter or of the provisions of permit conditions as specified in this chapter, or if the permit has been exercised in a manner which creates a nuisance or is otherwise detrimental to the public health, safety and welfare, the permittee shall be given notice of such violation, and a reasonable time shall be specified for its correction. [Ord. 4518-C § 2, 1999; Ord. 4392A § 3, 1996; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

16.10.130 Fees.

Fees for the geologic hazards assessment, other field reviews, applications for exceptions, and the review of technical reports shall be set by resolution by the Board of Supervisors. [Ord. 4518-C § 2, 1999; Ord. 3598 § 1, 1984; Ord. 3340 § 1, 1982].

Chapter 16.11

DEVELOPMENT MORATORIUM IN AREAS OF CRITICAL CONCERN

(Repealed by Ord. 4392A)

Chapter 16.20**GRADING REGULATIONS****Sections:**

16.20.010	Purpose.
16.20.020	Scope.
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16.20.195	Agricultural grading.
16.20.200	Inspection and compliance.
16.20.210	Grading violations.
16.20.220	Transfer of responsibility.
16.20.230	Completion and approval.
16.20.240	<i>Repealed.</i>
16.20.250	<i>Repealed.</i>
16.20.260	<i>Repealed.</i>
16.20.270	<i>Repealed.</i>
16.20.280	Appeals.

16.20.010 Purpose.

The purpose of this chapter is to safeguard health, safety, and the public welfare; to minimize erosion and the extent of grading; to protect fish and wildlife; to protect the watersheds; to ensure the natural appearance of grading projects; and to otherwise protect the natural environment of Santa Cruz County. [Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.020 Scope.

This chapter sets forth rules and regulations to control all grading, including excavations, earthwork, road construction, dredging, diking, fills and embankments; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspections. This chapter shall apply to both private and public activities including those of the County and other such governmental agencies as are not exempted by State or Federal law. [Ord. 4166 § 1, 1991; Ord. 4027 § 3, 1989; Ord. 3599 § 1, 1984; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.025 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to

the hearing and notification provisions of Chapter 13.03 SCCC, and shall be subject to approval by the California Coastal Commission. [Ord. 3321 § 1, 1982].

16.20.030 Definitions.

All definitions shall be as defined in the General Plan or Local Coastal Program Land Use Plan glossaries, and as follows:

“Agricultural grading” means any grading which takes place on land designated on the County’s agricultural resource maps for exclusive agricultural use as specified in SCCC 16.50.040; provided, however, that agricultural grading does not include any grading on such lands connected with the construction of access roads or building sites; except greenhouse sites. Agricultural grading does not include the movement of earth defined as agricultural work in SCCC 16.20.050(I).

“Bedrock” means the in-place solid, undisturbed material either at the ground surface or beneath superficial deposits of gravel, sand or soil.

“Bench” means a relatively level step excavated into earth material.

“Civil engineer” means a professional engineer registered in California to practice civil engineering.

“Clearing” means the removal of vegetation down to bare soil, whether by hand, machine or any other method.

“Compaction” means the densification of earthen solids.

“Contractor” means any person licensed in the State of California to do grading as defined by State law.

“Diking” means construction of an earthen dam to control or confine water.

“Drainage course” means a natural or manmade channel which conveys storm runoff either year-round or intermittently.

“Dredging” means scooping or digging of earth material from the bed of a body of water.

“Driveway” means any private road leading from the street to two or fewer habitable structures or parcels. (See “roadway.”)

“Earth material” means rock, natural soil, sand or combination thereof.

“Engineering geologist” means a professional geologist registered in the State of California to practice engineering geology.

“Erosion” means the wearing away of the ground surface as a result of movement of wind, water or ice.

“Excavation” means the mechanical removal of earth material, or a cavity formed by cutting, digging or scooping.

“Existing grade” means the grade prior to grading.

“Fill” means the deposition of earth or other material by artificial means for any purpose, for any length of time, including the stockpiling of material, or the conditions resulting therefrom.

“Finish grade” means the final grade of the site which conforms to the approved plan.

“Grade” means the vertical location of the ground surface, or the degree of rise or descent of a slope.

“Grading” means excavating, or filling, dredging, diking, prospecting, exploratory mining operation or combination thereof.

“Key” means a designed compacted fill placed in a trench excavated in undisturbed earth material or rock beneath the toe of a proposed fill slope for the purpose of developing a shearing resistance (see Figure 1).



Figure 1

“Land disturbance” means clearing, excavating, grading or other manipulation of the terrain.

“Littoral cell” means a continuous section of shoreline within which sand moves in a prevailing direction in response to seasonal current.

“Permittee” means the property owner, or any contractor or other person undertaking grading upon the property of the property owner, pursuant to a permit granted according to the provisions of this chapter.

“Planning Director” means the Director of the Planning Department or a designated employee.

“Riparian corridor” means any of the following:

(1) Lands within a stream channel, including the stream and the area between the mean rainy season (bankfull) flowlines;

(2) Lands extending 50 feet (measured horizontally) out from each side of a perennial stream. Distance shall be measured from the mean rainy season (bankfull) flowline;

(3) Lands extending 30 feet (measured horizontally) out from each side of an intermittent stream. Distance shall be measured from the mean rainy season (bankfull) flowline;

(4) Lands extending 100 feet (measured horizontally) from the high water mark of a lake, wetland, estuary, lagoon or natural body of standing water;

(5) Lands containing a riparian woodland;

(6) Lands within an arroyo located within the urban services line, or the rural services line.

“Road gradient (percent)” means a vertical rise multiplied by 100 and divided by horizontal run.

“Road” or “roadway” means an open way for vehicular traffic serving more than two habitable structures or parcels. (See “driveway.”)

“Security” means a cash deposit, time certificate of deposit or equivalent security acceptable to the County.

“Site” means a parcel of land or contiguous combination thereof, where grading is performed or proposed.

“Slope” means an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance. (See Table A and Figure 2.)

Table A

Ratio	Percent	Degrees
1:1 =	100% =	45
2:1 =	50% =	22
3:1 =	33% =	15
4:1 =	25% =	11
5:1 =	20% =	9

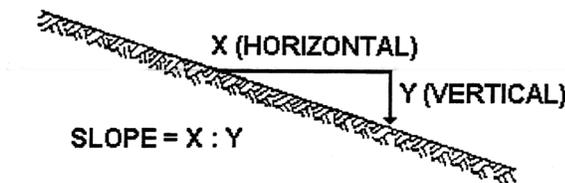


Figure 2

“Soil” means naturally occurring superficial deposits of earth material overlying bedrock.

“Soil engineer” means a civil engineer, registered in the State of California, experienced and knowledgeable in the practice of soil engineering.

“Stream” means any watercourse as designated by a solid line or dash and three dots symbol shown on the largest scale of the United States Geological Survey map most recently published, or as indicated in the grading permit when it has been field determined that a watercourse either:

- (1) Supports fish at any time of the year; or
- (2) Has a significant water flow 30 days after the last significant storm; or
- (3) Has a channel, free of soil and debris.

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

“Waterbreak” means a ditch, dike, dip or combination thereof, constructed to effectively divert water as an aid to erosion control.

“Winter season” means October 15th through April 15th. [Ord. 4346 § 67, 1994; Ord. 3599 § 2, 1984; Ord. 3321 § 1, 1982; Ord. 2972, 1980; Ord. 2500, 1977].

16.20.040 Approval required.

Except as exempted by SCCC 16.20.050, no person shall do, cause, permit, aid, abet, suffer or furnish equipment or labor for any grading until a grading approval has been obtained for the project. A separate approval shall be required for each site and shall be obtained as follows:

(A) Planning Commission. All approvals for grading in excess of 8,000 cubic yards, or for which an environmental impact report was prepared, or for grading in excess of 1,000 cubic yards which is visible from a scenic corridor roadway, as designated in the Local Coastal Program Land Use Plan, shall be processed according to Chapter 18.10 SCCC, Level VI.

(B) Planning Director. All other permits shall be processed according to Chapter 18.10 SCCC, Level III.

(C) Subdivisions. The Public Works Director is hereby authorized and directed to enforce the provisions of this chapter for grading done within parcel map subdivisions for which improvement plans have been signed by the Public Works Director or within subdivisions for which a final map has been recorded or for property on which a tentative subdivision map has been approved and grading is permitted prior to recording of a final map. Grading permits are not issued by the Planning Director for subdivision work administered by the Director of Public Works. [Ord. 3636 § 1, 1985; Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.050 Exemptions.

The following work is exempt from the provisions of this chapter; however, it remains subject to the riparian corridor protection ordinance (Chapter 16.30 SCCC), the County environmental review regulations (Chapter 16.01 SCCC), the erosion control ordinance (Chapter 16.22 SCCC), the geological hazard ordinance (Chapter 16.10 SCCC), the sensitive habitat protection ordinance (Chapter 16.32 SCCC), and the County Native American cultural sites ordinance (Chapter 16.40 SCCC). The following work may also be subject to other requirements imposed in County and State law.

(A) Excavations. An excavation which does not exceed 100 cubic yards and which does not create a cut slope greater than five feet in depth.

(B) Fills. A fill containing earth material only which is less than two feet in depth, is placed on natural terrain which has a slope flatter than five horizontal to one vertical, does not exceed 100 cubic yards on any one site, does not alter or obstruct a drainage course, and will not be used for structural support.

(C) Basements, Footings. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill as provided under subsection (B) of this section made with the material from such excavation, nor exempt any excavation having an unsupported height greater than five feet after the completion of such structure.

(D) Cemeteries. Cemetery graves.

(E) Refuse Disposal. Refuse disposal sites which are permitted and actually being controlled pursuant to other County regulations, and excavations for individual and community sewage disposal systems, made pursuant to permit.

(F) Wells and Utilities. Excavations for wells or utilities.

(G) Mining and Quarrying. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay materials, pursuant to a County permit.

(H) Soil Testing. Exploratory excavations under the direction of a soils engineer or engineering geologist where such excavation is to be returned to the original condition under the direction of such engineer or geologist within 45 days after the start of work.

(I) Agricultural Work. Routine plowing, harrowing, disking, ridging, listing, land planing, and similar operations necessary to prepare a field for a crop for continued agricultural use. (All other agricultural grading shall be subject to the procedures of SCCC 16.20.195.)

(J) Timber Harvesting. Work done pursuant to a valid timber harvesting permit.

(K) County Public Works. Routine maintenance and other work undertaken by the County Department of Public Works that does not impact an environmental resource of hazardous or critical concern where designated, mapped and officially adopted pursuant to law by Federal or State agencies, or by the Santa Cruz County Board of Supervisors, or

where identified through field or technical investigation. [Ord. 4496-C § 83, 1998; Ord. 3599 § 3, 1984; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.055 Special exemption for prevention or mitigation of Pajaro River/Salsipuedes Creek flooding.

(A) In areas outside of the Coastal Zone, the operation, repair and maintenance of the Pajaro River and Salsipuedes Creek levees and the areas within the levees, for the purpose of restoring flood conveyance capacity, including bench excavation, sediment removal, and similar projects shall be exempt from the provisions of this chapter if all of the following conditions are met:

- (1) The work is conducted by or under the direction of the Department of Public Works;
- (2) The work is in accordance with a streambed alteration agreement approved by the California Department of Fish and Game, to the extent that such an agreement is required; and
- (3) The project has been subjected to environmental review with the County of Santa Cruz serving as the lead agency. [Ord. 4790 § 1, 2005; Ord. 4374 § 1, 1995].

16.20.060 Application.

Applications for approvals granted pursuant to this chapter shall be made in accordance with the requirements of Chapter 18.10 SCCC and shall include the following:

(A) General. An application for a grading approval shall be submitted by the owner(s) of the property or agent when authorized in writing. The application shall be signed by the owner(s) of each site or their designated representative, as defined under SCCC 16.20.030. A civil engineer or other licensed professional authorized by State law shall prepare and sign the plans and specifications if grading will be in excess of 2,000 cubic yards. Special design requirements for dredging and diking shall be determined by the Planning Director.

(B) The application shall be accompanied by all fees required by SCCC 16.20.120.

(C) Plans and Specifications. Two sets of plans shall be required by the Planning Director. Plans shall be drawn to scale upon substantial material, minimum size 18 inches by 24 inches, and shall be of sufficient clarity to indicate the nature and the extent of the work proposed and show in detail that it will conform to the provisions of this chapter and all relevant laws and regulations. The plans shall include but not be limited to the following information, in writing and/or diagrams as required by the Planning Director:

- (1) A statement as to the specific intentions or ultimate purpose for which the grading is being done.
- (2) General location of the proposed site.
- (3) Property lines and contours of the existing ground and details of terrain and area drainage.
- (4) Limiting dimensions, elevations or finish contours to be achieved by the grading, and proposed drainage channels and related construction.
- (5) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work, together with a map showing the drainage area and the estimated runoff of the area served by any drains. The location of any ravines and drainage courses and the pathway of offsite drainage shall be indicated.
- (6) Location of buildings or structures on the property where the work is to be performed and the approximate location of buildings or structures on adjacent land owned by other owners which is within 15 feet of the property line or which may be affected by the proposed operations.
- (7) A statement of the quantity of excavation and fill.
- (8) Specifications, if required, shall contain information covering construction and material requirements.
- (9) An erosion control plan and erosion prevention measures for all surfaces exposed or expected to be exposed during grading activities, in accordance with the requirements of the erosion control ordinance (Chapter 16.22 SCCC) shall accompany every proposed grading plan.
- (10) Revegetation proposal for all surfaces exposed or expected to be exposed during grading activities.
- (11) Name and address of the owner(s).
- (12) Assessor's parcel number(s) of the property on which the work is to be done.
- (13) Location of on-site trees.
- (14) When required by the Planning Director, each application for a grading approval shall be accompanied by supporting data consisting of a soil engineering report and/or engineering geology report. The soil engineering report shall include data regarding the nature, distribution and strength of existing soils; conclusions and recommendations for grading procedures; design criteria for corrective measures when necessary; and opinions and recommendations covering adequacy of sites to be developed by the proposed grading. The engineering geology report shall include an adequate descrip-

tion of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading. Recommendations included in the reports and approved by the Planning Director shall be incorporated in the grading plans and specifications.

(15) When required by the Planning Director because it appears that the location of property line may be in question in connection with the proposed grading, a parcel survey or other boundary evidence deemed necessary by the Planning Director shall be provided.

(D) Starting and Completion Dates. Each application for a grading permit shall state estimated starting and completion dates. [Ord. 3599 § 4, 1984; Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.070 Variances.

(A) A request for a variance from the provisions of this chapter, the approval conditions, or the plan specifications, may be approved, conditionally approved, or denied according to Chapter 18.10 SCCC at the level specified in SCCC 16.20.040(A) and (B). A request for a variance must state in writing the provision from which it is to be varied, the proposed substitute provision, when it would apply and its advantages. The following findings shall be required:

- (1) That there are special circumstances or conditions affecting the property; and
- (2) That the variance is necessary for the proper design and/or function of the project.

(B) No variance shall be granted unless the project, with such variance, is consistent with the purpose of this chapter.

(C) As contemplated in this section, a variance shall be granted for alternative methods of construction for projects which could be constructed under the basic standards established in this chapter, but which, if a variance is granted, can be better and/or more economically designed and constructed than if a variance were not given. A variance shall not be granted if the part of a variance would have the effect of allowing the construction of a project which would otherwise, without the variance, not be possible under the provisions of the County Code.

(D) Fees for variances shall be set by resolution of the Board of Supervisors. [Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.080 Approval limitations and conditions.

(A) Issuance. The issuance of a grading approval shall constitute an authorization to do only that work which is described or illustrated on the application for the approval or on the approved plans and specifications.

(B) Plan Checking. The application, plans, and specifications filed by an applicant for an approval shall be checked by the Planning Director within 30 days after receipt of all information required for issuance of the approval. The Planning Director shall notify the applicant in writing 30 days of any deficiencies. The Planning Director or Planning Commission shall approve an application for approval if the plans filed therewith conform to the requirements of this chapter, zoning ordinances, use permit and design review conditions and other applicable laws.

(C) Denial of Approval.

(1) An application for a grading, dredging or diking approval shall be denied if the Planning Director or Planning Commission makes any of the following findings:

(a) That the design of the proposed site is not consistent with the applicable general and specific plans adopted pursuant to Chapters 13.01 and 13.03 SCCC.

(b) That the proposed grading plan for the development contemplated does not comply with the requirements of the Santa Cruz County Code.

(c) If the project is for the creation of a building site, that adequate sewage facilities and water supplies cannot be provided.

(d) If the project as proposed will cause excessive and unnecessary disturbance of the site particularly as defined in SCCC 16.10.050.

(2) An application for a grading approval shall be denied if the work proposed would be hazardous by reason of flood, geological hazard, or unstable soils; be liable to endanger other properties or result in the deposition of debris on any public way, property, or drainage course; or otherwise create a hazard.

(3) An application for a grading approval which would create unavoidable adverse environmental impact shall be denied.

(4) An application for grading in a riparian corridor shall be denied if it is not in conformance with other chapters of the County Code which regulate development activity in riparian corridors.

(5) An application for a grading approval to place fill within a 100-year floodplain shall be denied, unless the fill is the minimum amount necessary, not to exceed 50 cubic yards, and it can be demonstrated through environmental review that the fill will not cause significant cumulative impacts.

(6) The Planning Director shall notify the applicant in writing of a denial or conditional denial and shall state the reasons therefor.

(D) Restriction on Certain Grading Approvals. If the project is for the creation of, or access to, a building site, land disturbance shall not take place until a building permit has been issued. If an approval cannot be issued until a determination of adequate water source and sewage disposal or other required site investigation is made, land disturbance shall be limited to the extent necessary to allow such an investigation. This provision shall not apply to improvements or road construction required as a condition of approval of a minor land division or other permit.

(E) Conditions of Approval. In granting any approval under this chapter, the Planning Director or Planning Commission shall attach such conditions as necessary to prevent creation of a nuisance or hazard to public or private property. Such conditions may include, but shall not be limited to:

- (1) Improvement of any existing grading project to bring it up to the standards of this chapter.
- (2) Requirements for fencing of excavations or fills which would otherwise be hazardous.
- (3) Haul routes for materials.
- (4) Conditions recommended by the Environmental Coordinator.
- (5) Conditions recommended by a geological hazard review.
- (6) Check dams, cribbing, riprap or other devices which may be required to prevent erosion.
- (7) Mulching, fertilizing, watering or other methods may be required to establish new vegetation. On slopes less than 20 percent, stockpiling and reapplication of topsoil shall be required, unless it can be shown that adequate erosion control measures, as per the erosion control ordinance (Chapter 16.22 SCCC), can be implemented.
- (8) Dust from grading operations shall be controlled.
- (9) No earth or organic material shall be deposited or placed where it may be deposited into a stream, marsh, slough, lagoon or body of standing water in a quantity deleterious to wildlife, aquatic life, or other beneficial uses of the water.

(F) Approved Plans. When the Planning Director issues the permit, all of the plans and specifications shall be endorsed "approved." Such approved plans and specifications shall not be changed, modified, or altered without written authorization by the Planning Director, and all work shall be done in accordance with the approved plans and this chapter.

(G) Amendment. Amendments to approvals granted pursuant to this chapter whether for change of project, conditions, or expiration date or other time limits, shall be processed in accordance with the provisions of Chapter 18.10 SCCC.

(H) Retention of Plans. One set of plans and specifications shall be retained by the Planning Director for a period of not less than two years from the date of completion of work covered therein. Plans which have been submitted for checking and for which no permit is issued may be destroyed by the Planning Director if not picked up by the applicant within 90 days.

(I) Posting of Permit. At the time a grading permit is issued, the County shall also issue the permittee a notice of permit form or forms. The permittee shall cause such form or forms to be posted on the property at a place at which such form or forms can easily be seen from any public or private road or from adjacent properties during any time that grading is taking place on the property. A copy of the plans shall be attached to the notice of permit or, in lieu thereof, a brief description in writing and diagrams of the permitted grading.

(J) Work Time Limits. The permittee shall fully perform and complete all of the work required to be done within the time limit specified. If no time limit is specified, the permittee shall complete the work within 180 days after the date of the issuance of the grading permit.

If the permittee is unable to complete the work within the specified time, he shall, prior to the expiration of the permit, present in writing a request for an extension of time, setting forth the reasons for the requested extension. If, in the opinion of the Planning Director, an extension is warranted, additional time may be granted for the completion of the work.

(K) Working Hours. Hours of grading operation shall be between 7:00 a.m. and 6:00 p.m. on weekdays. No grading shall be permitted on Saturdays, Sundays, and holidays, unless specifically authorized as part of a variance approved by the Planning Director.

(L) Expiration. Unless otherwise specified, approvals issued pursuant to this chapter shall expire one year from the date of issuance if not exercised. Where approvals are issued in conjunction with a development permit granted pursuant to Chapter 18.10 SCCC the approval shall expire in accordance with the provisions of Chapter 18.10 SCCC.

(M) Safety Precautions. The permittee shall take all appropriate and necessary precautions to protect adjacent public and private property from damage that may result from the operations.

(N) Property Lines. Whenever the location of a property line is in question as the result of or during operations, the Planning Director may require any boundary evidence which the Planning Director deems necessary. The Planning Director may require the applicant to furnish a parcel survey.

(O) Inclement Weather and Winter Grading. The Planning Director shall stop grading during periods of inclement weather when weather-generated problems are not being controlled adequately. No grading shall occur during the winter season (October 15th through April 15th), unless authorized in advance by the Planning Director with reference to the erosion control ordinance.

(P) Validity. The issuance or granting of approval of plans and specifications shall not be construed to be approval of any violation of any of the provisions of this chapter or of any other law.

The issuance of an approval based on plans and specifications shall not prevent the Planning Director from thereafter requiring the correction of errors in plans and specifications or from preventing operations from being carried on when in violation of this chapter or of any other law.

(Q) Suspension or Revocation of Approval. The Planning Director may, in writing, suspend or revoke an approval issued under provisions of this chapter whenever the approval is issued in error or on the basis of incorrect information supplied, or in violation of any law or regulation or any of the provisions of this chapter. [Ord. 3599 § 5, 1984; Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.090 Environmental review.

Applications for grading approvals shall be submitted to the Environmental Coordinator pursuant to Santa Cruz County environmental impact regulations. [Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.100 Hazardous conditions.

Whenever the Planning Director determines that an excavation, embankment, or fill has become a hazard to life and limb, endangers property, or adversely affects the safety, use, or stability of a public way or drainage channel, he shall notify in writing the owner(s) of the property or other person or agent in control of the property on which the hazard exists. On receipt of the notice, the owner(s) shall within the period specified eliminate the hazard and bring the property into conformance with the requirements of this chapter. [Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.110 Diking, dredging and filling.

(A) A grading approval is required for diking, dredging, and filling of open coastal waters above the ordinary high water line, wetlands, lagoons, estuaries and lakes. An approval shall be issued only for the following purpose and only where there is no other feasible, less environmentally damaging alternative:

- (1) Restoration purposes, including the protection and enhancement of existing harbors.
- (2) Nature study, aquaculture, or similar resource-dependent activities.

(B) Diking, filling, and dredging in existing estuaries and wetlands is permitted only if it is determined that such activities will maintain or enhance the functional capacity of the wetland or estuary, as determined by the County Environmental Coordinator.

(C) The dredged material shall be redistributed into the same littoral cell from which it was taken. The deposition of such dredged materials must be timed and located so as not to interfere with shoreline processes, longshore current systems, and public use. [Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.115 Shoreline protection structures.

A grading approval shall be required for all shoreline protection structures which involve the placement of rocks, blocks, or fill material in the coastal hazard zone, including the placement of less than 100 cubic yards of material and maintenance and repair. The design of the proposed structure shall conform to the County's geologic hazard ordinance, Chapter 16.10 SCCC, as determined by the Planning Director. Information including, but not limited to, geologic reports, engineered plans, beach sand profiles and structural profiles shall be required as deemed necessary by the Planning Director. [Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982].

16.20.116 Emergency approvals.

(A) Emergency grading approvals may be granted at the discretion of the Planning Director when a sudden, unexpected occurrence involving a clear and present danger demands immediate action to prevent loss of or damage to life, health, property or essential public services. The emergency permit shall conform to the objectives of this chapter and the geologic

hazards ordinance, Chapter 16.10 SCCC. The Planning Director may request, at the applicant's expense, verification by a qualified professional of the nature of and solutions to the emergency situation.

(B) The emergency work authorized under this approval shall be limited to necessary activities to protect the endangered structure or essential public structure. The emergency approval shall be voided if the approval is not exercised within 15 days of issuance. The approval expires 30 days after commencement of work. Any work completed outside of these time periods requires a regular grading approval unless an extension is granted by the Planning Director.

(C) At the time of application for an emergency approval or within 60 days of issuance of the emergency approval the applicant shall submit a completed application and the appropriate fees for a regular approval.

(D) Within 90 days of the issuance of an emergency approval, the owner of the property shall submit all required technical reports and project plans unless a time extension is granted by the Planning Director. If the information described above is not submitted within the specified time, the emergency approval shall be voided and the emergency work shall be considered a violation of this chapter.

(E) If the emergency work is required during nonbusiness hours, the property owner shall submit an emergency grading permit application on the following business day. [Ord. 3599 § 6, 1984; Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982].

16.20.120 Fees.

Fees for processing grading approval application and requests for variances shall be set by resolution of the Board of Supervisors.

(A) Grading Approval Fees—Subdivision. No plan-checking or grading approval fees shall be charged for a grading approval for property for which a final subdivision map has been recorded (or a tentative subdivision map has been approved subject to a specific condition that grading will be permitted prior to recording of the final map); provided, that all of the contemplated grading is shown on approved improvement plans pursuant to Chapter 14.01 SCCC. Costs for plan checking and construction inspection for compliance with this chapter shall be determined in the same manner as fees provided in SCCC 14.01.506. [Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.130 Securities.

Approvals for grading shall not be valid and work shall not be started until the required securities have been provided. Securities shall remain in effect one winter after final inspection and approval. All expenditures by the County for corrective work necessary because of the permittee's failure to comply with the provisions of the approval and this chapter shall be charged against the security.

(A) If a grading is in excess of 2,000 cubic yards the permittee shall provide a cash deposit, time certificate of deposit, or equivalent security, acceptable to the County, payable to the County to insure compliance with the provisions of the approval and this chapter.

(B) If deemed necessary by the Planning Director, a similar security, acceptable to the County, may be required for grading operations of less than 2,000 cubic yards.

(C) The amount of security for grading shall be based on the number of cubic yards of material of either excavation or fill, whichever is larger, plus the cost of drainage or other protective devices. The minimum amount required shall be computed as indicated in the following schedule:

(1) Two thousand to 10,000 cubic yards: \$0.50 per cubic yard, plus the cost of drainage or other protective devices.

(2) Ten thousand and one cubic yards or more: \$5,000 plus \$0.25 per cubic yard for each additional cubic yard in excess of 10,000, plus the cost of drainage or other protective devices.

(D) No separate grading security except for security required for winter grading operations shall be required for work on which a final subdivision map has been recorded (or a tentative subdivision map has been approved subject to a specific condition that grading will be permitted prior to recording of the final map); provided, that all of the contemplated grading is shown on approved improvement plans pursuant to Chapter 14.01 SCCC and the amount of the subdivision improvement, performance, labor and material securities is sufficient to cover all grading.

(E) A separate security for any grading operations authorized during the winter, between October 15th and April 15th, may be required if deemed necessary by the Planning Director. [Ord. 3599 § 7, 1984; Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.140 Design standards for excavations.

(A) Slope. Cut slopes shall be no steeper than one and one-half horizontal to one vertical. Steeper slopes may be allowed if the Planning Director determines they will be stable or if a civil engineer or engineering geologist provides a

written statement that the site has been investigated and that in his opinion the proposed deviation will be and remain structurally stable. The tops of cut slopes shall be rounded off so as to blend in with the natural terrain. (See Figure 3.)

(B) Drainage and Terraces. Drainage and terraces shall be provided as required by SCCC 16.20.170.

(C) Vegetation Removal. No vegetation removal or grading pursuant to a permit will be allowed which will result in erosion. Vegetation removal shall conform to SCCC 16.22.080. [Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.150 Design standards for fills.

(A) General. Unless otherwise recommended in the soil engineering report approved by the Planning Director, fills shall conform to the provisions of this section.

(B) Fill Location. Fills shall not be constructed on natural slopes steeper than two to one unless a civil engineer devises a method of placement which will assure the fill will remain in place. The toe of a fill shall be no closer than 12 feet horizontally to the top of existing or planned cut slopes (See Figure 3).

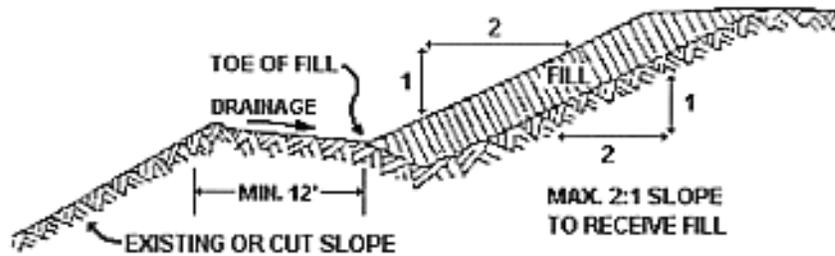


Figure 3

(C) Preparation of Ground for Fill. The ground surface shall be prepared to receive fill by the removal of topsoil and other unsuitable materials and by keying into sound bedrock or other suitable material.

(D) Material Permitted. Earth material free from tree stumps, organic matter, trash, sod, peat and similar material shall be used in fills. Rock, cobbles, and similar material shall be distributed and not nested or piled together, and pieces larger than 12 inches in greatest dimension shall not be used unless a method of placement is approved by the Planning Director. Organic material may be used in the top 12-inch layer of fills to aid plant growth.

(E) Fill Slopes. No fill shall be made which creates an exposed surface steeper in slope than two horizontal to one vertical. The Planning Director may allow a steeper slope or require a flatter slope if he finds this consistent with stability and safety.

(F) Compaction of Fills. All fills shall be compacted to a minimum of 90 percent of relative maximum density as determined by ASTM D-1557-70, or CALTRANS test method number California 216. Compaction tests may be required.

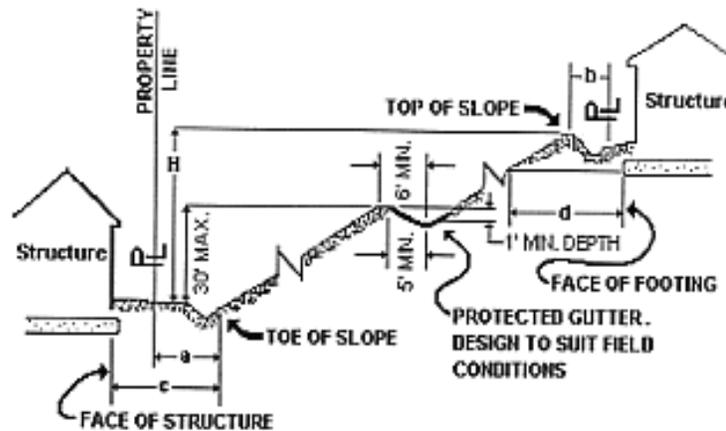
(G) Drainage and Terraces. Drainage facilities and terraces shall be provided as required by SCCC 16.20.170. [Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.160 Cut and fill slope setback.

Unless otherwise recommended in the approved engineering report and shown on the approved grading plans, the tops and toes of cut and fill slopes shall be set back from property boundaries and structures, as per Table C and the riparian corridor protection ordinance (Chapter 16.30 SCCC).

Table C

H	a	b	c	d
0—10 feet	3 feet	2 feet	5 feet	5 feet
11—30 feet	(H/2) feet	3 feet	(H/2) feet	7 feet
31 feet and over	15 feet	3 feet	15 feet	10 feet



[Ord. 3321 § 1, 1982].

16.20.170 Design standards for drainage facilities and terraces.

(A) General. Drainage facilities and terraces shall conform to the provisions of this section unless otherwise indicated on the approved permit and grading plan.

(B) Drainage Facilities.

(1) Existing drainage courses shall not be obstructed and alterations to them must conform to the provisions of this section.

(2) Drainage facilities shall be provided to carry surface and subsurface waters to the nearest drainage course designated for such purpose by the Planning Director or on-site dry wells. Discharge of waters onto natural ground may be allowed only if a suitable means is provided for reducing the velocity of flow to prevent erosion.

(3) Culvert sizes shall be in accordance with "County Design Criteria, Part 2, Storm Drainage." Minimum diameter shall be 12 inches. Culvert material shall be clay, cast iron, cast-in-place or pre-cast concrete, corrugated steel, aluminum, asbestos-cement or other materials approved by the Planning Director.

(4) Cuts, fills, and retaining walls shall have subsurface drainage facilities if necessary for stability.

(5) Gutters, berms and/or culverts may be required for roads and driveways to control water runoff.

(6) Berms, ditches, or swales shall be constructed at the top of cut and fill slopes for protection against water runoff.

(C) Terraces. Terraces shall be required on cut and fill slopes at not more than 30-foot vertical intervals to control surface water and debris. (See figure in Table C.)

(1) Terraces shall be at least six feet wide.

(2) All swales or ditches on drainage terraces shall be graded to provide suitable drainage and designed to prevent erosion.

(3) Swales or ditches which collect water from a tributary area exceeding one-third of an acre (measured horizontally) shall have down drains. [Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.180 Design standards for rural private roads and driveways.

(A) All private road and driveway construction requiring a grading approval shall conform to the provisions of this section. These requirements may be modified for emergency access, temporary roads, or roads leading to an agricultural building or well site if approved in writing by the Planning Director.

(B) Width of roadbed for a roadway shall be 16 feet minimum; width of a driveway shall be 12 feet minimum. Where it is environmentally infeasible to meet these criteria (due to excessive grading or tree removal), a 12-foot-wide all-weather road with 12-foot-wide by 30-foot-long turnouts located approximately every 500 feet may be approved with the approval of the fire department. The distance between turnouts may be adjusted at the discretion of the Planning Director if deemed appropriate for reasons of topography, environment or emergency access.

(C) Minimum centerline radius shall be 35 feet. (Exception: Driveways which serve as access to any habitable structure and which are 150 feet or less from the main road.)

(D) The maximum grade of the road or driveway shall not exceed 15 percent; however, grades of up to 20 percent are permitted for up to 200 feet at a time.

(E) The structural section shall consist of a minimum five inches of baserock, Class II or Class IV. Class IV aggregate base should have a minimum R value of 50, and not more than 10 percent of the aggregate shall pass the number 200 sieve.

(F) Where the subgrade is designated as an expansive clayey soil, the structural section should be determined using the California Design Procedure.

(G) The aggregate base required by these design standards can be omitted if the Planning Director determines that the native material provides sufficient bearing capacity for all weather use.

(H) Road surfacing shall meet the following standards, based on road gradient: zero to 10 percent gradient—two inches of drain rock compacted into a four-inch sub-base of Class II baserock; 10 to 15 percent gradient—oil and screenings; greater than 15 percent gradient—one and one-half inches asphaltic concrete. (Exception: aggregate base and asphaltic concrete may be omitted if a structural section of four-inch concrete is used.)

(I) Asphalt or concrete berms or their equivalent may be required to control drainage. Discharge shall be at points of natural drainage courses with energy dissipaters installed where necessary to prevent erosion.

(J) Entrances from private roads or driveways into private roads shall be limited in gradient as shown by Figure 4.

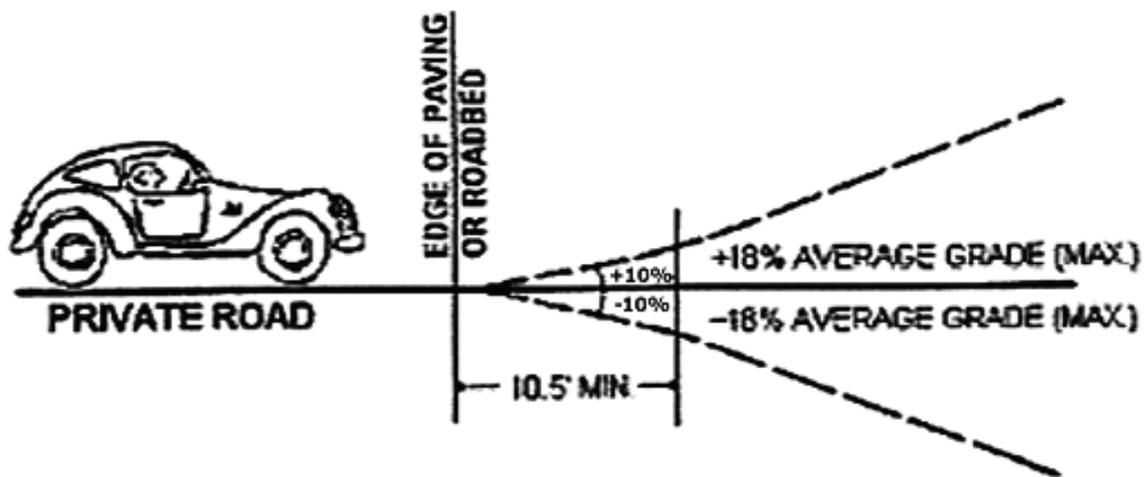


Figure 4. Private Road or Drive

(K) Any roadway or driveway which is more than 300 feet long and a dead end shall have a turn-around area with a minimum of 32 feet radius, or equivalent.

(L) A horizontal clearance of 16 feet and a vertical clearance of 14 feet shall be maintained on all roadways, driveways, and turnouts.

(M) Where a private driveway will connect to a County-maintained road, an encroachment permit shall first be obtained from the Public Works Department. [Ord. 4678 § 1, 2002; Ord. 4578 § 5, 1999; Ord. 3599 § 8, 1984; Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.195 Agricultural grading.

(A) General. All approvals for agricultural grading shall be issued by the Planning Director. Applicants for an agricultural grading approval shall submit a plan to the Planning Director, including the following:

- (1) Existing and proposed drainage pattern.
- (2) Estimate of earth to be moved.
- (3) Property map with graded area shown.
- (4) Erosion control measures to be taken on disturbed noncrop areas, including long-term maintenance.
- (5) Cross-sections of the proposed grading project. Applications for grading for access roads and for building sites, except greenhouse sites, shall not be processed under this section.

(B) Water Retention. The Planning Director may require review or design by the United States Department of Agriculture Soil Conservation, the Santa Cruz County Resource Conservation District, or a soils engineer for the following projects:

- (1) On-site water retention (ponds).

(2) Grading with major erosion potential.

The conditions of the design or review shall be part of the permit.

(C) Special Review. The Planning Director can require review of the project by the Agricultural Policy Advisory Commission.

(D) Design Standards for Agricultural Grading. Specifications of design for agricultural grading shall be consistent with agricultural practices and needs, and shall assure slope stability, soil conservation, and flood hazard protection. Reference to agricultural grading may be recorded in the deed.

(E) Approval Processing. Agricultural grading approvals shall be processed within 30 days of receipt. Provisions should be made for emergency processing at the discretion of the Planning Director.

(F) Fees and Bonds. The fee for agricultural grading approvals shall be set by resolution of the Board of Supervisors. No surety bonds are required. [Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2972, 1980].

16.20.200 Inspection and compliance.

The Planning Director shall conduct inspections to ensure compliance with this chapter.

(A) Inspection. The following inspections shall be performed by the Planning Director.

(1) Pre-Site Inspection. To determine the suitability of the proposed grading project.

(2) Grading operation progress.

(3) Final Inspection. To determine compliance with plans and specifications.

(B) Notification. The permittee shall notify the Planning Director 24 hours prior to the start of the authorized work and also 24 hours prior to any inspection requested by permittee or permittee's authorized agent.

(C) Right of Entry. The filing of an application for a grading approval constitutes a grant of permission for the County to enter the development area for the purpose of administering this chapter from the date of the application to the termination of the erosion control maintenance period. If necessary, the Planning Director shall be supplied with a key or lock combination or permitted to install a County lock.

(D) Final Inspection. Final inspection and approval of the building permit, development permit or parcel approval shall not occur until the project is in compliance with all of the grading approval conditions and all of the provisions of this chapter. [Ord. 4281 § 12, 1993; Ord. 3599 § 9, 1984; Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.210 Grading violations.

(A) It shall be unlawful for any person to do, cause, permit, aid, abet, suffer or furnish equipment or labor for any grading as defined in SCCC 16.20.030 unless (1) a development permit has been obtained and is in effect which authorizes the grading, or (2) the grading is exempt from the requirement for a permit by the provisions of SCCC 16.20.040 and the provisions of Chapter 13.20 SCCC.

(B) It shall be unlawful for any person to do, cause, permit, aid, abet, suffer or furnish equipment or labor for any diking, dredging, or filling of open coastal water above the ordinary high water line, or of wetlands, lagoons, estuaries, or lakes unless a development permit has been obtained and is in effect which authorizes such activities.

(C) It shall be unlawful for any person to do, cause, permit, aid, abet, suffer or furnish equipment or labor for any shoreline protection structures which involve the placement of rocks, blocks, or fill material in a coastal hazard zone unless a development permit has been obtained and is in effect which authorizes such activities.

(D) It shall be unlawful for any person to exercise a development permit which authorizes grading without complying with all of the conditions of such permit.

(E) It shall be unlawful for any person to refuse or fail to abate a hazardous condition as required by a notice of hazardous condition issued by the Planning Director under the provisions of SCCC 16.20.100.

(F) It shall be unlawful for any person to knowingly do, cause, permit, aid, abet or furnish equipment or labor for any work in violation of a stop work notice from and after the date it is posted on the site until the stop work notice is authorized to be removed by the Planning Director.

(G) If the Planning Director determines that any grading occurring in the County does not comply with the development permit or this chapter, he may stop all work until corrective measures have been completed. The site shall be posted with a "stop work" notice. No building, septic tank, encroachment or other permit shall be issued by the County, and the County may require that all work shall be stopped pursuant to any such permits issued, until corrections have been made to the satisfaction of the Planning Director.

(H) Whenever the Planning Director determines that grading has been done without the required development permit, he may refuse to issue a permit for the work already completed and require mitigating action. [Ord. 3451-A § 11, 1983; Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.220 Transfer of responsibility.

If the civil engineer, the soil engineer or the engineering geologist of record is changed during the course of the work, the work may be stopped until the replacement has agreed to accept the responsibility within the area of his technical competence for approving the work already accomplished. [Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.230 Completion and approval.

If a civil engineer or another professional licensed by State law prepared the grading plans, he shall provide a written statement to the Planning Director that all grading was completed in conformance with the provisions of the permit and this chapter. [Ord. 3321 § 1, 1982; Ord. 2500, 1977].

16.20.240 Recording notice of violation.

Repealed by Ord. 4392A. [Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982].

16.20.250 Removal of notice of violation.

Repealed by Ord. 4392A. [Ord. 3321 § 1, 1982].

16.20.260 Abatement of nuisance.

Repealed by Ord. 4392A. [Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982].

16.20.270 Penalties.

Repealed by Ord. 4392A. [Ord. 3321 § 1, 1982].

16.20.280 Appeals.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance to the procedures of Chapter 18.10 SCCC. [Ord. 3438 § 1, 1983; Ord. 3321 § 1, 1982; Ord. 2500, 1977].

Chapter 16.22

EROSION CONTROL

Sections:

16.22.010	Purpose.
16.22.020	Scope.
16.22.025	Amendment.
16.22.030	Definitions.
16.22.040	General provisions.
16.22.050	Project design.
16.22.060	Erosion control plan.
16.22.070	Runoff control.
16.22.080	Land clearing approval.
16.22.090	Winter operations.
16.22.100	Overall responsibility.
16.22.110	Exemptions.
16.22.120	Variances.
16.22.130	Fees.
16.22.140	Inspection and compliance.
16.22.150	Applicable laws and regulations.
16.22.160	Violations.
16.22.161 —	
16.22.180	<i>Repealed.</i>
16.22.190	Appeals.

16.22.010 Purpose.

The purpose of this chapter is to eliminate and prevent conditions of accelerated erosion that have led to, or could lead to, degradation of water quality, loss of fish habitat, damage to property, loss of topsoil and vegetation cover, disruption of water supply, and increased danger from flooding, and to implement Local Coastal Program land use policies. [Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.020 Scope.

This chapter requires control of all existing and potential conditions of accelerated (human-induced) erosion; sets forth required provisions for project planning, preparation of erosion control plans, runoff control, land clearing, and winter operations; and establishes procedures for administering those provisions. This chapter shall apply to both private and public activities including those of the County and other such governmental agencies as are not exempted by State or Federal law. [Ord. 4166 § 2, 1991; Ord. 4027 § 4, 1989; Ord. 3600 § 1, 1984; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.025 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When a chapter revision constitutes an amendment to the Local Coastal Program such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 SCCC and shall be subject to approval by the California Coastal Commission. [Ord. 3337 § 1, 1982].

16.22.030 Definitions.

“Accelerated erosion” means erosion caused by a human-induced alteration of the vegetation, land surface, topography, or runoff pattern. Evidence of accelerated erosion is often indicated by exposed soils, gullies, rills, sediment deposits, or slope failures caused by human activities.

“Access envelope” means an area delineated on the site plan to which all clearing and land disturbance for construction of access must be confined.

“Agricultural grading” means grading on land designated for exclusive agricultural use as specified under SCCC 16.50.040.

“Approved erosion control specialist” means a person who has met certain minimum qualifications established by the Planning Director which demonstrate his/her capability to prepare small-scale erosion control plans.

“Building envelope” means an area delineated on the development plans to which all clearing and land disturbance for construction must be confined.

“Development permit” means a permit issued by the County for new land use activities including but not limited to: building, grading, land clearing, subdivisions, minor land divisions, and residential, commercial, industrial and agricultural development.

“Drainage course” means a natural or manmade channel which conveys runoff either year-round or intermittently.

“Earth material” means rock, natural soil, or combination thereof.

“Erosion” means the wearing away of the ground surface as a result of the movement of wind or water.

