

## Section 16: Land Disturbance

(orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 10-12-04; am. 4-20-10; am.11-20-12)

### A. Purpose

The purpose of this section is to:

1. Enhance the quality of water in the County's drainageways and surface waters; (orig. 10-12-04)
2. Protect life, property and the environment from loss, injury and damage by stormwater runoff, erosion, sediment transport, ponding, flooding, landslides, accelerated soil creep, settlement and subsidence, excessive dust, and other potential hazards caused by grading, construction activities, and denuded soils; (orig. 10-12-04)
3. Allow a temporary land use for land disturbance activities; and (orig. 8-25-86; am. 9-24-91; am. 3-23-99; am. 10-12-04)
4. Establish performance standards to:
  - a. Define grading, drainage, erosion and sediment control, and waste disposal requirements; (orig. 10-12-04)
  - b. Ensure mitigation of adverse impacts; and (orig. 10-12-04)
  - c. Ensure the reclamation of disturbed land. (orig. 10-12-04)

### B. General Provisions

#### 1. Performance Standards

All land disturbance activities must conform to the performance standards as detailed in this section. These standards apply whether or not a Grading Permit or Notice of Intent is required. (orig. 10-12-04)

#### 2. Activities Requiring a Grading Permit or Notice of Intent

It shall be unlawful for any person, firm or corporation to do or authorize any land disturbance in the unincorporated area of Jefferson County without first obtaining a Grading Permit from the County or submitting a Notice of Intent to the County to authorize temporary land disturbance activities unless specifically exempted by this section. The applicant, the landowner, and the contractor are responsible if a land disturbance activity is undertaken in contravention of the performance standards, or if a land disturbance activity is undertaken beyond the scope of the Grading Permit or Notice of Intent without County approval. Land disturbance activities must be completed in compliance with the approved plans. (orig. 8-25-86; am. 9-24-91; 8-8-95; am. 3-23-99; am. 12-17-02; am. 10-12-04)

- a. Land disturbance activities that require a Grading Permit include the following: (orig. 10-12-04)
  - (1) Disturbed area greater than or equal to 1 acre; (orig. 10-12-04)
  - (2) Disturbed area greater than or equal to 5,000 square feet in a sensitive area. (orig. 10-12-04; am. 11-24-15)
- b. Land Disturbance activities that require a Notice of Intent include the following: (orig. 10-12-04)
  - (1) Land disturbed greater than or equal to 5,000 square feet and less than 1 acre in a non-sensitive area; (orig. 10-12-04; am. 11-24-15; am. 7-17-18)
  - (2) Land disturbed in accordance with lot grading and erosion control plans approved with plats; (orig. 10-12-04; am. 11-24-15)
  - (3) Land disturbed in accordance with an approved Site Plan Application for drilling and production of oil and gas wells. (orig. 5-20-08)
- c. Sensitive Areas: (orig. 10-12-04; am. 5-20-08; am. 11-24-15)

Sensitive areas include North Table Mountain, South Table Mountain, Green Mountain, the Hogback, floodplain overlay zones, geologic overlay zones, major drainage ways, and areas with existing slopes greater than 20 percent (unless otherwise approved by a previous County process). (orig. 10-12-04; am. 7-12-05; am. 5-20-08; am. 11-24-15)

3. Activities exempt from the Requirement for a Grading Permit or Notice of Intent

Land disturbance activities that are exempt from Grading Permit or Notice of Intent requirements shall comply with the specific requirements, if any, listed in the applicable exemption provision below. In addition, land disturbance associated with activities listed within this exemption section must still be in compliance with the performance standards set forth in this section, unless specifically stated otherwise. The landowner and the contractor are responsible if land disturbance activity is undertaken in contravention of these performance standards. The following land disturbance activities are permissible without obtaining a Grading Permit or submitting a Notice of Intent: (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 3-23-99; am. 10-12-04; am. 4-20-10)

- a. Projects which involve less than 5,000 square feet of graded area. Individual lots in subdivision developments under the same ownership, involving less than 5,000 square feet of disturbed area, shall not be considered separate projects if they are contiguous. Any series of related projects or connected projects on one site, which together exceed the 5,000 square feet limitation shall be considered a single project and shall be required to obtain a Grading Permit or Notice of Intent. For example, several 5,000 square foot segments that connect to form a road would be considered a single project and would require a Grading Permit or Notice of Intent. (orig. 9-24-91; am. 12-17-02; am. 10-12-04; am. 7-12-05; am. 11-24-15)
- b. Land disturbance work being done pursuant to and in conformance with an approved grading plan in conjunction with an approved recorded Plat, Site Development Plan, Minor Adjustment or Exemption from Platting. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 4-27-04; am. 10-12-04)
- c. Tillage of agricultural land is exempt from all permit requirements. Agricultural uses of land zoned agricultural, other than tillage, which disturb greater than 5,000 square feet is exempt from the filing requirements, provided a conservation plan for the proposed grading activities using the United States Department of Agriculture Soil Conservation Service standards is approved by the Jefferson Conservation District. A copy of the conservation plan shall be submitted to Planning and Zoning prior to the commencement of grading activities. The County shall enforce the conditions of the conservation plan under the enforcement provisions of this section. (orig. 9-24-91; am. 8-8-95; am. 12-17-02; am. 4-27-04; am. 11-24-15)
- d. Trenching incidental to the construction, maintenance and installation of approved underground pipe lines, electrical or communication facilities, and drilling or excavation for approved wells or post holes if the total area of land disturbance is less than one acre. Construction activities associated with the installation of the onsite wastewater treatment system shall not be exempt. Construction of access required to complete the trenching or for future maintenance shall not be exempt. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 10-12-04; am. 4-20-10; am.11-20-12; am. 11-24-15)
- e. Land disturbance for utility installation or maintenance within a County owned or County maintained Right-of-Way if the total area of land disturbance is less than one acre. These activities require a County Right-of-Way and Construction Permit. (orig. 8-8-95; am. 10-12-04; am.11-20-12)
- f. Land disturbance or excavations in accordance with plans incorporated in a mining permit, reclamation plan or sanitary landfill approved by the County. (orig. 8-25-86; am. 9-24-91; am. 12-17-02; am. 10-12-04)
- g. County capital improvement or County maintenance projects within Right-of-Way or County airport runways if the total area of land disturbance is less than one acre. (orig. 12-17-02; am. 10-12-04; am.11-20-12)

- h. Maintenance and cleaning of existing ditches, lakes, ponds, and water storage reservoirs. (orig. 8-25-86; am. 10-12-04)
- i. Maintenance and resurfacing of existing streets/roads, runways, sidewalks/trail systems, parking lots/loading areas, and railroad beds. (orig. 9-24-91; am. 10-12-04)
- j. Performance of emergency work necessary to prevent or mitigate an immediate threat to life or property when an urgent necessity arises. The person performing such emergency work shall notify Planning and Zoning promptly of the problem and work required. If the emergency work would not otherwise be exempt from a Grading Permit, a Grading Permit shall be obtained as soon as possible. (orig. 8-25-86; am. 9-24-91, 8-8-95; am. 4-27-04; am. 10-12-04; am. 5-20-08)
- k. Enlargements to parking areas less than 5,000 square feet larger than the original area of existing parking facilities for commercial, industrial and institutional uses. The provisions of paragraph B.3.a. shall not be exceeded as noted above. Stormwater detention and water quality must be provided for in accordance with the Storm Drainage Design and Technical Criteria Manual. (orig. 4-27-04; am. 10-12-04; am. 11-24-15)
- l. Land disturbance for natural surface trails that are less than one acre are exempt. Land disturbance over one acre associated with the construction of natural surface trails shall follow the procedure outlined below prior to commencement of any trail construction. The land disturbance associated with the construction of natural surface trails shall conform with the performance standards of this section and the current Jefferson County Natural Surface Trail Guide. (orig. 4-20-10; am.11-20-12; am. 11-24-15; am. 7-17-18)
  - (1) Plans are submitted showing the location and overall scope of the trail construction project, including a description of the proposed construction phasing. (orig. 4-20-10; am. 7-17-18)
  - (2) A detailed construction schedule is provided for each phase of the construction project. (orig. 4-20-10)
  - (3) The applicant proposes a construction guide that includes typical construction procedures that will be used during the construction of trails, including erosion and sediment control measures. (orig. 4-20-10)
  - (4) Planning and Zoning has reviewed the construction guide and has determined that the construction procedures will be sufficient to assure compliance with the grading performance standards of this section, and state or county erosion and sediment control standards. (orig. 4-20-10)
  - (5) The applicant shall stake the proposed trail alignment and shall coordinate a site visit with County Staff to review the alignment. If Staff identifies areas where trail alignment should be adjusted to assure conformance with the performance standards and the construction guide, then a new plan showing the new alignment shall be submitted. (orig. 4-20-10)
  - (6) The applicant agrees to implement the construction procedures identified within the guide and agrees that the county has the authority to inspect and require field alterations if the typical construction procedures identified in the guide are not being properly implemented. The applicant also agrees that failure to implement the construction standards of the guide or the field alterations directed by Planning and Zoning may result in the issuance of a zoning violation in accordance with this Resolution; and may result in the exemption from the grading permit requirements being revoked for future phases of the trail construction project. (orig. 4-20-10)
  - (7) The applicant submits the standard Grading Permit fee to cover the cost of the review and approval of the construction guide, and the inspection of each phase of the construction process. (orig. 4-20-10)

