

ORDINANCE NO. 2025-xxxx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA AMENDING CHAPTER 14.04 OF TITLE 14 AND CHAPTER 17.32 OF TITLE 17 OF THE SAN MARCOS MUNICIPAL CODE

WHEREAS, Chapter 14.04 of the San Marcos Municipal Code (“SMMC”), provides standards for applications and permits for activity in public places; and

WHEREAS, the City desires to rename and amend Chapter 14.04 of the SMMC to provide specific application requirements to obtain the required contracts, franchises, or permits for activities within public places; and

WHEREAS, the City desires to amend Chapter 14.04 of the SMMC to clarify application and permit expiration timelines and to outline a process for appeals; and

WHEREAS, Chapter 17.32 of the SMMC regulates the development of property by grading; and

WHEREAS, the City desires to amend Chapter 17.32 of the SMMC to allow the Development Services Director to extend grading permit expiration timelines and allow for the appeal of an extension denial.

NOW, THEREFORE, the City Council of the City of San Marcos, California, in accordance with the freedom afforded to charter cities generally, and by the Charter of the City of San Marcos specifically, does ordain as follows:

Section 1. The foregoing recitals are true and correct and are incorporated herein as though fully set forth at this point.

Section 2. Existing San Marcos Municipal Code Chapter 14.04 is hereby amended to read as shown in the clean and redlined versions attached hereto as Exhibit “A” and Exhibit “B,” respectively, and incorporated herein by this reference.

Section 3. Existing San Marcos Municipal Code Chapter 17.32 is hereby amended to read as shown in the clean and redlined versions attached hereto as Exhibit “C” and Exhibit “D,” respectively, and incorporate herein by this reference.

Section 4. The proposed Amendments to Chapter 14.04 and 17.32 of the San Marcos Municipal Code are exempt from the California Environmental Quality Act (CEQA) because this is not a project within the meaning of Section 15378 of the CEQA

Guidelines because there is no potential for it to result in a physical change in the environment, either directly or indirectly. In the event this Ordinance is found to be subject to CEQA, it is exempt from CEQA pursuant to the exemption contained in CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility of a significant effect on the environment.

Section 5. If any section, sentence, clause or phrase of this Ordinance is determined to be invalid, illegal or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 6. This Ordinance shall be effective thirty (30) days following its adoption. Within fifteen (15) days following its adoption, the City Clerk shall certify to the passage of this Ordinance and cause the same to be published, or the title thereof as a summary, in accordance with the provisions of State law in a newspaper of general circulation designated for legal notices publication in the City of San Marcos.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos, California, held on the 9th day of December, 2025.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of San Marcos, California, at a regular meeting thereof, held on this \_\_\_\_\_ day of \_\_\_\_\_, by the following roll call vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:

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Rebecca D. Jones, Mayor  
City of San Marcos

ATTEST:

APPROVED AS TO FORM:

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Phillip Scollick, City Clerk  
City of San Marcos

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Helen Holmes Peak, City Attorney  
City of San Marcos

**ATTACHMENT(S):**

EXHIBIT A – CHAPTER 14.04 AMENDMENTS – CLEAN

EXHIBIT B – CHAPTER 14.04 AMENDMENTS – REDLINED

EXHIBIT C – CHAPTER 17.32 AMENDMENTS – CLEAN

EXHIBIT D – CHAPTER 17.32 AMENDMENTS – REDLINED

**EXHIBIT A**

**San Marcos Municipal Code Chapter 14.04 Amendments - Clean**

## CHAPTER 14.04 PUBLIC PLACES—APPLICATIONS, PERMITS, AND GENERAL PROVISIONS

### 14.04.005 Purpose.

It is the purpose of this Chapter to protect the public interest and safety by establishing standards to provide for the orderly administration of private contract work within the public Right-of-way, for the development of private property, and for private encroachments and construction-related activity on public Rights-of-way or Public Places.

(Ord. No. 2022-1521, § 2, 9-13-2022)

### 14.04.010 Definitions.

For the purposes of this Title 14 ("Title"), the following words shall have the meanings set out in this section:

- (a) **Applicant** means any person making written application for a permit hereunder, except as specifically provided in section 14.25.050.
- (b) **Building or Structure.** In addition to the meaning ordinarily ascribed thereto, includes any machine, implement, device, tree, derrick, stage or other setting, lumber, sash or door, structural steel, pipe bend, dynamo, transformer, generator, punch, agitator, object or thing having a width of more than eight feet, other than any implement of husbandry or any special mobile equipment, as defined in the Vehicle Code, having a width of ten feet or less. The term also includes a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum permitted by the Vehicle Code.
- (c) **Building Code** means the latest adopted code regulating Building construction.
- (d) **City** means the City of San Marcos.
- (e) **Civil Engineer** means a Professional Engineer registered in the State of California to practice in the field of civil engineering.
- (f) **Director** means the City Manager of the City of San Marcos or their designee.
- (g) **Driveway** means a surface intended for exclusive vehicular ingress and egress from a public or private street or drive-aisle.
- (h) **Emergency Work** means work determined to be of an emergency nature by the Director and that is caused by outages or a safety hazard to residents or employees, or a failure of systems that creates a situation that could possibly be detrimental to the health, safety, and welfare of City residents.
- (i) **Encroachment** means constructing, replacing, or maintaining on, over, or under, or using any Public Place so as to prevent, obstruct, or interfere with the normal use of that Public Place, including any culvert, surface or subsurface drainage Facility, water quality Facility, pathway, private walk, embankment, tower, pole, pole line, pipe, pipeline, driveway, private road, wall, fence, billboard, stand, or Building, or any Structure or object of any kind or character not particularly mentioned in this Chapter.
- (j) **Encroachment Work** means the work of constructing, placing, installing, repairing, or maintaining an Encroachment in the Right-of-way.
- (k) **Engineer of Record** means the Civil Engineer with responsible charge for the grading and associated improvements; authorized to act for a property owner or agent in doing work covered by this Chapter;

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licensed by the State of California to practice in the relevant field; and responsible for preparation of the grading plans, certification of the completed grading work, and preparation of the record plans.

- (l) **Highway** means any public highway, Public Street, public way, or Public Place in the City, held as Right-of-way, and used for purpose of travel.
- (m) **Person** means any natural person, firm, partnership, association, limited liability company, corporation, political body and/or business organization of any kind, whether for-profit or otherwise, and also includes the United States, this State, the County of San Diego, and the City, including all departments and bureaus thereof, except as specifically provided in section 14.25.050.
- (n) **Permit** means the authorization from the Director to perform work, along with associated documents submitted by the Applicant, together with applicable plans, Standards, Traffic Control plans, application, and Permit conditions.
- (o) **Permittee** means the Applicant or developer in whose name a valid Permit is duly issued pursuant to this Chapter and their agents, employees, and others acting under their direction.
- (l) **Public Place** means any Highway, Public Street, way, Right-of-way, place, alley, sidewalk, Trail, park, square, or any other public property owned or controlled by any government agency in a governmental capacity.
- (p) **Public Street.** Means the full width of the surfaced or traveled portion, including shoulders, of any road, street, Highway, path, lane, alley, avenue, or other public way or public grounds held as Right-of-way; dedicated to, reserved for or used for vehicular traffic; and accepted as and declared to be part of the City system of public streets, except Highways forming a part of the state highway system.
- (q) **Right-of-way** means all land or interest therein which by deed, conveyance, agreement, easement, dedication, usage, or process of law is reserved for or dedicated to the use of the general public for street or Highway purposes.
- (r) **Sidewalk** means any concrete sidewalk, made of either Portland Cement Concrete (PCC) or Asphalt Concrete (AC) or other public way used expressly for pedestrian traffic.
- (s) **Standards** means the standards used by the City to govern the design, layout, materials, means, and methods for construction including the latest City-adopted Standard Specifications for Public Works Construction (Greenbook), City-adopted supplements to the Greenbook including City Special Provisions, San Diego Regional Standard Drawings, City-adopted supplement to the San Diego Regional Standard Drawings, Work Area Traffic Control Handbook, or any other adopted standard as may be deemed applicable to the Permit by the Director.
- (t) **Structure.** See Building.
- (u) **They** and **their** as used herein are the gender-neutral singular pronoun (such as he/she/they) and the associated possessive (his/hers/theirs).
- (v) **Traffic Control** means by which vehicular traffic is safely routed through a work zone.
- (w) **Vehicle Code** means the Vehicle Code of the State of California.

(Ord. No. 2022-1521, § 2, 9-13-2022; Ord. No. 2024-1549, § 2(Exh. A), 9-10-2024)

#### **14.04.020 Application Requirements.**

No Person shall do or cause to be done any work covered under this Chapter without first having obtained a City contract, City franchise, or a Permit under this Chapter to do such work. Every Applicant for a Permit or license required by this Title shall make an application to the Director.