“Erosion hazard” means the susceptibility of a site to erode, based on condition of slope, rock type, soil, and other site factors. High erosion hazard areas include areas of high and very high erosion hazard shown on maps prepared by the Planning Department. Hazard may be determined based on a site-specific investigation.

“Grading” means excavating, filling, leveling, or smoothing, or combination thereof.

“Land clearing” means the removal of vegetation down to duff or bare soil, by any method.

“Land clearing approval” means an approval granted by the Planning Director which authorizes the permittee to carry out land clearing.

“Land disturbance” means clearing, excavating, grading, or other manipulation of the terrain.

“Major grading” means grading in excess of 100 cubic yards.

“Major development proposals” means new commercial, industrial, or professional developments; or new residential developments of more than four units.

“Minor development proposals” means building permits, grading permits for less than 2,000 cubic yards, subdivisions of four or less lots, and any other project not identified as a major development proposal in SCCC 16.22.060(D).

“Minor grading” means grading less than 100 cubic yards.

“New road or driveway” means any newly constructed road or driveway or any improvement to an existing road bed which requires more than 100 cubic yards grading in any 500-foot segment in order to meet the design standards in SCCC 16.20.180. Any road or bridge constructed pursuant to a timber harvest permit issued by the State of California shall be considered a new road for the purposes of subsequent development and shall be subject to all current design standards and applicable policies.

“Onsite detention” means temporary storage of runoff on the site.

“Onsite retention” means permanent holding of runoff on the site through percolation to the ground.

“Owner” means the person or persons shown in the County Recorder’s Office as owner of the property.

“Permittee” means any person undertaking development activities upon a site pursuant to a permit granted by the County.

“Person” means any person, firm, association, corporation, organization, partnership, business, trust company, public agency, school district, the State of California and its political subdivisions or instrumentalities.

“Planning Director” means the Director of the Planning Department or his authorized designee charged with the administration and enforcement of this chapter. The Public Works Director or authorized designee may administer the provisions of the chapter for subdivisions.

“Responsible person” means any person who creates a condition which may lead to accelerated erosion. If a specific person cannot be identified, the owner of the land where such condition exists shall be considered the responsible person.

“Road” or “roadway” means an open way for vehicular traffic.

“Runoff” means the movement of water over the ground surface.

“Sediment” means eroded earth material that is carried by runoff and/or deposited in a stream, drainage course, or other area.

“Sensitive habitat” includes areas defined as sensitive habitats in General Plan and Local Coastal Program Land Use Plan Section 5.1, specifically 5.1.2 and 5.1.3.

“Site” means a parcel of land or contiguous parcels where land alterations, including grading, clearing, or construction, are performed or proposed.

“Soil” means the unconsolidated mineral and organic material on the immediate surface of the earth.

“Stream” means any watercourse designated by a solid line or dash and three dots symbol on the largest scale of the United States Geological Survey map most recently published, or as indicated in the development permit when it has been field-determined that a watercourse either:

- (1) Supports fish at any time of the year; or

- (2) Has a significant water flow 30 days after the last significant storm; or
- (3) Has a well-defined channel, free of soil and debris.

“Ten-year storm” means a storm of an intensity that would be exceeded on the average only once every 10 years. The intensity for the site shall be determined according to the County Public Works Design Criteria Manual. The duration of the storm used in runoff calculation shall be equivalent to the concentration time for the area which drains through the project. [Ord. 4496-C §§ 84, 85, 1998; Ord. 4426 § 4, 1996; Ord. 4346 § 68, 1994; Ord. 4131 § 1, 1991; Ord. 3439 § 1, 1983; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.040 General provisions.

No person shall cause or allow the continued existence of a condition on any site that is causing or is likely to cause accelerated erosion as determined by the Planning Director. Such a condition shall be controlled and/or prevented by the responsible person and the property owner by using appropriate measures outlined in subsequent sections of this chapter. Additional measures shall be applied if necessary by the responsible person and the property owner. Specific additional measures may be required by the Planning Director. Property owners will be given a reasonable amount of time, as determined by the Planning Director, to control existing problems depending on the severity of the problem, and the extent of necessary control measures. Where feasible, erosion problems shall be controlled no later than the beginning of the next rainy season (October 15th). [Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.050 Project design.

The density and design of new development shall be planned to be consistent with the characteristics and constraints of the site:

(A) Structures on slopes that would normally require major grading shall utilize pole, step, or other foundations that do not require major grading.

(B) New lots shall not be created which will:

(1) Require new access roads and driveways to cross slopes exceeding 30 percent; or

(2) Require cuts and fills greater than 10 feet in height for distances greater than 50 feet or 10 percent of the new roadway length, whichever is greater.

(C) For any project, access roads and driveways should not cross slopes greater than 30 percent and cuts and fills should not exceed 10 feet. Variances to this rule can be granted if a route across steep slopes will result in less environmental damage than all alternative routes, or if no other alternative exists.

(D) Building and access envelopes or nonbuildable areas may be required to be delineated on the development plans so as to keep disturbance out of particularly erodible areas. Envelopes shall be required in areas of high erosion hazard.

(E) Streams or drainage courses shall not be obstructed or disturbed except for approved road crossings, unless disturbance of a drainage course will improve overall site design and be consistent with the purpose of this chapter.

(F) If the project is for creation of or access to a building site, land disturbance shall not take place until a building permit has been issued. If a permit cannot be issued until a determination of adequate water source and sewage disposal or other required site investigation is made, land disturbance shall be limited to the extent necessary to allow such an investigation. This provision shall not apply to road construction or other grading activities which are specifically required as a condition of a minor land division or other permit.

(G) Erosion control measures specified in, or pursuant to, this chapter, shall be in place and maintained at all times between October 15th and April 15th. [Ord. 3600 § 2, 1984; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.060 Erosion control plan.

(A) Prior to issuance of a building permit, development permit or land division, an erosion control plan indicating proposed methods for the control of runoff, erosion, and sediment movement shall be submitted and approved. Erosion control plans may also be required by the Planning Director for other types of applications where erosion can reasonably be expected to occur. The erosion control plan may be incorporated into other required plans, provided it is identified as such. Erosion control plans shall include, as a minimum, the measures required under SCCC 16.22.070, 16.22.080, 16.22.090, and 16.22.100. Additional measures or modification of proposed measures may be required by the Planning Director prior to project approval. No grading or clearing may take place on the site prior to approval of an erosion control plan for that activity. Final certification of project completion may be delayed pending proper installation of measures identified in the approved erosion control plan.

(B) Applications for approvals granted pursuant to this chapter shall be made according to Chapter 18.10 SCCC, Level III, and shall include two sets of plans for each application. Particular components may be required by the Planning Direc-

tor. Plans shall be drawn to scale upon substantial material, minimum size 18 inches by 24 inches, and shall be of sufficient clarity to indicate the nature and the extent of the work proposed and show in detail that it will conform to the provisions of this chapter and all relevant laws and regulations. The minimum size for plans for land clearing permits shall be eight and one-half inches by 11 inches. The plans shall include the following information in writing and/or diagrams:

- (1) General location of the proposed site.
 - (2) Property lines and contours of the site including finish contours to be achieved by grading, details of terrain, and area drainage; proposed construction, proposed drainage channels, and other runoff control measures.
 - (3) Measures for runoff control and erosion control to be constructed with, or as a part of, the proposed work. All measures required under this chapter shall be shown. Function of erosion control measures shall be consistent with the provisions of this chapter.
 - (4) Delineation of areas to be cleared during development activities.
 - (5) Revegetation proposal for all surfaces exposed or expected to be exposed during development activities, including cut and fill slopes.
 - (6) Name and address of the owner(s).
 - (7) Assessor's parcel number(s) of the property on which the work is to be done.
 - (8) North arrow, scale, and name and location of nearest public road intersection.
 - (9) Name, address, and phone number of person who prepared the plan.
- (C) For minor development proposals, the erosion control plan is not required to be prepared by a registered professional (as listed in subsection (D) of this section).
- (D) For major development proposals, the erosion control plans shall be prepared by a registered professional authorized to do such work under State law. For these major projects, detailed plans of all surface and subsurface drainage devices, runoff calculations, and other calculations demonstrating adequacy of drainage structures shall be included. Inspection by the person preparing the plan and certification of proper installation of control measures may be required by the Planning Director. Major proposals include:
- (1) Subdivisions of more than four lots.
 - (2) Grading in excess of 2,000 cubic yards.
 - (3) Commercial or industrial development permits for new structures; or residential development permit for more than four units.
 - (4) Other projects of a similar nature determined by the Planning Director to cause major land disturbance.
- (E) Applications for activities where the Planning Director recognizes that no land disturbance will take place shall not be required to include an erosion control plan. Such activities may include, but are not limited to:
- (1) Change of use permits where there would be no expansion of land disturbing activities.
 - (2) Construction within an existing structure. [Ord. 4496-C § 86, 1998; Ord. 3439 § 1, 1982; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.070 Runoff control.

Runoff from activities subject to a building permit, parcel approval or development permit shall be properly controlled to prevent erosion. The following measures shall be used for runoff control, and shall be adequate to control runoff from a 10-year storm:

(A) On soils having high permeability (more than two inches/hour), all runoff in excess of predevelopment levels shall be retained on the site. This may be accomplished through the use of infiltration basins, percolation pits or trenches, or other suitable means. This requirement may be waived where the Planning Director determines that high groundwater, slope stability problems, etc., would inhibit or be aggravated by onsite retention, or where retention will provide no benefits for groundwater recharge or erosion control.

(B) On projects where onsite percolation is not feasible, all runoff should be detained or dispersed over nonerodible vegetated surfaces so that the runoff rate does not exceed the predevelopment level. Onsite detention may be required by the Planning Director where excessive runoff would contribute to downstream erosion or flooding. Any policies and regulations for any drainage zones where the project is located will also apply.

(C) Any concentrated runoff which cannot be effectively dispersed without causing erosion shall be carried in nonerodible channels or conduits to the nearest drainage course designated for such purpose by the Planning Director or to onsite percolation devices. Where water will be discharged to natural ground or channels, appropriate energy dissipators shall be installed to prevent erosion at the point of discharge.

(D) Runoff from disturbed areas shall be detained or filtered by berms, vegetated filter strips, catch basins, or other means as necessary to prevent the escape of sediment from the disturbed area.

(E) No earth or organic material shall be deposited or placed where it may be directly carried into a stream, marsh, slough, lagoon, or body of standing water. [Ord. 4281 § 12, 1993; Ord. 3439 § 1, 1983; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.080 Land clearing approval.

Land clearing shall be kept to a minimum. Vegetation removal shall be limited to that amount necessary for building, access, and construction as shown on the approved erosion control plan. The following provisions shall apply:

(A) When no land development permit has been issued, the following extents of land clearing require approval of an erosion-control plan according to the procedures in Chapter 18.10 SCCC, Level III:

(1) Any amount of clearing in a sensitive habitat, as defined in this chapter.

(2) One-quarter acre or more of clearing in the Coastal Zone if also in a least-disturbed watershed, a water supply watershed, or an area of high erosion hazard.

(3) One acre or more of clearing in all areas not included in subsections (A)(1) and (2) of this section.

(B) When a land development permit has been issued, land clearing may be done according to the approved development plan.

(1) For land clearing in the Coastal Zone which will be more than that shown on the approved erosion-control plan, a new land-clearing approval is required if the land is located in a least-disturbed watershed, a water supply watershed, or an area of high erosion hazard.

(2) For land clearing in any area which will include more than one acre in excess of that shown on the approved plan, a new land-clearing approval is required.

(C) Approval of land clearing shall meet the following conditions. All disturbed surfaces shall be prepared and maintained to control erosion and to establish native or naturalized vegetative growth compatible with the area. This control shall consist of:

(1) Effective temporary planting such as rye grass, barley, or some other fast-germinating seed, and mulching with straw and/or other slope stabilization material;

(2) Permanent planting of native or naturalized drought resistant species of shrubs, trees, etc., pursuant to the County's landscape criteria, when the project is completed;

(3) Mulching, fertilizing, watering or other methods may be required to establish new vegetation. On slopes less than 20 percent, topsoil shall be stockpiled and reapplied.

The protection required by this section shall be installed prior to calling for final approval of the project and at all times between October 15th and April 15th. Such protection shall be maintained for at least one winter until permanent protection is established.

(D) No land clearing shall take place prior to approval of the erosion control plan. Vegetation removal between October 15th and April 15th shall not precede subsequent grading or construction activities by more than 15 days. During this period, erosion and sediment control measures shall be in place.

(E) Land clearing of more than one-quarter acre that is not a part of a permitted activity shall not take place on slopes greater than 30 percent. [Ord. 4496-C § 87, 1998; Ord. 3439 § 1, 1983; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.090 Winter operations.

(A) No land clearing operations greater than one acre per year per site or grading operations greater than 100 cubic yards may take place between October 15th and April 15th, unless authorized by the Planning Director and found to be consistent with the purposes of this chapter. When construction will be delayed due to the limitation on winter operations, the date for expiration of the permit shall be extended by that amount of time that work is delayed by this chapter.

(B) When winter operations are permitted, the following measures shall be taken to prevent accelerated erosion. Additional measures may be required:

(1) Between October 15th and April 15th, disturbed surfaces not involved in the immediate operations shall be protected by mulching and/or other effective means of soil protection as required by the Planning Director.

(2) All roads and driveways shall have drainage facilities sufficient to prevent erosion on or adjacent to the roadway or on downhill properties. Erosion-proof surfacing may be required by the Planning Director in areas of high erosion hazard.

(3) Runoff from a site shall be detained or filtered by berms, vegetated filter strips, and/or catch basins to prevent the escape of sediment from the site. These drainage controls shall be maintained by the permittee and/or property owner as necessary to achieve their purpose throughout the life of the project.

(4) Erosion control measures shall be in place at the end of each day's work.

(5) The Planning Director shall stop operations during periods of inclement weather if he determines that erosion problems are not being controlled adequately. [Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.100 Overall responsibility.

It shall be the responsibility of the owner and the permittee to ensure that erosion does not occur from any activity during or after project construction. Additional measures, beyond those specified, may be required by the Planning Director as deemed necessary to control accelerated erosion. [Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.110 Exemptions.

Conditions of accelerated erosion existing prior to adoption of this chapter are not exempted. The intent of this section is not to invalidate existing discretionary permits, but rather to prevent or mitigate accelerated erosion. The following work is exempted from all provisions of this chapter except SCCC 16.22.040 and 16.22.160 through 16.22.190:

(A) Agricultural Activities. Permitted agricultural grading, routine agricultural activities such as plowing, harrowing, disking, ridging, listing, land planning, and similar operations to prepare a field for a crop, including routine clearing to maintain existing rangeland;

(B) Timber Harvesting. Work done pursuant to a valid timber harvest permit;

(C) Quarrying. Quarrying done pursuant to a valid quarry permit;

(D) Septic Systems and Wells. Work done pursuant to a valid permit for septic system installation and repair or well drilling; however, SCCC 16.22.080(B) and 16.22.090(B) shall apply, and sediment from these activities shall not be allowed to enter any stream or body of water;

(E) Resource Management. Clearing, fuel management, reforestation, erosion control, or other resource management programs carried out under the auspices of a government agency which include appropriate erosion control measures. Agencies shall notify the Planning Director of such projects. [Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.120 Variances.

(A) A request for a variance from the provisions of this chapter, the permit conditions, or the plan specifications may be considered according to Chapter 18.10 SCCC at the level specified in SCCC 16.22.060(B).

(B) A request for a variance must state in writing the provision from which it is to be varied, the proposed substitute provisions, when it would apply, and its advantages. In granting the variance, the Planning Director shall be guided by the following criteria:

(1) That there are special circumstances or conditions affecting the property.

(2) That the variance is necessary for the proper design and/or function of a reasonable project for the property.

(3) That adequate measures will be taken to ensure consistency with the purpose of this chapter.

(C) As contemplated in this section, a variance shall be granted for alternative methods of construction for projects which could be constructed under the basic standards established in this chapter, but which, if a variance is granted, can be better and/or more economically designed and constructed than if a variance were not given. A variance shall not be granted if the part of a variance would have the effect of allowing the construction of a project which would otherwise without the variance not be possible under the provisions of the County Code. [Ord. 3600 § 3, 1984; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.130 Fees.

Fees for checking, inspection, violations, variance requests, and for land-clearing permits shall be set by resolution of the Board of Supervisors. [Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.140 Inspection and compliance.

The Planning Director shall conduct inspections to ensure compliance with this chapter.

(A) Inspection. The following inspections may be performed by the Planning Director:

(1) Pre-Site Inspection. To determine the potential for erosion resulting from the proposed project.

(2) Operation Progress Inspections. To determine ongoing compliance.

(3) Final Inspection. To determine compliance with approved plans and specifications.

(B) Notification. The permittee shall notify the Planning Director at least 24 hours prior to start of the authorized work, and also nine business hours prior to any inspection requested by the permittee or permittee's authorized agent. [Ord. 4392A § 6, 1996; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.150 Applicable laws and regulations.

Any person doing work in conformance with this chapter must also abide by all other applicable local, State, and Federal laws and regulations. Where there is a conflict with other pre-existing County regulations, this chapter shall take priority. [Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.160 Violations.

(A) It shall be unlawful for any person to refuse or fail to correct any condition causing or likely to cause accelerated erosion as required by a notice of violation issued under the provisions of subsection (C) of this section.

(B) It shall be unlawful for any person to do, cause, permit, aid, abet, suffer or furnish equipment or labor for any land clearing as defined in SCCC 16.22.030 unless either a development permit has been obtained and is in effect which authorizes such land clearing; or the land clearing is exempt from the requirement for a permit under the provisions of SCCC 16.22.080(A).

(C) It shall be unlawful for any person to exercise a development permit which authorizes land clearing without complying with all of the conditions of such permit.

(D) It shall be unlawful for any person to knowingly do, cause, permit, abet or furnish equipment or labor for any work in violation of a stop work notice from and after the date it is posted on the site until the stop work notice is authorized to be removed by the Planning Director. [Ord. 3451-A § 12, 1983; Ord. 3439 § 1, 1983; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

16.22.161 Right of entry.

Repealed by Ord. 4392A. [Ord. 3451-A § 13, 1983].

16.22.162 Stop notices.

Repealed by Ord. 4392A. [Ord. 3451-A § 14, 1983].

16.22.163 Notification of violations.

Repealed by Ord. 4392A. [Ord. 3451-A § 15, 1983].

16.22.164 Nuisance abatement of violation.

Repealed by Ord. 4392A. [Ord. 3451-A § 16, 1983].

16.22.165 Recording notice of violation.

Repealed by Ord. 4392A. [Ord. 3451-A § 17, 1983].

16.22.170 Penalties.

Repealed by Ord. 4392A. [Ord. 3337 § 1, 1982].

16.22.180 Enforcement.

Repealed by Ords. 4392A. [Ord. 3337 § 1, 1982].

16.22.190 Appeals.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance to the procedures of Chapter 18.10 SCCC. [Ord. 3439 § 1, 1983; Ord. 3337 § 1, 1982; Ord. 2982, 1980].

Chapter 16.24

WATER QUALITY CONTROL

Sections:

16.24.010	Title.
16.24.020	Definitions.
16.24.030	Increase in turbidity.
16.24.040	Increase in settleable solids.
16.24.050	Exemptions.
16.24.055	Approvals.
16.24.058	Violations.
16.24.060	Investigation and enforcement.
16.24.070	Penalties.

16.24.010 Title.

This chapter shall be known as the “water quality control ordinance of the County of Santa Cruz.” [Ord. 2021, 1974].

16.24.020 Definitions.

“Administrator” means the Director of Health Services or his designated representative.

“Board of Supervisors” means the Board of Supervisors in its capacity as both the governing legislative body of the County and the governing body of Santa Cruz County Flood Control and Water Conservation District, Zone 4.

“Body of water” means any lake or lagoon of natural origin and all rivers, streams or creeks within Santa Cruz County except those which flow only in direct response to precipitation and receive no continued water supply from springs or other surface sources.

“Natural conditions of settleable solids” means the amount of settleable solids found in the water immediately upstream of the affected area of the body of water at the time the violation is discovered.

“Natural turbidity” means the level of turbidity found in the water immediately upstream of the affected area of the body of water at the time the violation is discovered. The level of turbidity shall be measured in turbidity units by any of the methods prescribed in Standard Methods of the Examination of Water and Wastewater (13th Edition, 1971, or the most recent subsequent edition) published by the American Public Health Association.

“Person” means any individual, corporation, commercial enterprise, or public agency subject to the jurisdiction of this chapter.

“Settleable solids” means the total amount of matter, by weight or volume, which will not stay suspended in a given volume of water sample during a preselected settling period, such as one hour, but either settles to the bottom or floats to the top.

“Turbidity” means the degree of opaqueness produced in water by suspended particulate matter. [Ord. 2021, 1974].

16.24.030 Increase in turbidity.

Except as prescribed in SCCC 16.24.050, it shall be unlawful to increase the turbidity of any portion of any body of water in the following amounts:

(A) When natural turbidity measures between zero and 50 turbidity units, the increase shall not exceed 20 percent of natural turbidity;

(B) When natural turbidity measures between 50 and 100 units, turbidity may not be increased more than 10 units above natural turbidity;

(C) When natural turbidity measures above 100 units, the increase shall not exceed 10 percent of natural turbidity. [Ord. 2021, 1974].

16.24.040 Increase in settleable solids.

Except as prescribed in SCCC 16.24.050, it shall be unlawful to increase settleable solids in any portion of any body of water in Santa Cruz County more than 0.5 milliliters per liter per hour above natural conditions of settleable solids. [Ord. 2021, 1974].

16.24.050 Exemptions.

(A) Any person who, prior to undertaking any activity affecting a body of water:

(1) Properly and timely files either a negative impact statement or an environmental impact report which adequately enumerates the adverse impact or impacts which the activity may have upon any body of water; and

(2) Obtains authorization from the County Planning Department or the Planning Commission of Santa Cruz County to proceed with the activity in question as permitted or required by law; and

(3) Strictly complies with all the terms and conditions of his permit or other entitlement; shall be deemed to have complied with the provisions of this chapter. A violation of the terms and conditions of the permit or other entitlement shall be deemed a violation of this chapter.

(B) No person shall be held to have violated this chapter for doing any act or acts affecting a body of water if:

(1) The act or acts performed do not require a permit or other entitlement from any Federal, State or local agency; and

(2) Said act or acts:

(a) Involve crossing a stream whether on foot or by vehicular means, at a natural fording place; or

(b) Are performed without mechanical devices of any kind. [Ord. 2021, 1974].

16.24.055 Approvals.

(A) Any person who proposes to do any act or acts which may result in stream turbidity in excess of the standards contained in SCCC 16.24.030 and 16.24.040 and who is not exempt pursuant to SCCC 16.24.050 may apply in writing to the Administrator for an approval to proceed. The applicant's request shall specify the actions to be taken and the purposes for taking such actions. Within 14 days of the receipt of such application, the Administrator shall act upon said application and may grant the approval with necessary and appropriate conditions if he finds that the proposed action will not be detrimental to the affected body of water or that the acts would ultimately preserve or improve the viability and health of the affected body of water.

(B) Any protection measures proposed by the State Department of Fish and Game or any final decision of a panel of arbitrators issued pursuant to Fish and Game Code Section 1603 and any successor provisions, or written discharge requirements established by the Regional Water Quality Control Board shall constitute a permit under this section if the Administrator so specifies in writing on the Fish and Game permit or discharge requirement order.

(C) Any decision of the Administrator denying a permit under this section may be appealed to the Board of Supervisors by the applicant within seven days by filing a written notice of appeal with the Clerk of the Board of Supervisors. Notice of the hearing of said appeal shall be sent to the Administrator and to the Santa Cruz County Fish and Game Advisory Commission. [Ord. 4496-C § 88, 1998; Ord. 3440 § 1, 1983; Ord. 2021, 1974].

16.24.058 Violations.

It shall be unlawful for any person whether as owner, principal, agent, or employee or otherwise to perform an action or allow a situation to continue that violates the provisions of this chapter or violates any permit conditions required pursuant to this chapter. All violations shall be punishable in accordance with the provisions of Chapter 18.10 SCCC except where specified elsewhere in this chapter. [Ord. 3440 § 2, 1983].

16.24.060 Investigation and enforcement.

The primary responsibility for all necessary investigation, water quality sampling, interviewing, and other methods of gathering evidence is hereby delegated to the Administrator. [Ord. 2021, 1974].

16.24.070 Penalties.

The penalties for violation of, or failure to comply with, this chapter shall be a misdemeanor as prescribed in Chapter 1.12 SCCC, except that the maximum fine for each separate violation of this chapter shall be \$1,000. [Ord. 4496-C § 89, 1998; Ord. 2021, 1974].

Chapter 16.30

RIPARIAN CORRIDOR AND WETLANDS PROTECTION

Sections:

16.30.010	Purpose.
16.30.020	Scope.
16.30.025	Amendment.
16.30.030	Definitions.
16.30.040	Protection.
16.30.050	Exemptions.
16.30.060	Exceptions.
16.30.070	Inspection and compliance.
16.30.080	Violations.
16.30.081	<i>Repealed.</i>
16.30.090	<i>Repealed.</i>
16.30.100	<i>Repealed.</i>
16.30.103	<i>Repealed.</i>
16.30.107	<i>Repealed.</i>
16.30.110	Appeals.

16.30.010 Purpose.

The purpose of this chapter is to minimize and to eliminate any development activities in the riparian corridor, preserve, protect, and restore riparian corridors for: protection of wildlife habitat; protection of water quality; protection of aquatic habitat; protection of open space, cultural, historical, archaeological and paleontological, and aesthetic values; transportation and storage of floodwaters; prevention of erosion; and to implement the policies of the General Plan and the Local Coastal Program Land Use Plan. [Ord. 3335 § 1, 1982; Ord. 2460, 1977].

16.30.020 Scope.

This chapter sets forth rules and regulations to limit development activities in riparian corridors; establishes the administrative procedure for the granting of exceptions from such limitations; and establishes a procedure for dealing with violations of this chapter. This chapter shall apply to both private and public activities including those of the County and other such government agencies as are not exempted therefrom by State or Federal law. Any person doing work in nonconformance with this chapter must also abide by all other pertinent local, State and Federal laws and regulations. [Ord. 4166 § 3, 1991; Ord. 4027 § 5, 1989; Ord. 3335 § 1, 1982; Ord. 2460, 1977].

16.30.025 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 SCCC and shall be subject to approval by the California Coastal Commission. [Ord. 3335 § 1, 1982].

16.30.030 Definitions.

All definitions shall be as defined in the General Plan or Local Coastal Plan glossaries, except as noted below:

“Agricultural use” means routine annual agricultural activities such as clearing, planting, harvesting, plowing, harrowing, disking, ridging, listing, land planning and similar operations to prepare a field for a crop.

“Arroyo” means a gully, ravine or canyon created by a perennial, intermittent or ephemeral stream, with characteristic steep slopes frequently covered with vegetation. An arroyo includes the area between the top of the arroyo banks defined by a discernible break in the slope rising from the arroyo bottom. Where there is no break in slope, the extent of the arroyo may be defined as the edge of the 100-year floodplain.

“Body of standing water” means any area designated as standing water on the largest scale U.S. Geological Survey topographic map most recently published, including, but not limited to, wetlands, estuaries, lakes, marshes, lagoons, and manmade ponds which now support riparian biota.

“Buffer” means the area abutting an arroyo where development is limited in order to protect riparian corridor or wetland. The width of the buffer is defined in SCCC 16.30.040(B).

“Development activities” shall include:

- (1) “Grading” means excavating or filling or a combination thereof; dredging or disposal of dredge material; mining; installation of riprap.
- (2) “Land clearing” means the removal of vegetation down to bare soil.
- (3) “Building and paving” means the construction or alteration of any structure or part thereof, including access to and construction of parking areas, such as to require a building permit.
- (4) “Tree and shrub removal” means the topping or felling of any standing vegetation greater than eight feet in height.
- (5) The deposition of refuse or debris.
- (6) The use of herbicides, pesticides, or any toxic chemical substances.
- (7) Any other activities determined by the Planning Director to have significant impacts on the riparian corridor.

“Disturbed area” means an area determined by the Planning Director to have experienced significant alteration from its natural condition. Such disturbance may typically consist of clearing, grading, paving, landscaping, construction, etc.

“Director” means the Planning Director or his or her designee.

“Emergency” means a sudden unexpected occurrence involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of or damage to life, health, property, or essential public services.

“Ephemeral stream” means a natural watercourse or portion thereof which flows only in direct response to precipitation, as identified through field investigations.

“Intermittent stream” means any watercourse designated by a dash-and-dots symbol on the largest scale U.S. Geological Survey topographic map most recently published, or when it has been field determined that a watercourse either:

- (1) Has a significant waterflow 30 days after the last significant storm; or
- (2) Has a well-defined channel, free of soil and debris.

“Minor proposal” means building remodels or additions less than 500 square feet or grading less than 100 cubic yards which takes place within a previously developed or disturbed area; tree removal or trimming for the purpose of mitigating hazardous conditions or allowing solar access; drainage structures (e.g., culverts, downdrains, etc.); erosion control structures (e.g., retaining walls, riprap, checkdams, etc.); emergency measures requiring prompt action; resource management programs carried out under the auspices of a government agency; development activities within buffer which do not require a discretionary permit; other projects of similar nature determined by the Planning Director to cause minimal land disturbance and/or benefit the riparian corridor.

“Perennial stream” means any watercourse designated by a solid line symbol on the largest scale U.S. Geological Survey topographic map most recently published or verified by field investigation as a stream that normally flows throughout the year.

“Riparian corridor” means any of the following:

- (1) Lands within a stream channel, including the stream and the area between the mean rainy season (bankfull) flowlines;
- (2) Lands extending 50 feet (measured horizontally) out from each side of a perennial stream. Distance shall be measured from the mean rainy season (bankfull) flowline;
- (3) Lands extending 30 feet (measured horizontally) out from each side of an intermittent stream. Distance shall be measured from the mean rainy season (bankfull) flowline;
- (4) Lands extending 100 feet (measured horizontally) from the high water mark of a lake, wetland, estuary, lagoon or natural body of standing water;
- (5) Lands within an arroyo located within the urban services line, or the rural services line;
- (6) Lands containing a riparian woodland.

“Riparian vegetation/woodland” means those plant species that typically occur in wet areas along streams or marshes. A woodland is a plant community that includes these woody plant species that typically occur in wet areas along streams or marshes. Characteristic species are: Black Cottonwood (*Populus trichocarpa*), Red Alder (*Alnus oregona*), White Alder (*Alnus rhombifolia*), Sycamore (*Plantanus racemosa*), Box Elder (*Acer negundo*), Creek Dogwood (*Cornus californica*), Willow (*Salix*).

“Vegetation” means any species of plant. [Ord. 4346 § 69, 1994; Ord. 3601 § 1, 1984; Ord. 3441 § 1, 1983; Ord. 3335 § 1, 1982; Ord. 2800, 1979; Ord. 2536, 1978; Ord. 2535, 1978].

16.30.040 Protection.

No person shall undertake any development activities other than those allowed through exemptions and exceptions as defined below within the following areas:

(A) Riparian corridors.

(B) Areas within the urban services line or rural services line which are within a buffer zone as measured from the top of the arroyo. All projects located on properties abutting an arroyo shall be subject to review by the Planning Director. The width of the buffer shall be determined according to the following criteria:

CRITERIA FOR DETERMINING BUFFER FROM ARROYOS

Character of Vegetation in Buffer						
	Riparian Vegetation			Live Oak or Other Woodland		
	20—30%	10—20%	0—10%	20—30%	10—20%	0—10%
Average slope within 30 feet of edge	20—30%	10—20%	0—10%	20—30%	10—20%	0—10%
Buffer distance (feet) from: perennial streams	50	50	50	50	40	30
Buffer distance (feet) from: intermittent streams	50	40	30	30	30	20
Buffer distance (feet) from: ephemeral streams	30	30	20	20	20	20

The buffer shall always extend 50 feet from the edge of riparian woodland and 20 feet beyond the edge of other woody vegetation as determined by the drip-line, except as provided for in SCCC 16.30.060. Once the buffer is determined, a 10-foot setback from the edge of the buffer is required for all structures, to allow for construction equipment and use of yard area.

See allowable density credits within the General Plan.

CRITERIA FOR DETERMINING BUFFER FROM ARROYOS

Character of Vegetation in Buffer						
	Grassland or Other			Buffer Area Is Developed or Otherwise Disturbed (does not include recent clearing)		
	20—30%	10—20%	0—10%	20—30%	10—20%	0—10%
Average slope within 30 feet of edge	20—30%	10—20%	0—10%	20—30%	10—20%	0—10%
Buffer distance (feet) from: perennial streams, bodies of water	50	30	20	30	20	20
Buffer distance (feet) from: intermittent streams	30	20	10	20	10	10
Buffer distance (feet) from: ephemeral streams	20	10	10	20	10	10

The buffer shall always extend 50 feet from the edge of riparian woodland and 20 feet beyond the edge of other woody vegetation as determined by the drip-line, except as provided for in SCCC 16.30.060. Once the buffer is determined, a 10-foot setback from the edge of the buffer is required for all structures, to allow for construction equipment and use of yard area.

See allowable density credits within the General Plan.

[Ord. 4346 § 70, 1994; Ord. 3335 § 1, 1982; Ord. 2460, 1977].

16.30.050 Exemptions.

The following activities shall be exempt from the provisions of this chapter.

(A) The continuance of any preexisting nonagricultural use, provided such use has not lapsed for a period of one year or more. This shall include change of uses which do not significantly increase the degree of encroachment into or impact on the riparian corridor as determined by the Planning Director.

(B) The continuance of any pre-existing agricultural use, provided such use has been exercised within the last five years.

(C) All activities listed in the California Food and Agriculture Code pursuant to the control and eradication of a pest as defined in Section 5006, Food and Agriculture Code, as required or authorized by the County Agricultural Commissioner.

(D) Drainage, erosion control, or habitat restoration measures required as a condition of County approval of a permitted project. Plans for such measures shall be reviewed and approved by the Planning Director.

(E) In areas outside of the Coastal Zone, the operation, repair, and maintenance of the Pajaro River and Salsipuedes Creek levees and the areas within the levees, for the purpose of restoring flood conveyance capacity, including bench excavation, sediment removal, and similar projects, if all of the following conditions are met:

(1) The work is conducted by or under the direction of the Department of Public Works;

(2) The work is in accordance with a streambed alteration agreement approved by the California Department of Fish and Game, to the extent that such an agreement is required; and

(3) The project has been subjected to environmental review with the County of Santa Cruz serving as the lead agency. [Ord. 4790 § 2, 2005; Ord. 4577 § 12, 1999; Ord. 4474-C § 5, 1998; Ord. 4374 § 2, 1995; Ord. 3335 § 1, 1982; Ord. 2537, 1978; Ord. 2460, 1977].

16.30.060 Exceptions.

Exceptions and conditioned exceptions to the provisions of this chapter may be authorized in accordance with the following procedures:

(A) Application. Application for an exception granted pursuant to this chapter shall be made in accordance with the requirements of Chapter 18.10 SCCC, Level III or V, and shall include the following:

(1) Applicant's name, address, and telephone number.

(2) Property description. The Assessor's parcel number, the location of the property and the street address if any.

(3) Project description. A full statement of the activities to be undertaken, mitigation measures which shall be taken, the reasons for granting such an exception, and any other information pertinent to the findings prerequisite to the granting of an exception pursuant to this section.

(4) Two sets of plans indicating the nature and extent of the work proposed. The plans shall depict property lines, landmarks and distance to existing watercourse; proposed development activities, alterations to topography and drainage channels; mitigation measures, including details of erosion control or drainage structures, and the extent of areas to be revegetated. Plans shall be a minimum size of 18 inches by 24 inches, except that plans for minor proposals may be a minimum size of eight and one-half inches by 11 inches.

(5) Applicant's property interest or written permission of the owner to make application.

(6) Requested information. Such further information as the Planning Director may require.

(7) Fees. The required filing fee, set by resolution of the Board of Supervisors, shall accompany the application.

(B) Notice. Notices of all actions taken pursuant to this chapter shall be in accordance with the requirements of Chapter 18.10 SCCC.

(C) Proposals for minor riparian exceptions may be acted upon at Level III and proposals for major riparian exceptions may be acted upon at Level V pursuant to Chapter 18.10 SCCC.

(D) Findings. Prior to the approval of any exception, the Zoning Administrator shall make the following findings:

(1) That there are special circumstances or conditions affecting the property;

(2) That the exception is necessary for the proper design and function of some permitted or existing activity on the property;

(3) That the granting of the exception will not be detrimental to the public welfare or injurious to other property downstream or in the area in which the project is located;

(4) That the granting of the exception, in the Coastal Zone, will not reduce or adversely impact the riparian corridor, and there is no feasible less environmentally damaging alternative; and

(5) That the granting of the exception is in accordance with the purpose of this chapter, and with the objectives of the General Plan and elements thereof, and the Local Coastal Program Land Use Plan.

(E) Conditions. The granting of an exception may be conditioned by the requirement of certain measures to ensure compliance with the purpose of this chapter. Required measures may include, but are not limited to:

(1) Maintenance of a protective strip of vegetation between the activity and a stream, or body of standing water.

The strip should have sufficient filter capacity to prevent significant degradation of water quality, and sufficient width to provide value for wildlife habitat, as determined by the Zoning Administrator.

(2) Installation and maintenance of water breaks.

(3) Surface treatment to prevent erosion or slope instabilities.

(4) Installation and maintenance of drainage facilities.

(5) Seeding or planting of bare soil.

(6) Installation and maintenance of a structure between toe of the fill and the high water mark.

(7) Installation and maintenance of sediment catch basins.

(F) Concurrent Processing of Related Permits. An application for exception may be processed concurrently with applications for discretionary permits required for the activity in question. No ministerial permit(s) for the activities in question shall be issued until an exception has been authorized. All discretionary permits for the activity in question shall include all conditions included in the exception.

Where associated discretionary permits are authorized by the Planning Commission or Board of Supervisors, that body shall be authorized to act in place of the Zoning Administrator in considering an application for an exception if the applications are considered concurrently.

(G) Expiration. Unless otherwise specified, exceptions issued pursuant to this chapter shall expire one year from the date of issuance if not exercised. Where an exception has been issued in conjunction with a development permit granted pursuant to Chapter 18.10 SCCC, the exception shall expire in accordance with the provisions of Chapter 18.10 SCCC. [Ord. 3441 § 2, 1983; Ord. 3335 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2460, 1977].

16.30.070 Inspection and compliance.

The Planning Director may conduct inspections to ensure compliance with this chapter.

(A) Inspection. The following inspections may be performed by the Director:

(1) A pre-site inspection to determine the suitability of the proposed activity and to develop necessary conditions for an exception.

(2) A final inspection to determine compliance with conditions, plans and specifications.

These inspections may take place concurrent with inspections required by any permits necessary for the activities in question.

(B) Notification. The permittee shall notify the Director 24 hours prior to start of the authorized work and also 24 hours prior to the time he or she desires a required inspection.

(C) Right of Entry. The application for exception constitutes a grant of permission for the County to enter the permit area for the purpose of administering this chapter from the date of the application to the termination of any erosion control maintenance period. If necessary, the Director shall be supplied with a key or lock combination or be permitted to install a County lock. [Ord. 3335 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2460, 1977].

16.30.080 Violations.

(A) It shall be unlawful for any person to do, cause, permit, aid, abet, suffer or furnish equipment or labor for any development activity within a riparian corridor as defined in SCCC 16.30.030 unless either (1) a development permit has been obtained and is in effect which authorizes the development activity as an exception; or (2) the activity is exempt from the requirement for a development permit by the provisions of SCCC 16.30.050.

(B) It shall be unlawful for any person to do, cause, permit, aid, abet, suffer or furnish equipment or labor for any development activity within a buffer zone of an arroyo as defined in SCCC 16.30.030 and as prescribed by the provisions of SCCC 16.30.040(B) unless either (1) a development permit has been obtained and is in effect which authorizes the development activity as an exception; or (2) the activity is exempt from the requirement for a development permit by the provisions of SCCC 16.30.050.

(C) It shall be unlawful for any person to exercise a development permit authorizing development activity as an exception without complying with all of the conditions of such permit.

(D) It shall be unlawful for any person to knowingly do, cause, permit, aid, abet or furnish equipment or labor for any work in violation of a stop work notice from and after the date it is posted on the site until the stop work notice is authorized to be removed by the Planning Director. [Ord. 3451-A § 18, 1983; Ord. 3335 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2460, 1977].

16.30.081 Right of entry.

Repealed by Ord. 4392A. [Ord. 3451-A § 19, 1983].

16.30.090 Recording notice of violation.

Repealed by Ord. 4392A. [Ord. 3335 § 1, 1982].

16.30.100 Removal of notice of violation.

Repealed by Ord. 4392A. [Ord. 3335 § 1, 1982].

16.30.103 Penalties.

Repealed by Ord. 4392A. [Ord. 3335 § 1, 1982].

16.30.107 Enforcement.

Repealed by Ord. 4392A. [Ord. 3335 § 1, 1982].

16.30.110 Appeals.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance to the procedures of Chapter 18.10 SCCC. [Ord. 3441 § 3, 1983; Ord. 3335 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2460, 1977].

Chapter 16.32

SENSITIVE HABITAT PROTECTION

Sections:

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16.32.132	<i>Repealed.</i>
16.32.134	<i>Repealed.</i>
16.32.140	Fees.

16.32.010 Purposes.

The purposes of this chapter are to minimize the disturbance of biotic communities which are rare or especially valuable because of their special nature or role in an ecosystem, and which could be easily disturbed or degraded by human activity; to protect and preserve these biotic resources for their genetic, scientific, and educational values; and to implement policies of the General Plan and the Local Coastal Program Land Use Plan. [Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.020 Scope.

This chapter sets forth rules and regulations for evaluating the impacts of development activities on sensitive habitats; establishes the administrative procedures for determining whether and what type of limitations to development activities are necessary to protect sensitive habitats; and establishes a procedure for dealing with violations of this chapter. This chapter shall apply to both private and public activities including those of the County and other such government agencies where not exempted therefrom by State or Federal law. Any person doing work in conformance with this chapter must also abide by all other pertinent local, State and Federal laws and regulations. [Ord. 4166 § 4, 1991; Ord. 4027 § 6, 1989; Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.030 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program such revisions shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 SCCC and shall be subject to approval by the California Coastal Commission. [Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.040 Definitions.

All terms used in this chapter shall be as defined in the General Plan and Local Coastal Program Land Use Plan and as follows:

“Area of biotic concern” means any area in which development may affect a sensitive habitat, as identified on the Local Coastal Program sensitive habitats maps, the General Plan resources and constraints maps and other biotic resources maps on file in the Planning Department, or as identified during inspection of a site by Planning Department staff.

“Biotic assessment” means a brief review of the biotic resources present at a project site prepared by the County biologist.

“Biotic permit” means a permit for development in an area of biotic concern issued pursuant to the provisions of this chapter.

“Biotic report” means a complete biotic investigation conducted by an approved biologist from a list maintained by the County, including but not limited to the following:

- (1) Identification of the rare, endangered, threatened and unique species on the site;
- (2) Identification of the essential habitats of such species;
- (3) Recommendations to protect species and sensitive habitats. When a project is found to have a significant effect on the environment under the provisions of Section 602 of the environmental impact guidelines, the biotic report shall be made a part of the environmental impact report.

“Building envelope” means a designation on a site plan or parcel map indicating where structures and paving are to be located.

“Decision-Making Body” means the Zoning Administrator, Planning Commission, or Board of Supervisors, whichever body is considering the development permit, when biotic review is concurrent with review of a development permit. When a biotic permit is required, the Decision-Making Body shall be the Planning Director.

“Development/development activity” means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including but not limited to subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; reconstruction, demolition, alteration or improvement of any structure in excess of 50 percent of the existing structure’s fair market value, including any facility of any private, public or municipal utility; the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z’berg-Nejedly Forest Practice Act of 1973; the disturbance of any rare, endangered, or locally unique plant or animal or its habitat.

“Disturbance” means any activity which may adversely affect the long-term viability of a rare, endangered, threatened, or locally unique species or any part of a sensitive habitat.

“Environmental Coordinator” means the Planning Department staff person assigned to review applications and make determinations based upon the County environmental review guidelines adopted pursuant to Chapter 16.01 SCCC.

Environmentally Sensitive Habitat Area. See “sensitive habitat.”

Essential Habitat. See “sensitive habitat.”

“Feasible” means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors, as determined by the County.

“Impervious surface” means any nonpermeable surface, including roofs and nonporous paving materials such as asphalt or concrete, but not including directly permeable surfaces such as decks that allow the passage of water or gravel driveways less than five inches thick.

“Person” means any individual, firm, association, corporation, partnership, business, trust company, a public agency as specified in Section 53090 of the California Government Code, or the State or a State agency.

“Rare and endangered species” means a plant or animal species designated as rare, endangered or threatened by the State Fish and Game Commission, the United States Department of the Interior Fish and Wildlife Service, or the California Native Plant Society.

“Resource dependent use” means any development or use which requires utilization of a natural resource and must be sited within a sensitive habitat in order to be able to function at all, such as a fish hatchery.

“Restoration” means restoring native vegetation, natural drainage, and water quality, including but not limited to replanting native vegetation, removing garbage, and protecting the habitat from the inflow of polluted water or excessive sedimentation.

Sensitive Habitat. An area is defined as a “sensitive habitat” if it meets one or more of the following criteria:

- (1) Areas of special biological significance as identified by the State Water Resources Control Board.
- (2) Areas which provide habitat for locally unique biotic species/communities including but not limited to: oak woodlands, coastal scrub, maritime chaparral, native rhododendrons and associated Elkgrass, indigenous Ponderosa Pine, indigenous Monterey Pine, mapped grassland in the Coastal Zone and sand parkland; and special forests including San Andreas Oak Woodlands, indigenous Ponderosa Pine, indigenous Monterey Pine and ancient forests.

(3) Areas adjacent to essential habitats of rare, endangered or threatened species as defined in subsections (5) and (6) of this definition.

