

ORDINANCE NO. 807 N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING TITLE 21 (ZONING) OF THE MUNICIPAL CODE
TO REVISE HILLSIDE REGULATIONS
(CODE AMENDMENT 01-001)

WHEREAS, POLICY ENV-11 of the Land Use Element of the General Plan for the City of Paso Robles, and its supporting programs, call for the City to protect the form of hillsides as a visual amenity via development standards that include limiting the amount of grading; and

WHEREAS, recent use of mass-grading and pad-grading, as defined in Section 21.16E.140, in the development of several properties has been perceived by the public as having created significant adverse visual impacts, contrary to the intention of POLICY ENV-11; and

WHEREAS, existing hillside regulations discourage mass-grading and pad-grading, but contain no prohibitions for such grading on land in the steeper slope categories (those); and

WHEREAS, Ordinance 571 N.S. defined the Hillside Development District as including all properties where the natural (ungraded) slope of developable areas is ten percent or greater and all properties designated on Figure 21.14A.020; and

WHEREAS, in order to further the objectives of POLICY ENV-11, it is in the interest of the City to limit the practice of mass-grading and pad-grading to those properties that are outside of the Hillside Development District; and

WHEREAS, at its meeting of March 27, 2001, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- c. Recommended that the City Council adopt the proposed ordinance; and

WHEREAS, at its meeting of April 17, 2001, the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Considered the recommendation of the Planning Commission regarding this code amendment;
- c. Conducted a public hearing to obtain public testimony on the proposed ordinance;
- d. Based on the information contained in the Initial Study, the City Council found that there would not be a significant impact on the environment as a result of the code amendment and adopted a Negative Declaration in accordance with the California Environmental Quality Act.

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, finds as follows:

1. The above stated facts of this ordinance are true and correct.
2. This code amendment is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Section 21.14A.020. (Hillside Development District: Applicability) is hereby amended to read as follows:

“21.14A.020 Applicability.

- A. The hillside development district is established as an overlay district on the properties shown on Figure 21.14A.020 and over all properties, including properties outside of the hillside development district boundaries, where the average natural (ungraded) slope of the net developable areas of a property is ten percent or greater.
 1. The average slope of the net developable area of a property shall consist of the gross acreage of a property, minus the following:
 - a. Any dedication necessary to provide for the full rights-of-way of arterial and/or collector streets, as designated by the circulation element of the general plan, adjacent to and/or within a proposed subdivision, parcel map or lot line adjustment, in accordance with adopted standards for city streets;
 - b. Any areas of the site with natural slopes of thirty-five percent or greater;

- c. Any areas of the site within the outer driplines of a compact grouping of ten or more oak trees ("mature" as defined in Chapter 10.01 of this code), where driplines between trees in the grouping are separated by ten feet or less;
 - d. Any areas of the site within the floodway of the Salinas River.
2. Average slope of the net developable area shall be calculated using the following formula:

$$\text{Average slope} = \frac{I \times L \times 0.0023}{A}$$

Where:

- I = Contour interval in feet. Contour intervals shall not exceed five feet.
- L = Combined length of contour lines measured within the net developable area.
- 0.0023 = A constant that converts square feet into acres and expresses slope in percent.
- A = Acreage of net developable area.

- B. The hillside development standards are in addition to those development standards established within Chapter 21.16 (district use tables) except where the development standards for the primary district, as listed in the district use tables, are more restrictive than the development standards for hillside areas.
- C. Where necessary to accomplish the purposes of this chapter, the city council, planning commission and development review committee and community development director may impose additional conditions which may serve to limit the types and intensities of land uses to achieve the purpose and intent of this chapter.”

SECTION 2. Section 21.16E.140 (R-1 District Regulations: Grading Limitations) is hereby amended to read as follows:

“21.16E.140 Grading Limitations.

The following grading standards shall apply:

- A. Preliminary grading plans shall be submitted with every application for a subdivision map and may be required for submittal of parcel maps and lot line adjustment applications.
- B. Mass grading and padding shall be prohibited on all lots located within the Hillside Development District, as defined by Section 21.14A.020. Outside of the Hillside Development District, the extent of cut-and-fill grading shall be minimized. Where mass grading or padding can be accomplished in a manner consistent with the purpose and intent of this chapter and such grading is necessary for the reasonable use of the property, extraordinary efforts shall be made to minimize exposed slope and retaining wall heights and to install mitigating landscaping.