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(a) **Application.** The application shall state the estimated quantities of work involved and shall contain such other information and be accompanied by such other reports as may be required by this Section or by Chapter 18.04 of the Code relating to Environmental Review. The application for any Permit must include all of the following items, in a quantity and format as defined by the Director, unless a specific item is waived in writing by the Director following a review of the project submittal:

- (1) Application form.
- (2) Plans and specifications.
- (3) Geotechnical report.
- (4) Hydrology and Hydraulics study.
- (5) Application fees.
- (6) Engineer's cost estimate.
- (7) Temporary Erosion, sediment control, and construction best management practices (BMP) plan, and any applicable Storm Water Quality Management Plan (SWQMP) and/or Storm Water Pollution Prevention Plan (SWPPP) as applicable under the Construction General Permit.
- (8) Permanent erosion and sediment control, post-construction Structural BMP plan, and any applicable SWQMP.
- (9) Storm water pollution control checklists and compliance documents.
- (10) Community Facilities District (CFD) Landscape and irrigation plan.
- (11) Title report, recorded documents referenced therein, and record maps.
- (12) Any supplemental materials required by the Director.

(b) **Plans and Specifications.** Unless otherwise waived by the Director, each application for a Permit shall be accompanied by plans and specifications prepared and signed by the Engineer of Record, unless otherwise allowed by California Business and Professions Code.

Plans shall be drawn to an engineering scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that all work will conform to the provisions of this Chapter and all relevant laws, ordinances, rules, and regulations. The plan sheets shall use appropriate screening to clearly indicate in bold the proposed work while "screening back" existing conditions and/or work by others. The title sheet content and format shall be as required by the Director.

The plans shall include the following information:

- (1) Site map depicting the general vicinity of the site where the work is to be done, assessor's parcel number(s), and name and address of Permittee.
- (2) Dimensioned Right-of-Way and/or Public Place limits, existing easements, existing street sections, accurate contours of existing ground and details of terrain.
- (3) Dimensions, elevations, and finish contours to be achieved by the work, and proposed street sections including but not limited street profiles with street centerline and curb, surface materials, and dimensioned curb data.
- (4) Detailed plans of all surface and subsurface drainage facilities, walls, cribbing, dams, and other infrastructure either existing or to be constructed together with a map showing the

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drainage area and estimated runoff of the area served by any drainage systems including but not limited to dimensioned storm drain data, invert elevations, materials, and profiles with hydraulic grade lines.

(5) Information demonstrating to the satisfaction of the Director that the work will satisfy the requirements of Chapter 14.15 of this Code and, in particular, that the Permittee will implement BMPs specified in Sections 14.15.050(c) and (d) to the maximum extent practicable during the construction process.

(6) Information demonstrating compliance with City and State requirements for permanent post-construction storm water BMPs, including, but not limited to existing and proposed BMPs, depiction of how all runoff generated on or draining to the work area will be routed to BMP areas and treated before discharge, hydromodification facilities, and references to City assigned identification.

(7) Publicly-maintained landscaping and irrigation.

(8) Location of any buildings or structures on adjacent land and within 15-feet of the work area; locations of adjacent facilities that may be affected by the construction work, including wet and dry utilities together with required clearances in accordance with permitting agency requirements.

(9) Water and sewer facilities as required by the servicing water and sewer agency.

(10) Location and specifications of striping, signage, traffic signals, and associated utilities.

(11) The name, seal, and signature of the Engineer of Record.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.030 Permit Application by Contractor.**

In addition to the application required by Section 14.04.020, the contractor of any such Person shall be required to obtain a Permit as specified in Chapter 14.16. The City or any contractor of the City for Public Place construction, improvement or repair shall not be required to obtain a Permit pursuant to this Title.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.040 City Free From Liability.**

The Applicant shall indemnify and hold harmless the City, each of its officers, and its employees from any liability or responsibility for accident, loss, or damage to persons or property arising by reason of the work done by the Applicant, or their agents, employees, or representatives.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.050 Fee.**

Every Applicant for a Permit or license required by this Title shall at the time of making application for the Permit or license pay the fees required for such Permit or license.

The Applicant shall provide the required security to guarantee proper completion of the Permitted work as described in this Title prior to Permit issuance.

(Ord. No. 2022-1521, § 2, 9-13-2022)



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#### **14.04.060 Fee or Deposit Exemption.**

If the United States, the State of California, this City or any other municipality, any municipal corporation, school district, other special district, or public body files with the Director a written guarantee of payment of all costs for which they may become liable to the City, then neither an issuance fee nor deposit is required from such Persons.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.070 Waiver of Prepayment of Fees.**

At the request of any Permittee who maintains with the Director a general deposit as provided in this Chapter, the Director may waive the requirement for prepayment of the issuance fees and bill said Permittee for issuance fees for those Permits issued subsequent to such request; provided, however, that the amount of said deposit is sufficient to cover said fees and to provide for other contingencies for which it is submitted. The Director may revoke such waiver at any time, and must revoke the waiver if the Permittee fails to pay the bill for fees within the required time.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.080 Billing of Permittee Granted Prepayment Waiver.**

Where the Director grants the waiver provided in Section 14.04.070, Permittee shall be billed monthly for all Permits issued during the month, and the Permittee shall pay said bill not later than 30 calendar days from the invoice date.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.090 Purpose of Fees.**

The issuance fees required by this Chapter are for the purpose of defraying the cost of issuing the requested Permit. No part of any issuance fee may be refunded to any Applicant.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.100 Deposit of Fees.**

Issuance fees, deposits, and charges for repairs, inspection, or engineering services collected under the provisions of this Title shall be deposited into the respective accounts from which the corresponding disbursements will be or were made. Deposits made by Applicants shall be held by the City for a duration of three years following the completion and acceptance of the work for which the Permit in question was issued, after which time any funds in excess of the amounts necessary to reimburse the City for or inspection, engineering, and/or related services, or to effectuate repairs for any damages caused to the City or to public property and/or equipment by the Applicant and/or its contractor, may be declared abandoned and, upon the provision of duly required notice, if no application for return of such funds has been received, transferred to the City's General Fund. Notwithstanding this Section 14.04.100, Applicants shall remain responsible for the cost of any repairs, inspection, or engineering costs associated with Permit(s) issued by the City.

(Ord. No. 2022-1521, § 2, 9-13-2022)

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#### **14.04.110 Explanation of Costs.**

Whenever in the provisions of this Title any costs are to be charged to any Permittee, and no other method for the calculation of such costs is specified, such costs are the actual costs including the proportionate part of the salaries, wages, or other compensation of any deputy or employee, plus cost of overhead not to exceed 15 percent of the total.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.112 – Expiration of Permits**

(a) **Application and Permit Expiration Timelines.** A Permit shall be valid for the time period established for the same as set forth in this Chapter.

(1) **Lapse of Application Prior to Permit Issuance.** Unapproved Permit applications shall lapse after a period of 180 days of inactivity. The time limit may be extended at the Director's discretion, or by the Director upon written request of the Permittee or owner, if it can be shown that applicant had been in regular communication with the City and diligently pursued completion of required work but encountered unanticipated conditions or requirements including but not limited to, unanticipated site and/or environmental conditions, permitting requirements of other regulatory agencies, and/or obtaining necessary easements to facilitate proposed work. Additionally, Permit applications shall lapse if a Permit is not issued in accordance with approved plans within 180 days from the date of such approval by the Director. In either case, the Applicant shall resubmit a complete updated application and all associated documents for review and re-approval with required fees per Section 14.04.020.

(2) **Lapse Following Permit Issuance.** Every Permit issued under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such Permit is not commenced within 180 days from the date of issuance of such Permit or if the work authorized by such Permit is suspended or abandoned at any time after work is commenced for a period of 180 days or more.

(a) The Permittee shall fully perform and complete all of the work required to be done pursuant to the Permit within the time limit specified therein or, if no time is so specified, within 360 days after the date of issuance of the Permit. The time limit may be extended at the Director's discretion, or by the Director upon written request of the Permittee, owner, or surety, if in the discretion of the Director, good and sufficient cause has been shown.

(b) In order to revalidate an expired Permit that has been extended at the discretion of the Director, the Permittee shall resubmit all required application forms and documents, including fees, except where waived by the Director.

(3) **Appeal.** An applicant may appeal the denial of extension by the Director per Section 14.04.182.

#### **14.04.120 Approval of Application.**

The Director shall not approve the application unless it appears to the Director that the work proposed to be done will not significantly damage the Highways nor create an unreasonable risk of harm to Persons or property and that the approval of said application is in the public interest. Notwithstanding the foregoing, the Director may approve the application subject to conditions if the Director determines that by doing so it would be in the public

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interest, that no significant damage to the Highways would be created, and that no unreasonable risk of harm to Persons or property would be created.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.130 Issuance of Permit.**

When the Director approves an application for a Permit, and after all fees, costs, and deposits applicable to such Permit have been received by the City, the Permit will be issued.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.140 Application of Public Agencies or Public Utilities.**

Notwithstanding the provisions of Section 14.04.120, the Director shall approve the application for Permit subject to conditions of any public agency, special district, or public Utility having lawful authority to occupy the Highways and authorized by law to establish or maintain any works or facilities in, over, or under any public Highway. Any such Permit shall contain a provision that in the event that the future improvement of the Highway necessitates the relocation of its facilities, the Permittee will relocate the same at their sole expense.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.150 Conditions May be Changed After Permit is Issued.**

Any Permit issued by the Director under any of the provisions of this Title, or the conditions to which it has been made subject, may be amended or changed if the Director deems such amendment or change to be necessary for the protection of the Highways, or to prevent undue interference with traffic, to protect both Persons and property within or adjacent to such Highways from damage or danger, or to protect the public interest. Notification of the amendment or change shall be made by the Director either by mailing written notice to the Permittee or by personal service of the same on Permittee. The amendment or change shall be effective either 24 hours after said written notice is deposited in the United States mail or immediately upon completion of personal service. The Permit may provide for service by email; if the Permittee provides an email address, the amendment or change shall be immediately effective.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.160 Revocation of Permit.**

All Permits other than those issued to public agencies or a public Utility having lawful authority to occupy the Highways are revocable on five days' notice. The affected Encroachment must be removed or relocated as may be specified by the Director in the notice revoking the Permit and within a reasonable time specified by the Director unless the Permit provides a specified time.