(4) Areas which provide habitat for species of special concern as listed by the California Department of Fish and Game in the special animals list, natural diversity database.

(5) Areas which provide habitat for rare or endangered species which meet the definition of Section 15380 of the California Environmental Quality Act guidelines.

(6) Areas which provide habitat for rare, endangered or threatened species as designated by the State Fish and Game Commission, United States Fish and Wildlife Service or California Native Plant Society.

(7) Nearshore reefs, rocky intertidal areas, seacaves, islets, offshore rocks, kelp beds, marine mammal hauling grounds, sandy beaches, shorebird roosting, resting and nesting areas, cliff nesting areas and marine, wildlife or educational/research reserves.

(8) Dune plant habitats.

(9) All lakes, wetlands, estuaries, lagoons, streams and rivers.

(10) Riparian corridors.

“Structure” means anything constructed or erected which requires a location on the ground or in the water, including but not limited to any building, retaining wall, driveway, telephone line, electrical power transmission or distribution line, water line, road or wharf.

“Toxic chemical substance” means:

(1) Any chemical used for killing insects, fungi, rodents, etc., including insecticides, acaricides, fungicides, herbicides, rodenticides, and nematocides.

(2) Any chemical which would be deleterious to a sensitive habitat.

“Water purveyor” means any agency or entity supplying water to five or more connections. [Ord. 4346 § 71, 1994; Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.050 General provisions.

(A) No toxic chemical substance shall be used in a sensitive habitat in such a way as to have deleterious effects on the habitat unless an emergency has been declared by a Federal, State, or County agency, or such use has been deemed necessary by the California Department of Fish and Game to eliminate or reduce a threat to the habitat itself, or a substantial risk to public health will exist if the toxic chemical substance is not used.

(B) Pursuant to California Administrative Code Section 2452, the Agricultural Commissioner, in reviewing an application to use a restricted material, shall consider the potential effects of the material on a sensitive habitat, and mitigation measures shall be required as necessary to protect the sensitive habitat. No approval shall be issued if adverse impacts cannot be mitigated. [Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.060 Approval required.

(A) Except as provided in subsection (B) of this section, no person shall commence any development activity within an area of biotic concern until a biotic approval has been issued unless such activity has been reviewed for biotic concerns concurrently with the review of a development or land-division application pursuant to Chapter 18.10 SCCC, Level III.

(B) A biotic assessment shall not be required for repair or reconstruction of a structure damaged or destroyed as a result of a natural disaster for which a local emergency has been declared by the Board of Supervisors, when:

(1) The structure, after repair or reconstruction, will not exceed the floor area, height or bulk of the damaged or destroyed structure by 10 percent; and

(2) The new structure will be located in substantially the same location. [Ord. 4160 § 8, 1991; Ord. 4030 § 4, 1989; Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.070 Assessments and reports required.

A biotic assessment shall be required for all development activities and applications in areas of biotic concern, as identified on maps on file in the Planning Department or as identified during inspection of the site by Planning Department staff. A biotic report shall be required if the Environmental Coordinator determines on the basis of the biotic assessment that further information is required to ensure protection of the sensitive habitat consistent with General Plan and Local Coastal Program Land Use Plan policies. If the Environmental Coordinator determines that the project will have a significant effect on the environment under the provisions of Section 602 of the environmental impact guidelines, the biotic report shall be part of the environmental impact report. [Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.080 Report preparation and review.

(A) Submittals Required. When a biotic assessment or biotic report is required, the applicant shall submit an accurate plot plan showing the property lines and the location and type of existing and proposed development and other features such as roads, gullies, and significant vegetation. Any other information deemed necessary by the Planning Director shall be submitted upon request.

(B) Report Preparation. The biotic assessment shall be conducted by the County biologist. The biotic report shall be prepared by a biologist from a list maintained by the Planning Department, at applicant's expense, and shall be subject to acceptance as specified in this section. All biotic assessments and reports shall conform to County report guidelines established by the Planning Director.

(C) Report Acceptance and Review. All biotic assessments and reports shall be found to conform to County report guidelines by the Environmental Coordinator. When technical issues are complex, the report may be reviewed and found adequate by a biologist retained by the County. All biotic reports shall be referred to the California Department of Fish and Game for review and comment, and shall be available for review by other interested parties.

(D) Report Expiration. A biotic assessment shall be valid for one year and a biotic report shall be valid for five years following acceptance of the assessment or report, except where a change in site conditions, development proposal, technical information, or County policy significantly affects and thus may invalidate the technical data, analysis, conclusions, or recommendations of the report. [Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.090 Approval conditions.

(A) Conditions of approval shall be determined by the Environmental Coordinator through the environmental review process. These conditions may be based on the recommendations of the biotic assessment or biotic report and shall become conditions of any subsequent approval issued for the property. Such conditions shall also apply to all development activities engaged in on the property. Any additional measures deemed necessary by the Decision-Making Body shall also become development permit conditions. Exceptions may be granted by the Decision-Making Body subject to the provisions of SCCC 16.32.100.

(B) The following conditions shall be applied to all development within any sensitive habitat area:

(1) All development shall mitigate significant environmental impacts, as determined by the Environmental Coordinator.

(2) Dedication of an open space or conservation easement or an equivalent measure shall be required as necessary to protect the portion of a sensitive habitat which is undisturbed by the proposed development activity or to protect a sensitive habitat on an adjacent parcel.

(3) Restoration of any area which is a degraded sensitive habitat or has caused or is causing the degradation of a sensitive habitat shall be required; provided, that any restoration required shall be commensurate with the scale of the proposed development.

(C) All development activities in or adjacent to a sensitive habitat area shall conform to the following types of permitted uses, and the following conditions for specific habitats shall become minimum permit conditions unless the approving body pursuant to Chapter 18.10 SCCC finds that the development will not affect the habitat based on a recommendation of the Environmental Coordinator following a biotic review pursuant to SCCC 16.32.070:

Sensitive Habitats Standards

(1) Environmentally Sensitive Habitat Areas. Only resource-dependent uses shall be allowed within any environmentally sensitive habitat area.

TYPE OF SENSITIVE AREA	PERMITTED OR DISCRETIONARY USES	CONDITIONS
(a) All Essential Habitats	Nature study and research, hunting, fishing and equestrian trails that have no adverse impacts on the species or habitat; timber harvest as a conditional use	Preservation of essential habitats shall be required
(b) Kelp Beds	Nature observation, mariculture, scuba diving	No development shall be allowed which might result in a discharge to the marine environment, whether within or without the sensitive habitat, which might adversely affect this habitat type
(c) Rocky Intertidal Areas	Nature observation, scientific research, educational instruction, take of marine organisms consistent with Department of Fish and Game regulations	
(d) Marine Mammal Hauling Grounds	Scientific research	
(e) Shorebird Nesting Areas	Scientific research	
(f) Davenport Pier Rock Cliffs and Rock Outcrops Offshore Which Are Seabird/Shorebird Resting Areas and Roosting Sites	Scientific research	
(g) Sandy Beaches Which Are Seabird/Shorebird Resting Areas and Roosting Sites	Seasonal beach recreation	
(h) Dunes and Coastal Strand	Scientific research, educational instruction	Wooden boardwalks for trails through dunes shall be required
(i) Cliff Nesting Areas	Scientific research	50-foot buffer from bluff top at or above nesting area shall be required
(j) Coastal Scrub	Bluff top viewing, hiking, nature observation	Land clearing shall be minimized

TYPE OF SENSITIVE AREA	PERMITTED OR DISCRETIONARY USES	CONDITIONS
(k) Wetlands Conditions	<p>Any Harkins Slough Road improvements that (1) expand the roadway prism outside of the existing paved area; or (2) constitute a major public works project; or (3) are necessary to serve permitted development located within City of Watsonville Coastal Zone Area C shall provide enhanced habitat connectivity: (1) for Hanson Slough, if the Hanson Slough portion of the road is improved (e.g., by replacing the existing culvert with an alternative structure, such as a box culvert, that better connects slough resources on either side of Harkins Slough Road); and (2) between the west branch of Struve Slough north of Harkins Slough Road and the Department of Fish and Game reserve south of Harkins Slough Road by replacing the culverts under Harkins Slough Road with a bridge of adequate span to provide for flood protection and habitat connectivity with regard to slough resources on either side of Harkins Slough Road, unless an alternative that is environmentally equivalent or superior to a bridge is identified. Fill of any portion of the west branch of Struve Slough, except for incidental public services, is prohibited. Any such road improvements shall include measures to protect habitat, and shall be sited and designed to minimize the amount of noise, lights, glare and activity visible and/or audible within the sloughs. Night lighting shall be limited to the minimum necessary to meet safety requirements and shall incorporate design features that limit the height and intensity of the lighting to the greatest extent feasible; provide shielding and reflectors to minimize on-site and off-site light spill and glare to the greatest extent feasible; avoid any direct illumination of sensitive habitat areas; and incorporate timing devices to ensure that the roadway is illuminated only during those hours necessary for school functions and never for an all-night period. Any improvements made to Harkins Slough road pursuant to this policy shall also be consistent with SCCC 17.02.081. Any amendments to this section, including revocation, require a super-majority vote of the Board of Supervisors.</p>	<p>100-foot buffer measured from the high water mark shall be required. Distance between structures and wetland shall be maximized.</p>
(l) Rivers and Streams (Includes Anadromous Fish Spawning Areas)	<p>Scientific research, educational instruction, aquaculture</p>	

TYPE OF SENSITIVE AREA	PERMITTED OR DISCRETIONARY USES	CONDITIONS
(m) Intermittent Wetlands	Limited grazing, including limited grazing associated with soil-dependent biomedical livestock operations, uses within wetlands (above), existing agriculture	
(n) Reservoirs and Ponds	Water storage and diversion, aquaculture	

No new development shall be allowed adjacent to marshes, streams, and bodies of water if such development would cause adverse impacts on water quality which cannot be mitigated or will not be fully mitigated by the project proponent.

(2) Areas Adjacent to the Essential Habitats of Rare and Endangered Species.

TYPE OF HABITAT	PERMITTED OR DISCRETIONARY USES	CONDITIONS
(a) Santa Cruz Long-Toed Salamander (SP District) Also see SCCC 16.32.100(B)	Nature study and research, residential uses at urban low densities as conditioned, where designated on LCP Land Use Maps, existing agriculture	Site disturbance before revegetation shall not exceed 25% of lot.
		Site disturbance after revegetation (i.e., total site coverage) shall not exceed 15% of lot. Impervious surface shall not exceed 10% of lot. The objective of this requirement is to reduce the amount of erosion and siltation impacts; therefore, it does not apply to sites lying outside the drainage basin.
		Conservation easement over undisturbed portion of site shall be dedicated to the Department of Fish and Game.
		Step or pole foundations shall be required on slopes over 15%. Pole foundations shall be required on slopes over 30%.
		All curbs and gutters shall be rounded.
		Seepage pits shall be required where feasible.
		No grading shall be allowed between October 15th and April 15th.
		Grading and removal of vegetation shall be minimal and shall be restricted to areas where it is necessary to maintain existing agricultural use and for the construction of buildings, driveways and septic systems.
		Grading or filling within drip line of 24 inches or larger diameter trees shall be avoided.
		A landscape plan consisting of native shrubs and/or trees shall be submitted with building plans for areas of vegetation removal.
		Native trees shall be retained to the maximum extent possible.
		Disturbed areas shall be revegetated promptly with native or approved species.

TYPE OF HABITAT	PERMITTED OR DISCRETIONARY USES	CONDITIONS
		For the purposes of calculating site disturbance and impervious surface coverage, when the project is an addition to an existing development, the existing development and the addition shall be considered as a new development.
		Except for new foundations which may not feasibly be constructed according to the standards, additions to existing developments shall conform to other Local Coastal Plan performance standards.
(b) Santa Cruz Cypress Groves	Scientific research/ educational instruction	A minimum 50-foot buffer between cypress communities and location of development shall be required.

(3) Habitats of Locally Unique Species.

TYPE OF HABITAT	PERMITTED OR DISCRETIONARY USES	CONDITIONS
(a) Special Forests (San Andreas, Live Oak, Woodland/Maritime Chaparral, Indigenous Ponderosa Pine Forest, and Indigenous Monterey Pine Forest)	Forest preserve, nature observation, educational instruction, residential uses meeting performance criteria.	Structures shall be clustered, and/or located near to any existing structure.
		Landscaping plan shall include characteristic species.
		Applicants shall enter into a “declaration of restriction” allowing the development and utilization of a prescribed burning program or other means to mimic the effects of natural fires.
		For residential development, site disturbance shall not exceed 1/4 acre per unit, or 25% of the parcel, whichever is less.
(b) Grassland in the Coastal Zone	Nature observation, educational instruction, grazing, soil dependent biomedical livestock operations, viticulture consistent with Local Coastal Plan policies; residential uses meeting performance criteria.	Structures shall be clustered and located outside the grassland where feasible.

[Ord. 4750 § 3, 2003; Ord. 4656C § 3, 2002; Ord. 4609A § 3, 2001; Ord. 4609 § 3, 2001; Ord. 4496-C § 90, 1998; Ord. 4474-C §§ 6, 7, 1998; Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.095 Project density limitations.

The following requirements shall apply to density calculations for new building sites created in habitats of locally unique species through minor land divisions, subdivisions, or residential development permits:

(A) Special Forests. Prohibit land divisions within designated special forests unless the area to be divided is removed from the mapped special forests habitat area by General Plan/Local Coastal Program amendment. On parcels with existing mapped special forest areas which contain developable land outside those areas, allow development at the lowest density of the land use designation and require that development be clustered and located outside the habitat areas. Allow one single-family dwelling unit per existing parcel of record. Where property owners upgrade special forest areas on their parcels, outside of mapped areas, through resource management activities, the prevailing General Plan densities shall not be reduced.

(B) Grasslands. Prohibit land divisions of native and mixed native grassland habitat mapped in the Coastal Zone unless the area to be divided is removed from the mapped grassland habitat area by General Plan/Local Coastal Program amendment. On parcels with existing mapped native and mixed native grasslands and which contain developable land outside those habitats, allow development at the lowest density of the land use designation and require that development be clustered and located outside the habitat areas. Allow one single-family dwelling unit per existing parcel of record. Where property owners upgrade grasslands on their parcels, outside of mapped areas, through resource management activities, the prevailing General Plan densities shall not be reduced. [Ord. 4496-C § 91, 1998; Ord. 4346 § 72, 1994; Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.100 Exceptions.

Exceptions to the provisions of SCCC 16.32.090 may be approved by the Decision-Making Body.

(A) In granting an exception, the Decision-Making Body shall make the following findings:

(1) That adequate measures will be taken to ensure consistency with the purpose of this chapter to minimize the disturbance of sensitive habitats; and

(2) One of the following situations exists:

(a) The exception is necessary for restoration of a sensitive habitat; or

(b) It can be demonstrated by biotic assessment, biotic report, or other technical information that the exception is necessary to protect public health, safety, or welfare.

(B) Notwithstanding the above, the Decision-Making Body may grant an exception for development within the essential habitat of the Santa Cruz Long-Toed Salamander as follows:

(1) Upon receiving a development application for an undeveloped parcel within the essential habitat, the County shall notify the California Coastal Commission, the Coastal Conservancy, the California Department of Fish and Game, and the U.S. Fish and Wildlife Service. The County or other agency shall have one year to decide whether acquisition of the parcel is to proceed. If the County and other agencies decide not to acquire the parcel and development potential in the essential habitat has not been otherwise permanently eliminated by resubdivision, easement, or other recorded means, the Decision-Making Body may grant an exception to allow the development to proceed; provided, that it finds that the proposed development cannot be accommodated on the parcel outside the essential habitat, and that it will be consistent with the standards for the area adjacent to the essential habitat and other LCP policies.

(2) The permittee shall provide a cash deposit, time certificate of deposit, or equivalent security, acceptable to the County. This security shall be payable to the County, in an amount not less than \$5,000 or greater than \$10,000, to be determined by the County on a case-by-case basis, depending on site-specific circumstances. The purpose of this security shall be to ensure compliance with the development standards for the area adjacent to the essential habitat, and shall not be returned unless and until all required standards and improvements are met. All expenditures by the County for corrective work necessary because of the permittee's failure to comply with the provisions of the permit and this chapter shall be charged against the security deposit. [Ord. 3483 § 1, 1983; Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.105 Exemption.

Existing commercial agricultural operations and related activities, but not establishment or expansion of any biomedical livestock operation, shall be exempt from the provisions of SCCC 16.32.060. Any development activity which has received a riparian exception approved according to the provisions of Chapter 16.30 SCCC (Riparian Corridors and Wetlands Protection) may be exempted from the provisions of this chapter if the Planning Director determines that such development activity has received a review, in connection with the granting of the riparian exception, equivalent to the review that would be required by this chapter. [Ord. 4474-C § 8, 1998; Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.110 Inspection.

Repealed by Ord. 4392A. [Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.120 Appeals.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance with the procedures in Chapter 18.10 SCCC; provided, however that code enforcement actions and decisions are not subject to administrative appeal except for appeals of revocation of permits pursuant to SCCC 18.10.136(C). [Ord. 4392A § 10, 1996; Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.130 Violations.

(A) It shall be unlawful for any person at any time to do, cause, permit, aid, abet, suffer or furnish equipment or labor for any development activity within an area of biotic concern as defined in SCCC 16.32.040 unless: (1) a development permit has been obtained and is in effect which authorizes such development activity; or (2) the development activity has been reviewed for biotic concerns concurrently with the discretionary review of an approved permit required by SCCC Title 13 or 14, and a permit is in effect which authorizes the development activity within such area; or (3) the activity is exempt from the requirement for a development permit by the provisions of SCCC 16.32.105 and from the requirements for a coastal permit by the provisions of Chapter 13.20 SCCC.

(B) It shall be unlawful for any person to exercise a development permit which authorizes development activity within an area of biotic concern without complying with all of the conditions of such permit.

(C) It shall be unlawful for any person to use, cause, permit, aid, abet, suffer or furnish equipment or labor to use any toxic chemical substance in a sensitive habitat in such a way as to have a deleterious effect on the habitat unless: (1) an emergency has been declared by a Federal, State, or County agency, or (2) such use has been deemed necessary by the California Department of Fish and Game to eliminate or reduce a threat to the habitat itself; or (3) a substantial risk to public health will exist if the toxic chemical substance is not used.

(D) It shall be unlawful for any person to refuse or fail to carry out measures as required by a notice of violation issued by the Planning Director under the provisions of SCCC 16.32.131.

(E) It shall be unlawful for any person to knowingly do, cause, permit, aid, abet or furnish equipment or labor for any work in violation of a stop work notice from and after the date it is posted on the site until the stop work notice is authorized to be removed by the Planning Director. [Ord. 3451-A § 20, 1983; Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

16.32.131 Notification of violation.

Repealed by Ord. 4392A. [Ord. 3451-A § 21, 1983].

16.32.132 Stop work notice.

Repealed by Ord. 4392A. [Ord. 3451-A § 22, 1983].

16.32.134 Penalties.

Repealed by Ord. 4392A. [Ord. 3451-A § 23, 1983].

16.32.140 Fees.

Fees for biotic assessments, biotic reports, and review of technical reports shall be set by resolution by the Board of Supervisors. [Ord. 3442 § 1, 1983; Ord. 3342 § 1, 1982].

Chapter 16.34

SIGNIFICANT TREES PROTECTION

Sections:

16.34.010	Purpose.
16.34.015	Scope.
16.34.020	Amendment.
16.34.030	Definitions.
16.34.040	Permit required.
16.34.050	Application and fee.
16.34.060	Required findings.
16.34.065	Approvals.
16.34.070	Conditions of approval.
16.34.080	Emergencies.
16.34.090	Exemptions.
16.34.100	<i>Repealed.</i>
16.34.105	Violations.
16.34.110	Enforcement penalties, remedies and procedures for violations.
16.34.120	Appeals.
16.34.130	Expiration.
16.34.140	Amendment.

16.34.010 Purpose.

(A) The Board of Supervisors of Santa Cruz County finds that the trees and forest communities located within the County's Coastal Zone are a valuable resource. Removal of significant trees could reduce scenic beauty and the attractiveness of the area to residents and visitors.

(B) The Board of Supervisors further finds that the preservation of significant trees and forest communities on private and public property is necessary to protect and enhance the County's natural beauty, property values, and tourist industry. The enactment of this chapter is necessary to promote the public health, safety, and general welfare of the County, while recognizing individual rights to develop, maintain, and enjoy the use of private property to the fullest possible extent. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.015 Scope.

This chapter regulates the removal of trees in the Coastal Zone when not included in the provisions of a discretionary permit. This chapter establishes the type of trees to be protected, the circumstances under which they may be removed, and the procedures for obtaining a permit for their removal. The provisions of this chapter apply to all persons as defined herein; they also establish standards applicable to tree cutting activities of public agencies required to obtain a Coastal Zone permit pursuant to Chapter 13.20 SCCC. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.020 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 SCCC and shall be subject to approval by the California Coastal Commission. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.030 Definitions.

All terms used in this chapter shall be as defined in the General Plan and Local Coastal Program Land Use Plan glossaries and as follows:

"Coastal Zone" means that unincorporated area of the County of Santa Cruz as defined by the California Coastal Act of 1976, Division 20 of the California Public Resources Code. This area is identified on the General Plan and Local Coastal Program Land Use Plan maps.

“Diameter at breast height (d.b.h.)” means the average diameter of a tree outside the bark at a point four and one-half feet above the highest level ground.

“Person” means any individual, firm, association, corporation, partnership, business, trust company, or a local public agency as specified in Section 53090 of the California Government Code; or the State or a State agency or city when not engaged in a sovereign activity. Where a Coastal Zone permit is required pursuant to Chapter 13.20 SCCC, State and Federal agencies may be required to comply with various provisions of this chapter as a condition of the Coastal Zone permit.

“Planning Director” means the Director of the Planning Department or his or her authorized designee charged with the administration and enforcement of this chapter.

“Significant tree,” for the purposes of this chapter, shall include any tree, sprout clump, or group of trees, as follows:

(A) Within the urban services line or rural services line, any tree which is equal to or greater than 20 inches d.b.h. (approximately five feet in circumference); any sprout clump of five or more stems each of which is greater than 12 inches d.b.h. (approximately three feet in circumference); or any group consisting of five or more trees on one parcel, each of which is greater than 12 inches d.b.h. (approximately three feet in circumference).

(B) Outside the urban services line or rural services line, where visible from a scenic road, any beach, or within a designated scenic resource area, any tree which is equal to or greater than 40 inches d.b.h. (approximately 10 feet in circumference); any sprout clump of five or more stems, each of which is greater than 20 inches d.b.h. (approximately five feet in circumference); or, any group consisting of 10 or more trees on one parcel, each greater than 20 inches d.b.h. (approximately five feet in circumference).

(C) Any tree located in a sensitive habitat as defined in Chapter 16.32 SCCC. Also see SCCC 16.34.090(C), exemption of projects with other permits.

“Significant tree removal permit” means a permit issued pursuant to the provisions of this chapter.

“Sprout clump” means individual stems arising from one root collar and sharing a common root system. [Ord. 4346 §§ 73, 74, 1994; Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.040 Permit required.

Except for those exempt activities as enumerated in SCCC 16.34.090, no person shall do, cause, permit, aid, abet, suffer, or furnish equipment or labor to remove, cut down, or trim more than one-third of the green foliage of, poison, or otherwise kill or destroy any significant tree as defined in this chapter within the Coastal Zone until a significant tree removal approval for the project has been obtained pursuant to Chapter 18.10 SCCC, Level II. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.050 Application and fee.

Applications for significant tree removal approvals granted pursuant to this chapter shall be made in accordance with the requirements of Chapter 18.10 SCCC, Level II, and shall include the following:

(A) Applicant’s or authorized representative’s name, address, and telephone number.

(B) Property Description. The description of the site(s) involved, including the street address, if any, and the assessor’s parcel number.

(C) Required Information. The following information shall be provided in writing:

(1) A site plan sufficient to identify and locate the trees to be removed, other trees, buildings, proposed buildings, and other improvements.

(2) A description of the species, circumference or diameter at breast height, estimated height, and general health of the tree(s) to be removed.

(3) A description of the method to be used in removing the tree(s).

(4) Reason(s) for removal of the tree(s).

(5) Proposed visual impact mitigation measures as appropriate. Size, location, and species of replacement trees, if any, shall be indicated on the site plan.

(D) Applicant’s Property Interest. Evidence that the applicant is the owner or purchaser under contract of the premises involved, is the owner of a leasehold interest, or has written permission of the owner to make the application.

(E) Further Information. Such further information as may be required by the Planning Director, including but not limited to the opinion of a registered professional forester, tree surgeon, or other qualified expert.

(F) Filing Fee. A filing fee, set by resolution of the Board of Supervisors, shall accompany the application. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.060 Required findings.

One or more of the following findings shall be made prior to granting approvals pursuant to this chapter in addition to the findings required for the issuance of a development permit in accordance with Chapter 18.10 SCCC:

- (A) That the significant tree is dead or is likely to promote the spread of insects or disease.
- (B) That removal is necessary to protect health, safety, and welfare.
- (C) That removal of a nonnative tree is part of a plan approved by the County to restore native vegetation and landscaping to an area.
- (D) That removal will not involve a risk of adverse environmental impacts such as degrading scenic resources.
- (E) That removal is necessary for operation of active or passive solar facilities, and that mitigation of visual impacts will be provided.
- (F) That removal is necessary in conjunction with another permit to allow the property owner an economic use of the property consistent with the land use designation of the Local Coastal Program Land Use Plan.
- (G) That removal is part of a project involving selective harvesting for the purpose of enhancing the visual qualities of the landscape or for opening up the display of important views from public places.
- (H) That removal is necessary for new or existing agricultural purposes consistent with other County policies and that mitigation of visual impacts will be provided. Also see SCCC 16.34.090(D), exemption of tree crops. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.065 Approvals.

Significant tree removal applications shall be processed according to Chapter 18.10 SCCC, Level II. Approvals shall be granted by the Planning Director or his designee. Notices of actions taken pursuant to this chapter shall be in accordance with Chapter 18.10 SCCC. [Ord. 3443 § 1, 1983].

16.34.070 Conditions of approval.

In granting any permit as provided herein, the Planning Director may attach reasonable conditions to mitigate visual impacts and ensure compliance with the provisions of this chapter, including but not limited to replacement of trees removed with trees acceptable to the Planning Director. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.080 Emergencies.

In the case of emergency caused by the hazardous or dangerous condition of a tree and requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce or eliminate the hazard without complying with the other provisions of this article, except that the person responsible for cutting or removal of the tree shall report such action to the Planning Director within 10 working days thereafter. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.090 Exemptions.

The following work is exempted from all provisions of this chapter:

- (A) Timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practices Act of 1973 (commencing with Section 4511).
- (B) Any activity done pursuant to a valid timber harvest permit, or a notice of timber harvesting, approved pursuant to Chapter 16.52 SCCC.
- (C) Any tree removal authorized pursuant to a valid discretionary permit approved pursuant to Chapter 13.10 (Zoning Regulations), Chapter 13.20 (Coastal Zone Regulations), Chapter 14.01 (Subdivision Regulations), Chapter 16.20 (Grading Regulations), Chapter 16.22 (Erosion Control), Chapter 16.30 (Riparian Corridor and Wetlands Protection), Chapter 16.32 (Sensitive Habitat Protection), or Chapter 16.54 SCCC (Mining Regulations).
- (D) Removal of tree crops pursuant to agricultural operations. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.100 Inspection.

Repealed by Ord. 4392A. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.105 Violations.

(A) It shall be unlawful for any person to do, cause, permit, aid, abet or furnish equipment or labor to remove, cut down, trim more than one-third of the foliage of, poison, or otherwise kill or destroy any significant tree as defined in SCCC 16.34.030 within the Coastal Zone unless: (1) a development permit has been obtained and is in effect which autho-

izes such activity; or (2) the activity is exempt from the requirement for such a permit by reason of the provisions of SCCC 16.34.090; or (3) there was an emergency caused by the hazardous or dangerous condition of the tree which required the action to be taken immediately for the safety of life or property.

(B) It shall be unlawful for any person to exercise any development permit which authorizes actions affecting significant trees without complying with all of the conditions of such permit. [Ord. 3451-A § 24, 1983].

16.34.110 Enforcement penalties, remedies and procedures for violations.

Any violation of any provision of this chapter shall be subject to the enforcement penalties, remedies, and procedures set forth in SCCC Title 19, Enforcement of Land Use Regulations. [Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.120 Appeals.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance with the procedures set forth in Chapter 18.10 SCCC; provided, however, that code enforcement actions and decisions are not subject to administrative appeal except for appeals of revocation of permits pursuant to SCCC 18.10.136(C). [Ord. 4392A § 13, 1996; Ord. 3443 § 1, 1983; Ord. 3341 § 1, 1982].

16.34.130 Expiration.

Unless otherwise specified, approvals issued pursuant to this chapter shall expire one year from the date of issuance if not exercised. Where approvals are issued in conjunction with a development permit granted pursuant to Chapter 18.10 SCCC, the approval shall expire in accordance with the provisions of Chapter 18.10 SCCC. [Ord. 3443 § 1, 1983].

16.34.140 Amendment.

Amendments to approvals granted pursuant to this chapter, whether for change of project, conditions, or expiration date or other time limits, shall be processed in accordance with the provisions of Chapter 18.10 SCCC. [Ord. 3443 § 1, 1983].

Chapter 16.40

NATIVE AMERICAN CULTURAL SITES

Sections:

16.40.010	Policy and purposes.
16.40.015	Amendment.
16.40.020	Definitions.
16.40.030	Archaeological assessments required.
16.40.035	Project approval.
16.40.040	Site discovered during excavation or development.
16.40.050	Issuance of an archaeological site development approval.
16.40.060	Issuance of archaeological excavation approval.
16.40.065	Fees.
16.40.070	Appeals.
16.40.080	Violations.
16.40.090	<i>Repealed.</i>
16.40.100	<i>Repealed.</i>
16.40.110	Expiration.
16.40.120	Approval amendment.

16.40.010 Policy and purposes.

The Board of Supervisors of the County of Santa Cruz hereby finds and declares that there exist in the County of Santa Cruz areas of great importance for the study and preservation of the past of the Native Americans of California. These Native American cultural sites contain unique, irreplaceable resources significant to the history of the County and for the cultural heritage of our and of all humankind. Such sites have a deep, spiritual significance to all Native Americans, especially the native peoples of the State of California, and constitute a precious archaeological and historical heritage which is fast disappearing as a result of public and private land development. It is the policy of Santa Cruz County to preserve and protect these sites and resources for their historic, cultural, educational, and scientific values. This chapter establishes regulations for the protection, enhancement, and perpetuation of Native American cultural sites in order to promote the public welfare, and to implement the stated policies of the County's General Plan and the Land Use Plan of the Local Coastal Program. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2385, 1977].

16.40.015 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 SCCC and shall be subject to approval by the California Coastal Commission. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2385, 1977].

16.40.020 Definitions.

All terms used in this chapter shall be as defined in the General Plan or Local Coastal Plan glossaries, except as noted below.

“Archaeological excavation permit” means a permit issued pursuant to SCCC 16.40.060 to a qualified professional archaeologist, authorizing excavation of a Native American cultural site for scientific purposes or as a mitigation-of-damage measure in order to preserve a sample of the remains, artifacts, or other evidence.

“Archaeological report” means a comprehensive investigation of a Native American cultural site prepared by a qualified professional archaeologist. The purpose of the report is to determine the extent of the site.

“Archaeological resource (or resources)” means artifacts and/or human remains which provide culturally significant evidence of the Native American people of California.

“Archaeological sensitive areas” means areas of the County designated on maps prepared by the Planning Department in consultation with professional archaeologists, where artifacts and/or human remains of Native American peoples are likely to exist. These maps are on file in the Planning Department.

“Archaeological site development approval” means an approval which is required when culturally significant archaeological resources are discovered during development or excavation, pursuant to SCCC 16.40.050. The permit establishes the conditions which shall be met before the owner of property containing a Native American cultural site may resume project development.

“Archaeological survey” means a brief preliminary surface investigation or reconnaissance performed under the guidance of a qualified professional archaeologist for the purpose of determining the presence and/or extent of a Native American cultural site on a parcel for which a project is proposed.

“Artifact” means material remains which provide evidence of the activities of a prehistoric culture or historic tribe.

“Burial” means the placement of human remains in a grave inside or outside a burial park.

Cultural Significance. A Native American cultural site shall be deemed a site of “cultural significance” if the site provides a valid sample of a prehistoric culture or historic tribe, or category of activity associated with a prehistoric culture or historic tribe which enhances the study and preservation of the past of the Native Americans of California.

“Discretionary project” means a project requiring one or more of the following permits: use permit, planned development permit, planned unit development permit, mobile home planned unit development permit, grading permit, timber harvest permit, mining permit, subdivision or minor land division.

“Environmental Coordinator” means the member of the Planning Department staff assigned to review projects to determine their compliance with the California Environmental Quality Act, County environmental review guidelines, and the provisions of this chapter.

“Ground disturbance” means development activity resulting in the manipulation of the terrain or of earth materials such as rock or soil including excavation, grading, placement of structures, trenching for utilities or foundations, but excluding the cultivation of the soil for agricultural purposes.

“Human remains” means the body, or any part thereof, of a deceased human being in any stage of decomposition.

“Interment” means the disposition of human remains by inurnment, entombment, or burial.

Knowingly. A person who disturbs, excavates, or causes to be disturbed or excavated a Native American cultural site shall be deemed to have done so “knowingly” if the person knew, or should reasonably have known, that the area contained artifacts, remains, or other evidence of a Native American cultural site.

“Native American cultural site” means any mound, midden, cave, place of settlement, burial ground, ceremonial ground, mine, trail, rock art, or other feature or location containing either human remains or artifacts of Native Californians which are at least 100 years of age. Whenever the word “site” is used in this chapter, it shall be deemed to mean a Native American cultural site.

“Native California Indian” means a person who is a direct descendant of a people who inhabited California before the arrival of the Europeans.

“N.I.C.P.A.” means the Santa Cruz County Chapter of the Northwest Indian Cemetery Protective Association.

“Planning Director” means the Director of the Planning Department or his or her authorized designee.

“Property owner” means the owner or other person in lawful possession of property or an authorized agent of the owner, such as a building contractor or developer, on which a discovery of a suspected or confirmed Native American cultural site has been made.

“Recorded Native American cultural site” means a known Native American cultural site which has been officially recorded with a recognized scientific archaeological body, such as the California Archaeological Site Survey. Information on recorded sites is available to the Santa Cruz County Planning Department and individual property owners through the California Archaeological Site Survey. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982].

16.40.030 Archaeological assessments required.

(A) **Archaeological Survey.** An archaeological survey shall be required for any discretionary project which will result in ground disturbance and which will be located within a mapped archaeological sensitive area. In addition, an archaeological survey shall be required for any project which will result in ground disturbance within 500 feet of a recorded Native American cultural site. The archaeological survey shall be prepared according to procedures established by the Planning Director.

Based on the results of the archaeological survey, the Environmental Coordinator shall determine if a project site contains a site of cultural significance. If the site is determined to be culturally significant and if development of that project will result in disturbance of the site, then the Environmental Coordinator shall inform the property owner that an archaeological report must be prepared.

(B) **Archaeological Report.** An archaeological report shall be required prior to the issuance of any project permits when a project site contains a culturally significant Native American cultural site and when development of the project

will result in the disturbance of that site. In some cases an archaeological report may be required before an archaeological site development permit is issued, pursuant to SCCC 16.40.050.

The archaeological report shall be prepared by a professional archaeologist with the costs borne by the project developer and according to procedures established by the Planning Director. The report shall provide an inventory of the archaeological resources, an evaluation of their significance, and appropriate mitigation measures for the protection, preservation, or excavation of the site and its resources. Excavation can occur only under provisions of SCCC 16.40.060. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982].

16.40.035 Project approval.

Whenever a Native American cultural site is discovered during the review of a proposed project any permit subsequently issued shall contain whatever conditions the Decision-Making Body shall determine to promote the purposes of this chapter. Such conditions shall be based on the archaeological report and consultation with local Native California Indian groups, such as N.I.C.P.A. Conditions shall include, but not be limited to, the following:

(A) All appropriate preservation or mitigation measures. Such measures shall include, but not be limited to, the following:

(1) Preservation of the site through project design or restrictions on use and/or grading, such as restricting improvement and grading activities to portions of the property not containing the resource, or covering the site with earthfill to a depth where the site will not be disturbed by development as determined by a professional archaeologist; and/or

(2) Excavation of the site by a professional archaeologist in order to preserve a sample of the remains, artifacts, or other evidence. Such excavation may take place only as authorized by an archaeological excavation permit.

(B) A provision that if previously undiscovered human remains are encountered during the course of excavation or development, the procedures of SCCC 16.40.050 et seq., be followed.

(C) A provision that the applicant pay the full costs of any preservation or mitigation measures required under subsections (A) and (B) of this section. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2385, 1977].

16.40.040 Site discovered during excavation or development.

(A) Presence of Artifacts and/or Human Remains. Any property owner who, at any time in the preparation for or process of excavating or otherwise disturbing the ground, discovers any human remains of any age, or any artifact or other evidence of a Native American cultural site which reasonably appears to exceed 100 years of age, shall:

(1) Cease and desist from all further excavations and disturbances within 200 feet of the discovery.

(2) Arrange for staking completely around the area of discovery by visible stakes no more than 10 feet apart, forming a circle having a radius of no less than 100 feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking.

(3) Notify the Sheriff-Coroner of the discovery if human remains have been discovered. Notify the Planning Director if the discovery contains no human remains.

(4) Grant all duly authorized representatives of the Coroner and the Planning Director permission to enter onto the property and to take all actions consistent with this chapter.

(B) Recent Human Remains. If the Coroner determines that the remains are of recent origin, and that they are not a part of a site, then the provisions of this chapter shall no longer apply, and the Coroner shall notify the property owner when excavation or development may proceed. If the Coroner determines that the remains are not obviously of recent origin, the Coroner shall forthwith notify the Planning Director of the discovery of said remains.

(C) Property Inspection. Upon notification of the discovery, the Planning Director shall arrange for an inspection of the property. Said inspection shall take place within 72 hours of notice to the Director of the discovery. A representative of local Native California Indian groups, such as N.I.C.P.A., and the property owner shall be notified of the time of the inspection and both may accompany the Director and his/her representative at all times on the property. The purpose of the inspection shall be to determine whether the discovery is a site of cultural significance.

(D) Resumption of the Development.

(1) If the aforementioned inspection has not taken place within 72 hours of notice of discovery to the Planning Director, ground disturbance of the property may proceed; except, however, that if human remains have been discovered, no excavation or development may take place until specifically authorized by the Coroner.

(2) If the Planning Director determines that the discovery is not a site of cultural significance, the Director shall notify the property owner of such determination, and excavation or the development may be resumed. Such notice, in either event, may be given orally but shall be confirmed to the property owner in writing.

(E) Culturally Significant Sites. If the Planning Director determines that the discovery is a site of cultural significance, the Director shall notify the property owner that the site is of cultural significance and that an archaeological report must be prepared and no further excavation or development may take place except as authorized by an archaeological site development approval. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2385, 1977].

16.40.050 Issuance of an archaeological site development approval.

(A) When the Planning Director has determined that a culturally significant site has been discovered during excavation or development the Planning Director shall require an archaeological site development approval prior to resumption of excavation or development. Application for such approval shall be in accordance with Chapter 18.10 SCCC, Level III.

(B) The archaeological site development approval shall be reviewed by the Planning Director or his designee in accordance with Chapter 18.10 SCCC, Level III and shall contain conditions established by the Planning Director, in consultation with local Native California Indian groups, such as N.I.C.P.A., and based upon the findings of an archaeological report, where one is required, in order to promote the purposes of this chapter. In establishing these conditions, the Director shall balance the need for preserving the site against the need to avoid unnecessary financial hardship to the property owner and all persons engaged in construction on the site.

(C) In all cases, the archaeological site development approval shall authorize resumption of excavation or development within 30 days of the date of the aforementioned on-site inspection or receipt of the archaeological report, if required. The date for resumption of ground disturbance may be extended up to 45 additional days by order of the Board of Supervisors. Any excavation, study, disinterment or reinterment required by the approval shall be accomplished at no cost to the property owner or County, by volunteer labor from groups such as Cabrillo College, University of California, Santa Cruz, Santa Cruz Archaeological Society, and N.I.C.P.A., unless such work is required as a condition of an approval under provisions of SCCC 16.40.035. The County shall not be liable for costs arising from the delay of the project. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2385, 1977].

16.40.060 Issuance of archaeological excavation approval.

(A) Any qualified professional archaeologist who proposes to excavate a Native American cultural site and who is not otherwise authorized to do so pursuant to SCCC 16.40.050 shall apply to the Planning Director for an archaeological excavation approval. Applications for archaeological excavation approvals shall be in a form approved by the Planning Director.

(B) Every application for an archaeological excavation approval shall be in accordance with Chapter 18.10 SCCC, Level III and shall contain the following information:

- (1) The name, address and qualifications of the responsible archaeologist.
- (2) A description and map of the exact location of the site to be excavated.
- (3) A specific project termination date, not to exceed one year. Any written report required as a condition of the approval shall be filed with the Director within one year of issuance of the approval.
- (4) A statement of the goals of the excavation project, and the methods and techniques to be employed in the excavation and analysis of the data.
- (5) Plans to ensure that the artifacts and records will be properly preserved for scholarly research and public education, and that the artifacts will ultimately be disposed of in a manner satisfactory to local Native California Indian groups, such as N.I.C.P.A.
- (6) A plan for disposing of any human remains that are discovered on the site in a manner satisfactory to local Native California Indian groups, such as N.I.C.P.A.
- (7) A statement of reasons why excavation of the site will be of value to local Native California Indians or to humankind generally.

(C) Any archaeological excavation approval issued shall be reviewed by the Planning Director or his designee in accordance with Chapter 18.10 SCCC, Level III and shall contain whatever conditions the Planning Director, after consultation with local Native California Indian groups, such as N.I.C.P.A., determines to impose in order to promote the purposes of this chapter. Such conditions shall include but not be limited to an agreement to provide a list of all items removed, the date of removal, and the present location of the items. Said list shall be signed by the permittee. The Planning Department shall forward the list to the Regional Office of the Archaeological Survey. The archaeological excavation approval may also include a provision requiring publication of the data according to current professional standards.

(D) The Planning Director may issue the approval authorized by this section on an emergency basis, without requiring the detailed application form, the consultation process, and the written approval conditions provided for in subsections (A), (B), and (C) of this section, whenever there exists, as to a specific site, an immediate and pressing danger that artifacts,

culturally significant materials, or any information that might be derived therefrom, will be destroyed or lost due to natural or human causes before the normal archaeological approval process could be completed. All appropriate scientific methods shall be used during such emergency excavations, and any artifacts or materials recovered shall be disposed of as provided in subsection (B) of this section. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2385, 1977].

16.40.065 Fees.

Fees deemed necessary for the administration and implementation of this chapter shall be set by resolution of the Board of Supervisors. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2385, 1977].

16.40.070 Appeals.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance to the procedures of Chapter 18.10 SCCC. With respect to any permit or condition thereof issued under SCCC 16.40.040, the effect of the filing of any appeal under this section shall be to extend or reimpose a moratorium upon excavation or development of the Native American cultural site until a hearing is held before the Board of Supervisors. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2385, 1977].

16.40.080 Violations.

(A) It shall be unlawful for any person knowingly to disturb, or cause to be disturbed, or to excavate, or cause to be excavated, any Native American cultural site in violation of SCCC 16.40.040(A) or (E).

(B) Except as provided in SCCC 16.40.040(D), it shall be unlawful for any person knowingly to disturb, or cause to be disturbed or to excavate, or cause to be excavated, any Native American cultural site without, or in violation of the terms of, a permit issued pursuant to SCCC 16.40.035, 16.40.050 or 16.40.060.

(C) It shall be unlawful for any person to place, install, plant or otherwise transfer to any property any artifacts, remains, or other evidence, whether real or manufactured, of a Native American cultural site for the purpose of requiring the property owner to comply with the provisions of this chapter.

(D) It shall be unlawful for any person whether as owner, principal, agent, or employee or otherwise to perform an action or allow a situation to continue that violates the provisions of this chapter or violates any permit conditions required pursuant to this chapter.

Any person violating the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than \$500.00 for each violation or by imprisonment for not more than six months or by both. Each day in which there is a disturbance of a Native American cultural site which is not authorized by this chapter shall constitute a separate violation of this chapter. [Ord. 4392A § 14, 1996; Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2385, 1977].

16.40.090 Fraudulent transfers.

Repealed by Ord. 4392A. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2385, 1977].

16.40.100 Penalties.

Repealed by Ord. 4392A. [Ord. 3444 § 1, 1983; Ord. 3334 § 1, 1982; Ord. 2385, 1977].

16.40.110 Expiration.

Unless otherwise specified, approvals issued pursuant to this chapter shall expire one year from the date of issuance if not exercised. Where approvals are issued in conjunction with a development permit granted pursuant to Chapter 18.10 SCCC, the approval shall expire in accordance with the provisions of Chapter 18.10 SCCC. [Ord. 3444 § 1, 1983].

16.40.120 Approval amendment.

Amendments to approvals granted pursuant to this chapter, whether for change of project, conditions, or expiration date or other time limits, shall be processed in accordance with the provisions of Chapter 18.10 SCCC. [Ord. 3444 § 1, 1983].

Chapter 16.42

HISTORIC PRESERVATION

Sections:

16.42.010	Purpose.
16.42.020	Scope.
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16.42.050	Historic resource designation.
16.42.060	Development procedures for designated historic resources.
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16.42.090	Unsafe or dangerous conditions.
16.42.100	Zoning of historic resources.
16.42.110	Appeal procedures.
16.42.120	Enforcement.
16.42.130	Severability.

Prior legislation: Ords. 2493, 3445, 3582, 3930, 4771, 4782 and 4823.