Exceptions: In the Hillside Development District, padding may be authorized as part of site plan review required by Section 21.23B.030 in the following situations:

- (1) On lots with areas one acre or larger (gross area, including half of the width of the right-of-way of adjacent streets) where the Development Review Committee finds that the proposed pad does not create adverse visual impacts to other properties or to the public at large, when viewed from public streets and other vantage points open to the public (which could include private property designated for commercial use); and
 - (2) Where the natural slope of the developable area of a lot, which includes the area under the footprint of a dwelling, necessary areas around the footprint for drainage (as specified by the adopted version of the Uniform Building Code codified in Title 17 of this Code) and usable yard, and a driveway, is less than ten percent, padding may be permitted, subject to the following conditions: (a) all graded slopes and retaining walls shall conform with the vertical height limits set forth in subsection D, below; and (b) a setback, no less than ten feet in width, from all interior property lines (those not abutting a street) in which there shall be no graded slopes or retaining walls shall be provided.
- C. ‘Benching’ shall be encouraged and may be required as a construction technique in order to minimize the extent of grading and height of both retaining and stem walls.
 - D. The vertical height of graded slopes and/or exterior retaining walls to create pads or benches shall be limited as specified in this subsection. The maximum vertical height of a graded slope or combination of graded slope and the exposed face of an exterior retaining wall used to create a pad or a bench shall be related to the size of the lot and shall not exceed the following limits.
 - 1. Between two side yards or between a side and a rear yard:
 - a. For each lot, the maximum height of the exposed face of an exterior retaining wall shall not exceed four feet. If more than one retaining wall is used, the minimum horizontal distance between the exposed faces shall be equal to, or greater than, the height of the exposed face of the higher of two adjacent walls. See Figure 21.16E.020A for a graphic example of this requirement.
 - b. The average maximum height of a graded slope, series of exterior retaining walls, or combination of both shall be limited as follows:

- i. Four feet on lots with areas of seven thousand square feet or less;
- ii. Eight feet on lots with areas of ten thousand square feet or less;
- iii. Twelve feet on lots with areas greater than ten thousand square.

Notes: (1) The average height for all graded slopes is based on the standard ratio of 2:1 for graded slopes and shall be determined in the manner indicated in Figure 21.16E.020B. The average maximum heights of graded slopes may be increased proportionately if lower ratios such as 3:1 or 4:1 are utilized; please see Figure 21.16E.020C for an illustration of the proportionate change. (2) The heights of graded slopes on each individual lot shall, except as provided herein, be evaluated independent of the heights of cut and/or fill slopes on adjacent parcels. (3) Where graded slopes are located on adjacent lots such that the combined height of graded slopes across adjacent lots exceeds twelve feet, flat (0 – 5 %) bench to be a minimum of ten feet wide shall be provided. Said bench shall be placed between the adjacent lots and between the adjacent slopes in order to accommodate fencing, drainage facilities, maintenance access and landscaping. The bench shall be heavily landscaped in a manner to be approved by the development review committee, with the intent of mitigating the visual impact of two adjacent slopes.

2. Between two rear yards:

- a. For each lot, the maximum height of the exposed face of an exterior retaining wall shall not exceed six feet. If more than one retaining wall is used, the minimum horizontal distance between the exposed faces shall be equal to, or greater than, the height of the exposed face of the higher of two adjacent walls. See Figure 21.16E.020A for a graphic example of this requirement.
- b. The average maximum height of a grade slope, series of exterior retaining walls, or combination of both shall be limited as follows:
 - i. Six feet on lots with areas of seven thousand square feet or less;
 - ii. Eight feet on lots with areas of ten thousand square feet or less;
 - iii. Twelve feet on lots with areas greater than ten thousand square feet.

Notes: (1) The average height for all graded slopes is based on the standard ratio of 2:1 for graded slopes and shall be determined in the manner indicated in Figure 21.16E.020B. The average maximum heights of graded slopes may be increased proportionately if lower ratios such as 3:1 or 4:1 are utilized; please see Figure 21.16E.020C for an illustration of the proportionate change. (2) The heights of graded slopes on each individual lot shall, except as provided herein, be evaluated independent of the heights of cut and/or fill slopes on adjacent parcels. (3) Where graded slopes are located on adjacent lots such that the combined height of graded slopes across adjacent lots exceeds twelve feet, flat (0 – 5 %) bench to be a minimum of ten feet wide shall be provided. Said bench shall be placed between the adjacent lots and between the adjacent slopes in order to accommodate fencing, drainage facilities, maintenance access and landscaping. The bench shall be heavily landscaped in a manner to be approved by the development review committee, with the intent of mitigating the visual impact of two adjacent slopes.