A Permit shall be immediately revocable with Director approval of the Permittee's written request to revoke such Permit, or upon discovery that the facts are not presented accurately and/or correctly in the Permit application.

(Ord. No. 2022-1521, § 2, 9-13-2022)

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#### **14.04.170 Availability of Standards.**

Copies of the Standards referred to in this Title may be acquired from the City or via the publisher. All or any portion of said specifications may be sold by the Director at the cost of producing the same, including administrative and associated costs. All moneys received pursuant to sales made under this section shall be paid into the City Treasury as provided by law.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.180 Enforcement by Director.**

The Director is authorized to enforce the provisions of this Title.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.182 – Appeals.**

An applicant may appeal a denial by the Director of an application for a Permit or extension of Permit issuance to the City Council within ten working days after such decision. Appeals shall be in writing and shall state the specific nature of the appeal. Appeals shall be filed with the City Clerk and are subject to fees established by the City's fee schedule.

#### **14.04.190 Violation—Penalty.**

Except where otherwise specifically provided by this Title, every Person is guilty of an infraction who, before obtaining a construction, Excavation, or Encroachment Permit from the Director:

- (a) Moves or causes to be moved along any Highway any Building or Structure; or
- (b) Makes or causes to be made any Excavation, fill, obstruction, or lays, constructs, or repairs any curb, Sidewalk, gutter, driveway, roadway surface, retaining wall, storm drain or culvert, or other work of any nature in, over, along, under, across or through any Highway; or
- (c) Places, changes, or renews any Encroachment in, under, or over any portion of a Highway.

(Ord. No. 2022-1521, § 2, 9-13-2022)

**EXHIBIT B**

**San Marcos Municipal Code Chapter 14.04 Amendments - Redlined**

## CHAPTER 14.04 PUBLIC PLACES—APPLICATIONS, PERMITS, AND GENERAL PROVISIONS

### 14.04.005 Purpose.

It is the purpose of this Chapter to protect the public interest and safety by establishing standards to provide for the orderly administration of private contract work within the public Right-of-way, for the development of private property, and for private encroachments and construction-related activity on public Rights-of-way or Public Places.

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licensed by the State of California to practice in the relevant field; and responsible for preparation of the grading plans, certification of the completed grading work, and preparation of the record plans.

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No Person shall do or cause to be done any work covered under this Chapter without first having obtained a City contract, City franchise, or a Permit under this Chapter to do such work. Every Applicant for a Permit or license required by this Title shall make an application to the Director.

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(a) **Application.** The application shall state the estimated quantities of work involved and shall contain such other information and be accompanied by such other reports as may be required by this Section or by Chapter 18.04 of the Code relating to Environmental Review. The application for any Permit must include all of the following items, in a quantity and format as defined by the Director, unless a specific item is waived in writing by the Director following a review of the project submittal:

- (1) Application form.
- (2) Plans and specifications.
- (3) Geotechnical report.
- (4) Hydrology and Hydraulics study.
- (5) Application fees.
- (6) Engineer's cost estimate.
- (7) Temporary Erosion, sediment control, and construction best management practices (BMP) plan, and any applicable Storm Water Quality Management Plan (SWQMP) and/or Storm Water Pollution Prevention Plan (SWPPP) as applicable under the Construction General Permit.
- (8) Permanent erosion and sediment control, post-construction Structural BMP plan, and any applicable SWQMP.
- (9) Storm water pollution control checklists and compliance documents.
- (10) Community Facilities District (CFD) Landscape and irrigation plan.
- (11) Title report, recorded documents referenced therein, and record maps.
- (12) Any supplemental materials required by the Director.

(b) **Plans and Specifications.** Unless otherwise waived by the Director, each application for a Permit shall be accompanied by plans and specifications prepared and signed by the Engineer of Record, unless otherwise allowed by California Business and Professions Code.

Plans shall be drawn to an engineering scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that all work will conform to the provisions of this Chapter and all relevant laws, ordinances, rules, and regulations. The plan sheets shall use appropriate screening to clearly indicate in bold the proposed work while "screening back" existing conditions and/or work by others. The title sheet content and format shall be as required by the Director.

The plans shall include the following information:

- (1) Site map depicting the general vicinity of the site where the work is to be done, assessor's parcel number(s), and name and address of Permittee.
- (2) Dimensioned Right-of-Way and/or Public Place limits, existing easements, existing street sections, accurate contours of existing ground and details of terrain.
- (3) Dimensions, elevations, and finish contours to be achieved by the work, and proposed street sections including but not limited street profiles with street centerline and curb, surface materials, and dimensioned curb data.
- (4) Detailed plans of all surface and subsurface drainage facilities, walls, cribbing, dams, and other infrastructure either existing or to be constructed together with a map showing the



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drainage area and estimated runoff of the area served by any drainage systems including but not limited to dimensioned storm drain data, invert elevations, materials, and profiles with hydraulic grade lines.

(5) Information demonstrating to the satisfaction of the Director that the work will satisfy the requirements of Chapter 14.15 of this Code and, in particular, that the Permittee will implement BMPs specified in Sections 14.15.050(c) and (d) to the maximum extent practicable during the construction process.

(6) Information demonstrating compliance with City and State requirements for permanent post-construction storm water BMPs, including, but not limited to existing and proposed BMPs, depiction of how all runoff generated on or draining to the work area will be routed to BMP areas and treated before discharge, hydromodification facilities, and references to City assigned identification.

(7) Publicly-maintained landscaping and irrigation.

(8) Location of any buildings or structures on adjacent land and within 15-feet of the work area; locations of adjacent facilities that may be affected by the construction work, including wet and dry utilities together with required clearances in accordance with permitting agency requirements.

(9) Water and sewer facilities as required by the servicing water and sewer agency.

(10) Location and specifications of striping, signage, traffic signals, and associated utilities.

(11) The name, seal, and signature of the Engineer of Record.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.030 Permit Application by Contractor.**

In addition to the application required by Section 14.04.020, the contractor of any such Person shall be required to obtain a Permit as specified in Chapter 14.16. The City or any contractor of the City for Public Place construction, improvement or repair shall not be required to obtain a Permit pursuant to this Title.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.040 City Free From Liability.**

The Applicant shall indemnify and hold harmless the City, each of its officers, and its employees from any liability or responsibility for accident, loss, or damage to persons or property arising by reason of the work done by the Applicant, or their agents, employees, or representatives.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.050 Fee.**

Every Applicant for a Permit or license required by this Title shall at the time of making application for the Permit or license pay the fees required for such Permit or license.

The Applicant shall provide the required security to guarantee proper completion of the Permitted work as described in this Title prior to Permit issuance.

(Ord. No. 2022-1521, § 2, 9-13-2022)

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#### **14.04.060 Fee or Deposit Exemption.**

If the United States, the State of California, this City or any other municipality, any municipal corporation, school district, other special district, or public body files with the Director a written guarantee of payment of all costs for which they may become liable to the City, then neither an issuance fee nor deposit is required from such Persons.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.070 Waiver of Prepayment of Fees.**

At the request of any Permittee who maintains with the Director a general deposit as provided in this Chapter, the Director may waive the requirement for prepayment of the issuance fees and bill said Permittee for issuance fees for those Permits issued subsequent to such request; provided, however, that the amount of said deposit is sufficient to cover said fees and to provide for other contingencies for which it is submitted. The Director may revoke such waiver at any time, and must revoke the waiver if the Permittee fails to pay the bill for fees within the required time.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.080 Billing of Permittee Granted Prepayment Waiver.**

Where the Director grants the waiver provided in Section 14.04.070, Permittee shall be billed monthly for all Permits issued during the month, and the Permittee shall pay said bill not later than 30 calendar days from the invoice date.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.090 Purpose of Fees.**

The issuance fees required by this Chapter are for the purpose of defraying the cost of issuing the requested Permit. No part of any issuance fee may be refunded to any Applicant.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.100 Deposit of Fees.**

Issuance fees, deposits, and charges for repairs, inspection, or engineering services collected under the provisions of this Title shall be deposited into the respective accounts from which the corresponding disbursements will be or were made. Deposits made by Applicants shall be held by the City for a duration of three years following the completion and acceptance of the work for which the Permit in question was issued, after which time any funds in excess of the amounts necessary to reimburse the City for or inspection, engineering, and/or related services, or to effectuate repairs for any damages caused to the City or to public property and/or equipment by the Applicant and/or its contractor, may be declared abandoned and, upon the provision of duly required notice, if no application for return of such funds has been received, transferred to the City's General Fund. Notwithstanding this Section 14.04.100, Applicants shall remain responsible for the cost of any repairs, inspection, or engineering costs associated with Permit(s) issued by the City.