The procedures outlined in this section shall not apply to trail construction in special flood hazard areas that have been identified as a part of the Jefferson County Floodplain Overlay District. The appropriate floodplain permit and grading permit will

be required for construction activities occurring within special flood hazard areas. (orig. 4-20-10)

m. Any work within State or Federal lands including Rights-of-Way and/or permanent easements held by said agencies. This exemption does not relieve these entities from completing a floodplain development permit in accordance with the Floodplain Overlay District Section of this regulation. (orig. 7-17-18)

4. Denial of other Permits

Building Permits or Certificate of Occupancy shall not be issued while an unresolved grading or floodplain violation is ongoing on the subject property. (orig. 8-25-86; am. 9-24-91, am. 8-8-95; am. 12-17-02; am. 7-17-18)

5. Permission of other Agencies or Owners

The issuance of a Grading Permit or the submission of a Notice of Intent shall not relieve the applicant of the responsibility for securing other permits or approvals required by any other division or agency of Jefferson County or other public agency or for obtaining any easements or authorization for removing or transporting earth materials on property not owned by the applicant. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02; am. 4-27-04; am. 10-12-04)

6. Construction and Permits

For construction within County Right-of-Way, the Grading Permit or Notice of Intent must be accompanied by an Access Permit or a Right-of-Way Use and Construction Permit in accordance with plans approved by the County. For construction outside of County Right-of-Way, the Grading Permit or Notice of Intent must be accompanied by a Right-of-Way Use and Construction Permit in accordance with the Plans approved by the County. The applicant shall obtain applicable permits from the County prior to commencing field work. All other applicable requirements shall be followed including the Transportation Design and Construction Manual. (orig. 8-8-95; am. 12-17-02; am. 10-12-04; am. 11-24-15; am. 7-17-18)

7. Liability

Neither the issuance of a Grading Permit nor the submission of a Notice of Intent under the provisions of this section nor compliance with the provisions hereof or with any conditions imposed in this section shall relieve the applicant from responsibility for damage to any person or property or impose any liability upon the County for damage to any person or property. (orig. 8-25-86; am. 12-17-02; am. 10-12-04)

8. Restricted Activities

a. No blasting, processing, crushing, or off-site hauling or other similar treatment of a commercial mineral deposit may occur in the permit area. (orig. 9-24-91; am. 10-12-04)

b. Any activity to construct any street/road to be dedicated to the County shall be undertaken pursuant to the Land Development Regulation and the Transportation Design and Construction Manual and in accordance with plans approved by the County. (orig. 9-24-91; am. 8-8-95; am. 3-23-99; am. 12-17-02; am. 10-12-04; am. 11-24-15)

c. No Grading Permit shall be issued for any land disturbance activity which exceeds the minimal amount of grading necessary for the uses legally allowed at the time of permit application. Land disturbance activities for uses that require rezoning are unlawful. (orig. 8-8-95; am. 3-23-99; am. 10-12-04)

d. When there is a grading plan approved in conjunction with a Plat, Site Development Plan, Minor Adjustment or an Exemption from Platting, it shall be unlawful to grade in a manner that is not consistent with the approved grading plan. (orig. 8-8-95; am. 3-23-99; am. 10-12-04; am. 7-17-18)

e. Any construction or development activity in a drainage easement or tract must either be in compliance with the original approved drainage report or comply with the Storm Drainage Design and Technical Criteria. (orig. 10-12-04)

9. Grading Concurrent with Platting

- a. When a property is in a platting process, grading activities may commence prior to Plat approval by the Board of County Commissioners provided all of the following conditions are satisfied: (orig. 3-23-99; am. 10-12-04)
  - (1) The zoning is final and recorded. (orig. 3-23-99)
  - (2) The subdivision proposal has received Planning Commission approval or a recommendation of approval by the Planning Commission. (orig. 3-23-99; am. 10-12-04)
  - (3) The grading and sediment and erosion control plans have received staff approval, either through the Final or Preliminary and Final Plat process. The grading plans shall not include permanent facilities such as curb, gutter, sidewalk, asphalt, etc. The installation of drainage facilities is allowed as approved by Planning and Zoning. (orig. 3-23-99; am. 10-12-04; am. 11-24-15)
  - (4) The Final Plat application has been received and accepted as complete by staff or the Planning Commission has recommended approval of the Preliminary and Final Plat. (orig. 3-23-99; am. 10-12-04; am. 11-24-15)
  - (5) Grading within a Floodplain Overlay District may be permitted if a Floodplain Development Permit has been issued. (orig. 3-23-99; am. 12-17-02; am. 10-12-04; am. 11-24-15; am. 7-17-18)
  - (6) No waivers or alternative standards/requirements or variances related to grading requirements are being requested or are necessary in conjunction with the Final or Preliminary and Final Plat application. (orig. 3-23-99; am. 10-12-04; am. 11-24-15)
  - (7) The applicant has submitted a letter to the County indicating a request to commence land disturbance activities prior to Final or Preliminary and Final Plat approval and acknowledging that grading prior to Platting is done at their own risk, that grading changes may be required upon Final or Preliminary and Final Plat approval, and that the County shall not be held responsible for changes emanating from or costs associated with any changes that may be required as a result of Final or Preliminary and Final Plat approval. (orig. 3-23-99; am. 12-17-02; am. 10-12-04; am. 11-24-15)
  - (8) A Performance Guarantee has been accepted by the County in accordance with the Land Development Regulation. (orig. 10-12-04)
- b. When grading activities are authorized prior to Plat approval by the Board of County Commissioners, the grading shall comply with the Land Development Regulation and with any previously approved grading plans. (orig. 3-23-99; am. 12-17-02; am. 10-12-04; am. 11-24-15)
- c. Any land disturbance activity permitted pursuant to this section may be subject to additional requirements or alterations depending on approval conditions imposed by the Board of County Commissioners during the Plat review. (orig. 3-23-99; am. 10-12-04)

10. Grading Concurrent with the Processing of a Site Development Plan or Minor Adjustment

- a. When a property is in a Site Development Plan or Minor Adjustment process, grading activities may commence prior to approval by Planning and Zoning provided all of the following conditions are satisfied: (orig. 11-24-15; am. 7-17-18)
  - (1) The zoning is final and recorded. (orig. 11-24-15)
  - (2) The grading and sediment and erosion control plans have received staff approval. The grading plans shall not include permanent facilities such as curb, gutter, sidewalk, asphalt, etc. The installation of drainage facilities is allowed as approved by Planning and Zoning. (orig. 11-24-15)
  - (3) Grading within a floodplain overlay district may be permitted if a Floodplain Permit has been issued. (orig. 11-24-15; am. 7-17-18)

