

ORDINANCE NO. 5352**ORDINANCE AMENDING CHAPTER 16.22 OF THE COUNTY CODE REGARDING
EROSION CONTROL**

The Board of Supervisors of the County of Santa Cruz hereby ordains as follows:

SECTION I

Chapter 16.22 of the Santa Cruz County Code is hereby amended to read:

Chapter 16.22**EROSION CONTROL**

Sections:

16.22.010	Purpose.
16.22.020	Scope.
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16.22.130	Fees.
16.22.140	Inspection and compliance.
16.22.150	Applicable laws and regulations.
16.22.160	Violations.
16.22.161	<i>Repealed.</i>
16.22.162	<i>Repealed.</i>
16.22.163	<i>Repealed.</i>
16.22.164	<i>Repealed.</i>
16.22.165	<i>Repealed.</i>
16.22.170	<i>Repealed.</i>
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Repealed.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 and tree cover, disruption of water supply, and increased danger from flooding, and to implement Local Coastal Program land use policies. The regulatory standards of this chapter shall be required and incorporated into proposed project plans prior to approval and issuance of a building or grading permit for a project. For projects that propose land clearing or winter operations as defined in

this chapter, a land clearing permit or winter operations erosion control permit shall be required, which are considered as administrative discretionary permits under Title 18 of the County Code.

16.22.020 Scope.

This chapter requires control of all existing and potential conditions of accelerated (human-induced) erosion; sets forth provisions required of all projects for project planning, preparation of erosion control plans and runoff control; and establishes requirements for discretionary land clearing permits and winter operations erosion control permits; and establishes procedures for administering these provisions. This chapter shall apply to both private and public activities including those of the County and other governmental agencies as are not exempted by State or Federal law.

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 SCCC 13.03 and shall be subject to approval by the California Coastal Commission.

16.22.030 Definitions.

- (A) “Accelerated erosion” means erosion caused by a human-induced alteration of the vegetation, forest, 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.
- (B) “Access envelope” means an area delineated on the site plan to which all land clearing and land disturbance for construction of access to a development site or parcel must be confined.
- (C) “Agricultural grading” means grading on land designated for exclusive agricultural use as specified under SCCC 16.50.040.
- (D) “Approved erosion control specialist” means a person who has met certain minimum qualifications established by the Planning Director which demonstrate their capability to prepare small-scale erosion control plans.
- (E) “Building envelope” means an area delineated on the development plans to which all land clearing and land disturbance for construction must be confined.
- (F) “Development permit” as used in this chapter means any permit or approval 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.
- (G) “Drainage course” means a natural or manmade channel which conveys runoff either year-round or intermittently.
- (H) “Earth material” means rock, natural soil, or combination thereof.
- (I) “Erosion” means the wearing away of the ground surface as a result of the movement of wind or water.
- (J) “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.

(K) “Grading” means excavating, filling, leveling, or smoothing, or combination thereof which requires a grading permit under SCCC 16.20 Grading Regulations.

(L) “Land clearing” means the removal of one quarter acre or more of natural vegetation (including forest areas) down to duff or bare soil, for any purpose and by any method.

(M) “Land clearing permit” means a discretionary administrative development permit, which if granted authorizes the permittee to carry out land clearing, and which may be subject to conditions of approval.

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

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

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

(Q) “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).

(R) “Minor grading” means grading less than 100 cubic yards.

(S) “New road or driveway” means any newly constructed road or driveway or any improvement to an existing roadbed 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, driveway, 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.

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

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

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

(W) “Permittee” means any person undertaking development activities upon a site pursuant to a development, building, or grading permit granted by the County.

(X) “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.

(Y) “Planning Director” means the Director of the Planning Department or 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.

(Z) “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.

(AA) “Road” or “roadway” means an open way for vehicular traffic, which can also include an approved private driveway or other site access feature.

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

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

(DD) “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.

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

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

(GG) “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, building permit, or grading permit when it has been field-determined that a watercourse either:

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

(HH) “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.

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 if initial measures are insufficient to prevent accelerated erosion given weather or other conditions. 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).

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. Exceptions 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 a land clearing permit or a winter operations erosion control permit, or otherwise required pursuant to the regulations of this chapter, shall be in place and maintained at all times between October 15th and April 15th.

16.22.060 Erosion control plan.

(A) A condition of approval of a discretionary development permit or land division shall require that an erosion control plan be incorporated into the building and grading plans indicating proposed methods for the control of runoff, erosion, and sediment movement. Prior to issuance of a building, grading, land clearing or winter operations erosion control permit, erosion control measures consistent with the standards of this chapter shall be included in project plans 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 land clearing or winter grading operations 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 land clearing permits pursuant to this chapter shall be made according to SCCC 18.10, Level III administrative permit process, and shall include two sets of plans for each application and may be processed as concurrent approvals pursuant to SCCC 18.10. Particular components may 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 minimum size for plans for land clearing permits shall be eight and one-half inches by 11 inches. The plans submitted in an application for a land clearing permit 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.