(Ord. No. 2022-1521, § 2, 9-13-2022)

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#### **14.04.110 Explanation of Costs.**

Whenever in the provisions of this Title any costs are to be charged to any Permittee, and no other method for the calculation of such costs is specified, such costs are the actual costs including the proportionate part of the salaries, wages, or other compensation of any deputy or employee, plus cost of overhead not to exceed 15 percent of the total.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.112 – Expiration of Permits**

(a) **Application and Permit Expiration Timelines.** A Permit shall be valid for the time period established for the same as set forth in this Chapter.

(1) **Lapse of Application Prior to Permit Issuance.** Unapproved Permit applications shall lapse after a period of 180 days of inactivity. The time limit may be extended at the Director's discretion, or by the Director upon written request of the Permittee or owner, if it can be shown that applicant had been in regular communication with the City and diligently pursued completion of required work but encountered unanticipated conditions or requirements including but not limited to, unanticipated site and/or environmental conditions, permitting requirements of other regulatory agencies, and/or obtaining necessary easements to facilitate proposed work. Additionally, Permit applications shall lapse if a Permit is not issued in accordance with approved plans within 180 days from the date of such approval by the Director. In either case, the Applicant shall resubmit a complete updated application and all associated documents for review and re-approval with required fees per Section 14.04.020.

(2) **Lapse Following Permit Issuance.** Every Permit issued under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such Permit is not commenced within 180 days from the date of issuance of such Permit or if the work authorized by such Permit is suspended or abandoned at any time after work is commenced for a period of 180 days or more.

(a) The Permittee shall fully perform and complete all of the work required to be done pursuant to the Permit within the time limit specified therein or, if no time is so specified, within 360 days after the date of issuance of the Permit. The time limit may be extended at the Director's discretion, or by the Director upon written request of the Permittee, owner, or surety, if in the discretion of the Director, good and sufficient cause has been shown.

(b) In order to revalidate an expired Permit that has been extended at the discretion of the Director, the Permittee shall resubmit all required application forms and documents, including fees, except where waived by the Director.

(3) **Appeal.** An applicant may appeal the denial of extension by the Director per Section 14.04.182.

#### **14.04.120 Approval of Application.**

The Director shall not approve the application unless it appears to the Director that the work proposed to be done will not significantly damage the Highways nor create an unreasonable risk of harm to Persons or property and that the approval of said application is in the public interest. Notwithstanding the foregoing, the Director may approve the application subject to conditions if the Director determines that by doing so it would be in the public

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interest, that no significant damage to the Highways would be created, and that no unreasonable risk of harm to Persons or property would be created.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.130 Issuance of Permit.**

When the Director approves an application for a Permit, and after all fees, costs, and deposits applicable to such Permit have been received by the City, the Permit will be issued.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.140 Application of Public Agencies or Public Utilities.**

Notwithstanding the provisions of Section 14.04.120, the Director shall approve the application for Permit subject to conditions of any public agency, special district, or public Utility having lawful authority to occupy the Highways and authorized by law to establish or maintain any works or facilities in, over, or under any public Highway. Any such Permit shall contain a provision that in the event that the future improvement of the Highway necessitates the relocation of its facilities, the Permittee will relocate the same at their sole expense.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.150 Conditions May be Changed After Permit is Issued.**

Any Permit issued by the Director under any of the provisions of this Title, or the conditions to which it has been made subject, may be amended or changed if the Director deems such amendment or change to be necessary for the protection of the Highways, or to prevent undue interference with traffic, to protect both Persons and property within or adjacent to such Highways from damage or danger, or to protect the public interest. Notification of the amendment or change shall be made by the Director either by mailing written notice to the Permittee or by personal service of the same on Permittee. The amendment or change shall be effective either 24 hours after said written notice is deposited in the United States mail or immediately upon completion of personal service. The Permit may provide for service by email; if the Permittee provides an email address, the amendment or change shall be immediately effective.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.160 Revocation of Permit.**

All Permits other than those issued to public agencies or a public Utility having lawful authority to occupy the Highways are revocable on five days' notice. The affected Encroachment must be removed or relocated as may be specified by the Director in the notice revoking the Permit and within a reasonable time specified by the Director unless the Permit provides a specified time.

A Permit shall be immediately revocable with Director approval of the Permittee's written request to revoke such Permit, or upon discovery that the facts are not presented accurately and/or correctly in the Permit application.

(Ord. No. 2022-1521, § 2, 9-13-2022)

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#### **14.04.170 Availability of Standards.**

Copies of the Standards referred to in this Title may be acquired from the City or via the publisher. All or any portion of said specifications may be sold by the Director at the cost of producing the same, including administrative and associated costs. All moneys received pursuant to sales made under this section shall be paid into the City Treasury as provided by law.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.180 Enforcement by Director.**

The Director is authorized to enforce the provisions of this Title.

(Ord. No. 2022-1521, § 2, 9-13-2022)

#### **14.04.182 – Appeals.**

An applicant may appeal a denial by the Director of an application for a Permit or extension of Permit issuance to the City Council within ten working days after such decision. Appeals shall be in writing and shall state the specific nature of the appeal. Appeals shall be filed with the City Clerk and are subject to fees established by the City's fee schedule.

#### **14.04.190 Violation—Penalty.**

Except where otherwise specifically provided by this Title, every Person is guilty of an infraction who, before obtaining a construction, Excavation, or Encroachment Permit from the Director:

- (a) Moves or causes to be moved along any Highway any Building or Structure; or
- (b) Makes or causes to be made any Excavation, fill, obstruction, or lays, constructs, or repairs any curb, Sidewalk, gutter, driveway, roadway surface, retaining wall, storm drain or culvert, or other work of any nature in, over, along, under, across or through any Highway; or
- (c) Places, changes, or renews any Encroachment in, under, or over any portion of a Highway.

(Ord. No. 2022-1521, § 2, 9-13-2022)

**EXHIBIT C**

**San Marcos Municipal Code Chapter 17.32 Amendments - Clean**

## CHAPTER 17.32 GRADING AND RELATED ACTIVITIES<sup>1</sup>

### 17.32.010 Purpose.

To protect the public health, safety, and welfare, preserve property values, and ensure quality construction. This Chapter establishes standards regulating the design and construction of building sites and the development of property by grading.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### 17.32.020 Scope.

This Chapter regulates the alteration of the ground surface; protects adjacent properties from damage caused by blockage or diversion of waters; requires engineering analysis of Soil conditions, slope stability, and drainage; provides for prompt development, restoration, replanting, and permanent landscaping after clearing or grading procedures to effectively control erosion and/or sedimentation; establishes an administrative procedure for issuance of grading permits; and provides for approval of grading plans and inspection of grading construction.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### 17.32.030 Definitions.

For the purpose of this Chapter, the following words or phrases shall have the meaning established by this Section:

- (a) **Administrative Authority** means the Director, or their designee, of the department responsible for the administration and enforcement of this Chapter.
- (b) **Applicant** means any person making written application for a permit hereunder.
- (c) **As-Graded** is the extent of surface and subsurface conditions and configuration upon completion of Grading.
- (d) **Bedrock** is naturally occurring, in-place solid rock.
- (e) **Bench** means a relatively level step graded into sloped earth.
- (f) **Best Management Practices** or **BMPs** mean the procedures, schedule of activities, prohibitions of practices, maintenance procedures, and devices to prevent or minimize the quantity of runoff pollutants and/or volumes that flow to receiving water bodies. BMPs may include any type of pollution prevention or control measure that the Administrative Authority finds necessary to reduce pollutants entering the Waters of the United States to the maximum extent practicable.
- (g) **Blasting Operation** means the use of an explosive device or explosive materials to destroy, modify, obliterate, or remove any obstruction of any kind from a piece of property.

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<sup>1</sup>Editor's note(s)—Ord. No. 2022-1522, § 2(Exh. A), adopted Sept. 13, 2022, repealed the former Ch. 17.32, §§ 17.32.010—17.32.200, and enacted a new Ch. 17.32 as set out herein. The former Ch. 17.32 was entitled "Building, Construction, and Related Activities," and derived from: Ord. No. 96-1003, adopted Dec. 10, 1996; Ord. No. 2001-1123, adopted Nov. 27, 2001; and Ord. No. 2006-1270, adopted Sept. 12, 2006.