- (4) No alternate standards/requirements or variances related to grading requirements are being requested or are necessary in conjunction with the Minor Adjustment or Site Development Plan application. (orig. 11-24-15)
  - (5) The applicant has submitted a letter to the County indicating a request to commence land disturbance activities prior to Minor Adjustment or Site Development Plan approval and acknowledging that grading prior to approval is done at their own risk, that grading changes may be required upon Minor Adjustment or Site Development Plan approval, and that the County shall not be held responsible for changes emanating from or costs associated with any changes that may be required as a result of Minor Adjustment or Site Development Plan approval. (orig. 11-24-15)
  - (6) A Performance Guarantee has been accepted by the County in accordance with the Land Development Regulation. (orig. 11-24-15)
- b. When grading activities are authorized prior to Minor Adjustment or Site Development approval by Planning and Zoning, the grading shall comply with the Land Development Regulation and with any previously approved grading plans. (orig. 11-24-15; am. 7-17-18)
  - c. Any land disturbance activity permitted pursuant to this section may be subject to additional requirements or alterations depending on approval conditions imposed by Planning and Zoning during the Minor Adjustment or Site Development Plan review. (orig. 11-24-15; am. 7-17-18)

**C. Procedures**

- 1. If the applicant complies with all given time frames, submits a complete application and complies with all requirements of this regulation, the estimated time to reach the Determination Phase of the process is 53 or 60 calendar days from the date of the 1<sup>st</sup> referral, depending on the amount of disturbance for the proposed grading activity. (orig. 5-20-08; am. 7-17-18)

Process Steps	Processing Time Frames	
<b>Steps prior to 1<sup>st</sup> Referral</b>		
Sufficiency Review and Referral Distribution or Deficiency Response	5 calendar days	
<b>Process from 1<sup>st</sup> Referral to Determination</b>		
1st Referral and Staff Response	12 calendar days for a Notice of Intent 19 calendar days for a Grading Permit	53 or 60 days to tentatively scheduled determination if time frames are met.
Applicant's Response to 1 <sup>st</sup> Referral	Varies, 14 calendar days used for example timeframe	
Sufficiency Review and Referral Distribution	5 calendar days	
2 <sup>nd</sup> Referral and Staff Response	12 calendar days	
Final Documents	10 calendar days	
<b>Determination</b>		
Determination	5 days	

If the applicant is going to request relief from a standard, to avoid processing delays, it is recommended that the request for relief be submitted early in the development process. Requests for relief of a standard are subject to different specific processing timeframes, which may add to the length to the processing of the development application. Requests for relief shall be approved prior to approval of the land disturbance permit. (orig. 5-20-08; am. 7-17-18)

**Proof of Access:** Prior to acceptance of a formal application, Planning and Zoning must verify that access to property is in compliance with the Access Standards in the General Provisions and Regulations Section of this Zoning Resolution. The Director of Planning and Zoning may allow the formal application to be accepted without meeting the access criteria, if in his/her opinion the circumstances related to proving access should be finalized during the processing of the development application. (orig. 4-20-10; am. 12-21-10)

## Steps Prior to 1st Referral

a. Sufficiency Review and Referral Distribution (1<sup>st</sup> Referral):

The applicant shall submit electronic copies of all documents as identified in the Plans and Specifications Section for review by Staff. (orig. 7-17-18)

The Case Manager shall have 5 calendar days to review the submittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents (including the appropriate referral fees). A submittal that is not complete in terms of the type of documents required will not be sent out on referral. (orig. 7-17-18)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 7-17-18)

b. Formal Application:

The applicant shall submit an application to Planning and Zoning prior to commencement of the proposed land disturbance activity.

The Case Manager shall have 5 calendar days to review the submittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents (including the appropriate referral fees). A submittal that is not complete in terms of the type of documents required will not be sent out on referral. (orig. 7-17-18)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 7-17-18)

Each application for a Notice of Intent or a Grading Permit shall include the following, as applicable: (orig. 8-25-86; am. 7-17-18)

- (1) An application form signed by the fee simple owner of the property or by the lessee, licensee or easement holder if the activity is to be undertaken pursuant to that interest. Application forms are available from Planning and Zoning. (orig. 10-12-04; am. 5-20-08)
- (2) A nonrefundable application fee in an amount established by the Board of County Commissioners. (orig. 8-25-86; am. 9-24-91; am. 5-3-94)
- (3) A copy of a deed that shows ownership of the parcel, tract or lot. (orig. 10-12-04)
- (4) A grading plan. (orig. 8-25-86; am. 9-24-91; am. 10-12-04)
- (5) An erosion and sediment control plan. (orig. 8-25-86)
- (6) A geologic and/or soils investigation report is required if there are any geological hazards including highly erodible soils or commercial mineral deposits within or immediately adjacent to the grading site. (orig. 8-25-86; am. 9-24-91, 8-8-95; am. 12-17-02; am. 10-12-04)
- (7) A drainage report is required in accordance with the Storm Drainage Design and Technical Criteria. (orig. 10-12-04; am. 11-24-15)
- (8) A materials handling plan. (orig. 10-12-04)
- (9) Construction plans, details and supporting calculations for retaining walls, if applicable. (orig. 10-12-04)
- (10) Copies of any grading permits, or grading plans, previously approved in conjunction with any previous grading permits, or a plat approval. (orig. 3-23-99)
- (11) A detailed improvements list (cost estimate) with associated costs upon plan approval for a Grading Permit. (orig. 10-12-04; am. 7-12-05; am. 7-17-18)

- (12) A performance guarantee in the form of a letter of credit or cash escrow upon improvements list approval for a Grading Permit. (orig. 10-12-04; am. 7-17-18)

### **Process from 1st Referral to Determination**

c. 1<sup>st</sup> Referral and Staff Response:

The referral agencies shall have 12 calendar days for a Notice of Intent or 19 calendar days for a Grading Permit to respond in writing to the application, depending on the amount of disturbance for the proposed grading activity. An extension of no more than 30 days may be agreed to by the applicant. (orig. 5-20-08; am. 7-17-18)

The Case Manager will identify the tentative date for a decision to be made on the application based on the time frames of this process. This date will be set when the application is sent out on the 1<sup>st</sup> referral. (orig. 5-20-08)

If the Case Manager indicates that the application is in substantial conformance with all applicable regulations and that only minor revisions to the documents are required, the application may proceed directly to the final documents phase of the process. Under this circumstance, the application will be able to reach the determination phase of the process earlier than the date tentatively scheduled at the time of the 1st referral. (orig. 5-20-08; am. 7-17-18)

d. Applicant's Response to 1st Referral:

For the application to be processed in accordance with the example timeframe in the table above, the applicant shall have 14 Calendar days to address in writing any issues identified by the Case Manager or any referral agency and resubmit revised documents for the 2<sup>nd</sup> referral. The applicant will be deemed to have consented a later determination date, than that tentatively scheduled, if the resubmittal is not received within the 14-calendar day period. (orig. 5-20-08; am. 7-17-18)

Regardless of the example timeframe, the applicant shall have a maximum of 180 calendar days to respond to the referral comments and resubmit, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of Planning and Zoning may extend this 180 calendar day maximum response deadline for additional 180 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 5-20-08; am. 12-21-10; am. 7-17-18)

e. Sufficiency Review and Referral Distribution (2<sup>nd</sup> Referral):

The Case Manager shall have 5 calendar days to review the submittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. A submittal that is not complete in terms of the type of documents required will not be sent out on referral. (orig. 7-17-18)

Resubmittal Sufficiency Review (if required): The Case Manager shall have 5 calendar days to review the resubmittal and either send the application out on referral or respond to the applicant explaining any deficiencies in the submittal documents. (orig. 7-17-18)

f. 2<sup>nd</sup> Referral and Staff Response:

The referral agencies shall have 7 calendar days to respond in writing to the 2<sup>nd</sup> referral. An extension of no more than 30 calendar days may be agreed to by the applicant. (orig. 5-20-08; am. 7-17-18)

