

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF VENTURA, STATE OF CALIFORNIA, AMENDING
SECTION J103.3 OF APPENDIX J GRADING TO THE VENTURA
COUNTY BUILDING CODE, ADOPTED BY ORDINANCE NO. 4369
(URGENCY ORDINANCE - 4/5 VOTE REQUIRED)**

The Board of Supervisors of the County of Ventura ("County"), State of California, ordains as follows:

SECTION 1: AUTHORITY, PURPOSE, AND INTENT; DECLARATION OF FACTS

This Ordinance is adopted pursuant to subdivision (d) of Government Code sections 25123 and Government Code section 25131 which provide that an ordinance takes effect immediately where (1) it is adopted for the immediate preservation of the public peace, health, or safety; (2) the County passes the ordinance by a four-fifths vote of its Board of Supervisors; and (3) the ordinance contains a declaration of the facts that make its adoption urgent. The purpose of this ordinance is to make any and all grading permits for the Santa Susana Field Laboratory site, as defined herein, discretionary and to eliminate any permit exemptions that may exist for such site so that the County can evaluate any risks to the public's health, safety, and welfare that granting such permits or exemptions might entail while also complying with the provisions of the California Environmental Quality Act (CEQA) regarding discretionary projects.

The Board of Supervisors finds and determines as follows:

(a) The Santa Susana Field Laboratory (SSFL) site is highly contaminated from activities related to large rocket engine testing, burning of toxic wastes in sodium burn pits (including napalm), nuclear research, and a 1959 partial core meltdown of a small nuclear reactor on site. Toxic chemicals, Trichloroethylene (TCE), perchlorate, dioxins, radionuclides, mercury, lead, cadmium, asbestos, and other hazardous wastes have been found in soils, groundwater and/or surface water at the SSFL site. These types of contaminants have been linked to increased risk of disease including cancer, thyroid disorders, lymphoma, and leukemia.

(b) According to the California Department of Toxic Substances Control, "Potential exposures can occur from direct contact with soils, sediments, weathered bedrock, surface water, air, and groundwater, as well as potential indirect exposure to chemicals in plants following uptake from the soil." (State of California, Environmental Protection Agency, Department of Toxic Substances Control August 2007 Consent Order for Corrective Action (P3-07/08-003)).

(c) The 2,850 acre SSFL site has been divided into four (4) areas for purposes of regulatory clean-up efforts and each area has been found to have contaminants in the soil, groundwater, and/or surface water.

(d) The contaminants found at the SSFL site pose a threat to human health and safety as documented in the following studies and reports: the State of California, Environmental Protection Agency, Department of Toxic Substances Control August 2007 Consent Order for Corrective Action (P3-07/08-003) and the December 3, 2008 Order to Perform Interim/Source Removal Action (ISRA) of Soil from the Regional Water Quality Control Board (RWQCB), as well as in numerous other studies and reports, including Cohen, Y., et. al., 2006, "The Potential for Offsite Exposures Associated with Santa Susana Field Laboratory, Ventura County, California"; and Morgenstern, H., Beebe-Dimmer, J., and Yu, S., 2007, "Cancer Incidence in the Community Surrounding the Rocketdyne Facility in Southern California."

(e) An application for a ministerial grading permit to excavate, stockpile, and haul away contaminated soil from SSFL was submitted on July 28, 2009, by Boeing North America.

(f) A ministerial grading permit precludes discretionary review, public and regulatory agency input, and CEQA environmental impact review. Without the greater scrutiny, disclosure, and mitigation measures available through a discretionary permit review process, the County cannot condition the permit to adequately protect the public health and safety from contaminants that may be exposed during grading at the SSFL site.

(g) To better safeguard the public from exposure to contaminants from SSFL, it is necessary to require all grading permits for the SSFL site to be processed through a discretionary permit process. This will allow the County to determine and apply necessary and appropriate conditions on the permit to protect the public health and safety.

(h) Due to the pending application for a ministerial grading permit for SSFL, there is an urgency to amend Section J103.3 Of Appendix J Grading to the Ventura County Building Code so the County can provide discretionary review and CEQA compliance for grading at SSFL to better protect the public health and safety.

SECTION 2: PROHIBITION & APPLICABILITY

During the period this ordinance remains in effect, no ministerial grading permit or grading permit exemption shall be issued for the Santa Susana Field Laboratory site, as defined herein.