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- (h) **Certify** or **Certification** means the act of to provide a signed (and stamped, as applicable) written statement by the Permittee or by the responsible professional, as required, that the specific inspections and tests have been performed and comply with the applicable requirements of this Chapter.
  - (i) **Civil Engineer** means a Professional Engineer duly licensed and registered with the State of California to practice in the field of civil engineering.
  - (j) **Clearing** means the removal of all unwanted surface material, such as brush, grass, weeds, downed trees, and other material by manual, mechanical, or other methods that do not disturb the earth's surface and that leave the material at existing grade and within four inches above existing grade intact. For purposes of this Chapter, clearing activities using heavy equipment or other measures that do not leave the existing grade intact are not classified as "Clearing." Rather, such activities are classified as "Grubbing," as defined below.
  - (k) **Compaction** means the densification of earth by mechanical means.
  - (l) **Construction General Permit** means the then-current General Permit for Discharges of Storm Water Associated with Construction Activity as issued by the California State Water Resources Control Board, Construction General Permit Order 2009-0009-DWQ as it may be amended and reissued from time to time.
  - (m) **Cross-Lot Drainage** means storm water runoff that flows directly across lot lines to a neighboring property.
  - (n) **Cumulative Impervious Surface Area** means the total measurement of those surface areas within a lot or parcel that prevent aeration, infiltration, and water penetration, and that release all or a majority of the precipitation that falls on the same. Cumulative Impervious Surface Area includes, but is not limited to, sidewalks, driveways, parking lots, roads, pavers or landscape materials that prevent infiltration and water penetration, and rooftops.
  - (o) **Embankment** or **Fill** means the deposition of Soil, sand, gravel, rock, or other earth materials by human activity and the conditions resulting therefrom.
  - (p) **Engineering Geologist** means a Certified Engineering Geologist, registered with the State of California to practice engineering geology.
  - (q) **Engineering Geology** means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and Soil for use in the design of civil work.
  - (r) **Engineer of Record** means the Civil Engineer with responsible charge for the Grading and associated improvements; authorized to act for a property owner or agent in doing work covered by this Chapter; licensed and registered by the State of California to practice in the relevant field; and responsible for preparation of the Grading plans, certification of the completed Grading work, and preparation of the record plans.
  - (s) **Erosion** means the process by which land is diminished or worn away due to wind, water, or glacial ice. Often the eroded debris (silt or sediment) becomes a pollutant via storm water runoff. Erosion occurs naturally but can be intensified by activities such as Clearing, Grading, Grubbing, farming, development, road building, and timber harvesting.
  - (t) **Erosion Control** means any combination of desilting facilities, pipes, channels, culverts, sandbags and Erosion protection devices, including effective planting and the maintenance thereof, installed or placed to protect property, watercourses, public facilities, and receiving waters from Erosion or from the deposit of sediment or dust.



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- (u) **Excavation** or **Cut** means any earth, sand, gravel, rock, or other similar material, which is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed by man, and the conditions resulting therefrom.
  - (v) **Expansive Soil** means soils meeting all four of the following provisions, except that tests to show compliance with Items 1, 2 and 3 shall not be required if the test prescribed in Item 4 is conducted:
    - (1) Plasticity index (PI) of 15 or greater, determined in accordance with ASTM D4318.
    - (2) More than 10 percent of the Soil particles pass a No. 200 sieve (75  $\mu$ m), determined in accordance with ASTM D422.
    - (3) More than 10 percent of the Soil particles are less than 5 micrometers in size, determined in accordance with ASTM D422.
    - (4) Expansion index greater than 20, determined in accordance with ASTM D4829.
  - (w) **Finish Grade** means the final elevation of the ground surface upon completion of any excavation or fill that conforms to the City-approved grading plan.
  - (x) **Geotechnical Engineer** means a Civil Engineer who has been licensed, registered, and granted authority to hold themselves out as a Geotechnical Engineer by the State of California.
  - (y) **Geotechnical Report** means a report which contains all appropriate Soil Engineering, geologic, hydrologic, and seismic information, evaluation, recommendations, and findings. This type of report combines both engineering and Soil Engineering reports.
  - (z) **Grade** means the vertical location of the ground surface.
  - (aa) **Grading** means any excavating or filling or combination thereof; any earth disturbance; removal, and recompaction; storage; stockpiling; or any combination thereof resulting in the displacement, removal, excavation, import, export, or recompaction of soil.
  - (bb) **Grading Contractor** means a contractor licensed by the State of California who specializes in grading work or is otherwise licensed to do grading work.
  - (cc) **Grading Plan** means a plan prepared in accordance with this Chapter showing Grading and related work.
  - (dd) **Gross Stability** means the factor of safety against failure of slope material below a surface approximately three to four feet deep measured from and perpendicular to the slope face.
  - (ee) **Grubbing** means the removal of vegetative matter such as roots, stumps, buried materials, and other matter using manual, mechanical, or chemical methods that disturb the zone from four inches or less above the earth's surface to beneath the existing grade.
  - (ff) **Interim Erosion Control Plan** means a plan prepared in accordance with this Chapter showing Erosion Control and Best Management Practices designed to control surface runoff, prevent Erosion, and retain sediment on a development site during the period in which pre-construction and construction-related land disturbances and Grading occur, and before final improvements are completed.
  - (gg) **Landscape Architect** means a landscape architect, registered by the State of California, who performs professional work in physical land planning and integrated land development, including the design of landscape planting programs.
  - (hh) **Permanent Erosion Control Plan** means a plan prepared in accordance with this Chapter showing Erosion Control and Best Management Practices designed to control surface runoff, prevent Erosion, and retain sediment on a development site after final structures and permanent improvements have been completed.

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- (ii) **Permittee** means the Applicant or developer in whose name a valid permit is duly issued pursuant to this Chapter and their agents, employees, and others acting under their direction.
  - (jj) **Precise Grading Plan** means a plan showing the precise finish grades, structure locations, and site improvements. A Precise Grading Plan is typically required for the finish work to occur after Rough Grading.
  - (kk) **Public Place** means any public street, way, place, alley, sidewalk, trail, park, square, or any other public property owned or controlled by any government agency in a governmental capacity.
  - (ll) **Retaining Wall** means a structure designed to resist the lateral displacement of Soil or other materials.
  - (mm) **Rock Crushing** means the use of a device, machine, apparatus, or equipment for the purpose of crushing, grinding, breaking, or pulverizing rock or stone. Rock Crusher means the device, machine, apparatus, or equipment to carry out Rock Crushing activities.
  - (nn) **Rough Grade** means the operational stage at which the grade approximately conforms to the approved plan.
  - (oo) **Rough Grading Plan** means a plan for rough grading, clearing and grubbing, stockpiling, and other preliminary work to precede Precise Grading work.
  - (pp) **Surficial Stability** means the factor of safety against failure of the outer three to four feet of slope material measured from and perpendicular to the slope face.
  - (qq) **Slope** is an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
  - (rr) **Soil** means the naturally occurring superficial earth deposits overlying Bedrock.
  - (ss) **Soils Engineering** means the application of the principles of Soil mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.
  - (tt) **Soils Engineer** means a Civil Engineer experienced and knowledgeable in the practice of Soil Engineering.
  - (uu) **Structural Best Management Practice** or **Structural BMP** means that subset of BMPs which detains, retains, filters, removes, or prevents the release of pollutants to surface waters from development projects in perpetuity, after construction of a project is completed. This general term encompasses the pollutant control BMPs and hydromodification BMPs required for Priority Development Projects under the San Diego Region Municipal Separate Storm Sewer System (MS4) Permit. A structural BMP may be a pollutant control BMP, a hydromodification management BMP, or an integrated pollutant control and hydromodification management BMP.
  - (vv) **They** and **Their** as used herein are the gender-neutral singular pronoun (such as he/she/they) and the associated possessives (his/hers/theirs).
  - (ww) **Terrace** means a relatively level step constructed in the face of a graded slope for drainage, erosion control, and/or maintenance purposes.
  - (xx) **Vertical Height** of a slope means the measurement from the toe of slope to a point projected horizontally directly above it from the top of slope.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### 17.32.040 Grading Permit Requirements.

It is unlawful for any person to do, or cause to be done on their behalf, any of the following, without first obtaining a valid Grading permit issued by the Administrative Authority pursuant to this Chapter, unless the Grading is exempt from the requirement for a Grading permit as provided in this Chapter 17.32:

- (1) Any grading, storage, or disposal of Soil and earth materials;
- (2) Clearing and/or Grubbing;
- (3) Creation and/or replacement of impervious surfaces or other work necessitating implementation of storm water quality Best Management Practice measures consistent with the current order from the Regional Water Quality Control Board (RWQCB);
- (4) Removal or modification of existing Best Management Practice measures.

A separate Grading permit is required for each lot or parcel to be graded, except where the Grading is for a subdivision or common development and the permit is issued for Grading for the design and improvement of all or part of the subdivision or common development.

(a) **Application.** The provisions of Chapter 17.08 (California Building Code) shall apply to the application for Grading permits. In addition to other requirements, the application shall state the estimated quantities of work involved and shall contain such other information and be accompanied by such other reports as may be required by this Section or by Chapter 18.04 of this Code relating to Environmental Review. The application for any Grading permit must include, but shall not be limited to, all of the following items, in a quantity and format as defined by the Administrative Authority, unless a specific item is waived in writing by the Administrative Authority following a review of the project submittal:

- (1) Application form.
- (2) Grading plan and specifications.
- (3) Geotechnical report.
- (4) Hydrology and Hydraulics study.
- (5) Application fees.
- (6) Engineer's cost estimate.
- (7) Temporary Erosion, sediment control, and construction BMP plan, and any applicable Storm Water Quality Management Plan (SWQMP) and/or Storm Water Pollution Prevention Plan (SWPPP) as applicable under the Construction General Permit.
- (8) Permanent erosion and sediment control, post-construction Structural BMP plan, and any applicable SWQMP.
- (9) Storm water pollution control checklists and compliance documents.
- (10) Landscape and irrigation plan.
- (11) Title report, recorded documents referenced therein, and record maps.
- (12) Any applicable environmental documentation and associated studies for compliance with the California Environmental Quality Act and other applicable state and federal laws.
- (13) Other such documentation and information as may be necessary to demonstrate that the grading work will be carried out in substantial compliance with all City codes and City standards.