16.42.010 Purpose.

The Board of Supervisors hereby finds that the protection, enhancement, perpetuation and use of structures, districts, lands, and neighborhoods of historic, architectural, and engineering significance, located within the County of Santa Cruz, are of cultural and aesthetic benefit to the community. It is further found that respecting the heritage of the County will enhance the economic, cultural, and aesthetic standing of the County. The purpose of this chapter is, therefore, to:

- (A) Implement the General Plan historic resources policies to designate, preserve, protect, enhance, and perpetuate those historic structures, districts and sites which contribute to the cultural benefit of Santa Cruz County, and to provide for this and future generations, examples of the physical surroundings of past generations;
- (B) Foster civic awareness and pride in the rich diversity of the County's heritage;
- (C) Protect and enhance the County's historic structures, objects, sites and districts as a physical record of its heritage;
- (D) Enhance the stability of the neighborhoods and areas in the County;
- (E) Enhance the County's attraction to visitors through protection of the historic resources that constitute much of the County's unique character; and
- (F) Encourage preservation and maintenance of the cultural and historical heritage of the County for purposes of education and the fostering of the knowledge of the past. [Ord. 4922 § 1, 2008].

16.42.020 Scope.

(A) This chapter establishes the County's historic resources inventory which identifies significant historic resources in the unincorporated portion of the County; requires that an historic review consistent with the provisions of this chapter be conducted prior to carrying out of activities or final County approval of projects which affect historic resources; and regulates alterations, new construction, relocations, demolitions, and excavations which affect historic structures, objects, properties, sites or districts.

(B) The historic resource protection provisions of this chapter shall apply to all historic resources within the County unincorporated area, including publicly owned properties, where County approval of development activities is required. The requirements of this chapter are in addition to those of other chapters of the County Code, and approvals issued pursuant to this chapter do not alter the requirements of other chapters of the Santa Cruz County Code. [Ord. 4922 § 1, 2008].

16.42.030 Definitions.

All terms used in this chapter shall be as defined in Chapter 13.10 SCCC and in the County General Plan glossary except as herein defined below:

(A) "Certified resolution" means a resolution of the Board of Supervisors establishing the historic resources designation of a structure, object, site, property, or district which has a special historical, archaeological, cultural or aesthetic interest or value as part of the development, heritage, or cultural characteristics of the County, State, or Nation,

and which either has been listed in the County General Plan, or has been listed in the historic resources inventory adopted pursuant to SCCC 16.42.050 and has a rating of significance of NR-1, NR-2, NR-3, NR-4, or NR-5.

(B) “Contributing historic structure or object” means a structure or object located within a designated historic district which has been designated as a contributing historic structure or object and is listed in the Santa Cruz County historic resource inventory pursuant to SCCC 16.42.050.

(C) “Demolition” shall mean the following:

- (1) The complete demolition of the entirety of a landmark or contributing resource; or
- (2) The partial demolition of a landmark or contributing resource that involves either of the following:
 - (a) The demolition of an aggregate of 50 or more linear feet of exterior wall or more than 50 percent of the footprint of the landmark or contributing resource, whichever is more restrictive, or
 - (b) The demolition is other than minor, inconsequential or insignificant and has been determined by the Planning Director to affect the significance of the landmark or contributing resource.

(D) “Historic alteration project, minor” means a small project involving an historic building on the County’s historic resources inventory but not including a structure with a rating of NR-1 or NR-2. Such projects include, but are not limited to, the replacement, addition or deletion of windows, doors, fences, decks and minor additions/alterations to the rear of the property of up to 10 percent of the gross square footage of the existing structure or 250 square feet, whichever is smaller, and signs.

(E) “Historic district” means an area designated as an historic resource and which contains improvements that:

- (1) Have character of special historic or aesthetic interest or value; and
- (2) Represent one or more periods or styles of architecture typical of one or more eras in the history of the County; and
- (3) Cause such area, by reason of these factors, to constitute a geographically definable area possessing a significant concentration or continuity of sites, buildings, structures, or objects that are unified by past events, or aesthetically by plan or physical development.

(F) “Historic documentation report” means a report providing documentation of the historic significance and physical appearance of an historic resource and prepared in accordance with the guidelines established by the Historic Resources Commission. The report may take the form of a narrative with attached photographs and shall include a completed California Department of Parks and Recreation Historic Inventory Form.

(G) “Historic object” means an item of historical value that can be seen or touched, such as an artifact, monument or work of art, and which has been designated as an historic resource pursuant to this chapter.

(H) “Historic property” means a parcel of land where an historic structure or object is located.

(I) “Historic resource” means any structure, object, site, property, or district which has a special historical, archaeological, cultural or aesthetic interest or value as part of the development, heritage, or cultural characteristics of the County, State, or nation, and which either has been referenced in the County General Plan, or has been listed in the historic resources inventory adopted pursuant to SCCC 16.42.050 and has a rating of significance of NR-1, NR-2, NR-3, NR-4, or NR-5.

(J) “Historic resource preservation plan” means a plan for the protection, enhancement, and/or preservation of the historic resource values of a structure, object, site or district and which is prepared according to the guidelines established by the Historic Resources Commission.

(K) “Historic Resources Commission” means the County’s Historic Resources Commission (HRC) established pursuant to Chapter 2.58 SCCC.

(L) “Historic resources inventory” means a list of significant historic resources reviewed by the Board of Supervisors pursuant to SCCC 16.42.050 and which may include historic structures, objects, sites, and districts which contribute to the historic, cultural and architectural heritage of Santa Cruz County. It includes all properties with a rating of significance of NR-1, NR-2, NR-3, NR-4, NR-5 or NR-6. Only those resources adopted by resolution by the Board of Supervisors (NR-1, NR-2, NR-3, NR-4 and NR-5) are subject to the provisions of this chapter.

(M) “Historic site” means a parcel of land or property which has been designated as an historic resource pursuant to this chapter because it was previously occupied by an historical structure, or because it was the scene of a past historic event, or was a place associated with an historical person.

(N) “Historic structure” means a structure which has been designated as an historic resource pursuant to this chapter.

(O) “Material change” means any exterior alteration or surface modification which will cause a change in the exterior appearance of a structure. This shall include all work which results in additions or changes to the architectural style, design, general arrangement, and components of all of the outer surfaces of an improvement, including, but not limited to, the kind and texture of the building material, and the type and style of all windows, doors, moldings, ramps, decks, fences, roofs,

porches, railings, lights, signs, and other exterior fixtures appurtenant to such improvements. Material changes shall not include painting or ordinary maintenance consisting of repair which does not involve a change in exterior design or materials. Alterations to the interior of a structure do not constitute a material change.

(P) "Noncontributing structure or object" means a structure or object located within a designated historic district which has not been designated as a contributing historic structure or object.

(Q) "Planning Director" means the Director of the County Planning Department or his or her designee.

(R) "Reconstruction" means the act or process of depicting, by means of new construction, the form, features, and detailing of a nonsurviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

(S) "Relocation" means the moving of a building or structure from one place to another.

(T) "Secretary of the Interior's Standards" means the National Parks Service and Secretary of the Interior's Standards for Treatment of Historic Properties found at 36 C.F.R. 68.3 as it may be amended from time to time.

(U) "Structure" means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner including all fences and decks. [Ord. 5061 § 28, 2009; Ord. 4922 § 1, 2008].

16.42.040 Applicability.

(A) Historic Structures and Objects. No person shall make or cause any material change to the exterior of an historical structure or object, demolish any portion of the exterior of an historical structure or object unless such action is in conformance with a valid historic resource preservation plan approved by the Historic Resources Commission. In addition to these requirements, no relocation or demolition as described in SCCC 16.42.030(C)(1) or (C)(2) shall occur unless a historical documentation report is submitted to and approved by the Historic Resources Commission concurrent with the review of the historic resource preservation plan.

(B) Historic Properties. No person shall make or cause on an historical property a material change to any structure on the property, or construct any new structure including any fence or deck unless such action is in conformance with a valid historic resource preservation plan approved by the Historic Resources Commission. Demolition or removal of nonhistoric structures on historic properties is exempt from the provisions of this chapter.

(C) Historic Sites. For projects which will disturb or potentially disturb the ground of a designated historic site, an historical archaeological report as provided for in Chapter 16.40 SCCC shall be prepared and submitted with any applications for permits to develop the project.

(D) Historic Districts. No person shall make or cause in an historical district any material change to the exterior of any structure, or construct any new structure including fences and decks, or relocate or demolish any designated contributing historic structures or historic objects unless such action is in conformance with a valid historic resource preservation plan approved by the Historic Resources Commission.

Demolition and relocation of noncontributing structures located in historic districts are exempt from the provisions of this chapter. Material changes to the exterior of all structures and the construction of new structures shall be compatible with the scale, building materials and general design of the historic district, reinforce the historic value and architectural theme of the historic district, and comply with the historic preservation guidelines of SCCC 16.42.060(C) and (D) to the maximum extent feasible. [Ord. 4922 § 1, 2008].

16.42.050 Historic resource designation.

(A) Protected Historic Resources. The Santa Cruz County historic resources inventory shall consist of those structures, objects, properties, sites, and districts as designated by certified resolution of the Board of Supervisors and thereby incorporated by reference and made a part of this chapter, with subsequent amendments as provided for in subsection (E) of this section.

(B) Rating of Significance. For purposes of administering the historic preservation program, general public information, and to aid in the nomination of historic resources to the National Register, designated historic structures, objects, sites and districts shall be assigned a National Register (NR) Rating Code for historic significance based upon guidelines published by the United States Department of the Interior, National Park Service as follows:

(1) NR-1. A property listed in the National Register of Historic Places.

(2) NR-2. A property that has been determined to be eligible for listing on the National Register by the U.S. Department of the Interior.

(3) NR-3. A property eligible, in the opinion of the County Historic Resources Commission, to be listed on the National Register of Historic Places.

(4) NR-4. Property which may become eligible for listing on the National Register if additional research provides a stronger statement of significance, or if the architectural integrity is restored. These buildings have either high architectural or historic significance, but have a low rating in the other categories.

(5) NR-5. A property determined to have local historical significance.

(6) NR-6. The County shall maintain a listing of those properties which have been evaluated and determined to be ineligible for designation as an historic resource based on the criteria in subsections (B) and (C) of this section and/or due to their deteriorated architectural integrity or condition. These properties shall be given a rating of significance of NR-6. An NR-6 rated property is part of the historic resource inventory but is not subject to the provisions of this chapter. An NR-6 rated property may be reevaluated periodically.

(C) Designation Criteria. Structures, objects, sites and districts shall be designated as historic resources if, and only if, they meet one or more of the following criteria and have retained their architectural integrity and historic value:

(1) The resource is associated with a person of local, State or national historical significance.

(2) The resource is associated with an historic event or thematic activity of local, State or national importance.

(3) The resource is representative of a distinct architectural style and/or construction method of a particular historic period or way of life, or the resource represents the work of a master builder or architect or possesses high artistic values.

(4) The resource has yielded, or may likely yield, information important to history.

(D) Inventory Amendment. Amendment to the Santa Cruz County inventory of historic resources shall be by certified resolution of the Board of Supervisors following the review and recommendation of the Historic Resources Commission. Actions of both bodies shall be taken following public hearing with public notice provided pursuant to SCCC 18.10.223. Any action to amend the inventory of historic resources to add or remove a structure, site, object or district shall be based on the criteria provided in subsections (B) and (C) of this section, and may be initiated by a property owner or their representative, the Board of Supervisors, the Historic Resources Commission, County staff or any member of the general public. Inclusions of new historic resources in the inventory shall be accompanied by a completed historic documentation report which includes a California Department of Parks and Recreation Historic Inventory Form to document the historic and architectural values of the designated resource.

(E) Findings Required. The following findings must be made for inclusion or deletion of properties from the Historic Inventory:

(1) For Inclusion in the Historic Inventory.

(a) That the proposed historic resource, or group of structures, or features thereof have significant cultural, architectural, or engineering interest or value of an historical nature, as defined in subsection (C) of this section.

(b) That approval or modified approval of the application to designate a historic resource is consistent with the purposes and criteria of the County's historic preservation policies set forth in this chapter, and the Historic Resources Policies of the General Plan.

(2) For Deletion from the Historic Inventory.

(a) That the proposed historic resource, or group of structures, or features thereof no longer have significant cultural, architectural, or engineering interest or value of an historical nature, as defined in subsection (C) of this section.

(b) That approval or modified approval of the application to delete a historic resource is consistent with the purposes and criteria of the County's historic preservation policies set forth in this chapter, and the historic resources policies of the General Plan.

(F) Recording of Certified Resolution Establishing the Historic Resource Designation. Within 90 days after an historic resource has been included in the Santa Cruz County historic resources inventory by the Board of Supervisors, the Planning Director shall cause to be filed for record with the County Recorder a certified resolution establishing the historic resource designation specifying the names of the owners of record, a legal description of the property, a description of the historic resource and its historic and/or architectural value, and a statement that the historic resource so described is subject to the provisions of this chapter. A copy of the recorded certified resolution shall be sent to the property owner.

(G) Documents. Following the Historic Resources Commission's and Board of Supervisor's acceptance of an historical documentation report, three archival copies with original black and white photographs shall be submitted by the applicant and shall be placed on permanent file by staff with the Santa Cruz County Planning Department, the County Historic Museum and the UCSC McHenry Library, Special Collections.

(H) Pending Designations. Once an amendment to the Inventory of Historic Resources has been initiated to designate a property as an historic resource, no permit may be approved for any project affecting the historic resource on property until either:

(1) Final action has been taken to reject the amendment; or

(2) Approval of a historic resource preservation plan by the Historic Resources Commission has been obtained. [Ord. 4922 § 1, 2008].

16.42.060 Development procedures for designated historic resources.

(A) Applications for Historic Review. Applications for historic resource preservation plan approval or sign review shall be filed with the Planning Department in accordance with the procedures of SCCC 18.10.223, and the administrative application requirements as established by the Historic Resources Commission.

(B) Demolition and Relocation.

(1) Application Requirements. For projects involving demolition of the historic structure, or involving relocation of an historical structure, the application submittal shall also include:

(a) A special inspections report from the County Planning Department on the condition of the structure; and

(b) An historical documentation report prepared according to guidelines established by the Historic Resources Commission. The report shall contain the following:

(i) Information which supports the claim that preservation is not feasible due to the deteriorated condition of the structure or object, or would create exceptional hardship, or is necessary to alleviate a dangerous condition.

(ii) Provisions to preserve the historic values of the structure or object by documentation and/or preservation of artifacts and building materials.

(c) Provisions to offer the structure to the general public for removal or dismantling for salvage at no cost or remuneration to the applicant. The availability of the structure shall be advertised by means of an one-eighth-page display ad in a paper of general circulation in the County of Santa Cruz, at least twice during a 30-day period. The advertisement shall include the address at which the structure proposed for demolition is located, information as to how arrangements can be made for relocation (through moving or dismantling) of the structure proposed for demolition, and the date after which a demolition permit may be issued. Evidence of this publication must be submitted prior to issuance of a demolition permit. This is not applicable to projects involving the relocation of the historic resource on the same site.

(2) Processing. Demolition applications shall be processed as follows:

(a) The complete demolition of the entirety of a landmark or contributing resource shall require a public hearing and recommendation by the Historic Resources Commission and a public hearing and final action by the Board of Supervisors.

(b) The partial demolition, as defined in SCCC 16.42.030(C), of a landmark or contributing resource shall require a public hearing and final action by the Historic Resources Commission. The Historic Resources Commission may, at their discretion, refer the final action to the Board of Supervisors.

(c) Lesser demolition, not meeting the definition of "demolition" in SCCC 16.42.030(C), of a landmark or contributing resource may be approved or denied without public hearing by the Planning Director. The Planning Director, at his or her discretion, may refer the final action to the Historic Resources Commission.

(C) Alteration.

(1) Criteria for Projects Involving the Exterior Alteration of a Historic Resource. A historic resource preservation plan for alterations and changes to the exterior of an historical structure or object shall conform to the following criteria:

(a) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

(b) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(c) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier or later appearance shall be discouraged.

(d) Changes which may have take place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(f) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features substantiated by historic, physical or pictorial evidence, rather than on conjectural design or the availability of different architectural elements from other buildings or structures.

(g) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials should not be utilized.

(h) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

(i) Alterations and additions to existing properties shall not destroy significant historical, architectural or cultural elements or materials, and shall be compatible with the size, scale, color, materials, and character of the property, neighborhood or environment.

(j) Whenever possible, new additions or alterations to structures shall be done in a manner so that the essential form and integrity of the structure would be unimpaired.

(2) Processing. Alteration applications shall be processed as follows:

(a) Alteration applications shall require a public hearing before the Historic Resources Commission.

(b) Minor historic alteration project applications may be approved or denied without public hearing by the Planning Director. The Planning Director, at his or her discretion, may refer the final action to the Historic Resources Commission.

(D) New Construction. Historic resource preservation plans for construction of new structures on historic properties or in historic districts shall conform to the following criteria:

(1) The location, siting and size of new construction on an historical property shall not detract from the historic character of the property, and between existing buildings, landscape features and open space.

(2) All structures shall be designed in proportion and integrated into the historic character of the property or district by the use of compatible building materials and textures, construction methods, design, and color.

(3) The size, location and arrangement of new on-site parking or loading ramps shall be designed so that they are as unobtrusive as possible and preserve the features of the property or district.

(4) Ingress and egress, and internal traffic circulation shall preserve the historic features of the property.

(5) Landscaping should be provided in keeping with the character and design of the historic site, property or district.

(6) Disturbance of terrain around existing buildings or elsewhere on the property should be minimized to reduce the possibility of destroying unknown archaeological materials. Where any proposed land alterations may impact important archaeological resources, a professional archaeological survey shall be provided and its recommendations implemented to mitigate potential impacts as provided for in Chapter 16.40 SCCC.

(E) Sign Approvals. Plans for all new signs and alterations to existing signs located on an historical structure, or located on an historical property, or located in an historical district, except for historic landmark plaques as approved by the Historic Resources Commission or changes in sign copy, shall be submitted to the Planning Director. No historic resource preservation plan is required for this review. Signs shall conform to all other County Code requirements and adopted sign design guidelines.

(F) Development Applications Involving Historic Resources. When plans for a project affecting an historic resource are required by this section to obtain an approval or a recommendation by the Historic Resources Commission, all applications for permits authorizing development of the project shall be deemed incomplete until the Historic Resources Commission approval or recommendation has been granted and documentation of such action is submitted with the permit applications, except as provided in subsection (G) of this section.

(G) Concurrent Processing. Where the Planning Director determines that processing time for a permit will not be adversely affected, the Director may authorize the acceptance of a permit application as complete for processing concurrently with the Historic Resources Commission review and action required by this chapter.

(H) Historic Resources Commission Hearing Procedure. When an application for historic review is determined by Planning Department staff to be complete it shall be forwarded with any other information of record to the Historic Resources Commission for their review and subsequent action. Except for minor historic alteration projects, minor demolition as described in subsection (B)(2)(c) of this section, and sign review, each completed application for a historic resource preservation plan approval and associated recommendation shall be considered for review and action by the Historic Resources Commission at a public hearing. Notice of all hearings shall be given pursuant to SCCC 18.10.223. The Commission may continue a hearing from the original hearing date in order to request additional information, conduct a site inspection, require that a professional historian and/or archaeologist prepare the historical documentation report, or for any other reason determined to be necessary by the Historic Resources Commission.

(I) Historic Resources Commission Action. Following the public hearing on an application, the Historic Resources Commission may approve a historic resource preservation plan, or historic documentation report, by an affirmative vote

of three or more of the Commission members. In order for the Commission to approve or conditionally approve the historic resource preservation plan, all the following findings must be made:

(1) That the historic resource preservation plan is consistent with the purposes and goals of this chapter and the County General Plan;

(2) That the historic resource preservation plan is in conformance with the requirements of this chapter; and

(3) That the historic resource preservation plan, if implemented, will preserve and maintain the cultural and historical heritage of the County and/or further cultivate the knowledge of the past.

The Historic Resources Commission shall deny the historic resource preservation plan if one or more of these findings cannot be made.

(J) Final Project Approval. When an historic resource preservation plan is required by this section, no final County approval shall be given to a land division, development permit, building permit, demolition permit, land clearing permit or grading permit for a project affecting an historical structure, object, property, site or district, unless an historic resource preservation plan for the protection of the historic resource has been approved by the Historic Resources Commission, the project is in conformance with the approved plan, and development will commence prior to the expiration of the Historic Resources Commission approval. Final inspection clearance on project permits or improvement plans shall not be granted unless the completed project complies with all provisions of the historic resource preservation plan.

(K) No Project Authorization Granted. The Historic Resources Commission's approval of a historic resource preservation plan, historic documentation report or sign recommendation does not authorize any development rights or grant permission to proceed with project development; such actions can only be authorized through the approval and issuance of project permits pursuant to other provisions of the County Code.

(L) Expiration. An approved historic resource preservation plan shall remain valid for a period of two years from the date of approval by the Historic Resources Commission unless the Commission specifies a longer period of time. Time extensions as provided for in SCCC 18.10.133(A) may be subsequently granted by the Historic Resources Commission upon application prior to expiration of the plan approval.

(M) Environmental Review. When an environmental impact report (EIR) is required for a development project affecting a designated historic resource, the Historic Resources Commission shall be consulted in establishing the scope of the EIR and for comments on the draft EIR and historic resource mitigation measures. [Ord. 4922 § 1, 2008].

16.42.070 Historic Building Code applicability.

The State Historic Building Code, Title 24 of the California Administrative Code, shall be applicable to the issuance of building permits for changes to the interior and/or exterior of structures designated as historic resources. [Ord. 4922 § 1, 2008].

16.42.080 Artifacts discovered during excavation or development.

(A) Presence of Artifacts. Any person who, at any time in the preparation for or process of excavating or otherwise disturbing the ground, discovers any artifact or other evidence of an historical archaeological resource, shall comply with all provisions of Chapter 16.40 SCCC, Native American Cultural Sites. [Ord. 4922 § 1, 2008].

16.42.090 Unsafe or dangerous conditions.

None of the provisions of this chapter shall be construed to prevent any measures of construction, alteration, removal, demolition or relocation necessary to correct the unsafe or dangerous condition of any structure, other feature, or part thereof, where:

(A) Such condition has been declared to constitute an immediate threat to public health and safety by the County Building Official or County Geologist; and

(B) The proposed measures have been declared necessary by such official to correct the said condition; and

(C) The Chairman of the Historic Resources Commission has been notified of the situation and given an opportunity to respond within 24 hours. Only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. In the event that any structure or other features are damaged by fire or other calamity, the Planning Director or Building Official may authorize, prior to the Commission's review, that amount of repair necessary to correct an unsafe condition. [Ord. 4922 § 1, 2008].

16.42.100 Zoning of historic resources.

Parcels containing designated historical structures, objects or sites or which are located in designated historic districts shall be zoned to the Historical Landmark ("L") Combining Zone District for identification purposes. Failure of the prop-

erty to be placed in the Historic Landmark (“L”) Combining Zone District does not invalidate the requirements of this chapter. [Ord. 4922 § 1, 2008].

16.42.110 Appeal procedures.

(A) Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Historic Resources Commission under the provisions of this chapter, may appeal the act or determination directly to the Board of Supervisors in accordance with SCCC 18.10.310 et seq.

(B) In addition to the provisions of subsection (A) of this section, when the Board of Supervisors is the final approving body for a project either by way of normal permit processing procedures or through appeal, any act or determination by the Historic Resources Commission which affects the project may be amended by the Board of Supervisors; provided, that any substantial modifications to the plans approved by the Historic Resources Commission which were not previously considered by the Commission may be referred to the Historic Resources Commission for their report and recommendations. The Historic Resources Commission shall review and comment on the referred modifications within 40 days unless a longer comment period is approved by the Board of Supervisors. The Historic Resources Commission is not required to hold a public hearing on the referral unless so directed by the Board of Supervisors. [Ord. 4922 § 1, 2008].

16.42.120 Enforcement.

(A) Criminal Enforcement. Any person who violates any provision of this chapter is guilty of a misdemeanor, the penalty for which is set forth in SCCC 1.12.030 and Chapter 19.01 SCCC.

(B) Civil Enforcement. Any person who violates any provision of this chapter is in violation of the land use regulations of the County, the penalty for which is set forth in Chapter 19.01 SCCC. [Ord. 4922 § 1, 2008].

16.42.130 Severability.

If any section, subdivision, paragraph, sentence, clause or phrase of the ordinance codified in this chapter is for any reason held to be unconstitutional or invalid, such a decision shall not affect the validity of the remaining portion of the ordinance. The Board of Supervisors hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the unconstitutionality or invalidity of any section, subdivision, subsection, paragraph, sentence, clause or phrase of the ordinance codified in this chapter. [Ord. 4922 § 1, 2008].

Chapter 16.44

PALEONTOLOGICAL RESOURCE PROTECTION

Sections:

16.44.010	Purposes.
16.44.020	Amendment.
16.44.030	Definitions.
16.44.040	Paleontological assessments required.
16.44.050	Applications, preparation and review of assessments.
16.44.060	Project review.
16.44.070	Resources discovered during development.
16.44.080	Fees.
16.44.090	Appeals.
16.44.100	Violation defined.

16.44.010 Purposes.

Significant valuable, irreplaceable paleontological resources exist in Santa Cruz County which may be degraded or destroyed by development activities. Policies to protect these resources for their scientific and educational values are contained in both the County General Plan and the Local Coastal Program Land Use Plan. This chapter establishes appropriate protective regulations and procedures. [Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

16.44.020 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 SCCC and shall be subject to approval by the California Coastal Commission. [Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

16.44.030 Definitions.

All terms used in this chapter shall be as defined in the General Plan or Local Coastal Program Land Use Plan glossaries, except as noted below.

“Development project” means any project requiring a building, zoning, grading or subdivision permit which will result in ground disturbance.

“Environmental Coordinator” means the member of the Planning Department staff assigned to review projects to determine their compliance with the California Environmental Quality Act, County environmental review guidelines, and the provisions of this chapter.

“Ground disturbance” means development activity resulting in the manipulation of the terrain or of earth materials such as rock or soil including excavating, grading, placement of structures, trenching for utilities or foundations, but excluding the cultivation of the soil for agricultural purposes.

“Paleontological report” means a comprehensive investigation of a paleontological site prepared by a qualified paleontologist on contract with or approved by the County. The report includes but is not limited to the following:

- (1) Determination of the extent of the paleontological resources on the project site;
- (2) Identification and inventory of the types of resources on the site;
- (3) Evaluation of the significance of the resources; and
- (4) Recommendations for the appropriate measures to ensure protection of the resources present.

“Paleontological resource(s)” means the fossil or organic remains, traces, or imprints of an organism preserved in the earth’s crust since some time in the geologic past, such as shells, bones, diatomite beds, and associated rock and soil matrices.

“Paleontological resource protection maps” means areas of the County designated on maps prepared by the Planning Department in consultation with a qualified paleontologist, where paleontological resources are known to exist. These maps are on file in the Planning Department.

“Paleontological survey” means a preliminary investigation of a potential paleontological site prepared under the direction of the Environmental Coordinator or a qualified paleontologist approved by the County. The purpose of the survey is

to determine the extent and potential significance of paleontological resources on a parcel where a development project is proposed.

“Planning Director” means the Director of the Planning Department or his or her authorized designee. [Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

16.44.040 Paleontological assessments required.

(A) Paleontological Survey. A paleontological survey shall be required for the following development activities located in areas of known paleontological resources as shown on the paleontological resource protection maps:

- (1) All development projects which will result in ground disturbance; and
- (2) All shoreline protection projects and shoreline access projects.

(B) Paleontological Report. A paleontological report shall be required if the Environmental Coordinator determines on the basis of the paleontological survey that further information is required to ensure protection of paleontological resources.

(C) Environmental Review. Where environmental review of a development project is also required by the Santa Cruz County environmental review guidelines, the paleontological survey or report shall be incorporated into the environmental review procedures established therein. [Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

16.44.050 Applications, preparation and review of assessments.

(A) Application. Applications for approvals granted pursuant to this chapter shall be made in accordance with the requirements of Chapter 18.10 SCCC, Level III, and shall include the following: An accurate plot plan showing the property lines and the location and type of existing and proposed development and other features such as topography, easements, and coastal access points; any other information deemed necessary by the Planning Director shall be submitted upon request.

(B) Preparation of Assessments. The paleontological survey shall be prepared by the County under the direction of the Environmental Coordinator or by any qualified paleontologist approved by the County at the applicant’s choice and expense. The paleontological report shall be prepared by a qualified paleontologist on contract with the County or by any qualified paleontologist approved by the County, at the applicant’s choice and expense. Such assessments shall, however, be subject to acceptance as specified in subsection (C) of this section. All paleontological surveys and reports shall conform to procedures and guidelines established by the Planning Director.

(C) Acceptance and Review of Assessments. All paleontological surveys and reports must conform to County report procedures and guidelines as determined by the Environmental Coordinator. When technical issues are complex, the report may be reviewed for adequacy by a paleontologist retained by the County. [Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

16.44.060 Project review.

In granting the required permit(s) for a project on the site of a significant paleontological resource, the Planning Director shall attach reasonable conditions to ensure compliance with the purposes of this chapter. In establishing these conditions, the Planning Director shall balance the value and significance of the paleontological resource against the need to avoid unnecessary financial hardship to the project applicant.

Such conditions may include, but shall not be limited to, the following:

(A) The applicant shall have a qualified paleontologist approved by the County present to observe, to examine and to evaluate the site during ground disturbing development activities. The period of such observation shall not be longer than five working days. The project developer shall provide necessary development plans and schedules to facilitate the work of the paleontologist. The County shall not be liable for the costs arising from any delay of the project.

(B) The applicant shall convey to a County-approved paleontological research institute or museum any fossil finds which have been determined by the Environmental Coordinator to be of unique scientific or educational value. [Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

16.44.070 Resources discovered during development.

(A) Discovery. After a development permit has been issued, if the paleontologist determines from observation and examination during development activities that significant paleontological resources exist on the project site that were not identified in the paleontological survey or report, then the paleontologist shall notify the property owner and developer and the Planning Director. The project developer, upon notification, shall immediately cease and desist from excavation or disturbance of the project site, and shall allow inspection of the site by the Planning Director.

(B) Notification. Within three working days after such notification, the Planning Director shall arrange for a site inspection with the property owner and the paleontologist, and may invite representatives of recognized paleontological research institutes and museums.

(C) Additional Project Conditions. Based on the inspection, the Planning Director shall determine whether a supplement to the paleontological survey or report shall be required and/or whether the existing permit conditions must be amended, based on the new information or discoveries. The Planning Director may amend the permit to include such additional conditions as are necessary to further the purposes of this chapter. Where a supplement to a paleontological survey or report is required, it shall be prepared by a qualified paleontologist approved by the County, at the applicant's choice and expense. Where additional paleontological field activity is required, such as the removal of fossils, the work shall be accomplished, at no cost to the property owner or the County, by volunteer labor from groups, such as Cabrillo College, University of California, Santa Cruz, and Santa Cruz Museum Association.

(D) Resumption of Development. Resumption of ground disturbing activities shall be authorized within 30 days of the inspection and after compliance with the provisions of subsection (C) of this section. The date of authorized resumption of excavation and development may be extended up to 30 additional days by order of the Board of Supervisors. [Ord. 4496-C § 92, 1998; Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

16.44.080 Fees.

Fees deemed necessary for the administration and implementation of this chapter, including the preparation of surveys and reports, shall be set by resolution of the Board of Supervisors. [Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

16.44.090 Appeals.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance to the procedures of Chapter 18.10 SCCC. Until the completion of such appeal hearings, development activity which results in ground disturbance shall not be permitted on a project site, or part of a site, where paleontological resources have been identified. [Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

16.44.100 Violation defined.

It shall be unlawful for any person whether as owner, principal, agent, or employee or otherwise to perform an action or allow a situation to continue that violates the provisions of this chapter or violates any permit conditions required pursuant to this chapter. [Ord. 4392A § 16, 1996; Ord. 3446 § 1, 1983; Ord. 3343 § 1, 1982].

Chapter 16.50

AGRICULTURAL LAND PRESERVATION AND PROTECTION

Sections:

16.50.010	Purposes.
16.50.015	Scope.
16.50.020	Amendment.
16.50.025	Definitions.
16.50.030	Designation of agricultural land types.
16.50.040	Criteria for designation.
16.50.050	Amendment of designations.
16.50.060	Fees.
16.50.070	Preservation of Type 1 agricultural lands.
16.50.075	Preservation of Type 2 agricultural lands.
16.50.080	Preservation of Type 3 agricultural lands.
16.50.085	Protection of noncommercial agricultural land.
16.50.090	Notification and disclosure statement requirements.
16.50.095	Agricultural buffer setbacks.
16.50.100	Appeals.
16.50.110	Agricultural Policy Advisory Commission hearing notices.
16.50.115	Violations.

Prior legislation: Ords. 2621, 2677, 2800, 2813 and 2983.

16.50.010 Purposes.

(A) The Board of Supervisors of Santa Cruz County finds that commercially viable agricultural land exists within the County, that it is in the public interest to preserve and protect this land for exclusive agricultural use and to enhance and encourage agricultural operations within the County, and that certain agricultural land in the County, not presently of commercial value, also merits protection. The Board of Supervisors of Santa Cruz County also finds that nonagricultural development adjacent to certain of these lands often leads to restrictions on the County's agricultural industry as a whole. It is the determination of the Board of Supervisors that residents living near agricultural land should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in a County with a strong rural character and healthy agricultural sector so long as the agricultural operations are conducted in accordance with Federal, State, and local laws and regulations.

(B) The purposes of this chapter, therefore, are to promote the public health, safety and welfare; to support and encourage continued agricultural operations in the County, to implement the policies of the Santa Cruz County General Plan, the Local Coastal Program Land Use Plan, and the 1978 Growth Management Referendum (Measure J) by designating those commercial agricultural lands the County intends to preserve and protect for exclusive agricultural use, and by protecting noncommercial agricultural land; to support and encourage continued agricultural operations in the County; to maintain in exclusive agricultural use commercial agricultural land which is located within utility assessment districts, while recognizing that equitable compensation may be due because of the assessment district-caused encumbrances; and to forewarn prospective purchasers and residents of property adjacent to agricultural operations of the necessary sounds, odors, dust and hazardous chemicals that accompany agricultural operations. It is an additional purpose of this chapter to ensure the maximum protection of commercially viable agricultural land by weighting decisions, in cases where there is not clear evidence of the unsuitability of the agricultural land, in favor of the preservation of the land for agricultural use.

(C) Accordingly, no agricultural activity, operation, or facility or appurtenances thereof shall be or become a nuisance, public or private, if it has been conducted and maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards as established and followed by similar agricultural operations, and in a manner consistent with all applicable Federal, State and local laws, regulations, permits and approvals, and the conditions thereof, after it has been in operation for more than three years if it was not a nuisance when it began. This is not to be construed as in any way modifying or abridging Federal or State law, or any other applicable provision of State law relative to nuisances; rather it is only to be utilized in the interpretation and enforcement of the provisions of this Code and County regulations. [Ord. 4753 § 3, 2003; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.015 Scope.

This chapter establishes a system for classifying various types of commercial agricultural land in Santa Cruz County, including specific criteria for applying each different agricultural land type designation and a procedure and findings for amending such designations. This chapter also contains the development regulations which apply to commercial agricultural land, including reference to the specific criteria in the zoning ordinance (Chapter 13.10 SCCC) which govern the division of commercial agricultural parcels. Policy regulating divisions of noncommercial agricultural land, requirements pertaining to “buyer beware” notification, annual notification to landowners regarding nuisance, and regulations for agricultural buffer setbacks are also established in this chapter. [Ord. 4753 § 3, 2003; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.020 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.10 SCCC, and shall be subject to approval by the California Coastal Commission. [Ord. 4753 § 3, 2003; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.025 Definitions.

“Acquiring party,” for purposes of this chapter, in a sale, exchange, installment land sale contract, option to purchase, or residential stock cooperative improved with residential units, refers to the individual or entity that will or may acquire ownership of the property through the transfer. In a ground lease coupled with improvements, the “acquiring party” refers to the tenant.

“Agricultural land” means all that real property within the boundaries of Santa Cruz County that is defined as commercial agricultural land in the General Plan—Local Coastal Program Land Use Plan.

“Agricultural operations” includes, but is not limited to, the cultivation and tillage of the soil; dairying; the production, irrigation, frost protection, cultivation, growing, harvesting, and processing of any agricultural commodity, including yet not limited to viticulture, horticulture, mushroom farming, insectaries, apiculture, raising of livestock, fur bearing animals, fish or poultry; growing, raising, breeding, harvesting, or processing of any living organism and any agricultural practices, including composting, aerial or terrestrial application of fertilizers and pesticides, performed as incidental to or in conjunction with such operation, including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

“Nuisance” has the same meaning as defined in California Civil Code Section 3479 that reads, in part, “[a]nything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the use of property, so as to interfere with the comfortable enjoyment of life or property . . . is a nuisance.”

“Pest” means any of the following that is, or is liable to become, dangerous or detrimental to the agricultural or non-agricultural environment of the County:

- (1) Any insect, predatory animal, rodent, nematode, or weed.
- (2) Any form of terrestrial, aquatic, or aerial plant or animal, virus, fungus, bacteria, or other microorganism (except viruses, fungi, bacteria, or other microorganisms on or in living humans or other living animals).
- (3) Anything that the State Secretary of Food and Agriculture or the Director of Pesticide Regulation, by regulation, declares to be a pest.

“Pesticide” includes any of the following:

- (1) Any spray adjuvant.
- (2) Any substance or mixture of substances which is intended to be used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, as defined above, which may infest or be detrimental to vegetation, humans, animals, or households, or be present in any agricultural or nonagricultural environment whatsoever.

“Transfer,” for the purposes of this chapter, includes the following: sale, exchange, installment land sale contract, lease with option to purchase, any other option to purchase, or ground lease coupled with improvements or residential stock cooperative improved with residential units.

“Transferor,” for purposes of this chapter, in a sale, exchange, installment land sale contract, option to purchase, or residential stock cooperative improved with residential units, refers to the individual or entity that owns the property immediately before the transfer. In a ground lease coupled with improvements, the “transferor” refers to the owner of the leased premises and any property manager employed by the owner to manage the leased premises. [Ord. 4753 § 3, 2003].

16.50.030 Designation of agricultural land types.

The agricultural resource lands designated by the County General Plan shall be further classified into the following agricultural land types as shown on the map on file in the Planning Department entitled "Agricultural Resources," and as amended from time to time. These types of agricultural land shall be defined individually and in the aggregate as "agricultural resource land" or "commercial agricultural land." Commercial agricultural land also includes all land which is enforceably restricted with a Land Conversation Act contract for agricultural preserve.

Type 1A	Viable Agricultural Land
Type 1B	Viable Agricultural Land in Utility Assessment Districts
Type 2A	Limited Agricultural Lands in Large Blocks
Type 2B	Geographically Isolated/Limited Agricultural Lands
Type 2C	Limited Agricultural Lands in Utility Assessment Districts
Type 2D	Limited Agricultural Lands Experiencing Use Conflicts
Type 2E	Vineyard Lands
Type 3	Coastal Zone Prime Agricultural Land

[Ord. 4753 § 3, 2003; Ord. 3602 § 1, 1984; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.040 Criteria for designation.

The following criteria shall be used to determine into which agricultural land type the commercial agricultural lands of the County will be classified:

(A) Type 1 Commercial Agricultural Land. This type is for viable agricultural lands outside the Coastal Zone which have been in, or have a history of, commercial agriculture over a long period of time, and are likely to continue to be capable of commercial agricultural use in the foreseeable future.

(1) Type 1A Viable Agricultural Land. Type 1A agricultural lands comprise areas of known high productivity which are not located in any utility assessment district for which bonded indebtedness has been incurred. These lands essentially meet the U.S. Department of Agriculture Soil Conservation Service and the California Department of Food and Agriculture criteria for "prime" and "unique" farmland and "prime" rangeland.

(2) Type 1B Viable Agricultural Land in Utility Assessment Districts. This type includes viable agricultural lands, as defined above, which are within a utility assessment district for which bonded indebtedness has been incurred, except agricultural preserves.

(B) Type 2 Commercial Agricultural Land. This category is for agricultural lands outside the Coastal Zone which would be considered as Type 1A, except for one or more limiting factors, such as parcel size, topographic conditions, soil characteristics or water availability or quality, which may adversely affect continued productivity or which restrict productivity to a narrow range of crops. Despite such limitations, these lands are considered suitable for commercial agricultural use. Type 2 agricultural lands are currently in agricultural use (on a full-time or part-time basis), or have a history of commercial agricultural use in the last 10 years and are likely to continue to be capable of agricultural use for a relatively long period. In evaluating amendments to Type 2 designations the preceding factors, along with adjacent parcel sizes, degree of nonagricultural development in the area and proximity to other agricultural uses, shall be considered in addition to the criteria listed under each individual type below.

(1) Type 2A Limited Agricultural Lands in Large Blocks. These lands are in fairly large blocks, are not in any utility assessment district which has incurred bonded indebtedness, and are not subject to agricultural-residential use conflicts.

(2) Type 2B Geographically Isolated Agricultural Land with Limiting Factors. This category includes agricultural lands with limiting factors which are geographically isolated from other agricultural areas. These lands are not in a utility assessment district which has incurred bonded indebtedness and are not subject to agricultural-residential use conflicts.

(3) Type 2C Limited Agricultural Lands in Utility Assessment Districts. This type includes agricultural lands with limiting factors which are in a utility assessment district which has incurred bonded indebtedness.

(4) Type 2D Limited Agricultural Lands Experiencing Use Conflicts. These are agricultural lands with limiting factors which are experiencing extreme pressure from agricultural-residential land use conflicts such as pesticide application, noise, odor or dust complaints, trespass or vandalism.

(5) Type 2E Vineyard Lands.

(C) Type 3 Coastal Zone Prime Agricultural Land. This category includes all of the following lands outside the urban services line and the rural services line within the Coastal Zone in Santa Cruz County:

(1) Land which meets the U.S. Department of Agriculture Soil Conservation Service criteria of prime farmland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.

(2) Land which meets the California Department of Food and Agriculture criteria for prime rangeland soils and which are physically available (i.e., open lands not forested or built on) for agricultural use.

(3) Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a nonbearing period of less than five years, and which normally return during the commercial bearing period on an annual basis from the production of unprocessed plant production not less than \$200.00 per acre; the \$200.00 per acre value shall be utilized to establish a base value per acre as of 1965. This base value per acre figure shall be adjusted annually in accordance with any change in the San Francisco Bay Area Consumer Price Index to reflect current values.

(4) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than \$200.00 per acre for three of the five previous years, as provided in subsection (C)(3) of this section.

(5) Land which meets the California Department of Food and Agriculture criteria for unique farmland of Statewide importance and which is physically available (i.e., open lands not forested or built on) for agricultural use. The criteria for "prime farmland soils," "prime rangeland soils," and "unique farmland of Statewide importance" are further defined in the General Plan and Local Coastal Program Land Use Plan glossary. [Ord. 4753 § 3, 2003; Ord. 4416 § 23, 1996; Ord. 4406 § 23, 1996; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.050 Amendment of designations.

(A) Amendments to the designations of agricultural land types may be initiated by an applicant, the Board of Supervisors, the Planning Commission or the Planning Department. Consideration of such proposals for the addition, removal or change of agricultural land type designations shall be limited to instances where new information has become available regarding the appropriateness of specific designations based on the criteria set forth under SCCC 16.50.040.

(B) Applications for approvals granted pursuant to this chapter shall be made in accordance with the requirements of Chapter 18.10 SCCC, Level VII.

(C) Applications to amend the designations of agricultural land types shall be reviewed on an annual basis timed to coincide with the Land Conservation Act/Agricultural Preserve application review process. All proposed amendments shall be subject to a report and environmental review by the Environmental Coordinator, a hearing and recommendation by the Agricultural Policy Advisory Commission, and pursuant to Chapter 18.10 SCCC, Level VII, a public hearing and recommendation by the Planning Commission and a public hearing and final decision by the Board of Supervisors.

(D) The Board of Supervisors, after a public hearing, may approve a proposed amendment, consisting of either the removal or change of a Type 1 or Type 2 designation if it makes the following findings:

(1) That there has been new information presented, which was not available or otherwise considered in the original decision to apply a particular designation, to justify the amendment. Such new information may include, but not be limited to, detailed soils analysis, well output records, water quality analysis, or documented history of conflicts from surrounding urban land uses.

(2) That the evidence presented has demonstrated that conditions on the parcel(s) in question do not meet the criteria, as set forth in SCCC 16.50.040, for the existing agricultural land type designation for said parcel(s).

(3) That the proposed amendment will meet the intent and purposes of the agricultural land preservation and protection ordinance and the commercial agriculture zone district ordinance.

(E) The Board of Supervisors may, after a public hearing, approve amendments to remove a Type 3 designation and the subsequent conversion (changing the land use designation from agriculture to nonagriculture uses) of agricultural lands, only if it makes the following findings:

(1) That there has been new information presented, which was not available or otherwise considered in the original decisions to apply a particular designation, to justify the amendment. Such new information may include, but not be limited to, detailed soils analysis, well output records, water quality analysis, or documented history of conflicts from surrounding urban land uses; and

(2) That the evidence presented has demonstrated that conditions on the parcel(s) in question do not meet the criteria, as set forth in SCCC 16.50.040, for the existing agricultural land type designation for said parcel(s); and

(3) That the proposed amendment will meet the intent and purposes of the agricultural land preservation and protection ordinance and the commercial agriculture zone district ordinance; and

(4) That the viability of existing or potential agricultural use is already severely limited by conflicts with the urban uses; the evaluation of agricultural viability shall include, but not be limited to, an economic feasibility evaluation which contains at least:

(a) An analysis of the gross revenue from the agricultural products grown in the area for the five years immediately preceding the date of filing the application.

(b) Analysis of the operational expenses, excluding the cost of land, associated with the production of the agricultural products grown in the area for the five years immediately preceding the date of filing application.