3. Notes:

- a. Where streets are parallel with contour lines, the regulations set out in this subsection may require that downhill lots be graded to drain to a drainage easement in the rear of the downhill lots instead of draining to the street.
 - b. Benching, raised (stem) wall foundations, interior retaining walls, and similar construction methods may be required in order to comply with the limits set out in this subsection for vertical height of graded slopes and/or exterior retaining walls for pads or benches.
 - c. Gravity/Crib Wall Option. If the applicant can demonstrate to the satisfaction of the planning commission/development review committee that use of a gravity or crib wall will reduce the amount of grading/landform modification and will provide a suitable alternative to a terraced retaining wall (series of two or more retaining walls on a single slope), the planning commission/development review committee shall consider and may approve use of a gravity or crib wall design for side and/or rear yard locations. The maximum acceptable height of the gravity/crib wall, and the individual design factors of such walls (for example, whether or not a bench and/or landscaping is required), shall be evaluated on a case by case basis. The extent to which the wall would be in public view shall be a consideration for the planning commission/development review committee.
- E. All retaining walls to create building pads shall be constructed of masonry materials.
 - F. The exposed face of a stem wall shall not exceed nine feet in average height and shall be heavily landscaped and/or screened in a manner subject to approval of the city council or its designee.
 - G. The overall shape, height and grade of graded slopes shall not exceed 2:1; 4:1 slopes are preferred. (Exception: The city engineer may approve steeper cut slopes for construction of streets, where a registered soils engineer recommends such approval.)
 - H. Slope grading design shall be based on the concepts of "contour grading," a technique that strives to maintain the pre-existing landform or to replicate natural landform patterns in the case of extensive grading.

- I. The crest of all graded slopes in excess of eight feet vertical height shall be rounded. Where graded slopes intersect, the ends of each slope shall be horizontally rounded and blended.
- J. All graded slopes with vertical heights of three feet or greater shall be provided with landscaping materials and irrigation systems that are under the control of a single property owner or under the jurisdiction of a homeowner's association.
- K. All grading activities are subject to specific erosion-control measures required by the city engineer. Grading plans shall be prepared by a California-licensed engineer. (Exception: If a California-licensed architect prepared the structural plans for a building, the architect may prepare the grading plans.)
- L. Manufactured Slopes.
 - 1. Multi-Parcel Grading. These requirements apply when a grading permit is submitted for more than one lot or parcel (located outside of the Hillside Development District).
 - a. All Manufactured Slopes Requiring a Grading Permit. All manufactured slopes shall be prepared and maintained with erosion protection. This control shall consist of hydroseeding and other materials approved by the city engineer and director of community development to be completed within one month of the grading operation unless granted an extension by the city engineer. Soil amendment and soil preparation may be required by the city engineer prior to hydroseeding to ensure the establishment of the plant material. Hydromulch seeds should be applied following the first measurable rainfall in the fall of the year or a temporary irrigation method may be required to ensure germination and minimum growth. If the natural rainfall fails to provide adequate moisture for germination, supplemental irrigation and replanting may be required.
 - b. Manufactured Slopes Visible From a Public Street. Manufactured slopes determined by the planning division to be visible from a public street will be required to install landscaping in addition to the hydroseeding prescribed above. If there is a question regarding the visibility of a slope, the planning division may defer the determination to the development review committee. The additional landscaping must be installed prior to certificate of occupancy for associated building construction.
 - i. Plan Required. A landscaping plan shall be submitted for review and approval by the development review committee. The landscaping plan shall be designed by a landscape architect. Soil amendment, plant material, installation and irrigation shall be included in the landscape plan. New landscaping shall incorporate plant species, which meet the following criteria:
 - (A) New vegetation should be compatible with natural vegetation and that on surrounding properties.
 - (B) All planting within thirty feet of buildings should be fire-retardant.
 - (C) For water conservation purposes, drought resistant species are encouraged.
 - ii. Quantity of Vegetation. Manufactured slopes shall be planted and irrigated per the following standards:
 - (A) Groundcover. Manufactured slopes shall be planted with groundcover materials for erosion control. Groundcover may be as hydromulch or planted from rooted cuttings.
 - (B) Trees and Shrubs. Manufactured slopes have a mixture of trees and shrubs incorporated within groundcover to assure soil stabilization and to promote varying height and mass of landscaping. However, within the private portions of single-family lots, sloped areas which are less than eight feet in height are not required to be planted with shrubs, and sloped areas less than five feet in height are not required to be planted with trees.