The Case Manager shall have 5 calendar days after the end of the referral period to provide the applicant with a Staff response inclusive of referral agency responses. The response from the Case Manager will include an opinion as to whether or not the case should proceed forward to the Final Documents phase or if revised documents should be submitted for a subsequent referral process. (orig. 7-17-18)

If the applicant has not consented to a later determination date based on the time frames



of this Regulation and chooses to move forward to the tentatively scheduled Determination, the applicant shall submit the final documents as requested by the Case Manager in accordance with the Final Documents phase of the process. (orig. 5-20-08)

g. Applicant's Response to 2<sup>nd</sup> Referral Comments:

The applicant shall have a maximum of 180 calendar days to respond to the referral comments, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of Planning and Zoning may extend this 180 calendar day maximum response deadline for additional 180 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 5-20-08; am. 12-21-10; am. 7-17-18)

h. Additional Referrals and Responses:

For the 3<sup>rd</sup> referral, and for any subsequent referrals thereafter, the processing of the application shall follow the same steps identified above in the Sufficiency Review and Referral Distribution (2<sup>nd</sup> Referral) process, the 2<sup>nd</sup> Referral and Staff Response process and the Applicant's Response to 2<sup>nd</sup> Referral process. The only exception shall be that for the 3<sup>rd</sup> Referral, and for any subsequent referrals thereafter, the referral agencies shall have 14 calendar days to respond in writing to the referral. (orig. 5-20-08; am. 7-17-18)

The response from the Case Manager will include an opinion as to whether or not the case should proceed forward for Determination or if revised documents should be submitted for a subsequent referral process. (orig. 5-20-08; am. 7-17-18)

i. Final Documents:

The final documents shall be comprised of the stamped and signed grading plans and other final documents as identified by the Case Manager. (orig. 5-20-08)

If the applicant has not consented to a later determination date based on the time constraints of this process, the applicant shall have 10 calendar days to address, in writing, any issues identified by the Case Manager or any referral agency and submit the final documents for the tentatively scheduled determination. The applicant will be deemed to have consented to a later determination date if the resubmittal is not received within the 10-calendar day period. (orig. 5-20-08; am. 7-17-18)

The applicant shall have a maximum of 180 calendar days to respond to the referral comments, or the application will be considered withdrawn. The applicant will then have to file a new application with the required fees and documents. The Director of Planning and Zoning may extend this 180 calendar day maximum response deadline for additional 180 calendar day periods if, in his/her opinion, the delay in response is for good cause. (orig. 5-20-08; am. 12-21-10; am. 7-17-18)

j. Determination:

The Case Manager shall have 5 calendar days to review the Final Documents and shall approve, conditionally approve or deny the application. An application shall be approved if it is complete in form, has all required information, and is in compliance with the provisions of this section. Otherwise, it shall be denied. Any approval or denial shall be in writing with the reasons for denial specifically identified. Annotations on the plans shall be considered sufficient detail of the reasons for denial. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02; am. 4-27-04; am. 10-12-04).

k. Permit Limitations:

The permit shall be limited to work shown on the approved plans. Such plans shall contain guidelines, conditions, and/or restrictions as are necessary to comply with the performance standards. At any time during the plan review or in the event unforeseen conditions arise during completion of the project, the County may require revision of the plans as necessary to ensure compliance with the performance standards. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 3-23-99; am. 12-17-02; am. 10-12-04; am. 5-20-08)

I. Request for Reconsideration:

If an application is denied or conditionally approved, the applicant may request in writing, within 21 calendar days after the decision, a reconsideration of the decision by Planning and Zoning. The request for reconsideration shall state specific reasons or changes for the reconsideration. Planning and Zoning shall act upon the request for reconsideration within 10 working days of its receipt. Failure to act shall constitute denial of the request for reconsideration. No appeal to the Board of Adjustment shall be permitted unless a request for reconsideration was previously filed and denied. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02; am. 4-27-04; am. 5-20-08)

m. Appeals:

If Planning and Zoning denies the request for reconsideration, the applicant may submit a written appeal to the Board of Adjustment. The appeal must be received by the secretary of the Board of Adjustment within 30 calendar days of the date of denial. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02; am. 4-27-04; am. 10-12-04; am. 12-14-04; am. 5-20-08)

n. Amendments:

Minor amendments to the approved plans are subject to an Administrative Review process as initial applications except as specifically provided for in this section, as determined by Planning and Zoning. An amendment to approved plans shall comply with the performance standards outlined in this section. (orig. 8-25-86; am. 3-23-99; am. 10-12-04; am. 7-17-18)

o. Validity:

The approval of plans and specifications shall not be construed as an approval of any violation of the provisions of this section or of any other applicable laws, rules or regulations and shall not prevent the County from thereafter requiring the correction of errors in said plans and specifications or from preventing work being carried on thereunder in violation of this section or any other applicable law, rule or regulation. The issuance of a Grading Permit prior to any Plat approval shall in no way bind the Planning Commission or the Board of County Commissioners in the approval or denial of a Plat application, and the applicant's grading activities are at the applicant's risk. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02; am. 10-12-04)

2. Inspections

a. Upon approval by Planning and Zoning, the approved plans will be referred to an Engineering Inspector for permit issuance. (orig. 10-12-04; am. 5-20-08; am. 4-20-10; am. 7-17-18)

b. The County may inspect the site and perform any necessary tests from time to time to ensure compliance with the permit conditions. (orig. 7-17-18).

c. Time Limits: The work associated with the permit shall be completed within 2 years of the date of permit issuance, unless an extension has been granted by Transportation and Engineering. A request for an extension shall be submitted in writing no later than 10 calendar days prior to the expiration of the permit. Transportation and Engineering may grant an extension to the permit up to 1 year. Additional extensions may be granted by Transportation and Engineering to allow the establishment of permanent erosion and sediment control measures. (orig. 8-25-86; am. 9-24-91; am. 8-8-94; am. 3-23-99; am. 12-17-02; am. 10-12-04; am. 5-20-08; am. 10-13-09; am. 7-17-18)

3. Notice of Intent Processing Procedure

a. Submittal Requirements: The landowner and/or contractor shall obtain a Notice of Intent from Planning and Zoning prior to the proposed land disturbance activity. Planning and Zoning shall determine whether the Notice of Intent is complete in accordance with all applicable standards set forth in this section. (orig. 8-8-95; am. 12-17-02; am. 10-12-04; am. 5-20-08)

- b. Acceptance of Notice of Intent: The landowner shall be notified within 10 calendar days of County receipt of a Notice of Intent as to whether it is accepted. Planning and Zoning shall accept the Notice of Intent if it is complete in form, has all required information, and is in compliance with the provisions of this section. (orig. 10-12-04; am. 5-20-08)
- c. Limitations of Notice of Intent: The land disturbance activities shall be limited to work shown on the Notice of Intent. Such plans shall contain guidelines, conditions and/or restrictions as are necessary to comply with the performance standards. In the event unforeseen conditions arise during completion of the project, the County may require revision of the plans as necessary to ensure compliance with the performance standards. (orig. 10-12-04; am. 5-20-08)
- d. Request for Reconsideration: If a Notice of Intent is not accepted by the County, the owner may request in writing, within 21 calendar days after the decision, a reconsideration of the decision by Planning and Zoning. The request for reconsideration shall state specific reasons or changes for the reconsideration. Planning and Zoning shall act upon the request for reconsideration within 10 working days of its receipt. Failure to act shall constitute denial of the request for reconsideration. No appeal to the Board of Adjustment shall be permitted unless a request for reconsideration was previously filed and denied. (orig. 10-12-04; am. 5-20-08)
- e. Appeals: If Planning and Zoning denies the request for reconsideration, the applicant may submit a written appeal to the Board of Adjustment. The appeal shall be received by the secretary of the Board of Adjustment within 30 calendar days of the date of denial. (orig. 10-12-04; am. 12-14-04; am. 5-20-08)
- f. Validity: The acceptance of the Notice of Intent shall not be construed as an approval of any violation of the provisions of this section or of any other applicable laws, rules or regulations and shall not prevent the County from thereafter requiring the correction of errors in said plans and specifications or from preventing work being carried on thereunder in violation of this section or any other applicable law, rule or regulation. (orig. 10-12-04)
- g. Inspections
  - (1) Upon acceptance of the Notice of Intent, Planning and Zoning will provide the Engineering Inspector with a copy of the approved plan. The Engineering Inspector may conduct field inspections at any time for the duration of the project. (orig. 10-12-04; am. 5-20-08)
  - (2) Upon completion of the work that conforms to the approved plan required by the Notice of Intent, the landowner and/or contractor shall notify the Engineering Inspector with a request for final acceptance, and provide written certification from a Registered Professional Engineer that demonstrates conformance with the approved plan. (orig. 10-12-04; am. 5-20-08; am. 11-24-15)
  - (3) Time Limits: The work associated with the permit shall be completed within 2 years of the date of permit issuance, unless an extension has been granted by Transportation and Engineering. A request for an extension shall be submitted in writing no later than 10 calendar days prior to the expiration of the permit. Transportation and Engineering may grant extensions to the permit up to an additional 1 year. (orig. 10-12-04; am. 5-20-08; am. 7-17-18)