(5) That the conversion of such land around the periphery of the urban areas (as defined by the urban services line or rural services line) would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development; and

(6) That the conversion of such land would not impair the viability of other agricultural lands in the area.

(F) Any amendment to eliminate or add a Type 1, Type 2 or Type 3 agricultural land designation constitutes a change in the County General Plan and must be processed concurrent with a General Plan amendment. Any amendment of a Type 3 designation also constitutes a change in the Local Coastal Program Land Use Plan which must be processed concurrently with a land use plan amendment subject to approval by the State Coastal Commission. [Ord. 4753 § 3, 2003; Ord. 4416 § 24, 1996; Ord. 4406 § 24, 1996; Ord. 3685 § 1, 1985; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.060 Fees.

Fees for applications to amend designations of agricultural land types shall be set by resolution of the Board of Supervisors. [Ord. 4753 § 3, 2003; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.070 Preservation of Type 1 agricultural lands.

(A) Lands designated as Type 1 agricultural land shall be maintained in the Commercial Agriculture (“CA”) Zone District, or if within an area designated as a timber resource, be maintained in the Timber Production (“TP”) Zone District, or if within a public park, be maintained in the Parks and Recreation (“PR”) Zone District. The following parcels, designated as Type 1 agricultural land, shall be maintained in the Agricultural Preserve (“AP”) Zone District: Assessor’s Parcel Numbers 86-281-07, 86-281-24. Type 1 land shall not be rezoned to any other zone district unless the Type 1 designation is first removed pursuant to SCCC 16.50.050.

(B) Santa Cruz County shall not approve land division applications for parcels within the Type 1 designation except where it is shown, pursuant to SCCC 13.10.315, that such divisions will not hamper or discourage long-term commercial agricultural operations.

(C) Santa Cruz County shall not approve or support expansion of sewer or water district boundaries, or expansion of municipal boundaries, onto Type 1 agricultural lands. [Ord. 4753 § 3, 2003; Ord. 4496-C § 93, 1998; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.075 Preservation of Type 2 agricultural lands.

(A) Lands designated as Type 2 agricultural land shall be maintained in the Commercial Agriculture (“CA”) Zone District, or if within an area designated as a timber resource, be maintained in the Timber Production (“TP”) Zone District, or if within a public park, be maintained in the Parks and Recreation (“PR”) Zone District. Type 2 land shall not be rezoned to any other zone district unless the Type 2 designation is first removed pursuant to SCCC 16.50.050.

(B) Santa Cruz County shall not approve land division applications for parcels with a Type 2 designation except where it is shown, pursuant to SCCC 13.10.315, that the viability of the land for commercial agricultural use will not be reduced by such land division. [Ord. 4753 § 3, 2003; Ord. 4496-C § 94, 1998; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.080 Preservation of Type 3 agricultural lands.

(A) Lands designated as Type 3 agricultural land shall be maintained in the Commercial Agriculture (“CA”) Zone District, or if within a timber resource, be maintained in the Timber Production (“TP”) Zone District, or if within a public park, be maintained in the Parks and Recreation (“PR”) Zone District. The following parcels, designated as Type 3 agricultural land, shall be maintained in the Agricultural Preserve (“AP”) Zone District: Assessor’s Parcel Numbers 46-021-05, 54-261-05, 57-121-25, 57-201-13. Type 3 land shall not be rezoned to any other zone district unless the Type 3 designation is first removed pursuant to SCCC 16.50.050.

(B) Santa Cruz County shall not approve land divisions for parcels within the Type 3 designation except where such land divisions meet the requirements set forth in SCCC 13.10.315.

(C) Santa Cruz County shall prohibit the placement of sewer or water lines, other than for agricultural use, on Type 3 agricultural land. Sewer transmission lines to and from the City of Watsonville sewage treatment plant and raw water transmission lines from North Coast sources to the City of Santa Cruz shall be exempt from this policy only if safeguards are adopted which assure that such facilities will not result in the conversion of Type 3 agricultural lands to nonagricultural uses. Such safeguards shall include, but not be limited to:

- (1) Deed restrictions to prohibit hookups to trunk lines through agricultural lands; and
- (2) Prohibit the levying of assessment fees against prime agricultural land for the construction of sewage transmission lines running through them.

(D) Santa Cruz County shall oppose the expansion of municipal boundaries which would include Type 3 agricultural land within municipal boundaries. [Ord. 4753 § 3, 2003; Ord. 4496-C § 95, 1998; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.085 Protection of noncommercial agricultural land.

(A) The division of land which is designated in the General Plan as agriculture land use but which is not designated as Type 1, Type 2 or Type 3 commercial land shall be permitted only to minimum parcel sizes in the range of 10 to 40 acres per parcel based on Chapter 13.14 SCCC pertaining to rural residential density requirements. Where the Agricultural Policy Advisory Commission confirms that such land is not viable for commercial agricultural use, land divisions may be permitted to minimum parcel sizes in the range of two and one-half to 20 acres per parcel based on Chapter 13.14 SCCC unless the parcel is surrounded to the extent of 50 percent or more by lands within one-quarter mile of the subject property designated in the General Plan as agricultural resource (commercial agricultural land) and/or mountain residential, all proposed building sites are not within one-half mile of a through County maintained road and adequate buffering cannot be provided between any proposed nonagricultural use and adjacent commercial uses, in which case the density shall stay at 10 to 40 acres per parcel.

(B) Land without a Type 1 or Type 2 designation may be divided from parcels with such a designation (including parcels subject to Land Conservation Act contracts) only when:

- (1) Potential use of the “removed” parcel will not adversely impact the agricultural activities of the larger area; and
- (2) There is little likelihood for subsequent intrusion of nonagricultural development into larger, exclusively agricultural areas; and
- (3) The “removed” property is at the edge of an agricultural area and is physically separated from the adjacent agriculture by topographic features, extensive vegetation, or physical structures; or the nonagricultural land is part of an agricultural parcel which exists separately from other agricultural areas; and
- (4) A cancellation petition is filed, prior to filing of the final map, for the “removed” parcel when the property is subject to a Land Conservation Act contract.

(C) The division of land designated for agricultural land use on the Local Coastal Program Land Use Plan but not designated as Type 3 agricultural land shall be permitted only to minimum parcel sizes in the range of 10 to 40 acres per parcel based on Chapter 13.14 SCCC pertaining to rural residential density requirements and only where:

- (1) It is documented that renewed or continued agricultural use of such land is not feasible; and
- (2) It is documented that such land does not meet the criteria for Type 3 agricultural land as defined in SCCC 16.50.040(C); and
- (3) It is shown that such division will not hamper or discourage long-term agricultural use of adjacent lands; and
- (4) Adequate building setbacks can be maintained to buffer adjacent agricultural activities; and
- (5) The owner and residents of the subject property have executed a hold harmless agreement with the adjacent agricultural operators and owners.

(D) Notwithstanding any other provision of this code, property inside the Coastal Zone with a minimum parcel size of 40 acres may have that portion of the land without a Type 3 designation divided from that portion with such a designation only when:

- (1) The division is for a public purpose on land in public ownership; and
- (2) Potential use of the “removed” parcel will not adversely impact the agricultural activities of the larger areas; and
- (3) There is little likelihood for subsequent intrusion of nonagricultural development into larger, exclusively agricultural areas; and
- (4) The “removed” property is at the edge of an agricultural area and is physically separated from the adjacent agriculture by topographic features, extensive vegetation, or physical structures; or the nonagricultural land is part of an agricultural parcel which exists separately from other agricultural areas. [Ord. 4753 § 3, 2003; Ord. 4416 § 25, 1996; Ord. 4406 § 25, 1996; Ord. 3845 § 2, 1987; Ord. 3602 § 2, 1984; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.090 Notification and disclosure statement requirements.

(A) A person who is acting as an agent for a transferor of real property which is located in the unincorporated portion of the County, or the transferor if he or she is acting without an agent, shall disclose to the acquiring party that:

Santa Cruz County has a strong rural character and an active historical agricultural sector. As a property owner or lessee you should be prepared to accept properly conducted agricultural practices that are allowed for in Federal, State and County laws and regulations, are consistent with accepted customs and standards, and are operated in a nonnegligent manner. Accepted agricultural practices that may cause inconveniences to property owners during any 24-hour period may include but are not limited to: Noise, odors, fumes, dust, smoke, pests, operation of farm equipment, storage and application and disposal of manure and the application of pesticides and fertilizers by ground or air. The County of Santa Cruz will not consider an agricultural practice to be a nuisance if implemented in accordance with Federal, State, and local law. Nothing herein is intended to limit rights under Federal, State, and local regulations governing pesticide use.

(B) The County Building Official shall require, prior to issuance of building permits for parcels within 200 feet of agricultural lands, as designated on the Agricultural Resources Map, either:

(1) Recordation of the following statement of acknowledgement by the owners of the property on a form approved by the Building Official:

The undersigned _____ do hereby certify to be the owner(s) of the hereinafter legally described real property located in the County of Santa Cruz, State of California: _____ and do hereby acknowledge that the property described herein is within 200 feet of land utilized for agricultural purposes and that residents or users of this property may be subject to inconvenience or discomfort arising from the use of agricultural chemicals, including pesticides and fertilizers; and from the pursuit of agricultural operations, including plowing, spraying, pruning and harvesting which occasionally generate dust, smoke, noise and odor. It is understood that the County has established a 200 foot agricultural setback on the herein described property to separate agricultural parcels and nonagricultural uses involving habitable spaces to help mitigate these conflicts. Any development on this property must provide a buffer and setback as specified in County Code.

And further acknowledge that Santa Cruz County has established agriculture as a priority use on productive agricultural lands, and that residents of adjacent property should be prepared to accept such inconvenience or discomfort from normal, necessary farm operations. The County of Santa Cruz will not consider an agricultural practice to be a nuisance if implemented in accordance with Federal, State, and local law. Nothing herein is intended to limit rights under Federal, State, and local regulations governing pesticide use.

This statement of acknowledgement shall be recorded and shall be binding upon the undersigned, any future owners, encumbrances, their successors, heirs or assignees. The statements contained in this statement of acknowledgement are required to be disclosed to prospective purchasers of the property described herein, and required to be included in any deposit receipt for the purchase of the property, and in any deed conveying the property.

Or

(2) Evidence that the above statement has been made part of the parcel deed.

(C) The County of Santa Cruz shall mail with the annual tax bill to all owners of real property in Santa Cruz County a copy of the following notification statement:

Santa Cruz County has a strong rural character and an active historical agricultural sector. As a property owner you should be prepared to accept properly conducted agricultural practices that are allowed for in Federal, State and County laws and regulations, are consistent with accepted customs and standards, and are operated in a nonnegligent manner. Accepted agricultural practices that may cause inconveniences to property owners during any 24-hour period may include but are not limited to: Noise, odors, fumes, dust, smoke, pests, operation of farm equipment, storage and application and disposal of manure and the application of pesticides and fertilizers by ground or air. The County of Santa Cruz will not consider an agricultural practice to be a nuisance if implemented in accordance with Federal, State, and local law. Nothing herein is intended to limit the rights of property owners under Federal, State, and local regulations governing pesticide use.

[Ord. 4753 § 3, 2003; Ord. 3750 § 1, 1986; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.095 Agricultural buffer setbacks.

(A) The purpose of the agricultural buffer setback requirements is to prevent or minimize potential conflicts between either existing or future commercial agricultural and habitable land uses (i.e., residential, recreational, institutional, commercial or industrial). This buffer is designed to provide a physical barrier to noise, dust, odor, and other effects which

may be a result of normal commercial agricultural operations such as: plowing, discing, harvesting, spraying or the application of agricultural chemicals and animal rearing.

(B) All development for habitable uses within 200 feet of the property line of any parcel containing Type 1, Type 2, or Type 3 commercial agricultural land shall:

(1) Provide and maintain a 200-foot buffer setback between Type 1, Type 2 or Type 3 commercial agricultural land and nonagricultural uses involving habitable spaces, including dwellings, habitable accessory structures and additions thereto; and commercial, industrial, recreational, or institutional structures, and their outdoor areas designed for public parking and intensive human use, except that if an existing legal dwelling already encroaches within the 200-foot buffer setback, proposed additions thereto, habitable accessory structures or private recreational facilities, none exceeding 1,000 square feet in size, shall be exempt from this subsection so long as they encroach no further than the existing dwelling into the buffer setback and an appropriate vegetative and/or other physical barrier for all existing and proposed development, as determined necessary, either exists or is provided and maintained. For the purposes of this section, outdoor areas designed for intensive human use shall be defined as surfaced ground areas or uncovered structures designed for a level of human use similar to that of a habitable structure. Examples are dining patios adjacent to restaurant buildings and private swimming pools. The 200-foot agricultural buffer setback shall incorporate vegetative or other physical barriers as determined necessary to minimize potential land use conflicts.

(2) Provide and maintain a buffer setback distance of at least 200 feet where the subdivision of land results in residential development at net densities of one or more dwelling units per acre adjacent to Type 1, Type 2, Type 3 commercial agricultural land, with vegetative screening or other physical barriers as appropriate.

(3) Comply with SCCC 16.50.090(C) and/or 14.01.407.5 pertaining to recording deed notices of adjacent agricultural use. Such deed notice shall contain a statement acknowledging the required permanent provision and maintenance of the agricultural buffer setbacks and any required barriers (e.g., fencing or vegetative screening).

(C) Outside of the Coastal Zone, notwithstanding the provisions of subsection (B) of this section, an agricultural buffer setback distance of less than 200 feet may be established for subdivision developments involving habitable uses on proposed parcels adjacent to lands designated as an agricultural resource by the County's General Plan maps; provided, that:

(1) The proposed land division site is:

(a) Located within the urban services line,

(b) Suitable for development at buildout level within the carrying capacity of the area; and

(2) The Agricultural Policy Advisory Commission (APAC) finds that one or more of the following special circumstances exist:

(a) Significant topographic differences exist between the agricultural and nonagricultural uses which minimize or eliminate the need for a 200-foot setback; or

(b) Permanent substantial vegetation (such as a riparian corridor or woodland permanently protected by the County's riparian corridor or sensitive habitat ordinances) or other physical barriers exist between the agricultural and nonagricultural uses which minimize or eliminate the need for a 200-foot setback; or

(c) The imposition of the 200-foot agricultural buffer setback would, in a definable manner, hinder: infill development or the development of a cohesive neighborhood, or otherwise create a project incompatible with the character and setting of the existing surrounding residential development; and

(3) APAC determines the need for agricultural buffering barriers based upon an analysis of the adequacy of the existing buffering barriers, the density of the proposed land division and the proposed setback reduction, in the event that APAC finds that one or more of the above special circumstances exist; and

(4) The approving body finds that the proposed reduction of the agricultural buffer setback(s) will not hinder or adversely affect the agricultural use of the commercial agricultural lands located within 200 feet of the proposed development.

(D) Notwithstanding the provisions of subsection (B) of this section an agricultural setback distance of less than 200 feet may be established for developments involving habitable uses on existing parcels of record when one of the following findings is made in addition to the required finding in subsection (E) of this section:

(1) Significant topographic differences exist between the agricultural and nonagricultural uses which eliminates or minimizes the need for a 200-foot agricultural buffer setback; or

(2) Permanent substantial vegetation (such as a riparian corridor or woodland protected by the county's riparian corridor or sensitive habitat ordinances) or other physical barriers exist between the agricultural and nonagricultural uses which eliminate or minimize the need for a 200-foot agricultural buffer setback; or

(3) A lesser setback distance is found to be adequate to prevent conflicts between the nonagricultural development and the adjacent agricultural development and the adjacent agricultural land, based on the establishment of a physical bar-

rier (unless it is determined that the installation of a barrier will hinder the affected agricultural use more than it would help it, or would create a serious traffic hazard on a public or private right-of-way) or the existence of some other factor which effectively supplants the need for a 200-foot agricultural buffer setback.

(4) The imposition of a 200-foot agricultural buffer setback would preclude building on a parcel of record as of the effective date of the ordinance codified in this chapter, in which case a lesser buffer setback distance may be permitted; provided, that the maximum possible setback distance is required, coupled with a requirement for a physical barrier (e.g., solid fencing and/or vegetative screening) to provide the maximum buffering possible, consistent with the objective of permitting building on a parcel of record.

(E) In the event that an agricultural buffer setback reduction is proposed and the proposed nonagricultural development is located on Type 1, Type 2 or Type 3 commercial agricultural land, the nonagricultural development shall be sited so as to minimize possible conflicts between the agricultural land use located on the subject parcel; and the nonagricultural development shall be located so as to remove as little land as possible from production or potential production.

(F) Notwithstanding the provisions of subsection (B) of this section, farm worker housing developments located on Type 1, Type 2, or Type 3 commercial agricultural land shall provide a buffer between habitable structures and outdoor areas designed for human use and areas engaged in agricultural production located on the same parcel. Said buffer shall be 200 feet if feasible; and if a 200-foot buffer is not feasible, then the maximum buffering possible shall be provided, utilizing physical barriers, vegetative screening and other techniques as appropriate.

(G) Proposals to reduce the required 200-foot agricultural buffer setback for additions to existing residential construction (dwellings, habitable accessory structures and private recreational facilities not otherwise exempted by subsection (B)(1) of this section) and for the placement of agricultural caretakers' mobile homes on agricultural parcels shall be processed as a Level 4 application by Planning Department staff as specified in Chapter 18.10 SCCC with the exception that:

(1) A notice that an application to reduce the buffer setback has been made shall be given to all members of the Agricultural Policy Advisory Commission at least 10 calendar days prior to the issuance of a pending action on an agricultural buffer determination; and

(2) Where a reduction in the buffer setback is proposed, the required notice of pending action shall be provided to the applicant, to all members of the Agricultural Policy Advisory Commission, to owners of commercial agricultural land within 300 feet of the project location, and to members of the Board of Supervisors, not less than 10 days prior to the issuance of the permit. There shall not be a minimum number of property owners required to be noticed; and

(3) Buffer determinations made by Planning Department staff are appealable by any party directly to the Agricultural Policy Advisory Commission. Such appeals shall include a letter from the appellant explaining the reason for the appeal and the current administrative appeal processing fee.

(H) All other proposals to reduce the agricultural buffer setback shall be processed as a Level 5 application as specified in Chapter 18.10 SCCC with the exception that:

(1) The required notice that an application has been made to reduce the agricultural buffer setback shall be provided only to owners of commercial agricultural land within 300 feet of the proposed project, not less than 10 days prior to the public hearing scheduled to consider the project. There shall not be a minimum number of property owners required to be noticed; and

(2) All determinations shall be made by the Agricultural Policy Advisory Commission at a scheduled public hearing.

(I) An agricultural buffer setback shall not be required for repair or reconstruction of a structure damaged or destroyed as the result of a natural disaster for which a local emergency has been declared by the Board of Supervisors, when:

(1) The structure, after repair or reconstruction, will not exceed the floor area, height or bulk of the damaged or destroyed structure by 10 percent; and

(2) The new structure will be located in substantially the same location, but no closer to the agricultural land than was the original structure. [Ord. 4921 §§ 26, 27, 2008; Ord. 4753 § 3, 2003; Ord. 4496-C § 96, 1998; Ord. 4311 § 1, 1994; Ord. 4284 § 1, 1993; Ord. 4037 § 3, 1989; Ord. 4030 § 5, 1989; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.100 Appeals.

(A) Any property owner or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Agricultural Policy Advisory Commission under the provisions of this chapter, may appeal the act or determination to the Board of Supervisors in accordance with Chapter 18.10 SCCC. For this purpose the procedure therein set forth is incorporated herein and made a part of this chapter.

(B) If any act or determination of the Agricultural Policy Advisory Commission in question is incorporated as part of the terms or conditions of a discretionary permit or other discretionary approval for which another appeal is provided, then

such act or determination of the Agricultural Policy Advisory Commission shall be considered as part of the appeal on the discretionary permit or other discretionary approval. Within the Coastal Zone, such appeals shall also be subject to the provisions of Chapter 13.20 SCCC pertaining to Coastal Zone permit procedures. [Ord. 4753 § 3, 2003; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.110 Agricultural Policy Advisory Commission hearing notices.

Notice of hearings held by the Agricultural Policy Advisory Commission pursuant to SCCC 16.50.050 shall be given in accordance with Chapter 18.10 SCCC, Level IV. [Ord. 4753 § 3, 2003; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

16.50.115 Violations.

It shall be unlawful for any person whether as owner, principal, agent or employee or otherwise to perform an action or allow a situation to continue that violates the provisions of this chapter or violates any conditions of agricultural buffer setback determinations required pursuant to this chapter. [Ord. 4753 § 3, 2003; Ord. 4392A § 27, 1996; Ord. 3750 § 2, 1986; Ord. 3447 § 1, 1983; Ord. 3336 § 1, 1982].

Chapter 16.52

TIMBER HARVESTING REGULATIONS

Sections:

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16.52.310	Appeals.

16.52.010 Purpose.

In the interest of the welfare of the people of Santa Cruz County and in view of the proximity of urban areas to the timberlands, the enactment of this chapter is necessary to protect and maintain the timberlands through regulation of timber harvesting. [Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.020 Policy.

It is the policy of the Board of Supervisors to encourage the continued production of forest products in compliance with performance standards which emphasize protection of environmental and open space values while fostering increased productivity of forest land, and to protect, maintain and improve the forest land of Santa Cruz County. [Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.025 Amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When an ordinance revision constitutes an amendment to the Local Coastal Program such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 SCCC and shall be subject to approval by the California Coastal Commission. [Ord. 3332 § 1, 1982].

16.52.030 Definitions.

Definitions in "Forest Terminology" published by the Society of American Foresters, 1958 Edition, shall apply unless the term is defined herein or the text clearly indicates otherwise:

"Ancient tree or forest" means any tree or group of trees over 200 years old.

"Commercial harvest" means designed for a market; traded, bartered, or sold for valuable consideration; not designed for use in the landowner's household or farm.

"Conversion" means the transformation of land from a timber growing use to a nontimber growing use.

"Cumulative impacts" refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

"d.b.h. (diameter breast height)" means the average diameter of a tree outside the bark at a point four and one-half feet above the average ground level.

"Forest product" means logs, poles, pilings, split products, chips, fuelwood and other solid wood products. Incidental vegetation, Eucalyptus firewood, firewood resulting from agricultural maintenance operations, Christmas trees and stumps are excluded unless the harvesting of these products could result in a threat to forest, air, water, or soil resources.

"Harvest area" means that area on which timber harvesting is conducted, including all that area where soil and/or vegetation has been disturbed or damaged.

"Landing" means that area where forest products are concentrated and loaded for transport.

"Lop" means to sever, crush, or spread slash so that no part of the slash remains more than 18 inches above the ground.

"Minor harvest" means a commercial harvest of any size which does not require a timber harvest plan approved by the California Department of Forestry and Fire Protection or a timber harvest permit from the County of Santa Cruz.

"Public road" means a County maintained road or State highway.

"Significant impact" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant impact on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.

"Slash" means split product material, branches, lumps, stems, or other debris resulting from current timber harvesting.

"Stream" means a watercourse designated by a solid line or dash and three dot symbol shown on the largest scale United States Geological Survey topographic map most recently published, as corrected. The map shall be corrected to reflect conditions as they actually exist on the ground and identify as a stream only that portion of any watercourse which:

- (1) Supports fish at any time of the year; or
- (2) Has a significant water flow at the time of timber harvesting; or
- (3) Has a well defined channel relatively free of debris.

"Timber" means trees of any species of sufficient size and quality to furnish raw material used in the manufacture of forest products.

"Timber harvesting" means the cutting, removal, or both, of timber or other forest products together with all the work incidental thereto, including road and firebreak construction; except preparatory work such as tree marking, surveying, and road flagging.

"Timber operator" means any person, copartnership, corporation, association, or contractor with a valid state issued timber operator's license that is engaged in timber harvesting, except a person who is engaged in timber harvesting as an employee whose sole compensation consists of wages.

“Timber owner” means any person, copartnership, corporation, or association that owns timber or timber rights.

“Timberland owner” means any person, copartnership, corporation, or association that owns land which is growing timber.

“Tractor road” means a road constructed to move a forest product to a landing.

“Tractor trail” means a path created by moving a forest product to a landing.

“Truck road” means a road other than a public road used by trucks to transport logs and other forest products.

“Waterbreak” means a ditch, dike, dip or combination thereof, constructed to divert water effectively as an aid to erosion prevention.

“Watercourse” means a channel through which water flows below the high water mark of the flow. [Ord. 4301 § 2, 1994; Ord. 3332 § 1, 1982; Ord. 3167, 1981; Ord. 3155, 1978; Ord. 2353, 1976; Ord. 2605, 1978].

16.52.031 Exclusions.

The following operations are exempt from the provisions of this chapter, but remain subject to all other applicable sections of the Santa Cruz County Code. Inside the Coastal Zone, tree removal described by subsections (A), (B) and (D) of this section may require a significant tree removal permit as specified in Chapter 16.34 SCCC. Ancient trees may not be removed under any of these exclusion categories. Any property or timber owner proposing to cut ancient trees must file a timber harvesting notice.

(A) Removal of no more than five trees. This exclusion may be used only once within any five-year period on any parcel.

(B) Any trees within 30 feet of a permanently located structure currently maintained for human habitation.

(C) Removal of orchard trees.

(D) Removal of the following invasive species: Blue gum Eucalyptus (*Eucalyptus globulus*), Green Wattle (*Acacia decurrens*).

(E) Tree removal necessary to exercise a County issued building permit, development permit or other discretionary approval. The number of trees cut under this subsection may not exceed the minimum number necessary to carry out the permitted action. [Ord. 4301 § 3, 1994].

16.52.035 Notification required.

Excepting commercial timber harvesting under the exclusive jurisdiction of the California Department of Forestry and Fire Protection, any person proposing to engage in commercial timber harvesting must first file a timber harvesting notice with the Planning Director. The purpose of the timber harvesting notice is to allow the Planning Director to determine if the harvest proposal is subject to the provisions of this chapter or any other ordinances or policies of the County of Santa Cruz.

(A) No person shall engage in commercial timber harvesting without first preparing, filing and receiving approval of a “timber harvesting notice” unless a timber harvesting permit has been obtained from the County or, if the California Department of Forestry and Fire Protection has exclusive jurisdiction, for which a timber harvest plan has been approved.

(B) Contents of Timber Harvesting Notice. The timber harvesting notice shall include sufficient information so that the Planning Director can determine whether the operation is acceptable as submitted, requires a minor timber harvest permit or is not acceptable. At a minimum, all of the following information is required:

(1) A statement explaining the specific purpose(s) of the harvest.

(2) A map of the property with the harvest area(s), existing roads, tractor trails and landings, watercourses, property lines and structures clearly delineated.

(3) Name, address, mailing address and phone number of the landowner and timber owner (if different than property owner), timber operator and license number, assessor’s parcel number(s) for the area(s) proposed to be harvested.

(4) Approximate number, size and type of trees to be cut.

(5) Type of equipment to be used, including haul trucks.

(6) How much land clearing and grading is proposed, if any.

(7) Signature of legal property owner and timber owner, if different from property owner.

(8) Proposed haul route.

(9) Schedule of operations.

(10) Disclosure of the domestic water source for the parcel on which the harvest is proposed.

(11) A statement certifying that the public notification requirements of SCCC 16.52.039 have been met.

(C) Filing of Timber Harvesting Notice. The timber harvesting notice shall be filed with the Planning Director. A filing fee, set by resolution of the Board of Supervisors, shall be submitted with the notice. The filing fee shall not exceed the

actual costs of processing the application. Such fees may only be changed by resolution of the Board of Supervisors, following a noticed public hearing. [Ord. 4301 § 4, 1994; Ord. 3332 § 1, 1982].

16.52.036 Action on timber harvesting notice.

Timber harvesting notices shall be processed in accordance with the following procedures:

(A) Upon receipt of the timber harvesting notice, staff shall, within 10 working days, determine whether the proposal complies with all applicable County ordinances and policies, will not result in significant adverse environmental impacts, either individually or cumulatively, and will not reasonably be expected to require County oversight during operations.

(B) Within this 10-working-day period, a determination shall also be made as to whether field review by staff is necessary. Site conditions which may warrant field review include, but are not limited to, the presence of any of the following on or near the operations area: riparian areas, mapped sensitive habitats, rare or endangered species, mapped unstable areas, slopes greater than 40 percent, dense residential development and mapped archaeological or historic sites.

(C) If all conditions in subsection (A) of this section are met and site conditions do not warrant field review pursuant to subsection (B) of this section, the applicant will be sent a notice of approval of the timber harvesting notice and a list of applicable County ordinances and policies. The notice of approval shall be mailed to the applicant within five working days of the determination that the permit may be issued without further conditions.

(D) Conditions may be attached to the approved timber harvesting notice to bring it more fully into compliance with subsection (A) of this section. Such requirements may include, but not be limited to: application for other County permits or approvals; application for permits or approvals from other agencies, such as the California Department of Fish and Game; or modifications to the proposed operation to reduce impacts.

(E) Harvesting operations conducted pursuant to an approved timber harvesting notice must comply with all applicable technical and administrative sections of this chapter.

(F) The approval of a timber harvesting notice exempts the specific timber harvest solely from the sections of this chapter relative to obtaining a minor timber harvest permit or timber harvest permit, and is not intended to exempt the harvest from any other provision of this chapter, other relevant sections of the County Code or the State of California Forest Practices Act, whichever takes precedence.

(G) If the Planning Director determines that all the conditions in subsection (A) of this section are not and cannot reasonably be met, the applicant shall be notified in writing that the harvest is not allowable and operations may not commence.

(H) If the Planning Director determines all the conditions in subsection (A) of this section may be met but that field review is needed or that County oversight will be necessary during operations, the applicant shall be notified in writing that an application for a minor timber harvest permit is required. [Ord. 4301 § 5, 1994].

16.52.037 Application for a minor timber harvest permit.

Applications for minor timber harvest permits shall be filed with the Planning Director. Applications shall be processed in accordance with the requirements of Chapter 18.10 SCCC, Level III and shall include the following:

(A) Two copies of all that information required to be filed for the timber harvesting notice.

(B) After review of the material submitted with the timber harvesting notice by the Planning Director, additional or clarifying information may be requested to ensure the provisions of this chapter are met. Such material may include, but not be limited to: topographic detail, drainage or erosion control details, technical studies and property deeds.

(C) An additional filing fee, set by resolution of the Board of Supervisors, shall accompany the application. [Ord. 4301 § 6, 1994].

16.52.038 Action on minor timber harvest applications.

Minor timber harvest permit applications shall be processed in accordance with the following procedures:

(A) Upon receipt of the application, the Planning Director shall, within 10 working days, review the application for completeness and determine whether the application is in compliance with all applicable County ordinances and policies, the provisions of this chapter and does not result in significant adverse environmental impacts, either individually or cumulatively.

(B) If, after review, it is determined that all of the conditions in subsection (A) of this section are met, the permit shall be issued. The notice of approval shall be mailed within five working days of the date that this determination is made.

(C) Conditions may be attached to the minor timber harvest permit to bring it into compliance with subsection (A) of this section. Such requirements may include, but not be limited to: application for other County permits or approvals;

application for permits or approvals from other agencies, such as the California Department of Fish and Game; or modifications to the proposed operation to reduce impacts.

(D) If the Planning Director determines that all the conditions in subsection (A) of this section are not and cannot reasonably be met, the applicant shall be notified in writing that the harvest is not allowable and operations may not commence.

(E) Harvesting operations conducted pursuant to an approved minor timber harvest permit shall comply with all applicable technical and administrative sections of this chapter. [Ord. 4301 § 7, 1994].

16.52.039 Public noticing.

Public notice shall be required for timber harvesting notices and minor timber harvest permit applications. The intent of the noticing is to provide information to adjacent residents about the approved operation.

(A) The notice form shall be at least eight and one-half inches by 11 inches and shall contain the following information:

- (1) The name of the landowner.
- (2) The name and phone number of the County staff member handling the application.
- (3) The application number.
- (4) Identification of the property, including a map which describes the nearest cross streets and roads, where the operations are proposed. This identification must be an address or assessor's parcel number.

(5) A description of the proposed operation, including amount and location of timber to be cut; harvesting methods to be used, including the listing of any heavy equipment, haul route, approximate number of loads to be removed and schedule of operations.

(6) The notice shall be sent to the water purveyor supplying water to the parcel upon which timber operations are proposed.

(B) The notice shall be posted on site by the applicant in accordance with current County procedures. Posting shall occur in at least four locations, including, but not necessarily limited to, the following:

- (1) At the location where the haul road enters the property.
- (2) Along the haul route at no less than one-half mile intervals, until the haul route joins a publicly maintained road. An additional notice shall be placed at said intersection.

(3) At any location(s) along the perimeter of the property on which operations will take place, where the operation will be easily visible from adjoining, inhabited parcels; except that notices are not required to be posted at less than 500-foot intervals.

(C) Posting of the notices shall coincide with submission of a timber harvesting notice or application for a minor timber harvest permit to the County. The timber harvest notice or minor timber harvest permit application shall contain a statement certifying that these notices have been posted.

(D) The notices shall remain posted until operations and final site cleanup are completed. [Ord. 4301 § 8, 1994].

16.52.040 Permit required.

No person shall engage in timber harvesting of greater than three acres areal extent without first obtaining a timber harvesting permit from the County. [Ord. 3332 § 1, 1982; Ord. 3155, 1981].

16.52.045 Permit expiration.

Permits issued April 1st through July 31st shall terminate April 1st of the following year. Permits issued between August 1st and March 31st shall terminate one year from the first April 1st after permit approval. Permits for harvests approved pursuant to SCCC 16.52.035 through 16.52.038, inclusive, shall expire one year from date of issuance. [Ord. 4301 § 9, 1994; Ord. 3332 § 1, 1982; Ord. 3155, 1981; Ord. 2665, 1979].

16.52.050 Application.

A County timber harvesting permit application shall be prepared by a registered professional forester and filed jointly by the timberland owner, timber owner and, if known, licensed timber operator. If not known at the time of filing, the information pertaining to the timber operator shall be submitted prior to commencement of timber harvesting. A timber operator may not become a party to a permit if he is ineligible for a permit. At the discretion of the Planning Director, applications for smaller timber harvesting operations need not be prepared by a registered professional forester.

(A) The information required shall be limited to that which is necessary to evaluate the proposed timber harvesting operation and to enforce the provisions of this chapter. An accurate topographic map having a true scale of one inch equals not more than 1,000 feet shall accompany the application.

(B) Prior to submission of an application, truck roads, landings, bridges and culverts shall be designated in the field by flagging or other means so their location readily may be determined. Property lines also shall be so designated where a truck road is proposed within 100 feet of the property line. [Ord. 4301 § 10, 1994; Ord. 3332 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2353, 1976].

16.52.060 Variances.

A request for a variance from the provisions of this chapter, the permit conditions, or the plan specifications may be approved, conditionally approved, or denied. A request for a variance must state the requirement which is to be varied from, the proposed substitute provision, when it would apply and its advantages.

(A) General Variance. A variance must provide for equal or greater silvicultural or protectional management of the land than is provided by this chapter.

(B) Truck Road Variance. When there is no feasible access for timber harvesting which conforms with this chapter, the truck road location may be approved or conditionally approved if:

(1) The truck road will not adversely affect the stability of, or cause earth to be deposited on, property owned by others; and

(2) The truck road will be located and constructed to utilize the general contour of the land to reduce earth movement and minimize erosion, landsliding and water contamination.

(C) Permit Modification. After a permit has been granted, modifications which are in conformance with the provisions of this chapter, and substantially in conformance with the conditions of the permit, may be approved by the Planning Director. All other variances must be considered by the Planning Commission. Modification requests considered by the Planning Commission shall be accompanied by a nonrefundable fee as established by resolution of the Board of Supervisors. [Ord. 3332 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2353, 1976].

16.52.070 Permit issuance.

An application for a timber harvesting permit may be approved, conditionally approved or denied.

(A) Review of Application. Upon receipt of a timber harvest application, staff shall review the application for accuracy and completeness as required by this chapter. Within 15 working days after receipt of the application, the applicant shall be notified in writing if the application is inaccurate or incomplete. If the application is found to be inaccurate or incomplete, the application shall be returned to the applicant with a description of the deficiencies.

If no EIR or additional reports are required, the County Forester shall have 45 days from the date an application is found to be accurate and complete to take action on the application. If an EIR or additional report is required, the County Forester shall have 45 days after receipt of the EIR or report to take action on the application. "Taking action on the application" means one of the following:

(1) Administrative Permits. Recommending to the Director that the application be approved, conditionally approved, denied, or referred to the Planning Commission.

(2) Planning Commission. Scheduling the application for the first available Planning Commission hearing. The applicant shall be notified in writing prior to the end of the 45-day period of the date and time when the application will be heard before the Planning Commission.

(B) Action by Director. Following environmental review, the Director may consider or refer to the Planning Commission a timber harvesting permit application if either:

(1) The harvest volume is 1,500,000 board feet or less, Scibner Decimal C short log scale, or measure of equivalent volume on lands zoned TP; or

(2) The harvest is 500,000 board feet or less, Scibner Decimal C short log scale, or measure of equivalent volume on lands not zoned TP.

At least 10 business days before issuance of a permit, the Director shall mail notice requesting specific comments, if any, to all persons owning property adjoining the parcel for which a permit is being considered. A display ad will be placed in a newspaper of general circulation for public notification.

(C) Action by Planning Commission. Permits which cannot be issued by the Director and permits or renewals which are referred to the Planning Commission by the Director may be considered only after a public hearing. In addition to the procedures for notification of public hearings, the owners of property adjoining the truck road also shall be notified. [Ord. 4496-C § 97, 1998; Ord. 3332 § 1, 1982; Ord. 2800, 1979; Ord. 2506, 1977; Ord. 2353, 1976].

16.52.080 Permit renewal.

The Planning Director may approve, deny, or refer to the Planning Commission any request for renewal of a timber harvest permit, except that harvest approvals granted under SCCC 16.52.035 through 16.52.038, inclusive, are not eligible for renewal. A renewal shall be for the purpose of securing additional time to complete the period. Renewal requests must be received by March 1st of the year of expiration. A renewal is not effective until approved in writing. [Ord. 4301 § 11, 1994; Ord. 3332 § 1, 1982; Ord. 2665, 1979; Ord. 2506, 1977; Ord. 2353, 1976].

16.52.090 Permit denial.

A permit or notice may be denied for any of the following reasons:

- (A) An application is not filed by the proper party or parties.
- (B) A material misrepresentation or false statement is contained in the application.
- (C) An applicant is a permittee to a timber harvesting permit where a violation of this chapter exists on the date of consideration or renewal. The permittee must have been notified in writing of the violation and given a reasonable opportunity for correction.
- (D) Refusal to allow inspection of the harvest area by the County.
- (E) Specifications in the application do not meet the provisions of this chapter.
- (F) Timber harvesting is preparatory to conversion of the property to a use which has not been approved by the County.
- (G) The Planning Director determines that timber harvesting would reduce the timber density to a level where the productivity of the land is jeopardized or would cause a reduction in the timber canopy which would create a threat to soil and/or water resources, contrary to the principle of good forestry and the purpose and policy of this chapter.
- (H) Granting the permit is deemed to be contrary to the public health, safety, or general welfare or to the purpose and policy of this chapter.
- (I) If a harvest is likely to produce significant adverse environmental impacts when considered together with other harvests and/or other activities such as grading or land clearing, either recently completed, currently under way or expected in the reasonably foreseeable future, or if the harvest will violate any provision of the County Code.
- (J) If the operation is a minor timber harvest and is adjacent to or within one-quarter mile of another commercial harvest on lands owned wholly or in part by the same owner or owners as the property for which the minor timber harvest is proposed. [Ord. 4301 § 12, 1994; Ord. 3332 § 1, 1982; Ord. 2820, 1976].

16.52.095 Effective date of permit approval or denial.

Operations may commence according to the following criteria:

- (A) A denial or approval of a timber harvesting permit shall be effective on the fifth business day following the date of decision, unless an appeal has been filed in accordance with the procedure prescribed in this chapter.
- (B) A denial of a timber harvesting notice or minor timber harvest permit shall be effective immediately, but may be appealed according to the provisions of Chapter 18.10 SCCC. [Ord. 4301 § 13, 1994; Ord. 3332 § 1, 1982; Ord. 2820, 1976].

16.52.100 Special conditions.

Special conditions necessary to carry out the purpose and policy of this chapter may be added to a permit when it is determined that the application presents an unusual situation or circumstance which is not adequately regulated by this chapter. [Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.110 Responsibility for compliance.

At the time of issuance of the permit, the applicants shall become jointly and individually the permittees and shall be responsible for compliance with the provisions of this chapter, special conditions, and any variance granted. All information contained in the timber harvesting permit application, and not in conflict with this chapter, shall become part of the permit. If a registered professional forester was required to prepare the timber harvest permit application, then he or a registered professional forester designated by the permittee, as his replacement, shall be responsible for the supervision of the timber harvesting operation to assure compliance with the permit conditions and the purpose, policy, and provisions of this chapter. [Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.120 Fees.

Application fees and inspection fees shall be set by resolution of the Board of Supervisors. Documents submitted to the Director for the computation of inspection fees shall be confidential. [Ord. 3332 § 1, 1982; Ord. 2665, 1979; Ord. 2353, 1976].

16.52.130 Sureties.

A timber harvesting permit shall not be valid and timber harvesting shall not commence until the required sureties have been provided.

(A) Timber Operator's Surety. A cash deposit, bond or equivalent surety payable to the County in an amount not exceeding \$7,500 per 100 acres of harvest area, or portion thereof, is required when deemed necessary to insure compliance with the provisions of this chapter and any special conditions. The surety shall remain in effect through April 1st of the year following the completion of timber removal from the harvest area under permit. Should the timber operator fail to correct any violation within a reasonable time following receipt of written notification to do so, the County may correct the violation and charge all reasonable costs against the timber operator's surety.

(1) Blanket Surety. In lieu of posting individual sureties for each timber harvest permit pursuant to subsections (A) and (C) of this section, the County may accept blanket surety in an amount sufficient to cover projected operations during the ensuing calendar year. Such surety shall be supplemental at any time the amount posted is not sufficient to cover the permits actually issued and shall remain in effect as provided herein.

(B) Timberland Owner's Surety. A cash deposit, bond or equivalent surety payable to the County in an amount not exceeding \$1,500 per 100 acres of harvest area, or portion thereof, is required when deemed necessary to insure compliance with the provisions of this chapter and any special conditions. The surety shall remain in effect through the first two years following the timber operator's period of responsibility. Should the timberland owner fail to correct any violation within a reasonable time following receipt of notification to do so, the County may correct the violation and charge all reasonable costs against the timberland owner's surety.

(C) Additional Surety. Additional cash deposits, bonds or equivalent sureties payable in an amount not exceeding that specified in subsections (A) and (B) of this section may be required when deemed necessary to insure compliance with any special conditions on a permit. Additional sureties shall remain in effect as provided in said subsections (A) and (B) of this section.

(D) Sureties may be required for operations approved pursuant to SCCC 16.52.035 through 16.52.039, inclusive, and shall not exceed \$1,000 per acre. [Ord. 4301 § 14, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.140 Inspection of harvest area.

The County shall inspect the harvest area to ensure compliance with this chapter and any special conditions. Upon completion of any inspection, the permittees shall be given written notice of any violations for correction thereof. [Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.150 Permission to enter harvest area.

The filing of an application for a timber harvesting permit, timber harvesting notice or minor timber harvest permit constitutes a grant of permission for the County to enter the harvest area for the purpose of administering this chapter from the date of the application to the termination of the erosion control maintenance period. If necessary, the County shall be supplied with a key and lock combination or permitted to install a County lock. County staff shall make a reasonable effort to schedule a site visit with the property owner. [Ord. 4301 § 15, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.160 Notice of completion.

Within one month following completion of timber harvesting on the harvest area under permit or notice, excluding erosion control maintenance, a written notice of completion shall be filed with the County. The County shall then inspect the harvest area and provide the permittees with a written report of the inspection. [Ord. 4301 § 16, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.170 Applicable laws and regulations.

(A) All provisions of the following are incorporated herein by reference and shall apply to all timber harvesting operations unless stricter provisions are contained in this chapter:

- (1) State Forest Practice Act and applicable rules.
- (2) State Fish and Game Code.

- (3) State Fire Laws.
- (4) Porter Cologne Water Quality Control Act.
- (5) Monterey-Santa Cruz Air Pollution Control District Rules and Regulations.
- (6) All other applicable Federal, State, and local law and regulations.

(B) Grading related to a timber harvest permit and in conformance with the provisions of this chapter is exempt from the County grading ordinance. No grading is allowed for operations approved under timber harvesting notices or minor timber harvest permits unless the appropriate permits are obtained.

(C) Timber harvesting operations in conformance with the provisions of this chapter are exempt from the provisions of the County water quality control ordinance, except that operations approved under timber harvesting notices or minor timber harvest permits must comply with said ordinance.

(D) Grading work, installation of facilities or construction of improvements completed under the provisions of this chapter will not necessarily be considered existing for the purposes of other sections of the County Code, unless the grading work, installation of facilities or construction of improvements comply with the applicable code section(s) at the time of completion. [Ord. 4301 § 17, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.180 General harvesting specifications.

(A) Archaeological sites, historical sites, nesting sites for birds of prey or aquatic birds, habitats of rare and endangered species, designated by the County, shall be protected. In the event an archaeological site is discovered during the course of timber harvesting, the County shall be notified and work in the immediate area halted pending prompt evaluation of the site and determination of the protective measures to be taken.

(B) Diligent care shall be exercised in timber harvesting to minimize damage to soils, leave trees, young growth, reproduction, and other vegetation.

(C) Solid nonforest refuse resulting from timber harvesting shall be removed from the harvest area concurrently with timber harvesting. Equipment shall not be serviced where petroleum products could pass into a watercourse.

(D) The hours of specific timber harvesting operations may be regulated when the noise of such operations will create a serious public nuisance.

