

CHAPTER 5. CLEARING REGULATIONS

SEC. 87.501. CLEARING PERMIT REQUIRED.

Except as exempted by Section 87.502, no person shall do any clearing, nor shall an owner allow any clearing on his or her property or allow the property to remain in an unlawfully cleared condition, unless the person or owner has a valid clearing permit issued by the County Official authorizing such clearing. An owner is presumed to have allowed clearing which has been done on property occupied by him or her or is under his dominion and control. This presumption is a presumption affecting the burden of producing evidence. A separate clearing permit shall be required for each site. All clearing shall conform to the conditions of the authorizing permit.

SEC. 87.502. EXEMPTIONS.

- (a) The following activities are exempt from the requirements of this Chapter, if they occur on land located outside the "MSCP Subarea" (as defined in Section 87.803 of this Division):
- (1) Clearing of up to a maximum of five acres, on a parcel zoned for single family residential use and improved with a single family residence. The amount of land cleared under this exemption shall not exceed a total of five acres, regardless of the number of occasions on which clearing is performed.
 - (2) Routine landscaping, maintenance, and the removal of dead or diseased trees or shrubs.
 - (3) Clearing for fire protection purposes within 100 feet of a dwelling unit. Any additional clearing for fire prevention, control or suppression purposes is exempt when authorized or required, in writing, by a fire prevention or suppression agency.
 - (4) Clearing limited to the least amount necessary for the purpose of surveying, geotechnical exploration and access for percolation tests and wells. This exemption does not include clearing for building pads or leach fields.
 - (5) Clearing incidental to the repair, alteration or construction of a single-family dwelling and accessory buildings and structures, pursuant to an approved building permit.
 - (6) Clearing conforming to the location, extent and purpose authorized,

explicitly or implicitly, by an approved plot plan pursuant to a discretionary land use permit or a discretionary development permit.

- (7) Clearing incidental to grading activities for which a grading permit has been issued pursuant to this Division, or which are exempt from a grading permit requirement pursuant to Section 87.202, paragraph (b), (c), (f) or (g) of this Division.
 - (8) Tilling or cultivating which is within the exemption of Section 87.202(d), (reading the terms of said exemption as if they applied to clearing rather than grading).
 - (9) Limited clearing to provide access to property to perform activities that would otherwise be exempt from the provisions of this Ordinance.
- (b) Clearing of land located within the boundaries of the MSCP Subarea shall be exempt from this Division if it is exempt from the Biological Mitigation Ordinance pursuant to its terms.

SEC. 87.503. HABITAT PROTECTION.

No permit required by Section 87.501 shall be issued, unless first:

- (a) If the land upon which the proposed clearing is to be performed is within the MSCP Subarea, the County Official shall assure that the Biological Mitigation Ordinance, has been complied with; and.
- (b) If the land upon which the proposed clearing is to be performed is not within the MSCP Subarea, the County Official shall assure that Chapter 1 of Division 6 of Title 8 of this Code, regarding Habitat Loss Permits, has been complied with.

SEC. 87.504. CLEARING PERMIT PROCEDURE AND REQUIREMENTS.

The following procedures and requirements shall apply to an application for a clearing permit:

- (a) The application shall be submitted to the County Official, accompanied by fees and deposits as specified in Section 87.301(f). The application shall be processed as an application for an Administrative Permit pursuant to the Administrative Permit Procedure, Section 7050 and following of the Zoning Ordinance, except as otherwise provided herein. The application

(except for an application for agricultural clearing, which is governed by Section 87.506) shall include or be accompanied by plans which show or include the following:

- (1) a vicinity sketch;
 - (2) property lines;
 - (3) contour lines showing the topography of the existing ground, with a maximum contour interval of five feet;
 - (4) the location, extent and square footage of the total area to be cleared;
 - (5) the location, nature and extent of all vegetation growing on the area to be cleared and the area within 100 feet;
 - (6) dust control measures sufficient to comply with Section 87.428;
 - (7) information and documentation sufficient to enable the County Official to make the determinations required by the California Environmental Quality Act (CEQA);
 - (8) a signed statement by the owner as to the proposed use of the area to be cleared;
 - (9) all watercourses located on the site; and
 - (10) such other information as the County Official may require.
- (b) The application (except for an application for agricultural clearing, which is governed by Section 87.506) may be approved if the County Official determines that:
- (1) the proposed clearing is exempt from environmental review under the terms of CEQA, or the proposed clearing would not have a significant effect on the environment, or all significant effects have been mitigated; if the County Official determines that the proposed clearing would have one or more significant effects which are not mitigated, he or she shall deny the permit;
 - (2) the proposed clearing conforms to all requirements of this Division and other applicable County ordinances; and

- (3) none of the grounds for denial of a permit specified at Section 87.211, paragraphs (a), (c), (d), (e) or (f) exists (reading said provisions as if they applied to clearing rather than grading).
- (c) The provisions of the Administrative Permit Procedure regarding appeals shall apply, except that an application which has been denied on the basis that the proposed clearing would have one or more significant effects which are not mitigated, is subject to appeal only directly to the Board of Supervisors. If the Board of Supervisors determines that the proposed clearing would have one or more significant effects which are not mitigated, it shall deny the appeal unless it makes a statement of overriding considerations pursuant to CEQA. The time periods specified in the Administrative Permit Procedure shall commence to run from the date that environmental documentation prepared to comply with CEQA has been completed.
- (d) All clearing authorized by an approved clearing permit shall be completed within 12 months of the date of approval. The County Official may grant one extension of said period, for up to an additional 12 months, if he or she determines that no significant changes in the work are proposed, and substantial progress has been made towards completion.

SEC. 87.505. CLEARING FOR LAND DEVELOPMENT.

Clearing to be performed in preparation for land development shall not be undertaken until all discretionary approvals for the land development have been issued.

SEC. 87.506. AGRICULTURAL CLEARING.

- (a) The Agricultural Permit Coordinator appointed pursuant to Section 87.205 of this Division shall also facilitate applications for agricultural clearing permits. The County Official's guidance documents prepared pursuant to that Section shall also provide guidance concerning approval and implementation of agricultural clearing permits.
- (b) An application for an agricultural clearing permit shall comply with Section 87.504, except that the application contents and the standards for issuance of the permit shall be the same as those specified Section 87.205 of this division, applying the requirements of that Section as if the term "clearing" were used instead of "grading".
- (c) For a period of five years (ten years if the land is located within the MSCP Subarea) from and after the date of issuance of the agricultural clearing permit, no

County decisionmaker shall grant or approve any permit or other authorization for land development on the land for which clearing is authorized, to the permittee who made the certification required by Section 87.205(c)(12) or any other person who has actual or constructive notice of that certification, unless the permit or authorization would be for a project or activity either: (a) for which an exemption is provided in Section 87.502; or (b) which is in furtherance of the agricultural operation specified by the permittee in said certification.