SECTION 3: DEFINITIONS

For the purposes of this ordinance, the “Santa Susana Field Laboratory site” shall mean that land identified as follows: Ventura County Assessor’s Parcel Numbers 6850051100, 6850051110, 6850051120, 6850051135, 6850051150, 6850051165, 6850051175, 6850051180, 6850051200, 6850060135, 6850060145, 6850060295, 6850060295, 6850060305, 6850060305, 6850130145, 6850140050, 6850140340, 6850140395, and 6850140405, as shown on Figure J103.3, below.

SECTION 4: EMERGENCY

Based on the findings and conditions set forth and described in Section 1 of this ordinance, the Board of Supervisors declares this ordinance is necessary as an urgency measure to address existing and immediate threats to the public health, safety, and welfare, as described in Section 1. The Board of Supervisors further determines that the granting of either ministerial grading permits or grading permit exemptions for the Santa Susana Field Laboratory site would result in a threat to the public health, safety, and welfare of the residents of Ventura County.

SECTION 5: CONFLICT

During the period this ordinance remains in effect, the provisions of this ordinance shall govern. If there is any conflict between the provisions of this ordinance and any provision of the Ventura County Ordinance Code, the Ventura County Zoning Ordinance(s), the Ventura County Subdivision Ordinance, or any other County ordinance, resolution, or policy, the provisions of this ordinance shall control.

SECTION 6: AMENDED SECTION J103.3.

Section J103.3 of Exhibit J Grading to the Ventura County Building Code, as adopted by Ordinance No. 4369, is hereby amended to read as follows:

J103.3 MINISTERIAL PERMITS. The issuance or denial of a grading permit pursuant to this Code is a ministerial act for the purposes of Section 21080, subdivision (b) (1), of the Public Resources Code except in the following seven cases:

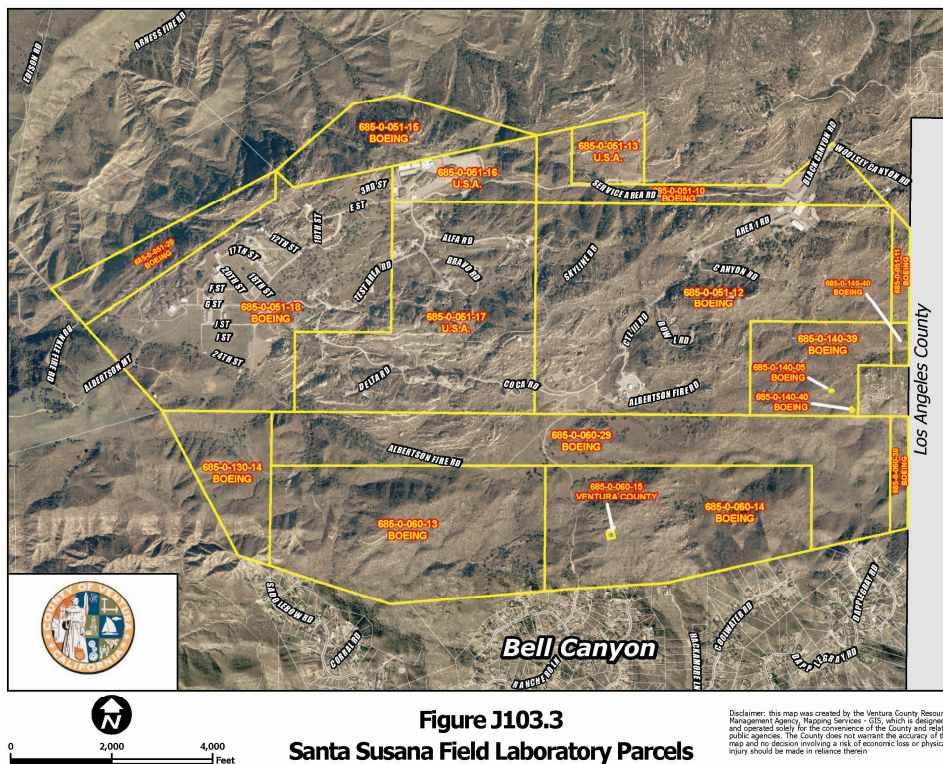
1. Where the average natural slope within the area to be graded exceeds 10% and the amount of excavation or fill exceeds 10,000 cubic yards;
2. Where the average natural slope within the area to be graded exceeds 35% and the amount of excavation or fill exceeds 1,000 cubic yards;
3. Where the proposed graded slopes exceed 40 feet in vertical height;