## **D. Plans and Specifications**

- 1. Grading Permit and Notice of Intent
  - a. Grading Plan

The proposed grading plan and specifications shall demonstrate compliance with the performance standards and shall be prepared on sheets 24 inches by 36 inches, or as otherwise approved by Planning and Zoning, and stamped and signed by a Colorado registered professional engineer. (orig. 8-25-86; am. 9-24-91; am. 10-12-04; am. 7-17-18)

For graded areas of one acre or less, the County may waive the requirement for a topographic map and the requirement that the grading plans be prepared, stamped and signed by a Colorado registered professional engineer, where the applicant demonstrates an engineered grading plan and/or topographic map is not necessary to comply with the performance standards set forth herein. (orig. 9-24-91; am. 8-8-95; am. 12-17-02; am. 10-12-04; am. 7-17-18)

The grading plan shall include the following unless waived or exempted by Planning and Zoning herein. (orig. 8-25-86; am. 9-24-91; am. 10-12-04; am. 7-17-18)

- (1) A map which shows the items listed below. Acceptable map scales are 1 inch to 10, 20, 30, 40, 50, 60 or 100 feet. (orig. 8-25-86; am. 9-24-91; am. 10-12-04)
  - (a) A vicinity map (not to scale) indicating the location of the site relative to the principal roads, lakes or dams, and watercourses in the area. (orig. 8-25-86; am. 9-24-91)
  - (b) A title block which includes the title of the Grading Plan, purpose and nature of the grading project and, if applicable, states the use of earth material to be removed from the site. The name of the engineer who prepared the plans should also be included in the title block. (orig. 8-25-86; am. 9-24-91)
  - (c) The complete site boundary and locations of any easements and Rights-of-Way traversing and adjacent to the property, appropriately labeled and dimensioned. (orig. 8-25-86)
  - (d) The location of existing roads, buildings, wells, pipelines, watercourses and other structures, facilities and features of the sites, and the location of all improvements on adjacent land within 50 feet of the site's boundary. (orig. 8-25-86)
  - (e) The location and nature of known or suspected highly erodible soils or geologic hazard areas. (orig. 8-25-86; am. 9-24-91)
  - (f) A topographic map which shows the affected area. The map shall show affected areas outside the permit boundaries, such as drainages. Contour lines shall be at 5-foot intervals or at an interval of greater detail if necessary to accurately show topographic features and drainage patterns, and the configuration of the ground before and after grading. Contours shall be accurate to within one-half (1/2) contour interval and elevations shall be based on United States Geologic Survey (U.S.G.S.) sea level datum. Except for access permits, U.S.G.S. quad maps shall not be accepted as evidence for topographic contours. (orig. 8-25-86; am. 9-24-91; am. 3-23-99; am. 10-12-04)
  - (g) The location, extent and finished surface slopes of all final cut and fill lines. (orig. 8-25-86)
  - (h) The 100-year flood plain boundaries. (orig. 8-25-86)
  - (i) The location of any existing flood control facilities, wells or Onsite Wastewater Treatment System in the vicinity of the permit area. (orig. 8-25-86; am. 9-24-91; am. 7-17-18)
  - (j) The location where any earth materials and topsoil will be stockpiled. Include estimated stockpile volume. If the stockpile will reach into adjacent properties, approval from the property owner shall be required. (orig. 8-25-86; am. 9-24-91; am. 7-17-18)
  - (k) The north arrow, the scale, and the date. (orig. 8-25-86)
  - (l) The general location and character of vegetative cover on the site and the location of all major rock outcrops. (orig. 8-25-86; am. 9-24-91)
- (2) Typical cross sections (not less than two) of all existing and proposed graded areas taken at intervals not exceeding 200 feet and at locations of maximum cuts and fills where such cuts and/or fills exceed 10 feet in height. (orig. 8-25-86; am. 9-24-91)

- (3) An estimate of the quantities of excavation and fill, including quantities to be moved off and on site. (orig. 8-25-86; am. 9-24-91)
  - (4) The total square footage of the area that is proposed to be disturbed. (orig. 10-13-09)
  - (5) The projected schedule of operations, including the following dates: (orig. 8-25-86)
    - (a) Commencement of work, including days and hours of operation. (orig. 8-25-86; am. 9-24-91)
    - (b) Start and finish of rough grading. (orig. 8-25-86)
    - (c) Completion of work in any watercourse. (orig. 8-25-86)
    - (d) Completion of erosion and sediment control Best Management Practices (BMP's). (orig. 8-25-86; am. 10-12-04)
    - (e) Maintenance schedule for erosion and sediment control BMP's. (orig. 9-24-91; am. 10-12-04)
    - (f) Completion of any required landscaping. (orig. 8-25-86)
  - (6) Such supplemental information as is required to fully describe the project. (orig. 8-25-86; am. 9-24-91)
  - (7) Existing and proposed impervious area. (orig. 7-17-18)
- b. Erosion and Sediment Control Plan
- (1) The proposed erosion and sediment control plan shall be prepared by a Colorado registered professional engineer, Certified Professional in Erosion and Sediment Control, soils scientist or landscape architect. The erosion and sediment control plan need not be a separate sheet if all facilities and measures can be shown on the grading sheets without obscuring the clarity of either the grading plan or the erosion and sediment control plan. The plans shall include an itemized cost estimate of all proposed erosion and sediment control measures. All erosion and Examples of acceptable plan formats and BMP's are included in the Urban Drainage Criteria Manual Volume 3. The erosion and sediment control plans shall be designed to meet the performance standards set forth herein. (orig. 8-25-86; am. 9-24-91; am. 10-12-04)
  - (2) The proposed erosion and sediment control plan shall include permanent and, if applicable, temporary erosion and sediment control BMP's. Revegetation plans shall include the seed mixture(s) including species and variety, type of seedbed preparation and method of seeding, seeding rates, seeding dates, type and application rates of fertilizer and mulch, and irrigation facilities and methods if applicable. Seed mix shall be based on the Jefferson Conservation District recommendations and/or a Planning and Zoning approved alternative. Seeding alone is not erosion control until vegetation is established. Seeding shall be combined with applicable erosion control structural BMP's until vegetation is established. Examples of erosion and sediment control BMP's include, but are not limited to, the following: (orig. 9-24-91; am. 10-12-04; am. 7-12-05; am. 7-17-18)
    - (a) Erosion Control: surface roughening, mulching, and revegetation. (orig. 10-12-04)
    - (b) Sediment Control: vehicle tracking, diversion, dikes, slope drains, straw bale barriers, silt fence, and sediment basins. (orig. 10-12-04)
  - (3) At a minimum, initial and final construction phases are required for all erosion and sediment control plans. (orig. 7-17-18)
  - (4) Clearly and legibly show best management practices on the plan and include standard notes and associated details for best management practices shown on said plan. (orig. 7-17-18)

c. Soil/Geologic Investigation Report

If a soils and/or geologic investigation report is required by the County, it shall be prepared and signed by a qualified professional geologist or Colorado registered professional engineer. The report shall contain all of the following as they may be applicable to the subject site: (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02; am. 10-12-04)