(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 major development 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 professional who prepared the approved 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 permits 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.

16.22.070 Runoff control.

Runoff from activities subject to a building, grading, or land clearing permit, or parcel map, subdivision or development permit approval 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 on-site 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.

16.22.080 Land clearing permit approval.

Land clearing shall be kept to a minimum. Vegetation removal shall be limited to that amount necessary for building, access, and construction and shall be identified on the approved development, grading, building, land clearing grading and/or 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 a land clearing permit and an erosion control plan according to the application processing and approval procedures in SCCC 18.10, Level III administrative development permit:

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

(2) One-quarter acre or more of clearing in any other area subject to county jurisdiction.

(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 permit 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-quarter acre in excess of that shown on the approved plan, a new land-clearing permit or amendment of the approved development permit is required.

(C) Approvals of land clearing permit requests shall be based upon review and placing conditions on plans as needed to ensure that the proposed activities incorporate or meet the following measures. 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 a land clearing permit which includes the erosion control plan. Vegetation removal between October 15th and April 15th shall not precede subsequent permitted 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.

16.22.090 Winter operations erosion control permit.

(A) No land clearing operations greater than one-quarter 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 land clearing and/or grading 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 as conditions of approval of the winter operations erosion control permit:

- (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 it is determined that erosion problems are not being controlled adequately.

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.

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, building or grading 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 planing, 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 (Reclamation Plan);
- (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.

16.22.120 Exceptions.

- (A) A request for an exception from the provisions of this chapter, the permit conditions, or the plan specifications may be considered according to the application processing and approval procedures in SCCC 18.10, Level III administrative discretionary permits.

(B) A request for an exception must state in writing the provision from which it is to be excepted, the proposed substitute provisions, when it would apply, and its advantages. In granting the exception, the Planning Director shall find:

- (1) That there are special circumstances or conditions affecting the property.
- (2) That the exception 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, an exception 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 an exception is granted, can be better and/or more economically designed and constructed than if an exception were not given. An exception shall not be granted if part of an exception would have the effect of allowing the construction of a project which would otherwise without the exception not be possible under the provisions of the County Code.

16.22.130 Fees.

Fees for checking, inspection, violations, exception requests, land-clearing permits, and winter operations erosion control permits shall be set by resolution of the Board of Supervisors.

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:

- (1) Pre-Site Inspection. To determine the potential for erosion resulting from the proposed project.
- (2) Operation Progress Inspections. To determine ongoing compliance with approved land clearing, winter operations erosion control, or other development plan, permits and approvals.
- (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 24 hours prior to any inspection requested by the permittee or permittee's authorized agent.

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 or winter grading operations 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 winter grading operations; or the land clearing or winter grading 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 or winter grading 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.

(E) It shall be unlawful for any person to cause or allow the existence of a condition on any site that is causing or is likely to cause accelerated erosion as determined by the Planning Director.

16.22.161 Right of entry.

Repealed by Ord. 4392A.

16.22.162 Stop notices.

Repealed by Ord. 4392A.

16.22.163 Notification of violations.

Repealed by Ord. 4392A.

16.22.164 Nuisance abatement of violation.

Repealed by Ord. 4392A.

16.22.165 Recording notice of violation.

Repealed by Ord. 4392A.

16.22.170 Penalties.

Repealed by Ord. 4392A.

16.22.180 Enforcement.

Repealed by Ords. 4392A.

16.22.190 Appeals.

All appeals of actions taken pursuant to the provisions of this chapter shall be made in conformance to the procedures set forth in SCCC 18.10.

SECTION II

This Ordinance shall take effect on the 31st day following adoption outside the Coastal Zone and shall take effect on the 31st day following adoption or upon certification by the California Coastal Commission, whichever is later, inside the Coastal Zone.

PASSED AND ADOPTED this 6th day of October, 2020 by the Board of Supervisors and the County of Santa Cruz by the following vote:

AYES:	SUPERVISORS	Leopold, McPherson, Friend, Coonerty, Caput
NOES:	SUPERVISORS	None
ABSENT:	SUPERVISORS	None
ABSTAIN:	SUPERVISORS	None

GREG CAPUT

CHAIRPERSON, BOARD OF SUPERVISORS

ATTEST: **SUSAN GALLOWAY**

Clerk of the Board

APPROVED AS TO FORM:

Jm Heat 1/21/20 8/29/2020 (AMS# 9507)
Office of the County Counsel

DISTRIBUTION: County Counsel
Planning Department