There shall be a minimum of one tree for every five hundred square feet of slope area. If permanent groundcover is applied as a hydromulch, there shall be a minimum of one shrub for every one hundred twenty-five square feet of slope area. If rooted cuttings are utilized as groundcover, there shall be one shrub for every three hundred square feet of slope area. There should be a mix of one gallon to fifteen-gallon trees and shrubs to promote varying height and mass of landscaping. Box-sized trees require retaining walls on slopes to prevent slope failure.
 - iii. Landscaping Installation. The landscape architect that prepared the landscaping plan shall supervise the installation of soil amendments, landscaping materials, and irrigation system to insure that the required work is done per the approved plan. The landscape architect shall provide the City of El Paso de Robles with a written confirmation that the soil amendments, landscaping materials, and irrigation system are installed per the plan approved by the city.
 - 2. Individual Lot Grading. These requirements apply when a grading permit is submitted for a single lot.
 - a. All Manufactured Slopes Requiring a Grading Permit. All manufactured slopes shall be prepared and maintained with erosion protection as prescribed in subsection (L)(1)(a) of this section.
 - b. Manufactured Slopes Visible From a Public Street. Manufactured slopes determined by the planning division to be visible from a public street will be required to install landscaping as prescribed in

subsection (L)(1)(b) of this section. However, a landscape architect is not required to design the landscaping plan. Applicants are encouraged to consult a landscape professional when designing the landscape plan.

- M. 1. Usable Rear Yard, For All Lots, Regardless of Location. In the rear yard of all lots, a usable, unobstructed natural or manufactured (graded) area ten feet in depth shall be provided. "Usable" means that the slope is a minimum of two percent but not more than five percent. Where a residential building is designed to be built into existing natural slopes, this requirement may be met by providing either a five-foot wide usable manufactured area no less than the full width of a dwelling unit, or a deck a minimum of ten feet in depth and no less than the full width of a dwelling unit. The underside of decks that are three feet or higher above grade shall be screened with landscaping and/or architectural features such as wooden lattice.

Exception: The planning commission, development review committee or staff shall consider and may approve proposals for the usable rear yard requirement to be met by designating an equivalent (in area as noted above) side yard (or a combination of rear and side yard). The minimum dimension for any usable yard area shall be ten feet.

2. For Lots That are Adjacent to, and Elevated Above, an Arterial or Collector Street, as Designated by the Circulation Element of the General Plan.
- a. Where a dwelling unit is placed on a manufactured pad, and the average height of the manufactured slopes for this pad in the rear or street side yard adjacent to an arterial or collector street is ten feet or more, the dwelling unit shall be set back a minimum of fifteen feet from the top of the manufactured slope.
- b. Where a residential building is designed to be built into existing natural slopes, and a deck is proposed to be the means to meet the usable yard requirement described in subsection (M)(1) of this section, if the rear yard is adjacent to an arterial or collector street, the underside of such a deck, regardless of height above grade, shall be screened with landscaping and/or architectural features such as wooden lattice. Alternative solutions may be proposed to the development review committee (DRC).

The DRC shall have the authority to limit the proposed size and dimensions of any deck, but not less than the minimum dimensions of ten feet of depth and full width of the dwelling unit, if it finds that a proposed deck of greater depth and width would create negative visual impacts.

- c. The requirements of subsections (M)(2)(a) and (M)(2)(b) of this section shall be applied to all lots created by tentative subdivision (tract) maps, tentative parcel maps or lot line adjustments that are approved after July 1, 1998. On any lot created prior to that date, the development review committee shall review a site plan application and require grading and landscaping treatment appropriate to the size and dimensions of the lot with the intent of reducing visual impacts."

SECTION 3. Section 21.16I.100 (Multi-Family Residential Districts: Grading Limitations) is hereby amended to read as follows:

21.16I.100 Grading Limitations

The grading standards established by Section 21.16E.140 of this title for the R-1 district shall be followed for the creation of new lots in the R-2, R-3 and R-4 districts. On a case-by-case basis, in the event that compliance with Section 21.16E.140 can be demonstrated to be physically infeasible for any reasonable type of development of an R-2, R-3 or R-4 zoned property, including restrictions against pad grading on property in the Hillside Development District, the planning commission may, subject to development plan review, approve modified grading standards upon a finding that the modified standards will not create a physical hazard or negative visual impact when a graded slope or retaining wall is viewed from a street or neighboring property. The planning commission may impose any conditions necessary to ensure that such a finding can be made."