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- (b) **Grading Plan and Specifications.** Unless otherwise waived by the Administrative Authority, each application for a Grading permit shall be accompanied by plans and specifications prepared and signed by the Engineer of Record, unless otherwise allowed by the California Business and Professions Code.

Plans shall be drawn to an engineering scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that all Grading will conform to the provisions of this Chapter and all relevant laws, ordinances, rules, and regulations. The plan sheets shall use appropriate screening to clearly indicate in bold the proposed work while "screening back" existing conditions and/or work by others. The title sheet content and format shall be as required by the Administrative Authority.

The plans shall include the following information:

- (1) Site map depicting the general vicinity of the site where the Grading is to be done, assessor's parcel number(s), and name and address of owner.
  - (2) Dimensioned property limits, accurate contours of existing ground, and details of terrain and area drainage.
  - (3) Limiting dimensions, elevations, or finish contours to be achieved by the Grading, and proposed drainage channels and related construction.
  - (4) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, and other infrastructure either existing or to be constructed together with a map showing the drainage area and the estimated runoff of the area served by any drainage systems.
  - (5) Location of any buildings or structures on the site; location of any buildings or structures on adjacent land and within 15 feet of the property; and locations of adjacent facilities that may be affected by the proposed grading operations, including adjacent septic and/or well installations together with required clearances in accordance with permitting agency requirements.
  - (6) The location of top and toe of all cuts and fills.
  - (7) The location of all "daylight" lines.
  - (8) The amount in cubic yardage of all Excavations, fills, remedial work, and import/export materials.
  - (9) The location of the disposal site for excess material, if any, along with the proposed haul route, if the disposal site is not located on the property being graded.
  - (10) Intended land use and site restrictions and encumbrances, such as easements, fuel protection areas, and biological constraints together with associated limits of work and required protection measures.
  - (11) Information demonstrating to the satisfaction of the Administrative Authority that the work will satisfy the requirements of Chapter 14.15 of this Code and, in particular, that the Permittee will implement the Best Management Practices specified in Sections 14.15.050(c) and (d) to the maximum extent practicable during the Grading process.
  - (12) Information demonstrating compliance with City and State requirements for permanent post-construction storm water Structural BMPs, including, but not limited to, existing and proposed BMPs, depiction of how all the runoff generated on or draining to the development area will be routed to BMP areas and treated before discharge, hydromodification facilities, and references to signed maintenance agreements and covenants for permanent post-construction BMPs.
  - (13) The name, seal, and signature of the Engineer of Record.
- (c) **Precise Grading Plan.** Precise Grading information shall be depicted on the building permit plan set, as applicable. At the discretion of the Administrative Authority, a Precise Grading Plan with the following information shall be submitted for review and approval of the Administrative Authority if the approved

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Grading plan does not show all work in sufficient detail. The precise grading permit shall be issued prior to issuance of building permits. The Precise Grading information will include the following:

- (1) Building pad and finish floor elevations.
  - (2) Building footprint, pools, spas, trash enclosures, and any other existing or proposed structures.
  - (3) Existing and proposed driveways, hardscape, surfacing such as compacted decomposed granite and pavers, and engineered permeable surfaces.
  - (4) Any walls, freestanding and/or retaining, in their exact locations.
  - (5) Landscaping.
  - (6) Invert elevations in their exact locations for drainage and sewer facilities.
  - (7) Sewer and water laterals, any hydrants, dry utilities, and any other subsurface construction, in their exact locations.
  - (8) Structural BMPs, including any existing features to be modified.
  - (9) References to any previous entitlements and/or permits for the property.
- (d) **Preliminary Geotechnical Report.** A preliminary Geotechnical Report addressing the proposed project, development, or construction plan is required for all subdivisions of land (excluding condominium conversions) and all Grading permit applications. The requirement for a preliminary Geotechnical Report may be waived by the Administrative Authority under limited circumstances based upon the development site, the type of development proposed, and/or a finding by the Administrative Authority that, due to the knowledge of the City, no preliminary analysis is necessary. The Administrative Authority's findings setting forth the reasons therefore shall be contained in a writing filed with the Grading Plan.
- (1) **Typical Report Contents.** Where geotechnical investigations are required, a written report of the investigations shall be submitted to the Administrative Authority by the Permittee at the time of permit application. This Geotechnical Report shall be based upon adequate test locations and field investigation and shall include, but need not be limited to, the following information in conformance with the California Building Code:
    - (a) A plot showing the location of the Soil investigations.
    - (b) A complete record of the Soil boring and penetration test logs and Soil samples.
    - (c) A record of the Soil profile.
    - (d) Elevation of the water table, if encountered.
    - (e) Recommendations for foundation type, pavement design, and other design criteria, including, but not limited to: bearing capacity of natural or compacted Soil; provisions to mitigate the effects of Expansive Soils; mitigation of the effects of liquefaction, differential settlement and varying Soil strength; and the effects of adjacent loads.
    - (f) Expected total and differential settlement.
    - (g) Deep foundation information.
    - (h) Special design and construction provisions for foundations of structures founded on expansive soils, as necessary.
    - (i) Compacted fill material properties and testing.
    - (j) Controlled low-strength material properties and testing.
    - (k) Effects of seismic hazard.
    - (l) Infiltration/percolation testing at locations sufficient to verify proper functioning of proposed storm water quality facilities.
  - (2) **Professional Responsibility.** The report shall be prepared under the supervision of a Geotechnical Engineer and Engineering Geologist whose seals of certification shall be stamped on the title sheet of

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said report and the title sheet of the Grading plan. Professional responsibility for the required elements in the Geotechnical Report is as follows:

- (a) Soil Engineering data will be the result of an initial geotechnical investigation conducted to evaluate existing site conditions in order to obtain general Soil and stability information. This basic report is required for all projects involving Grading, and when development is located within geologic hazard zones considered risky for the type of development proposed. Data shall be prepared by a Geotechnical Engineer and containing data regarding the nature, distribution, and strength of existing Soils; conclusions and recommendations for Grading procedures and design criteria for corrective measures when necessary; and opinions and recommendations covering adequacy of the site to be developed by the proposed Grading.
- (b) Engineering Geology data shall be prepared by an Engineering Geologist and containing an adequate description of the geology of the site; conclusions and recommendations regarding the effect of geologic conditions on the proposed development; and opinions and recommendations covering the adequacy of the site to be developed by the proposed Grading.
- (3) **Incorporation into the Plans.** Recommendations in the report as approved by the Administrative Authority shall be incorporated into the Grading plans and specifications by the Engineer of Record. The Geotechnical Engineer and Engineering Geologist shall review and sign the Grading plans to ensure inclusion of appropriate geotechnical recommendations.
- (4) **Slope Stability Analyses** shall accompany Soil Engineering reports for all Slopes steeper than 2:1 and for all Slopes exceeding 40 feet in height, regardless of the Slope ratio. The geotechnical engineer shall consider both gross and Surficial Stability of the Slope and provide a written statement approving the Slope stability.
- (e) **Hydrology and Hydraulics Study.** The hydrology and hydraulics study shall conform to the requirements of the San Diego County Flood Control District for all matters pertaining to storm water damage, and shall show all charts, formulas, and data used for the preparation of the study.

The report shall be prepared under the supervision of a Civil Engineer whose seal of certification shall be stamped on the title sheet of said report.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.041 Issuance, Expiration, and Denial of Permit.**

- (a) **Issuance.** If the Administrative Authority finds that the application for a Grading permit has been properly filed and that all of the required information has been submitted, and any required environmental review of the project has been completed, the Administrative Authority shall issue or conditionally issue a Grading permit. If after issuance of the permit, the Administrative Authority determines that there are weather-generated problems not considered at the time the permit was issued, the Administrative Authority may require that Grading operations and project designs be modified to remedy those problems.
- (b) **Application and Permit Expiration Timelines.** A Grading permit shall be valid for the time period established for the same as set forth in this Chapter.
  - (1) **Lapse of Application Prior to Permit Issuance.** Unapproved permit applications shall lapse after a period of 180 days of inactivity. The time limit may be extended at the Administrative Authority's discretion, or by the Administrative Authority upon written request of the Permittee or owner, if it can be shown that applicant had been in regular communication with the City and diligently pursued completion of required work but encountered unanticipated conditions or requirements including but not limited to, unanticipated site and/or environmental conditions, permitting requirements of other regulatory agencies with jurisdiction over the matter, and/or obtaining necessary easements to