- (1) A site map showing the topographic features of the site and locations of all soil borings and test excavations. (orig. 8-25-86)
- (2) A classification of the soil types, laboratory test data, and consequent evaluation regarding the distribution and nature of existing soils. (orig. 8-25-86; am. 9-24-91)
- (3) A description of the geology of the site and adjacent areas when pertinent to the site. (orig. 8-25-86)
- (4) A suitably scaled map and cross sections showing all identified areas of historic or potential instability within and adjacent to the permit area. An evaluation of the stability of natural slopes and any proposed cut and fill slopes. (orig. 8-25-86; am. 9-24-91)
- (5) A description of known or inferred groundwater or excessive moisture conditions. (orig. 8-25-86; am. 9-24-91)
- (6) A description of the soil and geologic investigative techniques employed. (orig. 8-25-86)
- (7) A log for each soil boring and test excavation showing elevation at ground level and the depth of each soil or rock strata. (orig. 8-25-86)
- (8) Recommendations for grading procedures and specifications, including methods for excavation and subsequent placement of fill. (orig. 8-25-86)
- (9) Recommendations regarding drainage and erosion control (this is optional information in the soil/geologic investigation report). (orig. 8-25-86)
- (10) Recommendations for mitigation of geologic hazards. (orig. 8-25-86)
- (11) The time of year the field work was done and a list of references and other supportive data. (orig. 8-25-86)
- (12) Design of retaining walls included in the grading and/or sediment control plans. (orig. 9-24-91)

d. Materials Handling Plan

The proposed materials handling plan shall include BMP's for controlling waste and spill prevention and containment. (orig. 10-12-04)

**E. Performance Standards For Land Disturbance Activities**

1. No Impedance to Natural Water Flow

- a. No work shall be done which may obstruct, impede or interfere with the flow of storm water in overland flows, natural drainageways, unimproved channels or watercourses, or improved ditches, channels or canals in such a manner as to cause flooding that adversely impacts adjacent and downstream properties. Any activity taking place in an area zoned Floodplain Overlay District shall meet the requirements of the Floodplain Overlay District section of this Zoning Resolution. (orig. 8-25-86; am. 9-24-91; am. 12-17-02; am. 7-17-18)
- b. Construction equipment shall be kept out of watercourses except when necessary to perform work on the approved plans. Where in-channel work is designated on approved plans, precautions shall be taken to stabilize the work area during construction to minimize erosion. The channel, including bed and banks, shall always be restabilized immediately after in-channel work is completed. (orig. 9-24-91)
- c. Where a drainageway will be crossed by construction vehicles regularly during construction, a temporary crossing shall be provided. A permit may be required from the

U.S. Army Corps of Engineers and the Environmental Protection Agency prior to any disturbance in waters of the United States or federally regulated wetlands. (orig. 9-24-91; am. 12-17-02; am. 10-12-04)

2. Excavation  
Excavations shall be constructed and/or protected so that they are stable and do not endanger life or property. (orig. 8-25-86; am. 9-24-91)
3. Excavation Slope
  - a. The slope of cut surfaces of permanent excavations shall not be steeper than 2 horizontal to 1 vertical (approximately 25 degrees). Steeper slopes may be permitted with the approval of the County, provided it can be adequately demonstrated in a soils/geologic report that such slopes are stable and will not undergo accelerated erosion. The County may require the excavation to be made with a cut face flatter in slope than 2 horizontal to 1 vertical (2H:1V) if soils/geologic information submitted shows that flatter slopes are necessary for stability, adequate revegetation or maintenance. Cut slopes shall be rounded into the existing terrain to produce a contoured transition from cut face to natural ground. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02)
  - b. The slope of cut surfaces which are 5 feet in height or less and are in competent bedrock may be steeper than 2H:1V, but shall be no steeper than 1 1/2H:1V. Steeper slopes may be permitted with the approval of the County, provided it can be adequately demonstrated in a soils/geologic report that such slopes are stable and will not undergo accelerated erosion. (orig. 9-24-91; am. 8-8-95; am. 12-17-02)
4. Fill Placement  
Completed fills shall be stable masses of well-integrated material bonded to adjacent materials and to the materials on which they rest. Proper drainage and other appropriate measures shall be taken to ensure continuing integrity of fills. Earth materials shall be used which have no more than minor amounts of organic substances. (orig. 8-25-86)
5. Fill Compaction  
The County will require fills to be compacted to a minimum of 90 percent of maximum density as determined by A.S.T.M. D1557 unless prior approval by the County has been granted. A.S.T.M. D698 may be used for clays with a high plasticity index. The standard for fill compaction shall not apply to fills of less than 50 cubic yards which are placed on natural terrain with a slope flatter than 5H:1V, are less than 5 feet in depth, are not intended to support structures, and do not obstruct a drainage course. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02; am. 10-12-04; am. 7-17-18)
6. Ground Preparation for Fill Placement  
The ground surface shall be prepared to receive fill by removing vegetation, topsoil, and other unsuitable materials. (orig. 8-25-86)
7. Fill Slopes  
The slope of all permanent fills shall not be steeper than 2H:1V. Steeper slopes may be permitted with the approval of the County, provided it can be adequately demonstrated in a soils/geologic report that such slopes are stable and will not undergo accelerated erosion. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02)
8. Driveways and Private Streets/Roads
  - a. All street, road and driveway construction shall meet the Transportation Design and Construction Manual standards. (orig. 12-17-02; am. 10-12-04; am. 11-24-15)
  - b. For private streets/roads and driveways including turnarounds the maximum allowable vertical disturbance from the toe of fill to the top of cut measured perpendicular to the existing contours shall be 25 feet in vertical height. Planning and Zoning may approve vertical disturbance heights greater than 25 feet where it is determined that slopes shall be sufficiently stabilized and restored to be congruent with surrounding conditions to the

maximum extent practicable and the alignment of the driveway has been placed in the optimal location to allow for minimal disturbance. (am. 7-17-18)

Relief will also be considered if the applicant demonstrates that the proposed grading plan results in less overall land disturbance and that the relief is necessary to comply with the Preservation of Existing Terrain and Vegetation and Impact Mitigation Standards below. In determining whether to approve or disapprove the request, all technical evaluations, relevant factors, standards specified in other sections, and whether the applicant has adequately addressed the provisions of this Zoning Resolution shall be considered. (orig. 8-8-95; am. 11-12-02; am. 12-17-02; am. 7-1-03; am. 10-12-04; am. 3-26-13; am. 11-24-15; am. 7-17-18)

(1) Parking areas adjacent to building structures and drainage facilities not a part of the streets/roads will not be considered as vertical disturbance. (reloc. 7-17-18)

- c. Widths (including shoulders) of driveways and private streets/roads shall conform to the Transportation Design and Construction Manual. (orig. 8-8-95; am. 11-12-02; am. 11-24-15)

#### 9. Protection of Adjacent Structures

Footings which may be affected by any excavation shall be underpinned or otherwise protected against settlement and shall be protected against lateral movement. Fills or other surcharge loads shall not be placed adjacent to any building or structure unless such building or structure is capable of withstanding the additional loads caused by such fill or surcharge. (orig. 8-25-86)

#### 10. Setbacks

- a. Setbacks for all grading and erosion control activities shall be at least 7 feet from property boundaries and at least 25 feet from off-site occupied structures. Planning and Zoning may waive setback requirements provided it can be adequately demonstrated that activities occurring within setback limitations will not adversely affect adjacent property or structures. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 3-23-99; am. 4-27-04; am. 5-20-08)
- b. Grading for streets/roads and driveways is exempt from setback requirements if it can be adequately demonstrated that grading activities will not adversely affect adjacent properties or structures in terms of, but not limited to, runoff and slope stability. (orig. 9-24-91; am. 7-17-18)