(E) Operation of trucks, tractors, and similar heavy equipment within the harvest area between October 15th and the following April 15th is prohibited unless authorized in writing. Authorization may be granted only when conditions are such that the operation will not cause excessive damage. Authorization may be conditional. Authorization may be revoked at any time either by phone, in person, or in writing. Once revoked, such authorization may be reinstated only in writing. On such operations, necessary erosion control facilities shall be installed and/or maintained concurrently with timber operations on a daily basis.

(F) Hauling on public roads shall conform with all applicable traffic regulations and the following requirements:

- (1) Hauling is not permitted on Saturday, Sunday, and national holidays.
- (2) The haul route specified in the timber harvesting application shall be modified as required if it is determined that use of the route presents a serious traffic hazard and a reasonable alternative route is available.
- (3) Special traffic signs and/or flagmen may be required when necessary to prevent a serious traffic hazard.
- (4) The haul route and/or time of use may be reasonably restricted when necessary to prevent a serious hazard to school buses or serious interference with commute traffic.

(G) Along public roads where the ground surface could be readily visible following timber harvesting, the County may designate a visual impact area which shall not exceed in square feet a total area calculated by multiplying the length of the harvest area road frontage by 100. Within the visual impact area, the County may:

(1) Designate those conifer trees to be left uncut provided the allowable cut includes at least 30 percent of the gross conifer volume, but does not exceed 30 percent of the conifer trees 18 inches d.b.h. and larger.

(2) Designate those hardwood trees to be left uncut provided the allowable cut does not exceed 50 percent of the hardwood trees four inches d.b.h. and larger.

(3) Require tractor roads to be flagged for approval.

(H) The County Forester may recommend to the Planning Director, or the Planning Commission, that certain trees be designated in the permit or notice as leave trees when they have a special natural or historical significance or because they are a unique and valuable habitat for wildlife.

(I) Trees to be cut near streams may be required to be marked for County approval prior to cutting.

(J) Operations approved pursuant to SCCC 16.52.035 through 16.52.038, inclusive, must comply with all other applicable County ordinances and policies. [Ord. 4301 § 18, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.190 Cutting specifications.

(A) Timber harvesting, except as approved for stand improvement, shall be limited to a minimal interval of 10 years and shall meet the following stocking requirements prior to reharvesting.

(1) The harvest area under consideration shall be deemed adequately stocked if the area contains an average point count of 600 per acre, to be computed as follows:

- (a) Each countable tree which is not more than four inches d.b.h. to count as one.
- (b) Each countable tree over four but not more than 12 inches d.b.h. to count as three.
- (c) Each countable tree over 12 inches d.b.h. to count as six.

(2) Redwood root crown sprouts will be counted using the average stump diameter one foot above average ground level of the original stump from which the redwood root crown sprouts originate, counting one sprout for each foot of stump diameter to a maximum of six per stump.

(3) Rock outcroppings, meadows, wet areas, or other areas not normally bearing timber shall not be considered as requiring stocking and are exempt from such provisions.

(4) The stocking requirements shall apply to conifer stocking when a conifer harvest is being considered, or to hardwood stocking when a hardwood harvest is being considered.

(5) The stocking standard (Section 4561 Public Resources Code) as defined in the Z'Berg-Nejedly Forest Practice Act of 1973 (Division 4, Chapter 8, Public Resources Code) shall be met immediately upon completion of timber harvesting.

(6) Stocking shall be determined in accord with the "Standardized Stocking Sampling Procedures" as found in Title 14, California Administrative Code, Sub-Chapter 4.1, Chapter 2, Division 2, Article 6.

(B) Conifer leave trees shall include at least 50 percent of those live conifer trees 18 inches d.b.h. and larger and 60 percent of those live conifer trees 12 inches d.b.h. to 18 inches d.b.h. No conifer tree shall be cut which is less than 12 inches d.b.h. or more than 75 feet from a conifer leave tree 18 inches d.b.h. or larger located within the harvest area, except as approved for stand improvement.

(C) Hardwood leave trees shall include at least 50 percent of those live hardwood trees four inches d.b.h. and larger and 60 percent of those live hardwood trees less than four inches d.b.h. No hardwood tree shall be cut which is more than 75 feet from a hardwood leave tree four inches d.b.h. or larger or a conifer leave tree 12 inches d.b.h. or larger located within the harvest area, except as approved for stand improvement.

(D) Leave trees as required in subsections (B) and (C) of this section shall be thrifty, vigorous trees and well-formed crowns free from damage caused by the logging operation.

(E) Leave tree stand density shall reflect the general before harvest density reduced by a factor not exceeding the allowable cut.

(F) Trees shall be felled away from public roads, in line with skidding direction to the fullest extent possible that topography, lean of tree, local obstructions and safety permit, with minimum damage to leave trees and reproduction. Trees shall not be felled into streams.

(G) Trees with evidence of use as nesting sites by raptors, waterfowl, or rare or endangered wildlife shall be left uncut.

(H) The cutting limitations of this chapter shall not prohibit the cutting or removal of trees for truck roads and landings.

(I) Removal of hardwood trees from a predominant conifer stand to promote growth of the conifer trees may be approved.

(J) Plantations on nonforest land approved by the Planning Commission for the production of forest products are exempt from the cutting limitations of this chapter.

(K) The cutting of trees located within a distance equal to their height from a permanently located structure currently maintained for human habitation, or within said distance from the location of a structure approved for construction under a valid building permit and where the owner of the structure is the owner of the land upon which the operation is to be conducted or if not, where the owner of the structure has given his written consent, shall be exempt from the cutting limitations of this chapter. Operations pursuant to this subsection may constitute a conversion and be subject to the provisions of SCCC 16.52.195.

(L) The cutting of ancient trees or ancient forests is prohibited unless the tree(s) pose a threat to health and safety as verified by County staff. A report by an arborist or registered professional forester may be required as supporting documentation prior to the removal of any ancient tree. [Ord. 4301 § 19, 1994; Ord. 3332 § 1, 1982; Ord. 3155, 1981; Ord. 2353, 1976].

16.52.195 Minor conversions.

Minor conversions are conversions of three acres or less and are evaluated by the County within the regulatory process administered by the Department of Forestry under the authority granted in the California Code of Regulations Section 1104(a)(4). The Department of Forestry requires that applications for these timber operations include a signed and dated statement from the County certifying that the conversion is in conformance with all local regulatory requirements. Certification to the Department of Forestry shall be subject to the following:

(A) Minor conversions are allowed only for bona fide reasons. A bona fide reason is any use allowed by the zoning designation of the property or cutting required to remove hazardous trees. For residential building permits, any of the trees within 30 feet of the house may be cut.

(B) The Planning Director shall require proof of the bona fide purpose prior to certifying that the proposal conforms to County regulations. Such proof may include, but not be limited to, an issued building or development permit, an operations and maintenance plan for an agricultural use or a plan for the proposed use. The number of trees cut may not exceed the minimum number necessary to carry out the permitted action.

(C) Minor conversions are prohibited within riparian corridors or other sensitive habitats, unless a riparian exception or other applicable County permit has been obtained.

(D) The cutting of ancient trees or ancient forests is prohibited unless the tree(s) pose a threat to health and safety as verified by County staff. The staff may consult with a licensed timber operator in determining how to exercise its discretion under this subsection. In addition, a report by an arborist or registered professional forester may be required as supporting documentation prior to the removal of any ancient tree.

(E) Minor conversions are prohibited which would adversely affect historical or archaeological sites, unless the minor conversion is associated with an issued building or development permit.

(F) Minor conversions for the purposes of creating or providing access to a building site shall not be allowed until the building permit is issued. Conversely, if a land development or building permit has been issued, a minor conversion may be undertaken according to the approved development plan.

(G) The provisions of SCCC 16.22.080, Land clearing approval, shall apply to minor conversions.

(H) Penalties for the fraudulent use of this section in order to harvest timber may include, but not be limited to, civil penalties, a fine equal to the value of the timber removed, recordation of a notice of violation or the requirement to complete the proposed reason for the conversion.

(I) Minor conversions shall not be subject to the provisions of SCCC 16.52.035.

Note: In addition, during any period of time that the court order which prohibits the State from processing exemptions is in place, SCCC 16.52.035 through 16.52.038 shall not be operative. [Ord. 4344 § 20, 1994; Ord. 4301 § 20, 1994].

16.52.200 Water quality protection.

(A) Truck and tractor roads, tractor trails and landings shall be permitted only where there is a protective strip between such facilities and a stream. The strip shall have sufficient filter capacity to prevent significant degradation of stream water quality. If it is determined that the filter capacity of the protective strip is insufficient, additional erosion control may be required, including but not limited to the following:

- (1) Increased width of the protective strip.
- (2) Decreased interval between waterbreaks.
- (3) Treatment of the traveled surface.
- (4) Treatment of fill slopes.
- (5) Installation of down drains.
- (6) Seeding or planting of bare soil.
- (7) Installation of obstructions between the toe of the fill and the stream.

(B) No earth or organic material shall be deposited or placed where it may enter a stream, marsh, or body of standing water in a quantity deleterious to wildlife, aquatic life, or other beneficial uses of the water.

(C) The design, location and installation of bridges and culverts shall be subject to approval.

(D) Bridges and culverts, together with associated fill material not designed to pass the water flow from the estimated 100-year maximum frequency storm, shall be removed upon completion of timber harvesting, before significant rain, but not later than October 15th of each year, and not replaced prior to April 15th of the following year.

(E) If water flow can be expected during use of a watercourse crossing or during the time fill material is in a crossing, a bridge or culvert shall be installed concurrently with construction of the crossing. Such bridge or culvert shall be adequate to pass the anticipated flow without causing significant degradation of water quality.

(F) Stream crossing structures shall be designed and installed to permit the passage of fish if the stream supports fish at the crossing during the time the crossing structure is in place.

(G) Streams shall be kept free of slash. Watercourses shall be kept free of slash which might cause or contribute to accelerated erosion, blockage of fish movement or other deleterious effects.

(H) Nonmerchantable riparian and/or aquatic vegetation shall be protected from unreasonable damage.

(I) Sufficient canopy shall be retained to prevent an increase in stream water temperature to that extent which is deleterious to wildlife, aquatic life or other beneficial uses of the water.

(J) The water flow from perennial springs shall not be diminished to the detriment of wildlife or human use.

(K) Grading requiring permits, or the emplacement of culverts, bridges or other crossings, is not allowed in conjunction with harvests approved pursuant to SCCC 16.52.035 through 16.52.038, inclusive, unless the appropriate permits are obtained. [Ord. 4301 § 21, 1994; Ord. 3332 § 1, 1982; Ord. 3155, 1981; Ord. 2353, 1976].

16.52.210 Erosion control specifications.

(A) Water flow shall be directed and/or dissipated to control erosion.

(B) All required permanent drainage structures shall be installed concurrently with the construction or reconstruction of truck roads. Waterbreaks, berms or measures providing equivalent protection shall be established on all truck and tractor roads, tractor trails, landings and the like immediately upon completion of use and before significant rain, but not later than October 15th. Equivalent protection requirements may include, but are not limited to, the following:

(1) Covering exposed soil with slash or similar material.

(2) Outsloping to effectively divert water flow.

(3) Treating the traveled surface.

(4) Installing inside ditches with cross culverts.

(C) Berms not needed to control erosion shall be breached or removed.

(D) All side-cast and fill material exceeding five feet in slope length shall be seeded within 15 days following the first significant rain, but not later than October 15th.

(E) Waterbreaks and dips shall be:

(1) Located in areas with minimal fill and sidecast material.

(2) Designed to divert surface water from the traveled surface.

(3) Flagged for approval prior to construction when necessary to determine that the location and design are in conformance with this chapter.

(4) Cut a minimum of six inches into the firm soil and shall have a continuous firm embankment of at least six inches in height immediately adjacent to the lower edge of the waterbreak cut, and constructed so they will not be rendered ineffective by the passage of vehicles.

(5) Constructed at all watercourse crossings unless a culvert or bridge is provided.

(6) Constructed at intervals not exceeding the following slope distances:

(a) On grades of 10 percent or less: 150 feet.

(b) On grades of 11 percent to 25 percent: 100 feet.

(c) On grades of 26 percent to 49 percent: 75 feet.

(d) On grades of 50 percent or more: 50 feet.

(e) At such lesser intervals as may be necessary to prevent excessive erosion.

(F) All erosion control facilities required by this chapter shall be maintained during periods of significant rain throughout the periods covered by sureties or as required by permit conditions.

(G) Pre-existing erosion problems may be required to be repaired as a condition of approval of any timber harvest.

(H) The minimum criterion to be achieved by all operations is that there shall be no net increase of silt or debris entering natural bodies of water.

(I) Off-site mitigation may be acceptable if the mitigation site is in the same watershed as the harvest and if approved by County staff and the property owner(s). [Ord. 4301 § 22, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.220 Truck road specifications.

(A) The location of truck roads is subject to approval and shall facilitate timber removal.

(B) Truck roads shall be located and constructed to utilize the general contour of the land to reduce earth movement.

(C) Truck roads shall not be constructed on slopes in excess of 70 percent or have grades in excess of 15 percent. After review, the Planning Director may approve road grades up to 25 percent not exceeding five percent of the total road length.

(D) Truck roads shall be constructed to single lane width (approximately 15 feet) with turnouts at reasonable intervals. Truck roads and turnouts shall be no wider than necessary to permit safe passage of trucks and equipment.

(E) Truck roads shall not be constructed with overhanging banks.

(F) Truck roads shall not adversely affect the stability of, or cause earth to be deposited on, property owned by others.

(G) Truck roads shall not be constructed on active landslides or on slopes evidencing instability unless it is shown that such roads can be stabilized.

(H) Switchbacks shall not be constructed on slopes over 40 percent as measured directly between the entrance and exit points of the proposed switchback.

(I) Treating of truck road surfaces may be required to control dust and prevent a serious public nuisance or excessive loss of the road surface.

(J) Trees with more than 25 percent of their root area exposed by current construction or reconstruction shall be felled concurrently with timber harvesting.

(K) Where the truck road cut back exceeds six feet in height, any trees within a distance from the top on the bank equal to the height of the cut may be required to be felled.

(L) New truck roads shall not be allowed for harvests approved pursuant to SCCC 16.52.035 through 16.52.038, inclusive. Any grading or clearing necessary to open legal, existing roads must conform to all applicable County regulations including, but not limited to, the grading, erosion control and riparian protection ordinances. [Ord. 4301 § 23, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.230 Tractor road and trail specifications.

(A) Advance flagging and approval of tractor roads may be required when necessary to determine that the location and design conform with this chapter.

(B) Tractor roads and trails shall be limited in number and width consistent with sound forest management practices.

(C) Tractor roads and trails shall not adversely affect the stability of, or cause earth to be deposited on, property owned by others.

(D) To minimize soil excavation, tractor roads and trails shall be constructed parallel with the slope as nearly as practicable, but not so steeply as to require use of the blade for braking.

(E) Once established, tractor roads shall be used for going both to and from landings.

(F) Tractor roads shall not be constructed on active landslides or on slopes evidencing instability unless it is shown that such roads can be stabilized.

(G) New tractor roads and trails shall not be allowed for harvests approved pursuant to SCCC 16.52.035 through 16.52.038, inclusive. Any grading or clearing necessary to open legal, existing roads and trails must conform to all applicable County regulations, including, but not limited to, the grading, erosion control and riparian protection ordinances.

(H) At the discretion of the Planning Director, tractors may be required to operate only on flagged routes to minimize ground disturbance on slopes where trails are not existing or proposed. [Ord. 4301 § 24, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.240 Landing specifications.

(A) The location of landings is subject to approval.

(B) Landings shall be limited in size and number consistent with sound forest management practices.

(C) Landings shall not be constructed where they could adversely affect slope stability.

(D) Whenever practicable, landings shall be constructed in open areas.

(E) New landings shall not be allowed for harvests approved pursuant to SCCC 16.52.035 through 16.52.038, inclusive. Any grading or clearing necessary to open legal, existing landings must conform to all applicable County regulations, including, but not limited to, the grading, erosion control and riparian protection ordinances.

(F) Landings constructed on slopes over 15 percent must be constructed in compliance with Chapter 16.20 SCCC. [Ord. 4301 § 25, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.250 Fire hazard reduction.

(A) All slash, except slash in areas substantially covered by logs on the ground, shall be lopped to within 18 inches of the ground, chipped, burned, or otherwise disposed of no later than April 15th of the year following its creation. Slash along truck roads outside the harvest area shall be lopped concurrently with its creation.

(B) Only those standing dead trees required by State law to be cut must be cut. Standing dead trees with visible nesting sites of raptors, waterfowl, rare or endangered wildlife or those trees designated by the California Department of Fish and Game shall not be cut.

(C) An area within 50 feet of the edge of all public roads shall be kept free of slash. Slash between 50 feet and 100 feet of the edge of said roads and slash within 200 feet of all permanently located structures currently maintained for human habitation shall be disposed of by piling and burning, chipping, burying, or removal.

(D) Slash shall not be pushed against residual trees.

(E) Truck roads within the harvest area shall be kept passable for fire equipment during the dry season until lopping is completed.

(F) Open burning shall be done only with approval of the California Department of Forestry and Fire Protection and the Monterey-Santa Cruz Air Pollution Control District. [Ord. 4301 § 26, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.260 Sawmills.

Sawmills (powered devices used to convert logs to lumber) shall not be established without specific approval. [Ord. 3332 § 1, 1982; Ord. 2353, 1976].

16.52.265 Hazardous conditions.

Whenever the Planning Director determines that the conduct of harvesting operations has resulted in a hazard to life and limb, endangers property, or adversely affects the safety, use, or stability of a public way or drainage channel, or damages forest resources, he/she shall notify in writing the owner(s) of the property or other person or agent in control of the property on which the hazard exists. On receipt of the notice, the owner(s) shall within the period specified eliminate the hazard and bring the property into conformance with the requirements of this chapter. [Ord. 4301 § 27, 1994].

16.52.270 Violations.

(A) It shall be unlawful for any person to do, cause, permit, aid, abet, suffer or furnish equipment or labor for any commercial timber harvesting as defined in SCCC 16.52.030 unless (1) a timber harvest plan has been approved by the California Department of Forestry and Fire Protection; or (2) a timber harvesting notice, minor timber harvest permit or timber harvest permit has been approved by the County of Santa Cruz.

(B) It shall be unlawful for any person to exercise a development permit which authorizes timber harvesting without complying with all of the conditions of such permit.

(C) It shall be unlawful for any person to refuse or fail to abate a hazardous condition as required by a notice of hazardous condition issued by the Planning Director under the provisions of SCCC 16.52.265.

(D) It shall be unlawful for any person to knowingly do, cause, permit, aid, abet or furnish equipment or labor for any work in violation of a "stop work" notice from and after the date it is posted on the site until the stop work notice is authorized to be removed by the Planning Director.

(E) If the Planning Director determines that any timber harvesting occurring in the County does not comply with a development permit, this chapter, and is not under California Department of Forestry and Fire Protection jurisdiction, he/she may stop all work until corrective measures have been completed. The site shall be posted with a "stop work" notice. No building, septic tank, encroachment or other permit shall be issued by the County, and the County may require that all work shall be stopped pursuant to any such permits issued, until corrections have been made to the satisfaction of the Planning Director.

(F) Whenever the Planning Director determines that grading has been done without the required development permit, he/she may refuse to issue a permit for the work already completed and require mitigating action. [Ord. 4301 § 28, 1994; Ord. 3332 § 1, 1982; Ord. 2353, 1973].

16.52.271 Notice of violation.

Repealed by Ord. 4392A. [Ord. 4301 § 29, 1994].

16.52.272 Removal of notice of violation.

Repealed by Ord. 4392A. [Ord. 4301 § 30, 1994].

16.52.280 Abatement of nuisance.

Repealed by Ord. 4392A. [Ord. 4301 § 31, 1994; Ord. 3332 § 1, 1982].

16.52.290 Permit revocation.

Repealed by Ord. 4392A. [Ord. 4301 § 32, 1994; Ord. 3332 § 1, 1982].

16.52.300 Penalty.

Repealed by Ord. 4392A. [Ord. 4301 § 33, 1994; Ord. 3332 § 1, 1982].

16.52.310 Appeals.

Appeals of actions made pursuant to this chapter shall be made in conformance with the procedures of Chapter 18.10 SCCC. [Ord. 4301 § 34, 1994; Ord. 3332 § 1, 1982; Ord. 2423, 1977].

Chapter 16.54

MINING REGULATIONS

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Article I. General Provisions**16.54.010 Purpose and intent.**

The Board of Supervisors hereby finds that extraction of minerals is important to the continued economic well-being of the County and to the needs of society. The regulation and reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety. The purpose of this chapter is to regulate mining operations pursuant to standards provided herein or in other applicable law so as to:

(A) Recognize the importance of the conservation of lands containing significant mineral resources for future mineral development. Any use of lands containing significant mineral resources shall reserve the future option of extraction of minerals in conformance with the policies established in the County's General Plan, Chapter 5.

(B) Eliminate residual hazards so as to protect the public and adjacent properties from health and safety hazards and other adverse effects.

(C) Protect water resources from adverse effects which might result from unregulated mining operations.

(D) Prevent or minimize adverse environmental effects and require that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses and implement the policies of the State of California Public Resources Code Section 2710, et seq., commonly known as the Surface Mining and Reclamation Act of 1975, as required by Section 2774(a) thereof.

(E) Encourage the conservation and production of minerals while giving consideration to values relating to recreation, watersheds, wildlife, range and forage, and aesthetic enjoyment.

(F) Provide for the reclamation of the land concurrently with mining operations.

(G) Provide consistent performance standards applicable to all mining operations.

(H) Identify and give public notice of any public hearing on any application for a mining approval, certificate of compliance, reclamation plan approval or mining operation review pursuant to SCCC 16.54.024.

(I) Implement the policies of the General Plan and Local Coastal Program Land Use Plan.

(J) Provide for compliance with regulations adopted by the State Board of Mining and Geology, including, but not limited to, Title 14, California Code of Regulations, Section 3500 and following. [Ord. 4421 § 1, 1996].

16.54.012 Chapter amendment.

Any revision to this chapter which applies to the Coastal Zone shall be reviewed by the Executive Director of the California Coastal Commission to determine whether it constitutes an amendment to the Local Coastal Program. When a revision to this chapter constitutes an amendment to the Local Coastal Program, such revision shall be processed pursuant to the hearing and notification provisions of Chapter 13.03 SCCC and SCCC 16.54.024 and shall be subject to approval by the California Coastal Commission. All amendments to this chapter shall be subject to certification by the State Board in conformance with Sections 2774.3 and 2774.5 of the Surface Mining and Reclamation Act. All standards incorporated by reference to statute, code, or regulation with another entity shall be automatically amended by the revised or successor statute, code, or regulation referenced. [Ord. 4421 § 1, 1996].

16.54.013 Scope of chapter.

The provisions of this chapter govern existing and proposed mining operations and reclamation of mined lands located in the County, including (without limitation) the following aspects thereof:

(A) A new mining operation shall not be commenced within the County except on lands zoned "M-3," Mineral Extraction (SCCC 13.10.341 et seq.), or "TP," Timber Production (SCCC 13.10.371 et seq.) and then not until a mining approval authorizing said new mining operation has been issued in accordance with the terms of this chapter.

(B) Each proposed mining operation shall comply with the reclamation standards, SCCC 16.54.055.

(C) The operator(s) of each mining site operating prior to September 1, 1972, shall obtain a certificate of compliance in accordance with SCCC 16.54.100. [Ord. 4421 § 1, 1996].

16.54.014 Applicability of chapter.

(A) The provisions of this chapter shall apply to the operation of mining sites in this County and each of the following approval and review processes:

- (1) A new mining approval, pursuant to SCCC 16.54.030 and 16.54.040.
- (2) A certificate of compliance, pursuant to SCCC 16.54.100.
- (3) A reclamation plan approval only, pursuant to SCCC 16.54.101.
- (4) Mining approval amendment, pursuant to SCCC 16.54.032 and 16.54.040 or 16.54.045.
- (5) A mining operation review, pursuant to SCCC 16.54.074.

(B) The provisions of this chapter shall not apply to the following activities:

(1) Excavation or grading conducted for farming or on-site construction or for the purpose of restoring land following a flood or natural disaster.

(2) Prospecting or exploring for or the excavation of minerals for commercial purposes and the removal of overburden in total amount of less than 1,000 cubic yards in any one location of one acre or less.

(3) Such other surface mining operations which the State Board determines to be of infrequent nature and which involve only minor surface disturbances.

(4) On-site excavation and on-site earthmoving activities which are an integral and necessary part of a construction project that are undertaken to prepare a site for construction of structures, landscaping, or other land improvements, including the related excavation, grading, compaction, or the creation of fills, road cuts, and embankments, whether or not surplus materials are exported from the site subject to all of the following conditions:

(a) All required permits for the construction, landscaping, and related land improvements have been approved by a public agency in accordance with applicable provisions of State law and local adopted plans and ordinances, including, but not limited to, CEQA, Division 13 of the Public Resources Code (commencing with Section 21000).

(b) The County's approval of the construction project included consideration of the on-site excavation and on-site earthmoving activities pursuant to CEQA, Division 13 of the Public Resources Code (commencing with Section 21000).

(c) The approved construction project is consistent with the General Plan or zoning of the site.

(d) Surplus materials shall not be exported from the site unless and until actual construction work has commenced and shall cease if it is determined that construction activities have terminated, have been indefinitely suspended, or are no longer being actively pursued.

(5) Grading or on-site excavation incidental to the development of land in accordance with plans which have been approved by the County in accordance with the development permit procedure and which include a post-use rehabilitation, including (without limitation) a solid waste facility permit.

(6) Surface mining operations that are required by Federal law in order to protect a mining claim, if those operations are conducted solely for that purpose.

(7) Operation of a plant site used for mineral processing, including associated on-site structures, equipment, machines, tools, or other materials, including the on-site stockpiling and on-site recovery of mined materials, subject to all of the following conditions:

(a) The plant site is located on lands designated for industrial or commercial uses in the County General Plan and Local Coastal Program Land Use Plan.

(b) The plant site is located on lands zoned industrial or commercial, or are contained within a zoning category intended exclusively for industrial activities by the County.

(c) None of the minerals being processed are being extracted on-site.

(d) All reclamation work has been completed pursuant to the approved reclamation plan for any mineral extraction activities that occurred on-site after January 1, 1976.

(8) The solar evaporation of sea water or bay water for the production of salt and related minerals.

(9) Emergency excavations or grading conducted by the Department of Water Resources or the Reclamation Board for the purpose of averting, alleviating, repairing, or restoring damage to property due to imminent or recent floods, disasters or other emergencies.

(10)(a) Surface mining operations conducted on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources for the purpose of the State Water Resources Development System or flood control, and surface mining operations on lands owned or leased, or upon which easements or rights-of-way have been obtained, by the Reclamation Board for the purpose of flood control, if the Department of Water Resources adopts, after submission to and consultation with the Department of Conservation, a reclamation plan for lands affected by these activities, and those lands are reclaimed in conformance with the standards specified in regulations of the Board

adopted pursuant to this chapter. The Department of Water Resources shall provide an annual report to the Department of Conservation by the date specified by the Department of Conservation on these mining activities.

(b) Nothing in this chapter shall require the Department of Water Resources or the Reclamation Board to obtain a permit or secure approval of a reclamation plan from any city or County in order to conduct surface mining operations specified in subsection (B)(10)(a) of this section. Nothing in this chapter shall preclude the bringing of an enforcement action pursuant to Section 2774.1 of the Public Resources Code, if it is determined that a surface mine operator, acting under contract with the Department of Water Resources or the Reclamation Board on lands other than those owned or leased, or upon which easements or rights-of-way have been obtained, by the Department of Water Resources or the Reclamation Board, is otherwise not in compliance with this chapter.

(11) Excavations or grading for the exclusive purpose of obtaining materials for roadbed construction and maintenance conducted in connection with timber operations or forest management on land owned by the same person or entity. This exemption is limited to excavation and grading that is conducted adjacent to timber operation or forest management roads and shall not apply to on-site excavation or grading that occurs within 100 feet of a Class One watercourse or 75 feet of a Class Two watercourse, or to excavation for materials that are, or have been, sold for commercial purposes. This exemption shall be available only if slope stability and erosion are controlled in accordance with subdivision (f) of Section 3704 and subdivision (d) of Section 3706 of Subchapter 1 of Chapter 8 of Division 2 of Title 14 of the California Code of Regulations and, upon closure of the site, the person closing the site implements, where necessary, revegetation measures and post-closure uses, in consultation with the Department of Forestry and Fire Protection. [Ord. 4421 § 1, 1996].

16.54.020 Definitions.

“Abandoned mining operation” means a mining operation which remains idle for over one year without an approved interim management plan.

“Aquifer” means a saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

“Aquifer, sole source” means an aquifer which is the sole or principal source of drinking water for an area as determined by the United States Environmental Protection Agency.

“Blast” means one or multiple detonations of explosives for the purpose of the primary dislocation of mineral deposits.

“Botanist, horticulturist, or plant ecologist” means an independent, qualified plant botanist, horticulturist or plant ecologist determined by the Planning Director to have demonstrated experience in native plant restoration and demonstrated knowledge of plant communities unique to Santa Cruz County.

“Certificate of compliance” means a land use approval verifying compliance of an existing mining operation with the provisions of this chapter, the County General Plan, Local Coastal Plan, zoning ordinance, the Surface Mining and Reclamation Act, and other State or Federal law, and authorizing the continuation of existing mining operations in accordance therewith.

“Contamination” means an impairment of the quality of the surface water and groundwater to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

“Facility” means a building, processing plant, or other mining related permanent structure.

“Groundwater” means that part of the subsurface water which is in the saturated zone.

“Hard rock mining” means the removal of granite, limestone, or other dense rock formation by blasting, ripping or other similar methods.

“Highwall” means the unexcavated face of exposed overburden and ore in a surface mine.

“Idle mining operation” means a mining operation curtailed for a period of one year or more by more than 90 percent of the operation’s previous maximum annual mineral production, with the intent to resume those surface mining operations at a future date.

“Indigenous plants” means plants occurring naturally in an area, not introduced.

“Interim management plan” means a brief, written report prepared by the operator which provides measures the operator will implement to maintain the mining site in conformance with this chapter and the Surface Mining and Reclamation Act, including (without limitation), each approval issued pursuant thereto.

“Major mining approval amendment” means a change in a mining approval, reclamation plan approval, or certificate of compliance having a significant impact on the public health or safety or the environment related to or resulting from mining, phasing, or reclamation in connection with a mining operation.

“Mining approval” means a land use approval authorizing a mining operation and reclamation thereof.

“Mining operation” means all, or any part, of the process involved in surface or subsurface extraction of minerals, including (without limitation), the removal of overburden and mining directly from the mineral deposits, open pit mining

of minerals naturally exposed, mining by the auger method, hydraulic mining, quarrying and dredging, tunneling or surface work incident to an underground mine. Mining operations shall include (without limitation) in-place distillation, retorting, leaching, blasting, production, or disposal of mining waste products or by-products, mining products and overburden. Prospecting and/or exploring for one or more minerals, without other activities described above, does not constitute a mining operation.

“Mining operation review” means a review process for a mining operation to investigate compliance with mining approval, certificate of compliance, or reclamation plan approval conditions.

“Mining site or mined lands” means surface and subsurface and groundwater of areas in which a mining operation will be, is being, or has been conducted, including (without limitation): active mining areas, reclamation areas, drainage facilities, transportation routes within the limits of approved mining areas, storage and stockpile areas, areas for placement of overburden or mining waste, and areas in which land excavations, structures, facilities, equipment, machines, tools or other materials or property which result from, or are used in, the mining operation are located.

“Mining waste product or by-product” includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools or other materials or property directly resulting from, or displaced by, mining operation, excluding overburden.

“Minor mining approval amendment” means minor change to a mining operation having no significant impact on the environment, which may include (without limitation), minor change in hours of operation, drainage pattern or operational equipment.

“Native species” means plant species indigenous to California, using Pre-European as the historic time reference.

“Noxious weeds” means any species of plant that is or is likely to become destructive or difficult to control or eradicate.

“Operator” means any person who is engaged in a mining operation, or who contracts with another to conduct an operation, except a person who is engaged in a mining operation as an employee with wages as sole compensation.

“Overburden” means soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by a mining operation.

“Owner” means any person who has an ownership or leasehold interest in a mining site or mined lands.

“Planning director” means the Director of the Planning Department or his or her designee.

“Reclamation” means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from mining operations including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses, and which create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

“Reclamation plan” means a plan meeting the specific requirements for reclamation pursuant to SCCC 16.54.040, 16.54.055 and 16.54.101 providing for the reclamation of any lands affected by mining operations, as approved by the County.

“Reclamation plan approval” means a land use approval authorizing and requiring the reclamation of mined lands including the removal of all mining related structures and equipment which are not the subject of any existing or proposed mining operation in accordance with this chapter, the County General Plan, Local Coastal Plan, and zoning ordinance and the Surface Mining and Reclamation Act.

“Residual hazard” means a condition at a ceased, idle, or abandoned mining operation which is a threat to public health or safety, or the environment, or which constitutes a nuisance.

“Sand mining” means the removal of sand or other loose rock formation by scraping, bulldozing, dredging or other similar methods.

“Sensitive habitat” has the same definition as that set forth in SCCC 16.32.040.

“Spring” means a place where groundwater flows naturally from a rock or soil onto the land surface or into a body of surface water.

“State Board” means the State Mining and Geology Board.

“State Policy” means the regulations adopted by the State Board.

“Surface Mining and Reclamation Act (SMARA)” means Public Resources Code Division 2, Chapter 9, Section 2710 and following.

“Topsoil” means the upper part of the soil profile that is relatively rich in humus.

“Vegetative cover” means ratio (%) of the crown or shoot area of a species to the ground surface.

“Vegetative density” means the number of individuals or stems of each species rooted within the given reference area.

“Vegetative species richness” means the number of different plant species within the given reference area.

“Watertable” means the surface defined by the water levels in wells, not operating when measurements are taken, which tops saturated material.

“Wetlands” means the same as defined in the California Fish and Game Code, Section 2785, subsection (g), or its successor. Active settlement basins or storage ponds used during legal mining operations shall not be considered wetlands as defined above. [Ord. 4421 § 1, 1996].

16.54.022 Vested right determination.

No person who has obtained a vested right to conduct a mining operation prior to September 1, 1972, shall be required to secure a mining approval for such mining operation as long as the vested right continues and as long as no substantial changes are made.

A person shall be deemed to have vested rights if, prior to September 1, 1972, he or she has, in good faith and in reliance upon a mining approval or other lawful authorization, if the mining approval or other authorization was required, diligently commenced mining operations and incurred substantial expenses and liabilities for work and material therefor. [Ord. 4421 § 1, 1996].

16.54.023 Protection of the environment.

Each mining approval, certificate of compliance, reclamation plan approval or any amendment thereof and mining operation review shall be processed and executed in compliance with Chapters 13.11, Site, Architectural and Landscape Design Review; 16.01, Regulations for Preserving and Enhancing the Environment; 16.30, Riparian Corridor and Wetlands Protection; 16.32, Sensitive Habitat Protection; 16.40, Native American Cultural Sites; 16.44, Paleontological Resource Protection; and 16.52 SCCC, Timber Harvesting Regulations. [Ord. 4421 § 1, 1996].

16.54.024 Public notification.

Public notification of any public hearing for each mining approval, certificate of compliance, reclamation plan approval or any amendment thereof, or mining operations review shall be given in accordance with SCCC 18.10.223, except that the mailing notification limit from the boundary of the property shall be increased to one-half mile. [Ord. 4421 § 1, 1996].

16.54.025 Notification and review by Director of the Department of Conservation and other public agencies.

(A) The Planning Director shall notify the Director of the Department of Conservation, of an application for a mining approval, certificate of compliance, reclamation plan (and the Department of Transportation whenever surface mining operations are proposed within the 100-year flood plain for any stream as shown in Zone A of flood insurance maps issued by the Federal Emergency Management maps, and within one mile, upstream or downstream, or any State highway bridge) approval or amendment thereof to conduct mining operations within 30 days of filing of an application.

(B) Prior to approval, the Planning Director shall submit to the Director of the Department of Conservation, the following documents for review:

(1) A mining operation’s reclamation plan or amendment thereof, for a 30-day review.

(2) A mining operation’s new financial assurance, including existing financial assurance or amendment thereof, for a 45-day review.

The Planning Director shall respond in writing to the written comments, from the Director of the Department of Conservation within a reasonable amount of time.

(C) By July 1st of each year, the Planning Director shall submit to the Director of the Department of Conservation, for each mining operation, a copy of the mining approval, certificate of compliance, reclamation plan approval or amendment thereof or a statement that there have been no changes made to any mining approval, certificate of compliance, or reclamation plan.

(D) Prior to the approval or amendment of a reclamation plan, the Planning Director shall submit to the Director of the Department of Conservation, a written document certifying that the reclamation plan is in conformance with all applicable requirements of the Surface Mining and Reclamation Act.

(E) Each application for a mining approval, certificate of compliance, reclamation plan approval or major amendment thereof shall be referred to the Regional Water Quality Control Board, the Department of Conservation, the Monterey Bay Unified Air Pollution Control Board, the State Department of Fish and Game and any other public agency having jurisdiction and requesting a copy thereof, for comment and recommendation prior to environmental review of the project in accordance with the County’s Environmental Review Guidelines.

(F) Copies of any comments received from the Director of the Department of Conservation, or any other public agency shall be referred to the operator. [Ord. 4421 § 1, 1996].

16.54.026 Nonmining use within designated mining areas.

Application for any use other than mining operations in areas designated in the General Plan as having significant mineral deposits shall comply with the Surface Mining and Reclamation Act (including but not limited to Sections 2762 and 2763) and shall be reviewed and approved by the Planning Commission. A statement specifying the reason(s) for approving any proposed nonmining use shall be submitted by the Planning Director to the Director of the Department of Conservation, and State Board for review and comment prior to any action on the application by the Planning Commission. [Ord. 4421 § 1, 1996].

16.54.027 Fees.

Fees necessary for the administration and implementation of this chapter including (without limitation) each mining approval, certificate of compliance, reclamation plan approval or any amendment thereof, mining operation review and mining operation inspection shall be set by resolution of the Board of Supervisors and paid by the operator as a prerequisite to the service, process, determination, or other action for which it is imposed. [Ord. 4421 § 1, 1996].

16.54.028 Proprietary information—General.

(A) At the written request of the operator or owner, proprietary information submitted to the County shall be recognized where appropriate by the County as confidential in accordance with the California Public Records Act. However, such confidentiality determination shall not preclude the County from considering and addressing trucking activity, noise, and operating hours, or other relevant issues during public hearings and in approval conditions.

(B) Any information in an annual report pursuant to SCCC 16.54.072 and 16.54.073 which includes or otherwise indicates the total mineral production, reserves or rate of depletion of any mining operation shall not be disclosed to any member of the public. [Ord. 4421 § 1, 1996].

Article II. Approval and Standards**16.54.029 General approval requirements.**

(A) The Planning Commission is hereby designated as the administrative body empowered to approve, conditionally approve or deny a mining approval, certificate of compliance, reclamation plan approval or any major amendment thereof, at Level VI. The Planning Director is hereby designated as the administrative agency empowered to approve, conditionally approve or deny a minor mining approval amendment at Level IV.

(B) Except as specifically provided in this chapter, the regulations prescribed in this chapter and Chapter 18.10 SCCC shall control the procedure governing any mining approval, certificate of compliance, reclamation plan approval, or any amendment thereof, or mining operation review.

(C) Applications for a mining approval, major mining approval amendment or reclamation plan approval within the Coastal Zone, as defined by the Coastal Zone combining zone district, pursuant to Chapter 13.10 SCCC, shall require concurrent application for a coastal approval pursuant to Chapter 13.20 SCCC.

(D) Findings. The Planning Commission may grant a mining approval, certificate of compliance, reclamation plan approval, or major amendment thereof, as it was applied for, or in modified or conditioned form, or for a specific time limit, if, on the basis of the application and evidence submitted, it makes each the following findings:

(1) That the proposed location of the mining site and access thereto and the conditions under which it would be operated are not detrimental to the public health, safety, or welfare, or significantly injurious to the environment.

(2) That the proposed mining operation complies with each of the applicable provisions of this chapter and all applicable State and/or Federal laws.

(3) That the proposed mining operation complies with any applicable specific plan, the County's General Plan and the Local Coastal Plan Land Use Element (if applicable).

(4) That the proposed mining operation is consistent with all applicable County ordinances, including without limitations Chapter 16.44 SCCC, Paleontological Resource Protection.

(5) That significant surface and groundwater resources including springs and aquifers shall not be adversely affected as a result of the proposed mining operation.

(6) That the reclamation plan has been reviewed pursuant to CEQA and the County's environmental review guidelines, and all significant adverse impacts from reclamation of the surface mining operations are mitigated to the maximum extent feasible.

(7) The project is compatible with available service infrastructure and surrounding uses.

(E) Following the granting of a mining approval, certificate of compliance, or reclamation plan approval, the Planning Director shall record the granting of the approval on the appropriate official Electronic Mapping Information System and sectional district zoning maps together with the following information:

- (1) Permit number of the mining approval, certificate of compliance, or reclamation plan approval.
- (2) Owner's and operator's name.
- (3) Type of minerals to be extracted. [Ord. 4421 § 1, 1996].

16.54.030 Mining approval requirements.

(A) No person shall do, cause, permit, aid, abet, or furnish equipment or labor for any new or expanded mining operation until a mining approval or certificate of compliance, or reclamation plan approval has been obtained for the mining site, except to the extent that such person has a vested right in accordance with Public Resources Code Section 2776, and SCCC 16.54.022.

(B) Change of Operator. If a change of operator should occur, the provisions of each and every applicable mining approval, certificate of compliance, reclamation plan approval or amendment thereof shall remain in effect. [Ord. 4421 § 1, 1996].

16.54.031 Reclamation plan approval requirement.

No person shall conduct a mining operation unless a reclamation plan approval including financial assurances required by SCCC 16.54.060 has been approved by the County for such operation, in compliance with this chapter and the California Surface Mining and Reclamation Act.

Prior to County approval of a reclamation plan for any surface mining operation, the Planning Director shall submit such reclamation plan to the Director of the Department of Conservation for a 30-day review and preparation of written comments if the Director so chooses, when submittal shall be made and processed in a manner consistent with Public Resources Code Section 2774(c) and (d).

If a reclamation plan is determined not to substantially meet the requirements of this chapter or the California Surface Mining and Reclamation Act, it shall be returned to the operator within 60 days. The operator shall have 60 days to revise the reclamation plan to address identified deficiencies and return it to the County for further review by the County. Unless the operator has duly and properly filed an appeal to the State Board with regard to nonapproval of a reclamation plan and that appeal is pending before the State Board, the continuation of the surface mining operation is prohibited until the required reclamation plan is approved by the County. [Ord. 4421 § 1, 1996].

16.54.032 Amendment approval requirements.

(A) No person shall change any mining operation in a manner not expressly permitted under an existing mining approval, certificate of compliance, or reclamation plan approval until a minor or major mining approval amendment has been obtained for the mining site. Amendment of a mining approval or certificate of compliance, or reclamation plan approval shall be governed by the provisions of SCCC 18.10.134 except as clarified and modified below.

(B) Land uses, facilities and appurtenances not specifically applied for and approved by the mining approval or certificate of compliance, or reclamation plan approval are prohibited until an application for a mining approval amendment is filed by the operator and approved by the Planning Director and/or Planning Commission in conformance with this section.

(C) Expansion of an existing mining operation beyond limits established in a mining approval or certificate of compliance, or reclamation plan approval, or changes in resources to be mined beyond those authorized in a mining approval or certificate of compliance, or reclamation plan approval, shall be processed as a new approval in accordance with the requirements of this chapter.

(D) During the time that a County declared state of emergency exists, conditions of a mining approval or certificate of compliance, or reclamation plan approval, may be temporarily changed by the Planning Director in order to respond to circumstances resulting from the emergency.

(E) A minor variation to any condition required by this chapter may be made by the Planning Director, pursuant to the authority contained in SCCC 18.10.134, and shall be forwarded as a written correspondence item on the next Planning Commission agenda. In reviewing the minor variation the Planning Commission may require the minor variation to be processed as a minor or major amendment or may add, delete, or revise any condition of the minor variation. [Ord. 4421 § 1, 1996].

16.54.040 Application for mining approval including major mining approval amendment.

Except as otherwise provided in this chapter, any application for a mining approval, certificate of compliance, reclamation plan approval, or major mining approval amendment shall contain the following information and documentation regarding the proposed and/or existing mining operation and the proposed reclamation of the mining site, and shall be prepared and completed in compliance with a form supplied by the Planning Director.

(A) General Information.

- (1) A completed application on a form supplied by the Planning Director;
- (2) Information containing name, address and telephone number of the applicant, the property owner(s), the owner(s) of each mineral right, any lessee, the operator, and any person designated by the owner or operator as an agent for the service of process;
- (3) A location and vicinity map;
- (4) A description of the quantity and type of mineral commodities currently being mined or proposed to be mined;
- (5) A statement describing each portion of the existing and/or proposed mining operation which has been continuously mined and the date on which mining operation commenced on each portion;
- (6) A description of each external and internal access route from and within the existing and/or proposed mining site;
- (7) A legal description together with a record of survey or licensed surveyor map showing the size and the boundaries of the entire parcel(s) or that portion of the parcel for which the approval is sought. Those boundaries shall also be shown on all other maps submitted with the application;
- (8) An estimate of the maximum annual production of:
 - (a) Mineral commodity to be mined;
 - (b) Overburden to be removed; and
 - (c) Mining waste products or by-products to be produced;
- (9) An estimate of the total maximum anticipated production of:
 - (a) Each mineral commodity to be mined;
 - (b) Overburden to be removed; and
 - (c) Mining waste products or by-product(s) to be produced;
- (10) An estimate of annual and total anticipated quantity of overburden, mining waste products and by-product(s) to be shipped and/or retained on the mining site; and
- (11) Plans, and/or photographs of all proposed or existing buildings, structures and facilities for transportation, storage and processing of materials.

(B) Mining Plan.