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- facilitate proposed work. Additionally, permit applications shall lapse if a permit is not issued in accordance with approved plans within 180 days from the date of such approval by the Administrative Authority. In either case, the Applicant shall resubmit a complete updated application and all associated documents for review and re-approval with required fees per Section 17.32.040.
- (2) **Lapse Following Permit Issuance.** Every permit issued under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days or more.
- (a) The Permittee shall fully perform and complete all of the work required to be done pursuant to the Grading permit within the time limit specified therein or, if no time is so specified, within 360 days after the date of issuance of the permit. The time limit may be extended at the Administrative Authority's discretion, or by the Administrative Authority upon written request of the Permittee, owner, or surety, if in the discretion of the Administrative Authority, good and sufficient cause has been shown.
- (b) In order to revalidate an expired permit that has been extended at the discretion of the Administrative Authority, the Permittee shall resubmit all required application forms and documents, including fees, except where waived by the Administrative Authority.
- (3) **Appeal.** An applicant may appeal the denial of extension by Administrative Authority per Section 17.32.190.
- (c) **Denial of a Permit.** A Grading permit shall not be issued if the Administrative Authority finds any of the following conditions to exist:
- (1) **Hazards.** The Administrative Authority shall not issue a Grading permit in any case where the work as proposed by the Applicant is likely to adversely affect the stability of adjoining property, or result in the deposition of debris on any public right-of-way, or interfere with any existing drainage course, or be in an area determined to be subject to geological hazard. If it can be shown to the satisfaction of the Administrative Authority that the hazard can be mitigated to an insignificant level by the construction of retaining structures, buttress fills, drainage devices, or by other means, the Administrative Authority may issue the permit with the condition that such work be performed.
- (2) **Flood Hazard.** If, in the opinion of the Administrative Authority, the land area upon which Grading is proposed is subject to flood hazard to the extent that corrective measures will not eliminate or substantially reduce the hazard to persons or property, or does not comply with Section 20.255.160 of this Code, such Grading permit shall be denied.
- (3) **Minimum Building Site Elevation with Delineated Floodplain.** If determined by the Administrative Authority that the proposed Grading for a building site is within an identified floodplain of the City, the Administrative Authority shall not issue a Grading permit unless the Grading conforms to the requirements of the Flood Damage Prevention Overlay Zone (Chapter 20.255 of this Code) and design the site pad such that the Finish Grade elevations shall not be less than two feet above the base flood elevation or as determined by the Administrative Authority.
- (4) **Land Use.** The Administrative Authority shall not issue a Grading permit for work on a site unless the proposed uses shown on the Grading plan for the site will comply with all provisions of the Zoning and Subdivision Titles of this Code.
- (5) **Environmental Constraints.** The Administrative Authority shall not issue a Grading permit when the environmental review of the project has not been completed. No Grading permit shall be issued for Grading of natural slopes with an inclination of 25 percent or more, for wetlands, or for bluffs, unless the City's approving body for the associated entitlements has found that such Grading is necessary to permit a reasonable economic use of the property. Any application for Grading on slopes with an inclination of 25 percent or more shall contain information showing;

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- (a) The need for the Grading in order to permit a reasonable economic use of the property;
  - (b) That the Grading is the minimum necessary to permit a reasonable economic use of the property; and
  - (c) That the proposed Grading will be accomplished without substantial harm to the environment, or can mitigate for any impacts made to the environment.
- (6) **Ridgeline Protection and Management Overlay Zone.** The Administrative Authority shall not issue a Grading permit for work proposed within the Ridgeline Protection and Management Overlay Zone unless the requirements contained in Section 20.260 of this Code are met.
- (7) **Pollutant Discharges.** The Administrative Authority shall not issue a Grading permit for work on a site where the Applicant has not demonstrated that it will implement the Best Management Practices specified in Code Section 14.15.050(c) and (d) and consistent with the adopted orders of the Regional Water Quality Control Board to ensure that pollutants from the Grading site will be reduced to the maximum extent practicable.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.045 Exemptions from Grading Permit Requirement.**

- (a) The following work shall be exempt from the requirement for the issuance of a Grading permit:
- (1) An excavation below Finish Grade authorized by a valid building permit approved and issued by the Administrative Authority, for basements, footings, or foundations for buildings, mobile homes, swimming pools, septic tanks, leach lines, or other subsurface structures or facilities installed on terrain with grades less than five horizontal to one vertical and located five feet from the top of all slopes and on a site previously graded pursuant to a valid permit. Any Embankment constructed with the excess material from the Excavation exempted by this Section must either be disposed of under an approved Grading permit, or be disposed of on-site without creating Embankments more than five feet in unsupported height, and not obstructing or changing the course of natural or man-made drainage courses. This shall not exempt any Fill made with the material from such Excavation, including remedial work, nor does it exempt the project from any storm water pollution control requirements that may necessitate a Grading permit.
  - (2) Graves to be located in a cemetery regulated by the California Department of Consumer Affairs, Cemetery and Funeral Bureau.
  - (3) Refuse disposal sites controlled by other regulations.
  - (4) Excavations for wells or tunnels or utilities.
  - (5) Excavations within the public right-of-way performed under a permit issued by the Administrative Authority in accordance with Title 14 of this Code.
  - (6) Exploratory Excavations done under the direction of Soil Engineers or Engineering Geologists and approved in writing by the Administrative Authority.
  - (7) Grading which meets all of the following limitations:
    - (a) Occurs on a single legal lot or contiguous lots under identical ownership.
    - (b) Involves grading of not more than 200 cubic yards, including any remedial work.
    - (c) Does not propose cut or fill exceeding four feet in vertical depth at its deepest point.
    - (d) Does not interfere with or modify any existing drainage course; does not propose work within or work that impacts a floodway or floodplain.
    - (e) Does not involve the import or export of hazardous materials.



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- (f) Does not involve a development classified as a Priority Development Project for purposes of water quality. Does not require or involve the installation or modification of storm water quality devices requiring approval of the Administrative Authority.
  - (g) Does not place Fill on an existing Slope of exceeding 5:1 horizontal to vertical.
  - (h) Does not create a Slope greater than 2:1 horizontal to vertical.
  - (i) Does not create and/or replace a cumulative impervious surface area of 5,000 square feet or more.
  - (8) Grading approved by the Administrative Authority as part of the Building Plans. In cases where a Grading permit is not required pursuant to this Section, a plan showing the Grading to be done shall be shown on the building plans submitted with the application for building permit.
  - (9) Paving maintenance activities that do not require storm water quality review and approval by the Administrative Authority.
  - (b) Notwithstanding Subsection (a) of this Section, all Grading within the floodplain established pursuant to the Flood Damage Prevention Overlay Zone of Chapter 20 of this Code requires a permit issued by the Administrative Authority.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.050 Grading Fees.**

- (a) **Plan Review Fees.** When a plan or other data are required to be submitted, a plan review fee in an amount established by City Council resolution shall be paid at the time of submitting plans and specifications for review.

Additional fees will be assessed for plan checks in excess of three review cycles. Fees will be assessed for construction changes requiring review as set forth in the aforementioned resolution. Separate review fees shall apply for reports, calculations, and studies that require extensive staff or third-party expert review time such as, but not limited to, those pertaining to areas within floodplain or floodway, areas of critical Soil conditions, and geotechnical or structural reviews.

Additional plancheck fees will be assessed for lapses in application processing and/or in commencement or timely continuation of construction, unless otherwise allowed by the Administrative Authority. After a lapse of 180 days or more in the processing of a permit application for approval, original application fees will be forfeited and Permittee shall make payment for new application and review fees. After a lapse of 180 days or more between plan approval by the Administrative Authority and the date of permit issuance; when the work authorized by such permit is not commenced within 180 days; when work is suspended or abandoned at any time after commencement for a period of 180 days; or when work is not diligently pursued and timely completed within 360 days, the Permittee shall pay the fee for a grading permit extension as per the current City fee schedule. Application and extension fee waivers shall be approved by the Administrative Authority.

- (b) **Grading Permit Inspection Fees.** Prior to the issuance of a Grading permit, permit and inspection fees in an amount established by City Council resolution shall be paid to the Administrative Authority. Additional inspection fees, in an amount established by City Council resolution, may be required when extensive staff time is required to complete the reviews and inspections.
- (c) **Additional Fee for Work Commenced Prior to Issuance of Valid Permit.** Where Grading requiring a permit is started or done before issuance of a permit, the fees for the permit shall be doubled. Payment of such double fee shall not relieve any person from fully complying with the requirements of this Chapter in the execution of the work nor from liability for any other penalties prescribed herein. The fee required by this Subsection shall not be construed as a penalty but is added to defray the expenses incurred in the enforcement of the provisions of this Chapter.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### 17.32.060 Rights and Responsibilities Under the Permit.