#### 11. Stormwater

Any required drainage and infiltration structures and devices shall be designed and constructed in accordance with standards and criteria established in the Storm Drainage Design and Technical Criteria Manual and as listed below. (orig. 8-25-86; am. 9-24-91; am. 12-17-02; am. 10-12-04; am. 7-17-18)

- a. Drainage Structures and Devices: All drainage facilities shall be designed to carry surface and subsurface water to the nearest adequate street, storm drain, and natural watercourse or other juncture. (orig. 8-25-86)
- b. Water Accumulation: All finished areas shall be graded and drained such that water will not pond or accumulate except where the end use is a pond, reservoir infiltration area or structure or detention basin. Drainage shall be affected in such a manner that it will not cause erosion or endanger the stability of any cut or fill slope or any building or structure. (orig. 8-25-86; am. 9-24-91; am. 10-12-04; am. 7-17-18)
- c. Protection of Adjoining Property: When surface drainage is discharged onto any adjoining property, it shall be discharged in such a manner that it will not cause an increased hazard to the stability of any cut and fill slope or any building or structure. (orig. 8-25-86; am. 9-24-91)
- d. Subsurface Drainage: Cut and fill slopes shall be provided with subsurface drainage as necessary for stability. (orig. 8-25-86)

#### 12. Erosion and Sediment Control



The following shall apply to the control of erosion and sediment from land disturbance activities: (orig. 8-25-86; am. 10-12-04)

- a. To the maximum extent practicable and in conformance with D.1.a.(4), above, implementation of the erosion and sediment control plan shall precede grading activities. The site may be temporarily stabilized with erosion control practices such as seeding and covering with erosion control blankets. (orig. 9-24-91; am. 10-12-04)
- b. Upon completion of land disturbance activities, disturbed areas, except for rock cuts and fills, shall be stabilized by adequate vegetative cover consisting of at least 70% of pre-existing vegetation conditions or other permanent soil erosion control measures which prevent accelerated erosion. (orig. 8-25-86; am. 9-24-91; am. 10-12-04; am. 7-17-18)
  - (1) Cuts and fills accomplished for all roads, driveways and other vehicular access shall be stabilized with adequate vegetative cover or other permanent soil erosion control measures which prevent accelerated erosion, unless the cut is in competent bedrock. (orig. 9-24-91)
  - (2) No project shall cause accelerated or increased off-site erosion. (orig. 9-24-91; am. 10-12-04)
- c. To the maximum extent practicable, sediment caused by accelerated soil erosion shall be removed from runoff water before leaving the site. (orig. 9-24-91; am. 10-12-04)
- d. All land disturbing activities shall be designed, constructed, and phased in such a manner as to minimize the exposure of disturbed areas and to prevent accelerated soil erosion to the maximum extent practicable. (orig. 9-24-91; am. 10-12-04)
- e. Cut and fill slopes shall be stabilized, and surface water damage to cut and fill slopes shall be prevented. (orig. 8-25-86)
- f. Fugitive dust emissions shall be controlled using the best available control technology as defined by the Colorado Department of Public Health and Environment as of the date of permit issuance. (orig. 8-25-86; am. 9-24-91)
- g. All temporary and permanent soil erosion and sediment control practices shall be maintained and repaired as needed to assure continued performance of their intended function in accordance with the details in the approved grading plans. (orig. 9-24-91; am. 10-12-04; am. 7-17-18)
- h. All topsoil, where physically practicable, shall be salvaged and no topsoil shall be removed from the site except as set forth in the approved plans. Topsoil and overburden shall be segregated and stockpiled separately. Topsoil and overburden shall be redistributed within the graded area after rough grading to provide a suitable base for areas which will be seeded and planted. Runoff from the stockpiled area shall be controlled to prevent erosion and resultant sedimentation of receiving water. (orig. 8-25-86; am. 9-24-91)
- i. Runoff shall not be discharged from the site in quantities or at velocities substantially above those which occurred before land disturbance except into drainage facilities whose design has been specifically approved by the County prior to the permit approval. (orig. 8-25-86; am. 3-23-99; am. 12-17-02; am. 10-12-04)
- j. The landowner and/or contractor shall take reasonable precautions to ensure that vehicles do not track or spill earth materials on to streets/roads and shall immediately remove such materials if this occurs. (orig. 8-25-86; am. 12-17-02; am. 10-12-04)
- k. Should an increase in sediment discharge occur or become imminent, the landowner and/or contractor shall immediately take all necessary steps to control such discharge. The landowner and/or contractor shall take prompt action to resolve emergency problems. (orig. 8-25-86; am. 12-17-02; am. 10-12-04)
- l. Permanent or temporary soil stabilization measures shall be applied to disturbed areas within 14 days after final grade is reached on any portion of the site. Soil stockpiles shall be permanently or temporarily stabilized within 14 days if the stockpile is not being actively utilized for construction purposes. Soil stabilization measures shall be applied within 14

days to disturbed areas which may not be at final grade, but will be left dormant for longer than 60 days. (orig. 9-24-91; am. 7-17-18)

13. Geologic, Floodplain, Wildfire, and Dipping Bedrock Hazards

Any activity taking place in an area zoned Geologic Hazard Overlay District or Floodplain Overlay District, or Wildfire Hazard Overlay District, or Dipping Bedrock Overlay District shall meet the requirements of the appropriate sections of this Zoning Resolution. Land disturbance activities shall not create or aggravate unstable slopes, rockfall, landslide, or subsidence hazards or increase the risk of wildfire, flooding, or dipping bedrock hazards. (orig. 8-8-95; am. 3-23-99; am. 10-12-04)

14. Preservation of Existing Terrain and Vegetation and Impact Mitigation

- a. Grading for cut and fill slopes shall not result in a staircase effect, except that retaining walls are permitted per paragraph "e." below. The edges of graded areas shall blend into the surrounding natural terrain/topography and contour of the land. (orig. 8-8-95; am. 11-12-02)
- b. The proposed grading shall occur in such a manner that it avoids, to the extent practicable, all rock outcroppings, existing trees over 6 inches in caliper, vegetation over 8 feet in height, and riparian, wetland and critical wildlife areas. If from the original documentation and/or field investigation it appears that a less impactful alternative exists, the County may require the grading plan to be revised. (orig. 8-8-95; am. 12-17-02)
- c. Excess material shall be graded in a manner which is similar to the natural topography and shall not be cast over the side of cut or fill slopes. (orig. 8-8-95; am. 11-12-02)
- d. Cut slopes that are in rock and are intended to be left exposed shall be graded to obtain a natural looking appearance, to the extent possible, in form to blend with surrounding terrain. (orig. 8-8-95; am. 11-12-02; am. 10-12-04)
- e. Retaining walls shall not exceed a maximum height of twelve (12) feet and shall be faced with stone or constructed with textured earth colored material that is identified in the grading plan. If a series of retaining walls is required, the horizontal distance between walls shall be a minimum of 4 feet. The minimum distance between walls shall be increased to 6 feet if either wall exceeds 8 feet in height. Retaining walls greater than 36 inches in height shall be constructed in accordance with the design prepared by a Colorado registered professional engineer. The design may require consultation with a geotechnical engineer, shall consider such factors as expansive soils, steep slopes and vehicles or structures near the walls, and shall include the following: (orig. 8-8-95; am. 11-12-02; am. 12-17-02; am. 7-1-03; am. 10-12-04; am. 7-17-18)
  - (1) Construction plans indicating how the proposed wall height will vary along its length. (orig. 10-12-04)
  - (2) Details with elevations showing top and bottom of wall for critical points along the wall length. (orig. 10-12-04)
  - (3) Supporting calculations that demonstrate an adequate factor of safety for bearing capacity, overturning, sliding, and internal stability, including surcharge loads due to sloping backfill, adjacent vehicles and structures. (orig. 10-12-04)
- f. The site shall be designed to use existing topography and existing vegetation to screen site disturbance. (orig. 8-8-95; am. 10-12-04)
- g. Revegetation plans shall be similar to existing vegetation and feature the prominent use of plants which are indigenous to the area or as approved by the County. Seeding methods such as hydroseeding, drilling, seeding and raking in, or other seeding method may be required when necessary to quickly and effectively establish a groundcover for areas where other types of seeding may be ineffective. (orig. 8-8-95; am. 11-12-02; am. 10-12-04)