- (1) An estimated five-year interval mining plan including cross sections clearly showing each of the following:
 - (a) Depth and configuration of existing and/or proposed mining;
 - (b) Phasing of mining on a five-year-interval basis;
 - (c) Quantity and location of topsoil removed and proposed location of any topsoil stockpile;
 - (d) Quantity and location of overburden removed and location of any overburden stockpile; and
 - (e) Existing contours and proposed five-year interval contours.
- (2) A final mining plan including cross sections clearly showing the following:
 - (a) Final depth and configuration of mining site;
 - (b) Quantity and location of overburden, mining waste products and any by-products;
 - (c) Final contours and cross sections of mining site;
 - (d) Plan and cross sections for the final placement of overburden;

(C) Technical Reports and Maps.

(1) A map (one inch equals 200 feet minimum scale, 10-foot contour interval) of the entire mining site prepared by a State licensed professional qualified to prepare such map clearly showing all existing physical features on the site including (without limitation): contours, watercourses, springs, ponds, lakes, levees, roads, railroads, conveyors, wells, utilities and structures.

The map shall show the property boundaries as shown on the record of survey or licensed surveyor map required by subsection (A)(7) of this section and existing contours and structures on neighboring parcels within 200 feet of each property line.

(2) A map (one inch equals 200 feet minimum scale, 10-foot contour interval) of the entire property prepared by a State licensed professional qualified to prepare such map and prepared in consultation with a qualified botanist, horticulturist or plant ecologist clearly showing types of vegetative cover, exposed areas, and contours.

(3) A map (one inch equals 200 feet minimum scale, 10-foot contour interval) prepared by a professional determined by the Planning Director to be qualified to prepare such map of all appropriate hydrologic information and static groundwater elevations shown in relation to existing surface contours.

(4) A report prepared by a registered geologist describing the general geology of the area, together with a detailed description of the geology and other pertinent geologic and geomorphic features of the mining site.

(5) A report prepared by the operator describing present and proposed mining procedures, equipment and facilities, appurtenances, and maintenance procedures.

(6) A report prepared by the operator describing the estimated daily quantity of water required for each mining operation, its course after use and a plan for a recycling process.

(7) A report prepared by the operator describing the maintenance plan for all present and proposed settling ponds and drainage structures.

(8) A report prepared by the operator describing the nature of the processing of mineral products and disposal methods of the mining waste products or by-products.

(9) An engineered drainage plan addressing existing site drainage and all phases of the mining operation including stockpile sites for mined materials, overburden and mining waste products and by-products. All drainage structures, including settlement basins, culverts, and drainage channels, shall be designed for a 10-year, six-hour duration storm event.

(10) An erosion control plan for all phases of the mining operation.

(11) A hydrogeological report shall be required addressing protection of each groundwater aquifer and groundwater recharge area when a new mining site is proposed or as required by the Planning Director where and when there is reasonable cause to suspect adverse impact to groundwater supply or an aquifer. The report shall be prepared by an independent professional hydrologist approved by the Planning Director and shall address the following at minimum:

(a) Static and peak groundwater elevations throughout the proposed mining site; and

(b) Potential impacts on each affected groundwater aquifer or spring including impact of wells associated with the mining operation; and

(c) Impact on adjacent wells; and

(d) Impact of the removal of spring or groundwater recharge area on the underlying aquifer.

(D) Reclamation Plan. The reclamation plan shall be filed with the County by any person who owns, leases, or otherwise controls or operates on all, or any portion of any mining site or mined lands, and who plans to conduct surface mining operations on the lands. The reclamation plan shall contain all of the following information and documents, and all documentation for the reclamation plan shall be submitted to the County at one time.

(1) The name and address of the surface mining operator and the names and addresses of any persons designated by the operator as an agent for the service of process.

(2) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.

(3) The proposed dates for the initiation and termination of surface mining operation.

(4) The maximum anticipated depth of the surface mining operation.

(5) The size and legal description of the lands that will be affected by the surface mining operation, a map that includes the boundaries and topographic details of the lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads, and utility facilities within, or adjacent to, the lands, the location of all proposed access roads to be constructed in conducting the surface mining operation, and the names and addresses of the owners of all surface interests and mineral interests in the lands.

(6) A description of, and a plan for, the type of surface mining to be employed, and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation, including a report prepared by the operator describing the steps or phases of the mining operation for which concurrent reclamation is feasible, including a proposed time schedule for such concurrent reclamation.

(7) A description of the proposed use or potential uses of the mined lands after reclamation and evidence satisfactory to the Planning Director that all owners of a possessory interest in the land have been notified of the proposed use or potential uses of the reclaimed or mined lands.

(8) A description of the manner in which reclamation adequate for the proposed use or potential uses will be accomplished, including all of the following:

(a) A map of the final mining site showing the extent of the proposed reclamation.

(b) One or more maps showing the phasing of the mining operation site and proposed corresponding reclamation.

(c) A revegetation plan prepared pursuant to the standards of SCCC 16.54.055(F).

(d) An engineered final drainage and erosion control plan for the reclaimed mining site including roads, overburden, mining waste product(s) and by-product(s) stockpile sites, and the mining floor. All drainage structures, including settlement basins, culverts and drainage channels shall be designed for a 10-year, six-hour storm event.

(e) A description of the manner in which contaminants and mining by-products, including, but not limited to, asphalt, petroleum, and blasting by-products, will be mitigated, controlled, eliminated, or disposed.

(f) A description of the manner in which affected streambed channels and streambanks will be rehabilitated to a condition minimizing erosion and sedimentation will occur.

(9) An assessment of the effect of implementation of the reclamation plan on future mining in the area.

(10) A statement that each holder of possessory or ownership interest in the land which is the subject of the reclamation plan accepts responsibility reclaiming the mined lands in accordance with the reclamation plan.

(11) Any reasonably related information which the County Planning Director requests in writing, including a report prepared by the operator describing the manner and time limits in which reclamation of the mining site or mined land, adequate for the proposed use or potential uses, will be accomplished, including:

(a) A description of the plan for maintenance of settling ponds and drainage systems after cessation of mining operations.

(b) A description of the plan for removal of residual hazards.

(c) Any and all information reasonably determined necessary by the Planning Director to demonstrate compliance with this chapter or the California Surface Mining and Reclamation Act.

(12) An item of information or a document required pursuant to this section that has already been prepared as part of a permit application for the surface mining operation, or as part of an environmental document prepared for the project pursuant to Division 13 (commencing with Section 21000), may be included in the reclamation plan by reference, if that item of information or that document is attached to the reclamation plan when the County submits the reclamation plan to the Director of the Department of Conservation, for review. To the extent that the information or document referenced in the reclamation plan is used to meet the requirements of subsection (D) of this section, the information or document shall become part of the reclamation plan and shall be subject to all other requirements of this chapter. [Ord. 4421 § 1, 1996].

16.54.045 Application requirements for a minor mining approval amendment.

Any application for a minor mining approval amendment shall contain the following information and documentation:

(A) A complete application on a form supplied by the Planning Department.

(B) A brief report by the operator describing the requested amendment and including new or changed information required by SCCC 16.54.040 which is necessary to adequately consider said minor amendment.

The application shall be processed at Level IV and requires public notification in accordance with SCCC 16.54.024. [Ord. 4421 § 1, 1996].

16.54.050 Required conditions and standards for mining approval, certificate of compliance, reclamation plan approval only or amendment thereof.

(A) Each recommended condition set forth in any statement, report, plan or other informational document submitted by the applicant pursuant to the application requirements of SCCC 16.54.040, as modified and/or approved by the Planning Commission, shall be incorporated as a condition of the related approval.

(B) Each property owner of a mining site, the applicant and the operator shall execute, date and return to the Planning Director two copies of a declaration of restrictions binding each to comply with each and every term and condition of the mining approval, certificate of compliance, or reclamation plan approval only. Each such declaration of restrictions regarding an approval shall be executed by each signatory in such manner and formality as shall enable its recordation with the County Recorder, binding each and any successor(s) to comply with each such approval, and every term and condition thereof. Said declaration of restrictions shall be in the form prepared by the Planning Director and shall be filed for recordation within 90 days of the effective date of said approval. No map larger than eight and one-half inches by 11 inches shall be recorded as part of said declaration of restrictions; rather, any such map may be referred to in the declaration of restrictions as being on file in the County Planning Department.

(C) The standards and/or conditions set forth in this subsection shall be imposed on each mining approval, certificate of compliance (to the extent lawfully required pursuant to SCCC 16.54.100), or reclamation plan approval only, or any

amendment of such approval or certificate and to establishment, operation and maintenance of the uses approved or certified thereby.

(1) Noise and Vibration. All facilities and equipment shall be constructed, maintained and operated in compliance with the industrial performance standards of SCCC 13.10.345 and County General Plan Section 3.6.1. Maximum noise level measured at property boundaries shall be no greater than 60 dBA for a cumulative period of 15 minutes during any hour of operation. A lower noise level may be required by the Planning Commission if a health or safety effect or nuisance related to noise level is demonstrated. A higher noise level may be authorized by the Planning Commission if the increase in noise level is from construction related activity, the noise is generated only on a specified temporary basis and all neighbors, within 1,000 feet of the property, have been notified in writing of the increase in noise level by the operator.

(2) Air Pollution.

(a) Each mining operation and reclamation activity shall be conducted in compliance with the requirements of the Monterey Bay Unified Air Pollution Control District.

(b) Removal of vegetation shall only be permitted in accordance with the approved phasing plan.

(c) Each mining operation shall be conducted so as to minimize dust, particulate matter (PM₁₀), crystalline silica, and any other potentially significant effect of wind erosion.

(d) Each interior road within the mining site shall be surfaced, treated or watered frequently enough to preclude wind and traffic generated dust from creating a nuisance affecting any nearby property or public road.

(e) Each exterior entrance road shall be maintained reasonably free of dust and debris resulting from any mining operation. Each truck departing the mining site shall be loaded, wetted down or tarped in such a manner so as to comply with all State or Federal laws and minimize spillage on any haul route.

(f) In a dry weather period during high wind conditions, each mining operation on an exposed slope shall be curtailed. Stockpiled sand products shall be watered or treated in a manner approved by the Planning Director during periods of high wind conditions so as to minimize off-site dust nuisance to nearby property.

(g) Each area vegetated with native species or communities, in either existing or reclaimed portions of any mining site, shall be protected from dust nuisance by a method approved by the Planning Director.

(h) Each unvegetated disturbed area not actively involved in a mining operation, including any interim slope which does not meet final contours, shall be hydromulched, hydroseeded or otherwise treated by the start of the rainy season each year by a method and in a manner approved by the Planning Director so as to minimize off-site dust nuisance.

(3) Water.

(a) The use and discharge of water shall be conducted in compliance with all applicable water district, County, State and Federal laws.

(b) Unless specifically described in a drainage and/or erosion control plan as required by SCCC 16.54.040 and approved by the Regional Water Quality Control Board and the Planning Director, no runoff from the mining site shall be discharged into any natural watercourse.

(c) The lowest elevation of any mining operation at any time shall be 20 feet above the peak groundwater elevation unless the Planning Commission determines that a lower or higher elevation will ultimately benefit the recharge of the aquifer.

(d) The groundwater recharge capacity of each aquifer or spring within the mining site shall be maintained at a pre-approval level.

(e) If the Planning Director determines that reasonable cause exists to suspect adverse impacts from a mining operation on groundwater supply, aquifer, sole source aquifer or spring, a complete hydrogeological report pursuant to SCCC 16.54.040(C)(11) shall be prepared. However, if the potential impacts are limited, the Planning Director may limit the report to address only the limited impacts identified.

(4) Drainage and Erosion Control.

(a) Drains, facilities and devices to control storm water runoff shall be constructed and maintained as required in order to prevent erosion and prevent the deposit of sand, silt or other materials into any natural watercourse or onto any property not owned or controlled by any owner or operator of a mining site. Prior to the construction of any settling pond, slurry pond, water reservoir, or storm drainage facility, engineered drainage plans (based on a 10-year storm [six-hour duration]), which conform with the requirements of each applicable approval shall be submitted to the Planning Director for review and approval.

(b) Each settling basin, drainageway, culvert, pump, pipeline and other drainage and erosion control features shall be maintained as necessary to assure that each is functioning properly as designed.

(c) Runoff originating from the mining site, stockpiles, unpaved on-site roads or other disturbed areas shall be contained on-site except as permitted under the mining approval, certificate of compliance, reclamation plan approval only

or amendment thereof. Runoff leaving any mining site shall comply with the requirements of the Regional Water Quality Control Board. Monitoring of runoff discharged by an independent laboratory, and/or installation of a continuous monitoring device, may be required as a condition of such mining approval, certificate of compliance, reclamation plan approval only or amendment thereof. The results of such required monitoring shall be submitted to the Planning Director within 30 days after the monitoring results are obtained and shall also be included in the annual report.

(d) All necessary measures shall be taken to prevent access to the mining site by off-road vehicles and persons not associated with the mining operation or authorized by any approval.

(e) Each operator shall minimize the surface area of the mining site which is stripped, mined or otherwise disturbed at any given time to the greatest extent compatible with reasonable mining and marketing requirements.

(f) Mining operation and reclamation shall be conducted to protect on-site and downstream beneficial uses of water in accordance with State and Federal law, including (without limitation) Porter-Cologne Water Quality Control Act, California Water Code Section 13000, et seq., and the Federal Clean Water Act, 33 U.S.C. Section 1251, et seq., and their respective successor laws.

(g) The quality of water, recharge potential, and storage capacity of groundwater aquifers which are the source of water for domestic, agricultural, or other uses dependent on the water shall not be diminished, except as allowed in the applicable mining approval, certificate of compliance, reclamation plan approval only or amendment thereof.

(h) Erosion and sedimentation shall be controlled during construction, operation, reclamation, and closure of a mining operation to minimize siltation of lakes and watercourses, and to ensure that land and water resources are protected from erosion, gulying, sedimentation and contamination.

(i) Where natural drainages are covered, restricted, rerouted, or otherwise impacted by a mining operation, mitigation measures and/or alternatives shall be required in the mining approval, certificate of compliance, reclamation plan approval only or amendment thereof to assure that runoff shall not cause increased erosion or sedimentation, or other adverse environmental impacts.

(j) When stream diversions are required, they shall be constructed in accordance with:

(i) The requirements and State law, including (without limitation) the stream and lake alteration agreement between the operator and the Department of Fish and Game; and

(ii) The requirements of the Federal law, including (without limitation) Federal Clean Water Act, Section 301 (33 U.S.C. 1311) and Section 404 (33 U.S.C. Section 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(iii) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.

(5) Setbacks.

(a) Each building, structure, facility and mining operation shall be located no closer to property boundaries than as shown on the applicable approved mining plan. The minimum setback (excepting entrance roads) shall be 150 feet.

(b) Notwithstanding subsection (C)(5)(a) of this section, no crushing plant or other apparatus for the processing of any material shall be located within 200 feet of the boundary line of any property in a residential zoning district. However, if such a facility is placed below contiguous ground level, it may be located not less than 100 feet from such boundary line.

(c) Prior to excavating, clearing, or otherwise disturbing the land within 200 feet of a mining site boundary, a licensed surveyor or civil engineer employed by the operator shall provide survey markers at 200-foot intervals along both the mining site boundary line and the 150-foot setback line. Each marker shall be maintained in place until a clear, readily identifiable working face is established at an approved setback line.

(6) Sensitive Habitat Protection.

(a) Each sensitive habitat for rare, endangered, threatened, or unique wildlife or plants or communities thereof located on the mining site shall be mapped and appropriate conditions imposed to assure that mining operation and reclamation reasonably preserve such sensitive habitat(s).

(b) Mining operation and reclamation shall be conducted to protect sensitive habitats in accordance with the California Endangered Species Act, California's Fish and Game Code Section 2050, et seq., and the Federal Endangered Species Act, 16 U.S.C. Section 1531, et seq., or the respective successor laws.

(7) Days and Hours of Operation. The Planning Commission may limit the hours and days of any mining operation except in the following situations:

(a) Where otherwise required by a public authority having superior jurisdiction;

(b) Where otherwise necessary due to a declared public emergency.

(8) Off-Street Parking Requirements. Off-street parking shall be provided on the mining site for all equipment and for all employee vehicles. Each mining operation in the "M-3" or "TP" zone shall be exempt from any other off-street parking requirements prescribed by this code.

(9) Screening. The Planning Commission shall require each mining operation and facility to be screened from any other property or any public road in the vicinity when such screening is necessary to block an unsightly operation or facility from view, or to insulate surrounding properties from noise from such mining operation. All types of screen shall be continuously maintained so as to carry out the intent of this section.

A screen shall consist of one or a combination of the following types, the design of which shall be subject to prior approval by the Planning Commission:

(a) Wall. A wall shall consist of concrete, stone, brick or similar solid masonry material.

(b) Berm. A berm shall be constructed of earthen materials and it shall be landscaped.

(c) Fence. A fence shall be an open weave or mesh type and shall be combined with plant materials to form an opaque screen. Additional fencing requirements are set forth at subsection (C)(11) of this section and SCCC 16.54.055(J)(1)(e).

(d) Planting. Plant materials, when used for visual screening, shall consist of evergreen plants or trees of a native variety together with any necessary irrigation facility(ies) so as to establish the viability of the plants.

(10) Haul Routes. The Planning Commission may establish each truck haul route to and from the mining site.

(11) Posting of Signs and Construction of Fence. Within 90 days after a mining approval, certificate of compliance, or reclamation plan approval has been granted and continuously thereafter, the outer boundaries of the mining site shall be posted with signs providing notice of approved mining operations to the public. Each sign shall state in letters of not less than four inches in height: "MINING APPROVAL NUMBER _____" and in letters of not less than one inch in height: "THIS PROPERTY MAY BE USED FOR THE MINING AND PROCESSING OF ROCK, SAND, GRAVEL OR MINERALS. THE HOURS OF OPERATION AND MAINTENANCE ARE AS FOLLOWS: _____." Each sign shall be maintained in legible condition at all times. The entire mining site shall be fenced for safety and maintained by the owner or operator, to the extent and in the manner required by the Planning Commission.

(12) Construction of Buildings and Processing Plants. In addition to the mining approval, certificate of compliance, or reclamation plan approval obtained pursuant to this chapter, a building permit shall be required for the construction of new buildings, processing plants and other mining related permanent structures.

(13) Timing of Mining Operation and Reclamation. A time schedule including a final completion date for reclamation shall be specified.

(14) Reclamation Access. Access for County or State to the mining site to perform reclamation if the operator does not comply with the requirements of the reclamation plan shall be granted by the owner and/or operator in the approval. [Ord. 4421 § 1, 1996].

16.54.055 Reclamation standards.

(A) Time Limitation. Reclamation shall in all cases be completed within the time schedule set forth in the conditions for mining approval, certificate of compliance, reclamation plan approval only or amendment thereof. All recontouring, revegetation and reclaiming efforts shall be phased to commence immediately upon completion of mining operation in any given area.

(B) Applicability of Standards. Reclamation of mined lands shall be implemented in conformance with the standards in this section. The standards set forth in subsections (D) through (M) of this section shall apply to each mining operation for which a reclamation plan was approved on or after January 15, 1993, to the extent that:

(1) They are consistent with required mitigation identified in conformance with the California Environmental Quality Act; provided, that such mitigation is at least as stringent as the standards specified in this section; and

(2) They are consistent with the planned or actual subsequent use or uses of the mining site; and

(3) Where an applicant demonstrates to the satisfaction of the Planning Director that an exception to the standards specified in this section is necessary based upon the approved end use, the Planning Director may approve a different standard for inclusion in the approved reclamation plan. Where the Planning Director allows such an exception, the approved reclamation plan shall specify verifiable, site-specific standards for reclamation. The Planning Director may set standards which are more stringent than the standards set forth in this section; however, in no case may the Planning Director approve a reclamation plan which sets any standard which is less stringent than the comparable standard specified in this section.

(4) When substantial amendment is proposed to a reclamation plan which was approved prior to January 15, 1993, the standards set forth in this section shall be applied by the Planning Director in approving or denying approval of the amended reclamation plan.

(C) Mined lands for which a reclamation plan was approved between September 1, 1972, and January 15, 1993, shall be reclaimed pursuant to standards of the approved reclamation plan, including any amendments thereto authorized by SCCC 16.54.074 or 16.54.100.

(D) Performance Standards for Wildlife Habitat. Wildlife and wildlife habitat shall be protected in accordance with the following standards:

(1) Rare, threatened or endangered species as listed by the California Department of Fish and Game (California Code of Regulations, Title 14, Sections 670.2 through 670.5), the U.S. Fish and Wildlife Service (50 CFR 17.11 and 17.12), or species of special concern as listed by the California Department of Fish and Game in the Special Animal List, Natural Diversity Data Base, shall be protected and their respective habitat conserved as prescribed by the Federal Endangered Species Act, 16 U.S.C. Section 1531, et seq., and the California Endangered Species Act, Fish and Game Code Section 2050, et seq. If avoidance cannot be achieved through the available alternatives, mitigation shall be proposed by the owner(s) and/or operator(s) in accordance with the provisions of the California Endangered Species Act, Fish and Game Code Section 2050 et seq., and the Federal Endangered Species Act, 16 U.S.C. Section 1531, et seq.

(2) Wildlife habitat shall be established on disturbed land in a condition at least as good as that which existed before the lands were disturbed by the mining operation, unless the proposed end use precludes its use as wildlife habitat or the approved reclamation plan establishes a different habitat type than that which existed prior to mining.

(3) Wetland habitat shall be avoided. Any wetland habitat impacted as a consequence of mining operations shall be mitigated at a minimum of 1:1 ratio to wetland habitat acreage and wetland habitat value.

(E) Performance Standards for Backfilling, Regrading, Slope Stability, and Recontouring.

(1) Where backfilling is proposed for urban uses (e.g., roads, building sites, or other improvements sensitive to settlement), the fill shall be compacted in accordance with Section 7010, Chapter 70 of the 1991 Edition of the Uniform Building Code published by the International Conference of Building Officials, standards set forth in the County's grading ordinance (whichever standard is stricter), as appropriate for the approved end use.

(2) Where backfilling is required for resource conservation purposes (e.g., agricultural, fish and wildlife habitat, wildland conservation), fill material shall be backfilled to the standards required for the resource conservation use involved.

(3) Piles or dumps of mining waste products, by-products or overburden shall be stockpiled in such a manner as to facilitate phased reclamation. Such piles or dumps shall be segregated from topsoil and topsoil substitutes or growth media salvaged for use in reclamation.

(4) Final reclaimed fill slopes, including permanent piles or dumps of mining waste products, by-products, rock and over-burden shall not exceed 2:1 (horizontal: vertical), except when a site-specific geologic and engineering analysis demonstrates that the proposed final slope will have a minimum factor of safety that is suitable for the proposed end use, and when the proposed final slope can be successfully revegetated.

(5) At closure, all fill slopes, including permanent piles or dumps of mining waste products, by-products and overburden shall conform with the surrounding topography and/or approved end use.

(6) Final cut slopes, including highwalls or quarry faces of a sand mining operation, shall have a minimum slope stability factor of safety that is suitable for the proposed end use with a stability factor of safety not less than 1.2, and shall be no steeper than 1.5:1 (33 degrees) and shall be benched at a 30-foot vertical interval, and shall conform with the surrounding topography and/or approved end use. Final cut slopes, including highwalls and quarry faces of a hard rock mining operation, may be steeper than 1.5:1 (33 degrees) and have a greater bench interval than 30 feet if it can be demonstrated that a steeper slope or different bench interval is geologically stable, has a minimum slope stability factor of safety that is suitable for the proposed end use with a stability factor of safety not less than 1.2, and conforms with the surrounding topography and/or approved end use, does not create a threat to public health and safety, adversely affect a natural resource or reduce the feasibility of reclamation of a mining site.

(7) Permanent placement of piles or dumps of mining waste and overburden shall not occur within wetlands unless mitigation acceptable to the County and California Department of Fish and Game has been proposed to offset wetland impacts and/or losses.

(F) Performance Standards for Revegetation.

(1) Revegetation shall be part of the approved reclamation plan, unless it is not consistent with the approved end use. A native species vegetative cover suitable for the proposed end use and capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer shall be established on disturbed land (including roads, ponds, streambeds, and other areas used in the mining operation) unless introduced species are consistent with the approved reclamation plan or unless native species prove infeasible. Vegetative cover or density and species richness shall be, where appropriate, sufficient to stabilize the surface against effects of long-term erosion and shall be similar to naturally occur-

ring habitats in the surrounding area. The vegetative density, cover and species richness of naturally occurring habitats shall be documented in baseline studies carried out prior to the initiation of mining activities. However, for areas that will not be reclaimed to prior conditions, the use of data from reference areas in lieu of baseline site data is permissible.

(2) Test plots conducted simultaneously with mining shall be required to determine the most appropriate planting procedures to be followed to ensure successful implementation of the proposed revegetation plan. The Planning Director may waive the requirement to conduct test plots when the success of the proposed revegetation can be documented from experience with similar species and conditions or by relying on competent professional advice based on experience with the species to be planted.

(3) Where surface mining activities result in compaction of the soil, ripping, disking, or other means shall be used in areas to be revegetated to eliminate compaction and to establish a suitable root zone in preparation for planting. When it is not necessary to remove roadbase materials for revegetative purposes, the Planning Director may set a different standard pursuant to subsection (B)(3) of this section.

(4) Prior to closure, all access roads, haul roads, and other traffic routes to be reclaimed shall be stripped of any remaining roadbase materials, prepared in accordance with subsection (F)(7) of this section, covered with suitable growth media or topsoil, and revegetated.

(5) Soil analysis shall be required to determine the presence or absence of elements essential for plant growth and to determine those soluble elements that may be toxic to plants, if the soil has been chemically altered or if the growth media consists of other than the native topsoil. If soil analysis suggests that fertility levels or soil constituents are inadequate to successfully implement the revegetation program, fertilizer or other soil amendments may be incorporated into the soil. When native plant materials are used, preference shall be given to slow-release fertilizers, including mineral and organic materials that mimic natural sources, and shall be added in amounts similar to those found in reference soils under natural vegetation of the type being reclaimed.

(6) Temporary access for exploration or other short-term uses on arid lands shall not disrupt the soil surface except where necessary to gain safe access. Barriers shall be installed when necessary to prevent unauthorized vehicular traffic from interfering with the reclamation of temporary access routes.

(7) Native species shall be used for revegetation, except when introduced species are consistent with the approved reclamation plan or native species prove infeasible. Areas to be developed for industrial, commercial, or residential use shall be revegetated for the interim period, as necessary, to control erosion. In this circumstance, nonnative plant species may be used if they are not noxious weeds and if they are species known not to displace native species in the area.

(8) Planting shall be conducted during the most favorable period of the year for plant establishment.

(9) Soil stabilizing practices shall be used where necessary to control erosion and for successful plant establishment. Irrigation may be used when necessary to establish vegetation.

(10) If irrigation is used, the operator must demonstrate that the vegetation has been self-sustaining without irrigation for a minimum of two years prior to release of the financial assurances by the Planning Director, unless an artificially maintained landscape is consistent with the end use.

(11) Noxious weeds shall be managed: (a) when they threaten the success of the proposed revegetation; (b) to prevent spreading to nearby areas; and (c) to eliminate fire hazard.

(12) If recommended by the botanist, horticulturist or plant ecologist, plants and seed shall be propagated from sources on the site. If purchased, seed should be from a local source. A "local source" is defined as being as close as possible to the same geographic location or watershed, elevation, aspect, and soil type as the project.

(13) The revegetation plan shall provide for re-establishing or enhancing any rare and endangered or locally unique plant communities disturbed by any mining operation.

(14) Success of revegetation shall be judged based upon the effectiveness of the vegetation for the approved end use, and by comparing the quantified measures of vegetative cover, density, and species-richness of the reclaimed mined lands to similar parameters of naturally occurring vegetation in the area. Either baseline data or data from nearby reference areas may be used as the standard for comparison. Quantitative standards for success and the location(s) of the reference area(s) shall be set forth in the approved reclamation plan. Comparisons shall be made until performance standards are met; provided, that, during the last two years, there has been no human intervention, including, for example, irrigation, fertilization, or weeding. Standards for success shall be based on expected local recovery rates. Valid sampling techniques for measuring success shall be specified in the approved reclamation plan. Sample sizes must be sufficient to produce at least an 80 percent confidence level. Standard statistical methods in commonly available literature may be utilized for determining an 80 percent confidence level on a site-by-site basis. Examples of such literature include (without limitation) D. Mueller-Dombois and H. Ellenberg, 1978 "Aims and Methods of Vegetation Ecology," John Wiley & Sons, Inc., or D.D. Bonham 1988 "Measurement for Terrestrial Vegetation."

(15) Protection measures, such as fencing of revegetated areas and/or the placement of cages over individual plants, shall be used in areas where grazing, trampling, herbivory, or other causes threaten the success of the proposed revegetation. Fencing shall be maintained until revegetation efforts are successfully completed.

(G) Performance Standards for the Removal of Buildings, Structures and Equipment. All equipment, supplies, and other materials shall be stored in designated areas (as shown in the mining approval, certificate of compliance, or reclamation plan approval). All mining waste shall be disposed of in accordance with State and local health and safety ordinances. All buildings, structures, and equipment shall be dismantled and removed prior to final mine closure or within six months of termination of the mining operation (whichever is earlier) except those buildings, structures, and equipment approved in the reclamation plan as necessary for the end use.

(H) Performance Standards for Topsoil Salvage, Maintenance, and Redistribution. When the approved reclamation plan calls for revegetation or cultivation of disturbed lands, the following performance standards shall apply to topsoil salvage, maintenance, and redistribution activities:

(1) All salvageable topsoil suitable for revegetation shall be removed as a separate layer from areas to be disturbed by mining operations. Topsoil and vegetation removal shall not precede surface mining activities by more than one year, unless a longer time period is approved by the Planning Director.

(2) Topsoil resources shall be mapped prior to stripping and the location of topsoil stockpiles shall be shown on a map in the Reclamation Plan. If the amount of topsoil needed to cover all surfaces to be revegetated is not available on site, other suitable material capable of sustaining vegetation (such as subsoil) shall be removed as a separate layer for use as a suitable growth media. Topsoil and suitable growth media shall be maintained in separate stockpiles. Test plots may be required to determine the suitability of growth media for revegetation purposes.

(3) Soil salvage operations and phases of reclamation shall be carried out in accordance with a schedule that: (a) is set forth in the approved reclamation plan; (b) minimizes the area disturbed; and (c) is designed to achieve maximum revegetation success allowable under the mining plan.

(4) Topsoil and suitable growth media shall be used to phase reclamation as soon as can be accommodated by the mining schedule presented in the approved reclamation plan following the mining of an area. Topsoil and suitable growth media that cannot be utilized immediately for reclamation shall be stockpiled in an area where it will not be disturbed until needed for reclamation. Topsoil and suitable growth media stockpiles shall be clearly identified to distinguish them from mine waste dumps. Topsoil and suitable growth media stockpiles shall be planted with a vegetative cover or shall be protected by other equally effective measures to prevent water and wind erosion and to discourage weeds. Relocation of topsoil or suitable growth media stockpiles for purposes other than reclamation shall require prior written approval from the Planning Director.

(5) Topsoil and suitable growth media shall be redistributed in a manner that results in a stable, uniform thickness consistent with the approved end use, site configuration, and drainage patterns.

(I) Performance Standards for Tailing and Mining Waste Management. State Water Resources Control Board hazardous mining waste disposal regulations in Article 7 of Chapter 15 of Title 23, California Code of Regulations, shall govern mine waste and tailings, and mine waste disposal units shall be reclaimed in conformance with this chapter.

(J) Performance Standards for Closure of Surface Openings, Excavations or Hazardous Areas.

(1) Except those used solely for blasting or those that will be mined through within one year, all drill holes, water wells, and monitoring wells shall be completed or abandoned in accordance with each of the following:

(a) Water Code Sections 13700, et seq., and 13800, et seq.;

(b) The applicable local ordinance adopted pursuant to Water Code Section 13803;

(c) The applicable Department of Water Resources report issued pursuant to Water Code Section 13800; and

(d) Subdivisions (1) and (2) of Section 2511(g) of Chapter 15 of Title 23 regarding discharge of waste to land.

(e) Prior to closure, all portals, shafts, tunnels, excavations or hazardous areas, or other surface openings to underground workings shall be fenced and gated or otherwise protected from public entry in a manner approved by the Planning Director in order to eliminate any threat to public safety and to preserve access for appropriate wildlife habitat. The mining operator and/or owner shall maintain said fencing, gating and/or other protective device(s) during mining operations and thereafter.

(K) Performance Standards for Surface Drainage Control.

(1) All final surface drainage control measures shall be designed for a 10-year storm, six-hour duration and shall be incorporated into the reclamation plan. Passive drainage control measures such as broad berms and swales are encouraged.

(2) Surface mining and reclamation activities shall be conducted to protect on-site and downstream beneficial uses of water in accordance with the Porter-Cologne Water Quality Control Act, Water Code Section 13000, et seq., and the Federal Clean Water Act, 33 U.S.C. Section 1251, et seq.

(3) The quality of water, recharge potential, and storage capacity of ground water aquifers which are the source of water for domestic, agricultural, or other uses dependent on the water shall not be diminished, except as allowed in the approved reclamation plan.

(4) Erosion and sedimentation shall be controlled during all phases of construction, operation, reclamation, and closure of a surface mining operation to minimize siltation of lakes and watercourses, as required by the Regional Water Quality Control Board or the State Water Resources Control Board.

(5) Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gullyng, sedimentation and contamination. Erosion control methods shall be designed to handle runoff from not less than the 10-year/six-hour intensity storm event.

(6) Where natural drainages are covered, restricted, rerouted, or otherwise impacted by surface mining activities, mitigating alternatives shall be proposed and specifically approved in the reclamation plan to assure that runoff shall not cause increased erosion or sedimentation.

(7) When stream diversions are required, they shall be constructed in accordance with:

(a) The stream and lake alteration agreement between the operator and the Department of Fish and Game; and

(b) The requirements of the Federal Clean Water Act, Section 301 (33 U.S.C. 1311) and Section 404 (33 U.S.C. 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(8) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.

(L) Mining is prohibited on agricultural lands by County regulation; nevertheless if any mining occurs in agricultural lands, reclamation standards for agricultural lands shall comply with Sections 3707 and 3708 of the California Code of Regulations.

(M) Mining is prohibited in riparian areas by County regulation; nevertheless if any mining occurs in riparian areas, reclamation standards for streambed mining operations shall comply with Section 3710 of the California Code of Regulations. [Ord. 4421 § 1, 1996].

16.54.060 Financial assurances—Requirements.

Financial assurances made payable to the County and the California Department of Conservation shall be submitted by the operator for each new and existing mining operation for which reclamation is required to ensure that adequate reclamation is performed in accordance with the approved reclamation plan.

The submittal of financial assurances shall comply with the following criteria:

(A) Financial assurances may take the form of surety bonds, irrevocable letters of credit, trust funds, or other mechanisms adopted by the State Board through the regulatory process and reasonably determined by the Planning Director to be adequate to perform reclamation in accordance with the approved reclamation plan.

(B) Financial assurances shall remain in effect for the duration of the mining operation and any additional period necessary to complete adequate reclamation. However, financial assurances shall no longer be required of a mining operation and shall be released upon written notification by the Planning Director to the operator and Director of the Department of Conservation upon documentation that reclamation has been completed in accordance with the approved reclamation plan.

(C) The Planning Director shall base the amount of financial assurances necessary to secure adequate reclamation on estimates prepared by a registered civil engineer and a botanist, horticulturist or plant ecologist retained by the operator and approved by the Planning Director. The botanist, horticulturist or plant ecologist shall have demonstrated experience in revegetation of mining sites and reestablishing native plant communities and the registered civil engineer shall have demonstrated experience in the design and maintenance of drainage systems and reclamation of mining sites. The amount of financial assurances shall be reviewed annually by the Planning Director and adjusted to account for new lands disturbed by the mining operation, inflation and reclamation accomplished in accordance with the approved reclamation plan. [Ord. 4421 § 1, 1996].

16.54.061 Financial assurances—Process.

(A) Prior to approving a financial assurance for a new or major amended mining operation, or an existing mining operation which does not have financial assurances which received County approval prior to January 1, 1991, the Planning Director shall present a review of the amount and type of financial assurance to the Planning Commission in a public hear-

ing to ensure that the financial assurance is adequate to ensure reclamation and substantially meets the applicable requirements of Public Resources Code Sections 2772, 2773 and 2773.1 and this chapter.

(B) The amount and type of financial assurance for an existing mining operation which has received County approval of its financial assurance prior to January 1, 1991, shall be reviewed and determined administratively by the Planning Director whose decision shall be final. The review of existing financial assurances shall not be considered a project for purposes of the California Environmental Quality Act.

(C) Prior to County approval of a financial assurance for any mining operation, the Planning Director shall submit such financial assurance, including any existing financial assurance, to the Director of the Department of Conservation for a 45-day review and preparation of written comments if the Director so chooses, which submittal shall be made and processed in a manner consistent with Public Resources Code Section 2774(c) and (d).

(D) A financial assurance determined not to substantially meet the requirements of this chapter or the California Surface Mining and Reclamation Act shall be returned to the operator within 60 days. The operator shall then have 60 days to revise the financial assurance to address identified deficiencies and return it to the County for further review by the County and the Director of the Department of Conservation. Unless the operator has duly and properly filed an appeal to the State Board with regard to nonapproval of a financial assurance, and that appeal is pending before the State Board, the continuation of the surface mining operation is prohibited until the required financial assurance is approved by the County. [Ord. 4421 § 1, 1996].

Article III. Inspection, Reviews and Reports

16.54.070 Quarterly inspection of mining operations.

(A) Each mining operation shall be subject to a quarterly inspection by the Planning Director to assure compliance with conditions of all approvals and with the applicable requirements of the Surface Mining and Reclamation Act.

(B) The Planning Director shall notify the operator in writing of any observed noncompliance.

(C) If, during any inspection, the Planning Director determines that reasonable cause exists to suspect adverse impacts from a mining operation on groundwater supply, aquifer, sole source aquifer or spring, the Planning Director may require a hydrogeological report as defined by scope in SCCC 16.54.040(C)(11). However, if the potential impacts are limited, the Planning Director may limit the report to address only the limited impacts identified.

(D) Payment of an inspection fee by the operator or owner shall be made in accordance with SCCC 16.54.027, shall be a condition of all approvals, and failure to make timely payment of said fee shall constitute noncompliance with such condition. [Ord. 4421 § 1, 1996].

16.54.071 Annual inspections of mining operations.

(A) In conjunction with one of the quarterly inspections pursuant to SCCC 16.54.070, an annual inspection by the Planning Director shall be performed within six months of the receipt of a copy of the required annual report to the Director of the Department of Conservation to determine whether the mining operation is in conformance with conditions of all approvals.

(B) Each annual inspection shall be conducted by the Planning Director or his/her designee or by a State-registered geologist, State-registered civil engineer, State-licensed landscape architect, or a State-registered forester, who is experienced in land reclamation, who is an employee or contractor of the County, and who has not been an employee or contractor of the mining operation in any capacity during the 12 months preceding the annual inspection.

(C) Each annual inspection shall be conducted in accordance with provisions set forth in a form approved by the State Board.

(D) The Planning Director shall notify the Director of the Department of Conservation within 30 days from the date of inspection that the inspection has been conducted. The Planning Director's notice to the Director of the Department of Conservation shall contain:

(1) A copy of the completed inspection form;

(2) A statement whether or not the mining operation is in compliance or noncompliance with this chapter and the Surface Mining and Reclamation Act, and if not, a statement specifying which aspects of the mining operation are inconsistent therewith; and

(3) A statement of whether the mining operation has any appeal pending in the case of a operator with vested rights under Public Resources Code Section 2770(b); a review of existing financial assurances pending pursuant to Public Resources Code Section 2770(c); or an appeal pending pursuant to Public Resources Code Section 2770(e) or 2770(h).

(E) A copy of the Planning Director's notice to the Director of the Department of Conservation pursuant to subsection (A) of this section shall be forwarded to the operator together with any supporting documentation, including (without limitation) the inspection report prepared by said geologist, engineer, landscape architect or forester.

(F) Payment of the reasonable cost of the annual inspection shall be the sole responsibility of the operator. In addition, a fee for administrative processing of said inspection and said notice shall be paid by the operator in accordance with SCCC 16.54.027. [Ord. 4421 § 1, 1996].

16.54.072 Quarry annual reports to State.

(A) The owner, lessor, lessee or any other person in charge of a mining operation shall forward to the Director of the Department of Conservation not later than July 1, 1991, and every year thereafter not later than on the anniversary date established by the Director of the Department of Conservation, upon a form furnished by the Director of the Department of Conservation, an annual report which includes each of the following:

- (1) The name, address and telephone number of the person, company or other owner of the mining operation;
- (2) The name, address and telephone number of a designated agent who resides in the State of California, and who will receive and accept service of all orders, notices, and processes of the Planning Director, State Board, Director of the Department of Conservation, or court;
- (3) The location of the mining operation, its name, and its mine number as issued by the Bureau of Mines, or the Director of the Department of Conservation, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey seven-and-one-half-minute or 15-minute quadrangle map;
- (4) Identification of the County of Santa Cruz as the lead agency;
- (5) The approval date of the mining operation's reclamation plan;
- (6) The mining operations status as active, idle, reclaimed, or in the process of being reclaimed;
- (7) Each commodity produced by the mine and the type of mining operation;
- (8) Proof of annual inspection by the County of Santa Cruz;
- (9) Proof of financial assurances;
- (10) Ownership of the property by the Assessor's parcel number(s) and total assessed value of the mining operation;
- (11) The approximate permitted size of the mining operation in acres;
- (12) The approximate total acreage of land, newly disturbed by the mining operation during the previous calendar year;
- (13) The approximate total of disturbed acreage reclaimed during the previous calendar year;
- (14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year;
- (15) The total production for each mineral commodity produced during the previous year; and
- (16) A copy of the approved reclamation plan in the initial annual report and any subsequent amendments or conditions of approval to any existing reclamation plan approved by the County of Santa Cruz.

(B) Subsequent annual reports shall include only any changes in information submitted for the previous report and:

- (1) Any amendments to the reclamation plan.
- (2) Review of financial assurances.
- (3) Notification of any pending appeal.

(C) If the Director of the Department of Conservation notifies the operator of any deficiency in the annual report, the operator shall correct each deficiency and submit the revised report to the Director of the Department of Conservation and Planning Director within 30 days from the date of notification by the Director of the Department of Conservation.

(D) Each annual report to the Director of the Department of Conservation and each corrective report shall be submitted concurrently to the Planning Director. [Ord. 4421 § 1, 1996].

16.54.073 Annual report to the Planning Director.

In addition to the annual report to the Director of the Department of Conservation, as required under SCCC 16.54.072, and in order to ensure compliance with all approved conditions, a report to the Planning Director shall be prepared by a professional determined by the Planning Director to be qualified to prepare such report in consultation with appropriate independent consultants. The report shall be submitted by the operator to the Planning Director by July 1st of each year. If the Planning Director determines the need for an independent consultant, the operator shall retain an independent consultant approved by the County. All costs of such report and its review shall be paid by the operator. The report shall include the following unless waived or modified in writing by the Planning Director:

- (A) A report on compliance with each of the conditions of all approvals.

(B) An analysis of any change in any significant environmental condition or mining operation which has not been anticipated in the mining approvals or certificate of compliance, or reclamation plan approval.

(C) A current aerial photograph of the entire site (one inch equals 200 feet) showing property lines, facilities, stripped areas, and revegetated areas together with a report on the extent of excavation and reclamation completed in the previous year and projected for the coming year. Each fifth year, a current photogrammetric topographical map prepared from current aerial photographs (one inch equals 200 feet, 10-foot contour interval) showing all the requirements of the above required aerial photograph shall be submitted.

(D) A noise report prepared by an independent, qualified noise/acoustical consultant retained by the operator and approved by the Planning Director. The annual noise report shall be submitted to the Planning Director and the operator. Each noise report shall determine whether or not the operator is in compliance with noise conditions of the mining approvals, certificate of compliance, or reclamation plan approval, and shall investigate and make recommendations (relative to noise mitigation) regarding:

- (1) Any mining equipment to be used on the mining site;
- (2) Noise protection berming (existing and proposed); and

(3) Any other significant noise resulting from the mining operation. The operator shall implement all recommendations of the noise consultant determined to be necessary by the Planning Director for compliance with the conditions of the approvals.

(E) A revegetation report prepared by a botanist, horticulturist or plant ecologist retained by the operator and approved by the Planning Director. The final annual report shall be submitted to the Planning Director and the operator. All costs of such report shall be paid by the operator. The revegetation report shall describe the degree of success in achieving the objectives of the revegetation plan, and shall identify any changes or additional measures which may improve results. The operator shall implement all recommendations of the botanist or horticulturist or plant ecologist determined to be necessary by the Planning Director for compliance with the conditions of the mining approvals, certificate of compliance, or reclamation plan approval.

(F) Written verification of renewal of financial assurances.

(G) A report to be held as proprietary information pursuant to SCCC 16.54.028(B), stating the annual amounts of production and shipping of mining products. [Ord. 4421 § 1, 1996].

16.54.074 Review of mining operations.

At the time of issuance of a mining approval, certificate of compliance or reclamation plan approval, or amendment thereof, a schedule shall be set by the Planning Commission and specified in said approval to review each such approval, at a public hearing for compliance with approval conditions. In no case shall the time set for review be in excess of five years. New conditions shall not be imposed as part of the review process unless: (A) there is a threat to public health and safety; (B) there is a significant injurious threat to the environment; (C) there is a nuisance; (D) there is a violation of approval conditions; (E) there is a change in the scope of operations; or (F) the ordinance in effect at the time the mining approval, certificate of compliance or reclamation plan approval being reviewed was originally approved, or the approval itself, authorized imposition of new conditions by the County. If one or more new conditions are recommended after public hearing by the Planning Commission for imposition as part of the review process the Planning Commission may, in its discretion, continue the hearing on the review and order the operator to provide such notice of the continued hearing as the Planning Commission deems appropriate, and subsequently consider final imposition of such new condition(s) at that continued hearing. [Ord. 4421 § 1, 1996].