4. Where the proposed grading is within a designated waterway or designated wetland;
5. Where the proposed grading is within an area officially designated by the County as a Sensitive Ecological, Archaeological, Scenic, or Biologically Sensitive Area;
6. Where the total truck roundtrips per calendar day for the grading operation exceeds 10 roundtrips or the cumulative total number of truck trips exceeds 50 truck trips per calendar week. The Building Official, as a ministerial act, may allow more than 10 truck roundtrips per day provided the truck traffic is scheduled to minimize impacts to the public private streets.
7. Any grading that occurs within the location identified and defined as the Santa Susana Field Laboratory, Ventura County Assessor's Parcel Numbers 6850051100, 6850051110, 6850051120, 6850051135, 6850051150, 6850051165, 6850051175, 6850051180, 6850051200, 6850060135, 6850060145, 6850060295, 6850060295, 6850060305, 6850060305, 6850130145, 6850140050, 6850140340, 6850140395, and 6850140405, as shown on Figure J103.3.

In each of the seven cases listed above, the issuance or denial of a grading permit is discretionary for the purposes of Section 21080, subdivision (a), of the Public Resources Code except in the following three cases in which such issuance or denial is a ministerial act:

1. Where the grading permit is required by a condition imposed upon a discretionary entitlement previously approved by the County of Ventura and the effects of the grading for which the grading permit is required were addressed in an environmental document prepared and certified with respect to that previously approved entitlement;
2. The grading is related to oilfield operations, involving the exploration for or the development or production of oil, and all of the following conditions are satisfied; (a) the grading will be restricted to an area on which such oilfield operations may lawfully take place pursuant to an existing use permit for such operations issued by the County; (b) the proposed graded slopes will be less than 40 feet in vertical height; (c) before the grading commences, grading bonds are submitted to the Building Official guaranteeing all erosion control facilities, slope planting and slope maintenance necessary to meet then existing County standards; and (d) within 60 days of completion of the grading, all slopes created or modified are hydromulched with a native plant and an irrigation system sufficient to ensure establishment of such plants.

3. The grading related to oilfield operations involving the exploration for or the development of production of oil, and is limited to one or more of the following: (a) routine maintenance or repair of existing drill sites or existing roads which does not materially alter the location, size or configuration of the original sites or roads; (b) routine dredging of waste materials for which a permit has been issued by the Environmental Health Division of Ventura County Resource Management Agency.



SECTION 7: CALIFORNIA ENVIRONMENTAL QUALITY ACT

This ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines sections: (1) 15061(b)(3) in that it can be seen with certainty that there is no possibility that this ordinance or its implementation would have a significant effect on the environment; (2) 15306 regarding information collection activities; (3) 15307 regarding actions by a regulatory agency for the protection of natural resources; and (4) 15308 regarding actions by a regulatory agency for the protection of the environment. The Director of the Public Works Agency is directed to file a notice of exemption in accordance with CEQA and the State CEQA Guidelines.

SECTION 8: SEVERABILITY

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more of such sections, subsections, sentences, clauses, or phrases would be declared unconstitutional or invalid.

SECTION 9: EFFECTIVE DATE AND DURATION

This ordinance shall be and the same is hereby declared to be in full force and effect immediately upon its passage by four-fifths (4/5ths) vote of the Board of Supervisors of the County of Ventura, and shall continue in full force and effect until amended or repealed by that body. This ordinance shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for or against the same, in a newspaper of general circulation published in the County of Ventura, State of California.

SECTION 10: SAVINGS CLAUSE

In all other respects, Ordinance No. 4369, as amended, shall remain in full force and effect until and unless further amended by the Board of Supervisors.

PASSED AND ADOPTED this _____ day of _____, 2009, by the following vote:

AYES:Supervisors _____

NOES: _____

ABSENT: _____

CHAIR, BOARD OF SUPERVISOR

**ATTEST: MARTY ROBINSON,
Clerk of the Board of Supervisors,
County of Ventura, State of California.**

By: _____
Deputy Clerk of the Board