- h. Any permanent erosion control and drainage improvements that are installed, as a result of land disturbance activities shall be designed to complement and blend with the natural topography of the land. (orig. 8-8-95; am. 10-12-04)
  - i. Where possible, turnouts shall be provided with the narrowest permissible road to minimize the extent of land disturbance. (orig. 11-12-02; am. 10-12-04)
15. Materials handling BMP's are required. At a minimum, BMP's shall include controlling waste such as discarded building materials, concrete truck washout, chemicals, litter and sanitary waste, as applicable. In addition, spill prevention and containment BMP's for construction materials, waste and fuel shall be provided, as applicable. (orig. 10-12-04)
  16. Maximum allowable height of a temporary stockpile is 50 feet measured from existing grade. The setback of the stockpile measured from the abutting property line to the edge of the stockpile is 1.6 multiplied by the height of the stockpile. The edge of the stockpile shall be no closer than the grading setback (7 feet from the abutting property line). The slope shall not exceed 3H:1V unless otherwise approved by Planning and Zoning based on existing site conditions and topographic constraints. The temporary stockpile shall remain in place no longer than two years unless otherwise approved by Planning and Zoning based on site conditions and construction duration. (orig. 11-24-15; am. 7-17-18)

**F. Improvement Security**

1. As a condition for the issuance of a Grading Permit, the County will require an improvement security in an amount necessary to ensure compliance with the performance standards in the event of default on the part of the applicant or of denial of the case by the Board of County Commissioners. (orig. 8-25-85; am. 9-24-91; am. 8-8-95; am. 3-23-99; am. 12-17-02; am. 7-1-03; am. 10-12-04; am. 10-13-09)
  - a. Except for rough grading, the amount of the security shall be 100 percent of the cost of all grading erosion and sediment control items plus 100% of the cost of the work required for public streets/roads and for private streets/roads. The amount of security for rough grading shall be 25 percent of the total cost of rough grading for all lands within the mountains and 10 percent for all lands within plains of the County. A contingency amount equivalent to 10 percent of the total cost of all work shall be added to the security amount. (orig. 3-23-99; am. 12-17-02; am. 7-17-18)
  - b. The improvement security shall be in the form of cash escrow or a letter of credit. (am. 3-23-99)
  - c. The improvement security shall remain in effect until final inspections have been made, where required, and all grading work has been accepted by the County. Final acceptance of warranted Public Improvements shall conform to the Jefferson County Land Development Regulation. Upon final acceptance of improvements or warranted Public Improvements, securities will be released. (orig. 8-25-85; am. 9-24-91; am. 8-8-95; am. 12-17-02; am. 5-20-08)
2. Any letter of credit or deposit required pursuant to this section shall be payable to the Board of County Commissioners of Jefferson County and shall be for a minimum of 2 year. (orig. 8-25-86; am. 8-8-95; am. 10-12-04; am. 5-20-08)

**G. Permit Completion and Release of Security**

1. Upon the receipt of an as-built grading plan, if required, as set forth below and the satisfactory completion of all the following, as determined by the County, the improvement and/or maintenance securities will be released, and/or a Certificate of Compliance will be issued. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02; am. 7-17-18)
  - a. Applicable provisions of this section. (orig. 8-25-86)
  - b. The terms of the permit. (orig. 8-25-86)
  - c. Final stabilization of the site, which can include established vegetation, that will prevent accelerated erosion and other erosion control measures, where required. A uniform vegetative cover with a density of at least 70 percent of pre-disturbance levels shall be

considered adequate vegetative cover for erosion control measures. (orig. 8-25-86; am. 9-24-91; am. 12-17-02; am. 7-1-03; am. 10-12-04)

- d. Receipt of proof of compaction, where the compaction standard applies. Compaction tests shall be taken under the direct supervision of a geotechnical engineer. The geotechnical engineer or his designated representative shall observe grading activities on a full-time basis and shall take sufficient compaction test to enable the engineer to determine that the site is ready for the intended uses and shall so state on the compaction report. Compaction reports shall be signed and sealed and dated by a Colorado registered professional engineer. Compaction reports shall include the moisture density curves, location of test sites, soil types(s), density results, type of test and if a failing test, retesting of the site. The engineer shall provide a complete set of all test and observations and a report stating that the grading activities have been completed in substantial conformance with the approved grading plan, the requirements of this section, and the Land Development Regulation. (orig. 9-24-91; am. 3-23-99; am. 10-12-04)
2. An as-built grading plan is required by the County for the following:
    - a. Land disturbance activities that occur in a Floodplain Overlay District.
    - b. Large fills (greater than 1000 cubic yards).
    - c. Retaining walls as designated on the approved plans.
    - d. The construction deviates from the approved plans.
    - e. Other activities as required by Performance Guarantee and Warranty Section of the Land Development Regulation. orig. 9-24-91; am. 8-8-95; am. 12-17-02; am. 10-12-04; am. 7-17-18)
  3. Upon completion and acceptance of all items listed on the list of improvements and associated costs, the project performance guarantee may be reduced to the amount shown on the Exhibit A for adequate revegetation and temporary erosion and sediment control. Revegetation means that a density of at least 70 percent of the pre-disturbance levels or equivalent permanent methods have been employed. (orig. 12-17-02; am. 10-12-04)
  4. However, upon failure to complete the work, failure to comply with all of the terms of the permit or failure of the erosion and sediment control measures to function properly, the County may perform the required work or cause it to be done and collect from the permittee or surety all costs incurred, including administrative and inspection costs. Any unused portion of a deposit shall be refunded to the permittee after deduction by the County of the cost of the work. (orig. 8-25-86; am. 10-12-04; am. 7-17-18)

## H. Enforcement

### 1. Inspections

The County may inspect the site and perform any necessary tests from time to time to ensure compliance with the permit conditions. (orig. 9-24-91; am. 8-8-95; am. 3-23-99)

### 2. Suspension and Revocation of Permit

The County may suspend or revoke a permit for violation of any provision of this section, violation of the permit or misrepresentations by permit holder, his agents or his employees or independent contractors under contract with the permittee. The decision of the County to suspend or revoke a permit may be appealed to the Board of Adjustment. No work shall be performed while an appeal is pending except as authorized by the County. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 12-17-02)

### 3. Court Action

Nothing in this section shall be construed to prevent the Attorney's Office, at their discretion, from filing a court action based upon a violation or potential violation of this section. (orig. 3-23-99)

4. Right of Entry

Whenever necessary to enforce the provisions of this section the County can enter the premises at all reasonable times to perform any duty imposed by this section. If such entry is refused, the County shall have recourse to every remedy provided by law to secure entry. If a Land Disturbance Permit is suspended or revoked, or if a Stop Work Order has been issued, the County shall have the right to enter the site to complete the work allowed under the grading permit. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 3-23-99; am. 12-17-02; am. 10-12-04; am. 7-17-18)

5. Stop Work Orders

When any work is being performed which is not in compliance with an approved permit and/or the provisions of this section or any other applicable law, rule or regulation, the County can order the work stopped by serving written notice on any personnel engaged in performing the work. Such person shall immediately stop such work until authorized by the County to proceed. If there are no persons present on the premises, the notice may be posted in a conspicuous place and the notice shall state the nature of the violation. The notice shall not be removed until the violation has been vacated or authorization to remove the notice has been issued. Failure to comply with any Stop Work Order is a violation of the Zoning Resolution, the Grading Permit and/or the Notice of Intent. (orig. 8-25-86; am. 9-24-91; am. 8-8-95; am. 3-23-99; am. 12-17-02; am. 10-12-04; am. 7-17-18)

6. Violations of Other Regulations

Violations of this section may also cause violations of other State and/or Federal regulations and result in additional fines and penalties. (am. 10-12-04)