Article IV. Suspension or Abandonment

16.54.080 Idle mining operation.

(A) Within 90 days of an approved mining operation becoming idle, as defined in SCCC 16.54.020, the operator shall submit to the Planning Director for administrative review and approval an interim management plan.

(B) The interim management plan may remain in effect for a period not to exceed five years at which time the Planning Director shall do one of the following:

(1) Hold a public hearing before the Planning Commission regarding a possible renewal of the interim management plan for another five years; or

(2) Require the operator to commence and complete reclamation in accordance with the approved reclamation plan.

(C) Within 60 days of the receipt of the interim management plan, the Planning Director shall administratively review and approve or deny the plan in accordance with this chapter, so long as the plan satisfies the requirements of this chapter and the California Surface Mining and Reclamation Act.

(D) The Planning Director shall notify the operator in writing of any deficiencies in the plan and the operator shall have 30 days to submit a revised interim management plan.

(E) The Planning Director shall administratively approve or deny the revised interim management plan within 60 days of receipt. If the Planning Director denies approval of the revised interim management plan, the operator may appeal that action to the Planning Commission, which shall schedule a public hearing within 45 days of the filing of the appeal.

(F) All idle mining operations shall be subject to annual reports pursuant to SCCC 16.54.072 and 16.54.073 and inspections pursuant to SCCC 16.54.070 and 16.54.071.

(G) All idle mining operations shall conform to applicable approval conditions, this chapter and the Surface Mining and Reclamation Act.

(H) If the mining operation remains idle after the expiration of the interim management plan and no public hearing regarding the renewal of the interim management plan is pending before the County, the operator shall commence reclamation in accordance with the approved reclamation plan.

(I) The interim management plan shall not be considered a project for purposes of the California Environmental Quality Act. [Ord. 4421 § 1, 1996].

16.54.081 Abandonment of mining operations.

(A) Unless review or appeal of an interim management plan pursuant to SCCC 16.54.080 is pending, a mining operation which remains idle for over one year without approval of an interim management plan shall be considered abandoned and the operator shall commence and complete reclamation in accordance with the approved reclamation plan.

(B) If the mining operation is abandoned pursuant to subsection (A) of this section and the operator has failed to timely commence and complete reclamation in accordance with the approved reclamation plan, the Planning Director shall commence enforcement proceedings.

(C) Each abandoned mining operation without a valid mining approval, certificate of compliance or reclamation plan approval only and which represents a threat to public health or safety shall constitute a nuisance and be deemed in violation of the County Code and shall be subject to the enforcement provisions of this chapter, the County Code (including, without limitations, nuisance abatement proceedings pursuant to Chapter 1.14 SCCC), SMARA, and any other enforcement methods established by law. [Ord. 4421 § 1, 1996].

Article V. Noncompliance, Enforcement and Appeal

16.54.090 Enforcement.

(A) It shall be unlawful for any person whether as owner, operator, applicant, principal, agent, employee, or otherwise to perform an action or allow a situation to continue in violation of the provisions of this chapter, the Surface Mining and Reclamation Act, or any approval condition. Each violation shall be subject to enforcement action in accordance with the provisions of this chapter, Chapters 1.12 and 18.10 SCCC and all other applicable provisions of law.

(B) If the Planning Director or the Director of the Department of Conservation, determines, based upon annual inspection pursuant to SCCC 16.54.071, quarterly inspection pursuant to SCCC 16.54.070 or any other inspection, that a mining operation is not in compliance with this chapter, the Planning Director or Director of the Department of Conservation, may notify the operator of that violation by certified mail. If the violation extends beyond 30 days after the date of the Planning Director or the Director of the Department of Conservation, notification, the Planning Director or Director of the Department of Conservation, may issue an order by certified mail requiring the operator to comply with this chapter. If the Planning Director or the Director of the Department of Conservation determines for any reason that the operator does not have an approved reclamation plan, then the Planning Director or the Director of the Department of Conservation may issue an order requiring the operator to cease all mining activities on the mining site.

(C) An order pursuant to subsection (B) of this section shall not take effect until the operator has been provided a hearing before the Planning Commission for orders issued by the Planning Director or the State Board for orders issued by the Director of the Department of Conservation, concerning the alleged violation. Any order issued under subsection (B) of this section shall specify which aspects of the mining operation are inconsistent with this chapter, shall specify a time for compliance which the Planning Director or Director of the Department of Conservation, determines is reasonable taking into account the seriousness of the violation, and any good faith efforts to comply with applicable requirements, and shall set a date for the hearing, which shall not be sooner than 30 days after the date of the order.

(D) An operator who violates or fails to comply with an order issued under subsection (B) of this section after the order's effective date, as provided in subsection (C) of this section, or who fails to submit an annual report pursuant to SCCC 16.54.072 and 16.54.073 to the Director of the Department of Conservation, or Planning Director, or knowingly provides incorrect or false information in the annual report, shall be subject to an order by the Planning Director or the Director of the Department of Conservation, imposing an administrative penalty of not more than \$5,000 per day, assessed from the original date of noncompliance with this chapter. The penalty may be imposed administratively by the Planning Director or Director of the Department of Conservation. In determining the amount of administrative penalty, the Planning Director or Director of the Department of Conservation, shall take into consideration the nature, the circumstances, extent and gravity of the violation or violations, any prior history of violations, the degree of culpability, economic saving, if any, resulting from the violation and other matters justice may require. Orders setting administrative penalties shall become effective upon issuance thereof, and payment shall be made to the Planning Director or the Director of the Department of Conservation, within 30 days, unless the operator petitions the Board of Supervisors, the State Board or the Superior Court for review. Any order shall be served by certified mail upon the operator.

(E) If the Planning Director or the Director of the Department of Conservation, determines that the mining operation is not in compliance with this chapter, so that the mining operation presents an imminent and substantial endangerment to the public health or environment, the County or the Attorney General, on behalf of the Director of the Department of Conservation, shall seek an order from a court of competent jurisdiction enjoining the mining operation.

(F) The Planning Director shall have the primary responsibility for enforcing this chapter. In cases where the State Board is not the lead agency, enforcement actions may be initiated by the Director of the Department of Conservation, only after the violation has come to the attention of the Director of the Department of Conservation, and either of the following occurs:

(1) The Planning Director has been notified by the Director of the Department of Conservation, in writing of the violation for at least 15 days, and has not taken appropriate enforcement action; or

(2) The Director of the Department of Conservation, determines that there is a violation which amounts to an imminent and substantial endangerment to the public health or safety, or to the environment.

(G) In addition to other liabilities and remedies provided by this chapter, failure to commence action to rectify each and every deficiency or failure to complete reclamation satisfactorily and in a timely manner on any segment of the mining site area in conformance with the approved reclamation plan within 30 days after written specification of such deficiency(ies) or reclamation failure(s) by the Planning Director, shall constitute sufficient grounds for revocation of a mining approval, certificate of compliance, or reclamation plan approval. No mining approval, certificate of compliance, or reclamation plan approval shall be issued to allow mining or other development or use of any property as to which any deficiency or reclamation failure exists, unless such mining approval, certificate of compliance, or reclamation plan approval requires correction of such deficiency or reclamation failure by a time and in a manner satisfactory to the County and the Director of the Department of Conservation.

(H) Any failure to comply with the required conditions of any mining approval, certificate of compliance or reclamation plan approval only or failure to carry out mining operations and reclamation in accordance with approved plans shall be unlawful and a public nuisance endangering the health, safety, and general welfare of the public and a detriment to the surrounding community.

(I) In addition to any other remedy provided by this chapter for the abatement, removal and enjoinder of a public nuisance caused by any mining operation, the nuisance may be abated in conformance with Chapter 1.14 SCCC.

(J) The operator shall be responsible for any and all failures of the drainage or detention systems at the mining site. If a failure should occur, immediate corrective actions shall be taken by the operator as required by the Planning Director and the State Department of Fish and Game. Corrective action shall include all cleanup, repair and restoration of the mining site and all other affected property(ies) and resources to the maximum extent feasible, the expenses of which shall be paid by the operator. [Ord. 4421 § 1, 1996].

16.54.091 Violations.

(A) It shall be unlawful for any person to knowingly do, cause, permit, aid, abet, suffer or furnish equipment or labor for any new mining operation unless the land is zoned "M-3" Mineral Extraction or "TP" Timber Production or other zoning consistent with mining operations; and the required approvals have been obtained and are in effect which authorize the mining operation.

(B) It shall be unlawful for any person to exercise a mining approval, certificate of compliance, or reclamation plan approval which authorizes a mining operation without complying with all of the conditions of such approval.

(C) It shall be unlawful for any person to knowingly do, cause, permit, aid, abet or furnish equipment or labor for any work in violation of a stop work notice from and after the date it is posted on the site until the stop work notice is authorized to be released by the Planning Director. [Ord. 4421 § 1, 1996].

16.54.092 “Stop work” notices.

In addition to any order pursuant to SCCC 16.54.090, if the Planning Director determines that any mining operation does not comply with a mining approval, certificate of compliance or reclamation plan approval only, SMARA or this chapter, the Planning Director may issue an order to stop such noncompliance (including, if necessary, obtaining a court order to stop all work at the mining site) until corrective measures have been completed. The mining site shall be posted with a “stop work” notice. [Ord. 4421 § 1, 1996].

16.54.093 Penalties.

In addition to any penalties pursuant to SCCC 16.54.090, each violation of this chapter shall be a misdemeanor punishable as provided in SCCC 1.08.010 through 1.08.050. Any person convicted of a misdemeanor, the penalty for which is not otherwise prescribed, shall be punishable by a fine of not more than \$1,000 per day or by imprisonment for not more than six months, or by both such fine and imprisonment. It shall be a separate offense for each and every day during any portion of which any violation of or failure to comply with any condition of a mining approval, certificate of compliance or reclamation plan approval only or with any provision of this chapter, the County Code or SMARA is committed, continued or permitted. [Ord. 4421 § 1, 1996].

16.54.094 Financial assurances—Forfeiture.

If the Planning Commission or the State Board, following a public hearing, determines that an operator is financially incapable of performing reclamation in accordance with the approved reclamation plan or has abandoned the mining operation without commencing reclamation, either the Planning Director or the Director of the Department of Conservation, shall do all the following:

(A) Notify the operator by personal service or certified mail that the Planning Director or the Director of the Department of Conservation, intends to take the appropriate action to forfeit the financial assurances and specify the reasons for this action.

(B) Allow the operator 60 days to commence or cause the commencement of reclamation in accordance with the approved reclamation plan and require that reclamation be completed within the time limits specified in the approved reclamation plan or some other time period mutually agreed by the Planning Director or Director of the Department of Conservation, and the operator.

(C) Proceed to take appropriate action to require forfeiture of the financial assurances if the operator does not substantially comply with the reclamation requirements.

(D) Use the proceeds from the forfeited financial assurances to conduct and complete reclamation in accordance with the approved reclamation plan. In no event shall the financial assurance be used for any other purpose except such use may include off-site mitigation of any loss of sensitive habitat or other losses. The operator is responsible for the costs of conducting and completing reclamation in accordance with the approved reclamation plan which are in excess of the proceeds from the forfeited financial assurances. [Ord. 4421 § 1, 1996].

16.54.095 Financial assurances—Responsibility.

The lead agency shall have the primary responsibility to seek forfeiture of financial assurances and to reclaim mining sites. Where the County is the lead agency, this responsibility is hereby delegated to the Planning Director. However, even in cases where the State Board is not the lead agency, the Director of the Department of Conservation, may act to seek forfeiture of financial assurances, and reclaim mining sites only if both of the following occurs:

(A) The financial incapability of the operator or the abandonment of the mining operation has come to the attention of the Director of the Department of Conservation.

(B) The Planning Director has been notified in writing by the Director of the Department of Conservation, of the financial incapability of the operator or the abandonment of the mining operation for at least 15 days, and has not taken appropriate measures to seek forfeiture of the financial assurances and reclaim the mine site; and one of the following has occurred:

(1) The Planning Director has been notified in writing by the Director of the Department of Conservation, that failure to take appropriate measures to seek forfeiture of the financial assurances or to reclaim the mining site shall result in actions being taken against the County.

(2) The Director of the Department of Conservation, determines that there is a violation which amounts to an imminent and substantial endangerment to the public health or safety or to the environment.

(3) The Planning Director notifies the Director of the Department of Conservation, in writing that its good faith attempts to seek forfeiture of the financial assurances have not been successful. [Ord. 4421 § 1, 1996].

16.54.096 Appeals to County appellate body.

Except as otherwise expressly provided by the procedures set forth in this chapter an appeal of an action taken under this chapter may be made in conformance with the appeal procedures set forth at SCCC 18.10.310 through 18.10.360. [Amended during 9/07 supplement; Ord. 4421 § 1, 1996].

16.54.097 Appeals to the State board.

(A) Any person may appeal to the State Board after exhausting all applicable remedies before the County in order to substantiate that the County has either:

(1) Failed to act according to due process or has relied on consideration not related to specific requirements of the Surface Mining and Reclamation Act and this chapter in reaching a decision to deny approval of a reclamation plan submitted to the Planning Director for approval after July 1, 1990 (and, for which no mining had begun on the site before that date) or financial assurances submitted to the Planning Director after January 1, 1994; or

(2) Failed to act within a reasonable time of receipt of a completed application, for a reclamation plan approval or submittal of financial assurances; or

(3) Failed to review and approve financial assurances originally submitted to the Planning Director after January 1, 1994.

(B) An applicant whose request for mining approval in an area of Statewide or regional significance has been finally denied by the County, or any person who is aggrieved by the issuance of a mining approval in an area of designated Statewide or regional significance may appeal the action of the County to the State Board within 15 days from the County's final decision. [Ord. 4421 § 1, 1996].

16.54.098 Appeals and review of order.

(A) Within 30 days of the issuance of an order setting an administrative penalty pursuant to SCCC 16.54.090, the operator may appeal to the Board of Supervisors, if the Planning Director has issued that order for review of the order. If the operator does not file an appeal within the time limits set by this subsection, the order setting administrative penalty shall not be subject to review by any court or agency.

(B) The appeal to the Planning Commission and any further appeals to the County Board of Supervisors shall be governed by SCCC 18.10.310 through 18.10.360.

(C) The Board of Supervisors or the State Board may affirm, modify, or set aside, in whole or in part, by its own order, any order of the Planning Director or the Director of the Department of Conservation, respectively, setting administrative penalties reviewed by the Board of Supervisors or the State Board.

(D) Any operator aggrieved by an order of the Board of Supervisors or the State Board may obtain review of the order by filing in the Superior Court a petition for writ of mandate within 30 days following the issuance of the order. Any operator aggrieved by an order of the Planning Director or Director of the Department of Conservation, setting an administrative penalty for which the Board of Supervisors or State Board denies a review may obtain review of the order in the Superior Court by filing in the court a petition for writ of mandate within 30 days following denial of review. The provisions of Section 1094.5 of the Code of Civil Procedure govern these judicial proceedings, except that in every case the court shall exercise its independent judgment. If the operator does not petition for a writ of mandate within the time limits, an order of the Board of Supervisors or State Board shall not be subject to review by any court or agency. [Amended during 9/07 supplement; Ord. 4421 § 1, 1996].

Article VI. Transition Provisions

16.54.100 Certificate of compliance requirements.

(A) Notwithstanding SCCC 13.10.260, within 10 years after January 1, 1976, each operator of an existing mining operation shall submit an application for and obtain approval of a certificate of compliance with the County mining ordinance. Each application for a certificate of compliance shall conform with all provisions of this chapter pertaining to mining approvals and mining approval amendments except as modified below.

(B) At the time of the hearing of an application for a certificate of compliance, the Planning Commission shall impose such conditions as are deemed necessary in each instance to bring the existing mining operation into full compliance with all applicable permits and approvals and terms of this chapter including establishment of a time limit for compliance. However, no new requirement, modified condition or new condition shall be imposed which is unreasonable as applied to conditions which have resulted from operations conducted prior to the effective date of Ordinance No. 1749 (September 1, 1972). No requirements or conditions necessary to respond to a threat to public health or safety, a significant injurious threat to the environment, or a nuisance shall be considered unreasonable.

(C) Procedures for processing a certificate of compliance shall be the same as for a mining approval, except that an application for a certificate of compliance:

(1) Shall not be deemed an application for rezoning under SCCC 13.10.215; and

(2) Shall not constitute a waiver of any existing vested right under an existing use permit, except to the extent that such right has been specifically and validly modified pursuant to subsection (B) of this section.

(D) Compliance with this section is hereby made a condition of all existing use permits. Failure to apply for and obtain a certificate of compliance thereunder shall be grounds for revocation of the use permit pursuant to SCCC 18.10.136. [Ord. 4421 § 1, 1996].

16.54.101 Application requirements for reclamation plan approval only.

Except as provided in this chapter, any application for a reclamation plan approval only shall contain the following information and documentation regarding the proposed reclamation of the mining site and shall be prepared and completed in compliance with the reclamation standards of this chapter and in accordance with a guideline form supplied by the Planning Director:

(A) All information and documentation as required under SCCC 16.54.040(A)(1), (2), (3) and (7).

(B) All information and documentation as required under SCCC 16.54.040(C)(1), (2), (4) and (7).

(C) All information and documentation as required under SCCC 16.54.040(D). [Ord. 4421 § 1, 1996].

16.54.102 Abeyance of enforcement.

Any enforcement action which may be brought against an operator or owner who has received approval of financial assurances for reclamation prior to January 1, 1991, or a person who has filed an appeal to the State Board or to the County Board of Supervisors shall be held in abeyance pending review of existing financial assurances or the resolution of the pending appeal to the State Board or County Board of Supervisors. [Ord. 4421 § 1, 1996].

Chapter 16.55

**ONSHORE FACILITIES SUPPORTING OFFSHORE OIL AND GAS EXPLORATION
AND DEVELOPMENT**

Sections:

16.55.010	Findings.
16.55.020	Voter approval for onshore facilities.
16.55.030	Recodification and amendment.
16.55.040	Severability.

16.55.010 Findings.

It is hereby found and determined as follows:

(A) The Federal government has proposed to open up virtually the entire California coastline to offshore oil and gas exploration and development, including the coastline off Santa Cruz County.

(B) Coastal areas off Santa Cruz County have been determined to be high priority areas for offshore oil and gas exploration and development by various multinational oil companies.

(C) Offshore oil and gas development off Santa Cruz County would have the following significant effects upon this community:

(1) If offshore oil and gas development occurs off the Santa Cruz County coast, significant new air pollution is absolutely inevitable. One drillship produces approximately the same amount of air pollution as 23,000 cars driving 50 miles per day. Despite this fact, the Federal government does not presently require that offshore oil and gas developments comply with State and local air pollution rules.

(2) Offshore oil and gas development off the Santa Cruz County coast would expose the coast to the danger of massive oil spills, from an oil well blowout or a tanker accident. Even if a major accident never occurs, routine small oil releases are absolutely inevitable if offshore oil and gas development is permitted. Such small releases of oil would degrade our sensitive marine environment, put oil on our beaches, and expose both marine mammals and seabirds to great danger.

(3) Offshore oil and gas development off the Santa Cruz County coast would inevitably result in the discharge of large volumes of highly toxic drilling muds onto the ocean floor. These toxic materials would degrade our sensitive marine environment, put all forms of marine life at greater risk, and pose a threat to human beings who might later eat fish contaminated with accumulated toxics.

(4) Offshore oil and gas development off the Santa Cruz County coast would put the existing local economy in jeopardy, because: (a) such offshore oil and gas development would significantly and substantially interfere with the operations of our fishing industry; (b) would detract from the experience of visitors to our coast, and, particularly if a massive oil spill occurs, place our tourism industry in danger; and (c) place significant pressures on coastal lands and water needed for agriculture, and would hence threaten our agriculture industry.

(D) The onshore impacts of offshore oil and gas development would be substantial:

(1) The recreational use of local port facilities could be usurped by oil industry boats.

(2) Noisy helicopter traffic could become a significant irritant to County residents.

(3) The massive fresh water supplies needed for offshore oil and gas development might require that water be diverted from existing users, or that costly and environmentally damaging dam and water projects be constructed.

(4) Coastal agricultural and other lands would be needed for oil processing, treatment, and transportation facilities, or for supply bases for offshore oil and gas development, potentially transforming our open and agricultural lands along the coast into the industrial staging area for oil and gas developments offshore.

(E) Rather than consuming offshore oil and gas resources now, our nation should conserve these resources, since they are nonrenewable. Our nation should develop a national energy strategy based on energy conservation and the increasing use of renewable energy sources. Instead, the Federal government has presently reduced or eliminated efforts to increase energy conservation, and to develop renewable energy sources, at the same time that it is attempting to increase the development of nonrenewable energy sources like offshore oil and gas. The citizens of Santa Cruz County are willing and able to do their part in conserving energy, and in developing a society less dependent on nonrenewable fossil fuel resources.

(F) The citizens of Santa Cruz County have no legal way directly to control offshore oil and gas exploration or development, since oil and gas developments which occur offshore are under the jurisdiction of the Federal government. The

citizens of Santa Cruz County do, however, have the legal ability to make significant decisions about onshore facilities which support offshore oil and gas exploration and development.

(G) Since the effects of offshore oil and gas development on the people of Santa Cruz County would be significant, it is appropriate that the people of Santa Cruz County reserve for themselves, to the maximum degree possible, decisions on major new onshore facilities which support offshore oil and gas exploration and development. [Adopted by voters as Measure “A” at June 3, 1986 election].

16.55.020 Voter approval for onshore facilities.

(A) No permit, entitlement, lease, or other authorization of any kind within the County of Santa Cruz which would authorize or allow the development, construction, or installation of any onshore facility necessary for or intended to support offshore oil or gas exploration or development shall be granted unless such authorization is approved by a majority vote of the qualified electors of Santa Cruz County, in a general or special election. For the purpose of this chapter, the term “onshore facility” means any facility or land use of at least 20,000 square feet necessary for or intended to support offshore oil or gas exploration, or the development, production, storage, processing, or transportation of oil or gas resources, produced or developed offshore, or other activities related to the development of offshore oil or gas resources.

(B) When any person proposes to undertake the development within Santa Cruz County of any onshore energy facility related to the exploration or development of offshore oil or gas resources, and requests an amendment of the County’s certified Local Coastal Program to facilitate such development, the local government determination required by Public Resources Code Section 30515 shall include a vote of the qualified electors of Santa Cruz County, in a general or special election, and no local government determination approving such an amendment shall be valid unless a majority of the electors voting in such election approve the amendment proposed. The Board of Supervisors of Santa Cruz County are hereby authorized and directed to enact any further ordinances or regulations necessary to give effect to this subsection, and specifically to require that the person seeking any such amendment to the County’s certified Local Coastal Program pay all costs associated with the special or general election required herein. [Adopted by voters as Measure “A” at June 3, 1986 election].

16.55.030 Recodification and amendment.

Nothing shall prevent the Board of Supervisors of Santa Cruz County from recodifying the substantive provisions of this chapter from time to time to incorporate the provisions of this chapter into the County Code in the most appropriate location. No substantive provision of this chapter, however, shall be amended or repealed, except by a vote of the people. [Adopted by voters as Measure “A” at June 3, 1986 election].

16.55.040 Severability.

If any portion of the ordinance codified in this chapter is hereafter determined to be invalid, all remaining portions of this chapter shall remain in full force and effect, and to this extent, the provisions of this chapter are severable. [Adopted by voters as Measure “A” at June 3, 1986 election].

Chapter 16.90

**ENVIRONMENTAL PRINCIPLES AND POLICIES TO GUIDE COUNTY GOVERNMENT
DURING THE DECADE OF THE 1990s**

Sections:

16.90.010	Purposes.
16.90.020	Findings.
16.90.030	Principles and policies.
16.90.040	Implementation.
16.90.050	Recodification, amendment and review.
16.90.060	Consistency with State law requirements.
16.90.070	Severability.

16.90.010 Purposes.

This chapter has the following purposes:

(A) To state the determination of the people of Santa Cruz County that the decade of the 1990s shall be a “Decade of the Environment” in Santa Cruz County.

(B) To direct County government to utilize its powers and resources in the decade of the 1990s to endeavor to accomplish all of the following:

- (1) To provide for the more efficient use of renewable energy and recycled resources;
- (2) To protect biological diversity and human health, through protection and restoration of the environment;
- (3) To encourage agricultural practices which are protective of the natural environment and human health;
- (4) To promote and encourage economic development strategies in Santa Cruz County which are consistent with both environmental protection and environmental restoration, and which will help create a local economy based on the use of renewable resources;

(5) To ensure that future growth and development in Santa Cruz County recognizes and respects the natural limits and carrying capacity of the Santa Cruz County environment; and

(6) To instruct Santa Cruz County government to take actions, locally, which can help reverse, reduce and eliminate those actions and practices which are contributing to environmental crises which are global in scope.

(C) To urge all the elected officials who represent the people of Santa Cruz County, at the city, State, and Federal levels of government, to take any and all actions in their power which can assist in the protection and restoration of the environment of Santa Cruz County, and which can help reverse, reduce and eliminate those actions and practices which are contributing to environmental crises which are global in scope. [Ord. 4067.1 § 2, 1990].

16.90.020 Findings.

The people of Santa Cruz County make the following findings:

(A) We live in a time in which environmentally damaging human activities throughout the world, are rapidly undermining the fragile, global environment which sustains all life.

(B) Assaults on the atmosphere of the earth, by the introduction of human-made chemicals into the atmosphere, are putting at risk the ozone layer that protects all life on the planet.

(C) The escalating rate of combustion of fossil fuels, worldwide, is significantly contributing to a “greenhouse effect,” and to a global warming, which is predicted to have dramatically adverse consequences for human life.

(D) The rapid destruction of the forests of the planet, which have properly been called the “lungs of the world” is putting the future of the planet in peril.

(E) The introduction of toxic chemicals into all parts of the environment, in increasing quantities, has led to the pollution of the oceans, and of fresh water supplies, and to the presence of toxic chemicals in the tissues of virtually every living thing, and is placing the future of life on this planet in jeopardy.

(F) Despite the magnitude of the environmental crises which confront us and which are truly global in scope, it is possible to reverse the trends which are threatening the environment, and to protect and restore the environment of the planet, while meeting the needs of all human beings for a just and decent, and desirable life.

(G) Local actions to protect and restore the environment in Santa Cruz County can help both directly, and indirectly, by providing a model for new ways of living, to reverse the patterns of activity which are destroying the environment on

a global basis, and to assist in achieving a transition to an economic order respectful of the environment based on the sustainable use of recycled and renewable resources, which is both necessary and possible.

(H) The people of Santa Cruz County must make the decade of the 1990s a "Decade of the Environment" in Santa Cruz County, and must devote their energies, individually and collectively, to protecting and restoring the environment that sustains us all. [Ord. 4067.1 § 2, 1990].

16.90.030 Principles and policies.

In order to carry out the purposes of this chapter, the following principles and policies are hereby established:

(A) Offshore Oil Drilling. Because proposals to produce oil from areas offshore central California place the environment of Santa Cruz County at critical risk, and because the production of such offshore oil would contribute to energy strategies based on the consumption of nonrenewable fossil fuel sources, and would further contribute to the problems of global warming, it shall be the policy of Santa Cruz County government to take all actions possible to oppose exploration for and development of offshore oil, off the California coast, and to establish a permanent ocean sanctuary for all portions of the California coast in which offshore oil drilling is not already proceeding.

(B) Global Warming and Renewable Energy Sources. Because the continued and accelerating use of nonrenewable fossil fuels is leading to a significant warming of the entire planet, which is predicted to cause significant adverse effects to human populations around the globe, and because the use of nonrenewable fossil fuel energy sources is also leading to air pollution, toxic contamination, and long-term detrimental effects to the economy and the environment of Santa Cruz County, it shall be the policy of Santa Cruz County government to implement, to the greatest degree possible, transportation strategies which reduce the consumption of fossil fuels, and energy strategies which increase energy efficiency and energy conservation in all sectors of energy usage, and which increase the production and use of renewable energy sources, to substitute for nonrenewable energy sources, within Santa Cruz County.

(C) Protection of the Ozone Layer. Because the emission of human-created chemicals is leading to the depletion of the ozone layer, in the upper stratosphere, that protects all life on this planet from the damaging and destructive effects of ultraviolet light, it shall be policy of Santa Cruz County government to support the most rapid possible international, national, State, and local elimination of the emission of ozone-depleting chemicals to the atmosphere; local actions to reduce or eliminate the emission of ozone-depleting chemicals to the atmosphere shall be implemented within Santa Cruz County.

(D) Forest Protection and Restoration. Because the rapid destruction of the forests of this planet is having a significant adverse effect on the atmosphere of the planet, on a global basis, it shall be the policy of Santa Cruz County government to support international, national, State, and local programs to protect existing forestlands, and to ensure that timber harvesting proceeds only on the basis of sustained harvesting techniques that will allow the harvesting of timber only at that rate at which new timber is regenerated and restored, and that will permanently protect old growth redwood stands in the State of California; and it shall further be a policy of Santa Cruz County government to support and encourage significant tree planting programs within Santa Cruz County.

(E) Greenbelt Protection and Preservation. Because it is critically important to prevent urban growth and development from sprawling into areas of prime agricultural land, onto lands which have value as a timber resource, and onto lands which provide wildlife habitat and open space for the people of the County, it shall continue to be the policy of Santa Cruz County government to prevent significant new incursions of urban development into areas which are now designated rural; and it shall further be the policy of Santa Cruz County government to provide, when possible, permanent protection for lands possessing significant open space, wildlife habitat, timber resource and agricultural value.

(F) Recycling. Because the waste of the natural resources of the earth is causing both local and environmental problems of great significance, including the discharge of toxic leachates into groundwater tables, the depletion of available landfill space, and the long-term impoverishment of the economy, it shall be the policy of Santa Cruz County government to increase, to the greatest degree possible, its use of recycled materials, and to eliminate practices which result in the unnecessary waste and disposal of natural resources; to this end, the purchasing practices of County government shall maximize the purchase and use of recycled materials.

(G) Toxic and Radioactive Materials. Because thousands of toxic chemicals have been introduced into the environment, and have created an environmental problem of global proportions, and because the Federal government has recently indicated its intention to allow certain low-level radioactive materials to be disposed of in municipal sewer systems and local sanitary landfills, exposing local residents to the potential of radioactive contamination, it shall be the policy of Santa Cruz County government to reduce the use of toxic materials within Santa Cruz County, and to require the recycling and reuse of such materials, to the greatest extent possible, rather than permitting their disposal into the air, water, or land, where disposal practices are subject to local law or regulation; and it shall be the further policy of Santa Cruz County gov-

ernment to oppose and prevent, to the greatest degree possible, the disposal within Santa Cruz County landfills and sewer treatment plants of any radioactive material, however classified by any Federal government classification scheme.

(H) Endangered Species and Biological Diversity. Because human activities are destroying the habitats which are necessary for the survival of various plant and animal species, thus causing the rapid extinction, on a worldwide basis, of numerous forms of life, and because the consequences of this loss of biological diversity are unknown, and potentially serious, and because the extinction of any form of life represents, in itself, an impoverishment and diminution of all life, it shall be the policy of Santa Cruz County government to continue, and where possible to increase, its protection for endangered species and the habitats which support endangered species within Santa Cruz County.

(I) Development of a Sustainable Local Economy. Because an economy that is not protective of the environment, or which is based on the use of nonrenewable energy sources, and other nonrenewable resources, is inherently less stable than an economy that is based on long-term environmental protection, it shall be the policy of Santa Cruz County government to promote and encourage economic development activities, and agricultural practices, which recognize and respect the natural limitations of the Santa Cruz County environment, which are protective of human health, and which are based, to the greatest degree possible, on the use of renewable, rather than nonrenewable, energy sources, and other natural resources.

(J) Future Growth and Development. Because pressures for rapidly accelerating growth and development exist within the State of California, and particularly affect desirable coastal areas like Santa Cruz County, it shall be the policy of Santa Cruz County government to use its powers and resources to ensure that the future growth and development of Santa Cruz County does not surpass the natural carrying capacity of the Santa Cruz County environment, and that such growth and development does not lead to the overdraft of any water source, the creation of unacceptable levels of air pollution, or the loss of prime agricultural land.

(K) Education and Outreach. Because ongoing education of and outreach to the population of Santa Cruz County is essential to furthering the foregoing principles and policies in the 1990s and beyond, and achieving goals identified during implementation of this chapter, it shall be the policy of Santa Cruz County government to establish and promote education and outreach programs which inform the citizens of Santa Cruz County about the environmental principles stated herein and elicit their involvement in achieving the identified goals. [Ord. 4150 § 1, 1991; Ord. 4067.1 § 2, 1990].

16.90.040 Implementation.

(A) No later than March 17, 1992, and annually thereafter, the County Administrative Officer shall report to the Board of Supervisors concerning the progress made in the previous calendar/fiscal year in carrying out the policy directives contained in this chapter, and a public hearing upon that report shall be held. In addition, a policy review and public hearing shall be held, pursuant to SCCC 16.90.050, to review the progress that County government has made during the decade of the 1990s, in achieving the purposes of this chapter.

(B) Implementation of the policies set out in SCCC 16.90.030 and of the provisions of this section shall be coordinated by the County Administrative Officer and the Planning Director.

(C) As part of the annual County budget process, each department shall identify the specific existing and potential programs and projects within its departmental purview which have been recommended or approved for implementation under this chapter and which require funding in order to commence or continue in the next fiscal year. The County Administrative Officer shall include recommendations on such expenditures in the annual budget report and recommendation to the Board of Supervisors. [Ord. 4150 § 2, 1991; Ord. 4067.1 § 2, 1990].

16.90.050 Recodification, amendment and review.

Nothing shall prevent the Board of Supervisors of Santa Cruz County from recodifying the substantive provisions of this chapter from time to time, to incorporate the provisions of this chapter into the County Code in the most appropriate location. No substantive provision of this chapter, however, shall be amended or repealed, except by a vote of the people. The Board of Supervisors shall cause a review of the accomplishments of County government, with respect to the directives contained in this chapter, to be presented to the Board at a public hearing to be held at the Board's first meeting in the month of June 1999. The Board may propose to the people the repeal, reenactment or amendment of this chapter, after any review and public hearing held pursuant to the ordinance, as the Board may determine is appropriate. [Ord. 4067.1 § 2, 1990].

16.90.060 Consistency with State law requirements.

Nothing in this chapter shall be construed as directing the County of Santa Cruz to violate any requirement of State law. [Ord. 4067.1 § 2, 1990].

16.90.070 Severability.

If any portion of the ordinance codified in this chapter is hereafter determined to be invalid, all remaining portions of this chapter remain in full force and effect, and to this extent, the provisions of this chapter are severable. [Ord. 4067.1 § 2, 1990].

Chapter 16.92

ENVIRONMENTAL PRINCIPLES AND POLICIES TO GUIDE COUNTY GOVERNMENT

Sections:

16.92.010	Purposes.
16.92.020	Findings.
16.92.030	Principles and policies.
16.92.040	Implementation.
16.92.050	Recodification, amendment and review.
16.92.060	Consistency with State law requirements.
16.92.070	Severability.

16.92.010 Purposes.

This chapter has the following purposes:

- (A) To state the determination of the people of Santa Cruz County relative to environmental principles and policies;
- (B) To direct County government to utilize its powers and resources to endeavor to accomplish all of the following:
 - (1) To provide for the more efficient use of renewable energy and recycled resources;
 - (2) To protect biological diversity and human health, through protection and restoration of the environment;
 - (3) To encourage agricultural practices which are protective of the natural environment and human health;
 - (4) To promote and encourage economic development strategies in Santa Cruz County which are consistent with both environmental protection and environmental restoration, and which will help create a local economy based on the use of renewable resources;
 - (5) To ensure that future growth and development in Santa Cruz County recognizes and respects the natural limits and carrying capacity of the Santa Cruz County environment; and
 - (6) To instruct Santa Cruz County government to take actions, locally, which can help reverse, reduce and eliminate those actions and practices which are contributing to environmental crises which are global in scope.
- (C) To urge all the elected officials who represent the people of Santa Cruz County, at the city, State and Federal levels of government, to take any and all actions in their power which can assist in the protection and restoration of the environment of Santa Cruz County, and which can help reverse, reduce and eliminate those actions and practices which are contributing to environmental crises which are global in scope.
- (D) To make concerted efforts to carry out the will of the voters, pursuant to Measure C and the ordinance codified in this chapter, through programs and initiatives which are undertaken from the period January 2000 through December 2009. [Ord. 4604 § 1, 2000].

16.92.020 Findings.

The people of Santa Cruz County make the following findings:

- (A) We live in a time in which environmentally damaging human activities throughout the world are rapidly undermining the fragile, global environment which sustains all life.
- (B) Assaults on the atmosphere of the earth, by the introduction of human-made chemicals into the atmosphere, are putting at risk the ozone layer that protects all life on the planet.
- (C) The escalating rate of combustion of fossil fuels, world-wide, is significantly contributing to a “greenhouse effect,” and to a global warming, which is predicted to have dramatically adverse consequences for human life.
- (D) The rapid destruction of the forests of the planet, which have properly been called the “lungs of the world,” is putting the future of the planet in peril.
- (E) The introduction of toxic chemicals into all parts of the environment, in increasing quantities, has led to the presence of toxic chemicals in the tissues of virtually every living thing, and is placing the future of life on this planet in jeopardy.
- (F) Despite the magnitude of the environmental crises which confront us and which are global in scope, it is possible to reverse the trends which are threatening the environment, and to protect and restore the environment of the planet, while meeting the needs of all human beings for a just, decent and desirable life.
- (G) Local actions to protect and restore the environment in Santa Cruz County can help both directly, and indirectly, by providing a model for new ways of living, to reverse the patterns of activity which are destroying the environment on

a global basis, and to assist in achieving a transition to an economic order respectful of the environment and based on the sustainable use of recycled and renewable resources, which is both necessary and possible.

(H) The people of Santa Cruz County must devote their energies, individually and collectively, to protecting and restoring the environment that sustains us all. [Ord. 4604 § 1, 2000].

16.92.030 Principles and policies.

In order to carry out the purposes of this chapter, the following principles and policies are hereby established:

(A) Offshore Oil Drilling. Because proposals to produce oil from areas offshore central California place the environment of Santa Cruz County at critical risk, and because the production of such offshore oil would contribute to energy strategies based on the consumption of nonrenewable fossil fuel sources, and would further contribute to the problems of global warming, it shall be the policy of Santa Cruz County government to take all actions possible to oppose exploration for and development of offshore oil, off the California coast, and to establish a permanent ocean sanctuary for all portions of the California coast in which offshore oil drilling is not already proceeding.

(B) Global Warming and Renewable Energy Sources. Because the continued and accelerating use of nonrenewable fossil fuels is leading to a significant warming of the entire planet, which is predicted to cause significant adverse effects to human populations around the globe, and because the use of nonrenewable fossil fuel energy sources is also leading to air pollution, toxic contamination, and long-term detrimental effects to the economy and the environment of Santa Cruz County, it shall be the policy of Santa Cruz County government to implement, to the greatest degree possible, transportation strategies which increase energy efficiency and energy conservation in all sectors of energy usage, and which increase the production and use of renewable energy resources, to substitute for nonrenewable energy sources, within Santa Cruz County.

(C) Protection of the Ozone Layer. Because the emission of human-created chemicals is leading to the depletion of the ozone layer that protects all life on this planet from the damaging and destructive effects of ultraviolet light, it shall be a policy of Santa Cruz County government to support the most rapid possible international, national, State, and local elimination of the emission of ozone-depleting chemicals to the atmosphere; local actions to reduce or eliminate the emission of ozone-depleting chemicals to the atmosphere shall be implemented within Santa Cruz County.

(D) Forest Protection and Restoration. Because the rapid destruction of the forests of this planet is having a significant adverse effect on the atmosphere of the planet, on a global basis, it shall be the policy of Santa Cruz County government to support international, national, State, and local programs to protect existing forestlands, and to ensure that timber harvesting proceeds only on the basis of sustained harvesting techniques that will allow the harvesting of timber only at that rate at which new timber is regenerated and restored, and that will permanently protect old growth redwood stands in the State of California; and it shall further be a policy of Santa Cruz County government to support and encourage significant tree planting programs within Santa Cruz County.

(E) Greenbelt Protection and Preservation. Because it is critically important to prevent urban growth and development from sprawling into areas of prime agricultural land, onto lands which have value as a timber resource, and onto lands which provide wildlife habitat and open space for the people of the County, it shall continue to be the policy of Santa Cruz County government to prevent significant new incursions of urban development into areas which are now designated rural; and it shall further be the policy of Santa Cruz County government to provide, when possible, permanent protection for lands possessing significant open space, wildlife habitat, timber resource and agricultural value.

(F) Recycling. Because the waste of the natural resources of the earth is causing both local and environmental problems of great significance, including the discharge of toxic leachates into groundwater tables, the depletion of available landfill space, and the long-term impoverishment of the economy, it shall be the policy of Santa Cruz County government to increase, to the greatest degree possible, its use of recycled materials, and to eliminate practices which result in the unnecessary waste and disposal of natural resources; to this end, the purchasing practices of County government shall maximize the purchase and use of recycled materials.

(G) Toxic and Radioactive Materials. Because thousands of toxic chemicals have been introduced into the environment, and have created an environmental problem of global proportions, it shall be the policy of Santa Cruz County government to use its powers and resources to support programs, such as the integrated pest management program, which seek to reduce the use of toxic compounds to the maximum extent possible. In addition, it shall be the policy of Santa Cruz County government to reduce the use of toxic materials rather than permitting their disposal into the air, water or land, where disposal practices are subject to local law or regulation; and it shall be the further policy of Santa Cruz County government to oppose and prevent, to the greatest degree possible, the disposal within Santa Cruz County landfills and sewer treatment plants of any radioactive material, however classified by any Federal government classification system.

(H) Endangered Species and Biological Diversity. Because human activities are destroying the habitats which are necessary for the survival of various plant and animal species, thus causing the rapid extinction on a worldwide basis of numerous forms of life, and because the consequences of this loss of biological diversity are unknown and potentially serious, and because the extinction of any form of life represents, in itself, an impoverishment and diminution of all life, it shall be the policy of Santa Cruz County government to continue, and where possible to increase, its protection for endangered species and the habitats which support endangered species within Santa Cruz County.

(I) Development of a Sustainable Local Economy. Because an economy that is not protective of the environment, or which is based on the use of nonrenewable energy sources and other nonrenewable resources, is inherently less stable than an economy that is based on long-term environmental protection, it shall be the policy of Santa Cruz County government to promote and encourage economic development activities, and agricultural practices, which recognize and respect the natural limitations of the Santa Cruz County environment, which are protective of human health, and which are based to the greatest degree possible on the use of renewable, rather than nonrenewable, energy sources and other natural resources.

(J) Future Growth and Development. Because pressures for rapidly accelerating growth and development exist within the State of California, and particularly affect desirable coastal areas like Santa Cruz County, it shall be the policy of Santa Cruz County government to use its powers and resources to ensure that the future growth and development of Santa Cruz County does not surpass the natural carrying capacity of the Santa Cruz County environment, and that such growth and development does not lead to the overdraft of any water source, the creation of unacceptable levels of air pollution, or the loss of prime agricultural land.

(K) Transportation. Because transportation is a primary concern of Santa Cruz County residents, it shall be the policy of Santa Cruz County government to use its powers and resources to continually improve the County's transportation system in a manner which reduces traffic congestion and preserves the environmental quality of Santa Cruz County. It shall be the policy of Santa Cruz County to support transportation programs, such as transportation demand management, various types of transportation, emissions controls, proper road maintenance, and other programs which may address the transportation needs of County residents.

(L) Education and Outreach. Because ongoing education of and outreach to the population of Santa Cruz County is essential to furthering the foregoing principles and policies in the decades commencing in 1990 and 2000 and beyond, and achieving goals identified during implementation of this chapter, it shall be the policy of Santa Cruz County government to establish and promote education and outreach programs which inform the residents of Santa Cruz County about the environmental principles stated herein and elicit their involvement in achieving the identified goals. [Ord. 4604 § 1, 2000].

16.92.040 Implementation.

(A) The County Administrative Officer shall report annually to the Board of Supervisors concerning the progress made in the previous calendar/fiscal year in carrying out the policy directives contained in this chapter. In addition, a policy review and public meeting shall be held, pursuant to SCCC 16.92.050, to review the progress that County government has made during the decade, in achieving the purposes of this chapter.

(B) Implementation of the policies set out in SCCC 16.92.030 and of the provisions of this section shall be coordinated by the County Administrative Officer and the Planning Director.

(C) As part of the annual County budget process, each department shall identify the specific existing and potential programs and projects within its departmental purview which have been recommended or approved for implementation under this chapter and which require funding in order to commence or continue in the next fiscal year. The County Administrative Officer shall include recommendations on such expenditures in the annual budget report and recommendations to the Board of Supervisors. [Ord. 4604 § 1, 2000].

16.92.050 Recodification, amendment and review.

Nothing shall prevent the Board of Supervisors of Santa Cruz County from recodifying the substantive provisions of the ordinance codified in this chapter from time to time, to incorporate the provisions of this chapter into the County Code in the most appropriate location. The Board of Supervisors shall cause a review of the accomplishments of County government, with respect to the directives contained in this chapter, to be presented to the Board at a public meeting to be held at the Board's first meeting in the month of June 2009. [Ord. 4604 § 1, 2000].

16.92.060 Consistency with State law requirements.

Nothing in this chapter shall be construed as directing the County of Santa Cruz to violate any requirement of State law. [Ord. 4604 § 1, 2000].

16.92.070 Severability.

If any portion of the ordinance codified in this chapter is hereafter determined to be invalid, all remaining portions of this chapter shall remain in full force and effect, and, to this extent, the provisions of this chapter are severable. [Ord. 4604 § 1, 2000].