SECTION 4. Section 21.23B.030 (Development Review: Review Requirements) is hereby amended to read as follows:

21.23B.030 Review Requirements

- A. Development Plan. The following types of development projects shall be subject to planning commission approval of a development plan:
1. Planned Development District. All development in the planned development (overlay) district;
 2. Projects Subject to Environmental Review. All projects subject to the California Environmental Quality Act for which either a mitigated negative declaration or an environmental impact report is required;
 3. Single-Family Residential. As required within the planned development (overlay) district;
 4. Multiple-Family Residential.
 - a. Five or more dwelling units per lot, (NOTE: This is figured cumulatively, i.e., the addition of a fifth dwelling unit shall require approval of a development plan.)
 - b. In conjunction with a subdivision or parcel map to create multi-family zoned lots in which the total number of dwelling units that could be developed is five or more. In such cases, a development plan

for conceptual development on each of the lots may be submitted for approval concurrently with the subdivision or parcel map, with a precise development plan for development of each lot submitted for approval prior to the issuance of building permits;

5. Commercial, Industrial, and Institutional.
 - a. Construction of buildings with ten thousand or more gross square feet, (NOTE: Additions of one thousand square feet or less, not exceeding one such addition in any twelve-month period, where the gross floor area of the subject buildings would be increased from less than ten thousand square feet to ten thousand square feet or more are exempt from the requirement for development plan review, provided that all necessary infrastructure has been installed, all necessary dedications have been made and no special conditions are necessary. Such additions would be subject to site plan review.)
 - b. Construction of buildings with less than ten thousand gross square feet if all necessary infrastructure has not been installed, all necessary dedications have not been made or special conditions are necessary;
 6. Pregrading. Pregrading of a site (without any accompanying development plans) where the surface area is greater than twenty thousand square feet shall go through the development plan public hearing review process to the planning commission. (NOTE: This is figured cumulatively, i.e., the addition of one thousand square feet of graded area to a nine thousand square foot graded area shall require approval of a development plan.)
- B. Site Plan. The following types of development projects shall be subject to development review committee (DRC) approval of a site plan, subject to design guidelines approved by the planning commission:
1. Single-Family Residential.
 - a. Referrals from the planning commission for dwellings within the planned development district;
 - b. All dwellings in the hillside development district, with the provision that the DRC may delegate staff the authority to approve dwellings in the hillside development district as a plot plan application, subject to a finding of conformance with design guidelines approved by the planning commission.
 2. Multiple-Family Residential.
 - a. Two to four dwelling units per lot,
 - b. Room additions, accessory buildings, and exterior alterations that are visible from public streets and other public vantage points;
 3. Commercial, Industrial, and Institutional. Construction of buildings with less than ten thousand gross square feet if all necessary infrastructure has been installed, all necessary dedications have been made and no special conditions are necessary;
 4. Pregrading. Pregrading of a site (without any accompanying development plans) shall be reviewed and may be approved by the DRC, where the surface area is twenty thousand or less square feet, adjacent property owners shall be notified by certified mail with a return receipt notifying them of relevant DRC meeting ten days prior to the meeting. The committee may determine that the pregrading would have significant effects to the surrounding properties and need to go through the development plan process subject to approval of the planning commission.
 5. Signs. All signs are subject to site plan review, except change of copy within existing sign structures and directional signs.
- C. Plot Plans. The following types of development projects shall be subject to staff approval of a plot plan, subject to design guidelines approved by the planning commission:
1. Single-Family Residential.
 - a. Individual single-family residences both within and outside of the hillside development district,
 - b. Referrals from the design review committee for dwellings within the planned development district;
 2. Multiple-Family Residential. Minor room additions, accessory buildings, and exterior alterations that are not visible from public streets and other public vantage points and which do not increase the number of dwelling units on site;
 3. Commercial, Industrial, and Institutional. The following are subject to plot plan review unless they are required items of development plan or site plan review for a development project:
 - a. Minor additions, accessory buildings, and exterior alterations that are not visible from public streets and other public vantage points,
 - b. Signs. Change of copy within existing sign structures, directional signs,

- c. Installation of such items as automatic teller machines, replacement gasoline pumps, trash bin enclosures, electrical transformer boxes,
- d. Outdoor seating areas for restaurants,
- e. Fences, walls, screening for outside storage and display areas,
- f. Landscaping,
- g. Parking lots.”

SECTION 5. Publication. The City Clerk shall cause this ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

SECTION 6. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 7. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 8. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on April 17, 2001, and passed and adopted by the City Council of the City of El Paso de Robles on the 1st day of May, 2001, by the following roll call vote, to wit:

AYES:	Finigan, Heggarty, Nemeth and Mecham
NOES:	None
ABSENT:	Picanco
ABSTAINING:	None

Mayor Frank R. Mecham

ATTEST:

Sharilyn M. Ryan, Deputy City Clerk