- (a) **Other Agency Requirements.** Issuance of a Grading permit does not relieve a Permittee of the responsibility for obtaining any other permits or licenses that may be required by City Ordinances or by other State or local agencies with jurisdiction over any aspect of the project.
- (b) **Vesting of Rights.** Issuance of a Grading permit shall not vest rights to the issuance of building permits.
- (c) **Responsibilities of the Engineer of Record.** It shall be the responsibility of the Engineer of Record to incorporate all recommendations from the Soil Engineering and Engineering Geology reports into the Grading plan. The Engineer of Record who prepares and signs the Grading plan shall also be responsible for the preparation of Erosion control plans, construction changes, and the submission of As-Graded plans upon completion of the work. The Engineer of Record shall also be responsible for the professional inspection and approval of the grading within the Civil Engineer's approved area of technical specialty, including, but not be limited to, inspection and approval as to the establishment of line, grade, drainage, pollutant control, and flow control.
- (d) **Contractor Qualifications.** Every person performing work in accordance with this Chapter shall meet such qualifications as may be determined by the State of California to be necessary to protect the public interest. All Grading work shall be performed by a contractor licensed by the State of California to perform the types of work required by the permit.
- (e) **Responsibilities of Permittee.**
  - (1) It shall be the responsibility of the Permittee to know the conditions and restrictions placed on the Grading permit, as outlined in applicable sections of this Code, as contained on the approved report(s), and in compliance with any applicable storm water pollution control requirements, the Construction General Permit, the SWPPP, and SWQMP. Permittee shall ensure that its contractors, subcontractors, employees, agents, and consultants are also knowledgeable of the same, and shall ensure that they carry out the proposed work in accordance with the approved plans and specifications and with the requirements of the permit. The Permittee shall maintain in an obvious and accessible location on the site a copy of the permit and Grading plans bearing the approval of the Administrative Authority. Failure to carry out the work in accordance with the terms of the grading permit, SWPPP, Construction General Permit, and/or the SWQMP shall constitute a violation of this Chapter.
  - (2) There is imposed upon the Permittee the following conditions:
    - (a) To comply with the provisions of this Chapter or other applicable laws and ordinances relating to Grading.
    - (b) To comply with all terms and conditions of the permit for Excavation and Fill to the satisfaction of the Administrative Authority.
    - (c) To complete all of the work contemplated under the permit within the time limit specified in the permit, or 360 days, whichever is greater. The Administrative Authority may, for sufficient cause, extend the time specified in the permit, but no such extension shall release the surety upon the bond.
    - (d) To complete all work necessary to put the property and adjacent rights-of-way into a safe condition satisfactory to the Administrative Authority.
  - (3) The obligations of the Permittee shall be secured as provided in section 17.32.065 of this Chapter.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### 17.32.065 Security.

- (a) A permit shall not be issued unless the Permittee first posts with the Administrative Authority one or more of the following securities in a total amount determined by the Administrative Authority to be necessary to secure the obligations under the permit, including, but not limited to, the obligation to install Erosion control devices or systems; the construction of drainage and protective devices; and performance of any corrective work necessary to remove and eliminate engineering and geological hazards, to repair public ways, and to put the graded property into a condition which will not injure the public health, safety or welfare:
  - (1) A bond, in a form prescribed by the City Attorney, executed by the Permittee and a corporate surety authorized to do business in the State as a surety and to issue bonds in the amount required by this Section;
  - (2) A deposit either with the City or a responsible escrow agent or trust company selected by the City of cash or negotiable bonds of the kind approved for securing deposits of its public monies;
  - (3) An irrevocable letter or instrument of credit, in a form approved by the City Attorney, from one or more responsible financial institutions regulated by the Federal or State government and authorized to do business in this State and approved by the Finance Director, pledging that the funds are available and guaranteed for payment on demand by the City. As Grading progresses, the Administrative Authority may reduce the amount of the security to the extent that they determine that the hazard or danger created by the work does not justify the full amount. The Administrative Authority may waive the requirement for security when they determine at their sole discretion that the proposed Grading will not adversely affect the subject property or adjacent property or existing or proposed structures thereon, and will not create, cause, or precipitate a geological, flood, drainage, Erosion, siltation, or other adverse environmental impact if, for any reason, the proposed project or Grading is not completed. On development where progressive individual grading projects or several concurrent projects are being constructed by one owner or Permittee, a continuing bond or single letter of credit may be provided which will cover all such projects; the amount thereof shall be determined by the Administrative Authority.
- (b) Each security shall be valid upon the date of filing and shall remain valid and in full force and effect until the work has been completed to the satisfaction of the Administrative Authority in accordance with the terms and conditions of the permit. Upon satisfactory completion of the work and compliance of all the terms and conditions of the Grading permit, the Administrative Authority may release the Grading security and notify the surety or financial institution of such release.
- (c) Whenever the Administrative Authority finds or determines that a default has occurred in the performance of any requirement of a condition of a permit issued hereunder, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall specify the work to be done, the estimated cost thereof and the period of time deemed by the Administrative Authority to be reasonably necessary for the completion of such work. After receipt of such notice, the surety shall, within the time specified, cause or require the work to be performed, or failing therein, shall pay over to the Administrative Authority the estimated cost of doing the work as set forth in the notice. Upon receipt of such monies, the Administrative Authority shall cause the required work to be performed and completed. When the Grading permit obligations are secured by an escrow deposit or letter of credit, notice to the financial institution or escrow agent shall be given in the manner provided in this Section for giving of notice to the surety except that the authorization for the security to perform or cause the work to be performed shall not apply and the escrow agent or financial institution shall forthwith pay the security amount to the City.
- (d) A substitute bond or letter of credit may be filed in place of any above-mentioned bond or letter of credit, and the Administrative Authority may accept the same if it is suitable to ensure completion of the work remaining to be performed and in proper form and substance, and the bond or letter of credit for which it is

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substituted may be exonerated if the Administrative Authority finds that the conditions of such bond or letter of credit for which a substitute has been filed have been satisfied and that no default exists as to the performance upon which the bond or letter of credit is conditioned.

- (e) The Administrative Authority may require that up to ten percent of any security be submitted in the form of a cash deposit. The cash deposit may be utilized by the City to ensure that adequate safeguards for the prevention of Erosion and sedimentation are in place when needed.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.070 Existing Hazards.**

Whenever the Administrative Authority determines that any existing Excavation, Fill, or other soils condition on private property has become a hazard, endangers persons or property, adversely affects the safety of a public way, floodplain, floodway, or drainage channel, causes or contributes to an exceedance of state water quality objectives, or fails to reduce pollutants from the site to the maximum extent practicable, the person or agent in control of said property shall, upon written notice from the Administrative Authority and within the period specified in the notice, obtain a Grading permit and repair, remove, and/or eliminate the hazard as necessary to bring the site into conformance with the requirements of this Code.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.075 Temporary Rock Crushing Operations.**

- (a) **Permit Required.** It is unlawful for any person to operate, or cause to be operated on their behalf, Rock Crushing equipment without first obtaining a permit issued by the Administrative Authority. To allow for the temporary operation of a Rock Crusher during Grading operations, a Director's Permit or a Conditional Use Permit is required, as determined by the Administrative Authority.

Any associated Blasting Operations shall comply with the requirements of Chapter 17.60 of this Code.

- (b) **Mitigation of Nuisance.** No person shall operate a Rock Crusher in such a manner so that any dust, dirt, or vibration from such operation shall damage or injure any person or property.

- (c) **Plan of operation.** An Applicant for a Rock Crushing permit shall provide a plan of operation including, at a minimum, the following:

- (1) Methods of screening from adjacent properties;
- (2) Hours of operation of the Rock Crushing equipment;
- (3) Dust and noise control measures;
- (4) Location(s) of Rock Crusher;
- (5) Rock Crushing procedures;
- (6) Location(s) and height of stock piles;
- (7) A noise impact analysis as may be required by the Administrative Authority; and
- (8) Other materials as may be required by the Administrative Authority.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### 17.32.080 Import and Export of Earth Material; Stockpiling.

- (a) **Haul Route.** If the Grading project includes the movement of earth material to or from the site in an amount considered substantial by the Administrative Authority, the Permittee shall submit the haul route for review and approval by the Administrative Authority, in conjunction with the Grading permit. The Administrative Authority may suggest alternate routes, hours of work, or special requirements in consideration of the possible impact on the adjacent community environment, potential impacts considered in any applicable environmental analysis, or effect on the public right-of-way itself, which the Administrative Authority shall prescribe as a condition of the permit.

Where excavation or embankment material is imported or exported from one Grading site to another over public streets, whether or not either site is otherwise subject to Grading permit requirements, the Administrative Authority may specify the route to be used in transporting the materials upon public streets. Deviation from this designated haul route shall constitute a violation of the conditions of the permit issued under this Code. The route, if any, shall be specified by written note on the permit document. The approval of the haul route in a Grading permit does not relieve the requirement to obtain a transportation permit for large vehicles/loads.

- (b) **Haul Load Limits.** The Administrative Authority may specify load limits when, in the opinion of the Authority, the standard load capacity of vehicles used in such hauling would cause excessive damage to streets on the designated route. Any Grading or hauling contractor moving earth materials in violation of this Chapter shall be financially responsible for any damage to the public streets done by the hauling vehicles, and shall pay to the City the cost, as determined by the Administrative Authority, of repairing the damage.
- (c) **Notification.** The Applicant shall also be required to notify the Administrative Authority at least 24 hours before hauling is to commence. The Administrative Authority may require traffic control devices to be provided by the Permittee as may be reasonably necessary to protect the health, safety, and general welfare of the public.
- (d) **Other Conditions.** The permit may specify other conditions which the Administrative Authority determines are necessary to minimize a disruption in normal traffic activities and public inconvenience on the public streets.
- (e) **Debris.** California Vehicle Code Section 23112(b) forbids the placing, dumping, or depositing of dirt and rocks on the public streets or any portion of the public right-of-way. No person shall, when hauling any earth, sand, gravel, rock, stone or other excavated material over any place, allow such materials to blow or spill over and upon such street, alley, or place, or adjacent private property. No person engaged in hauling materials under a permit issued pursuant to this Chapter shall deposit dirt or debris on the public streets by any means, including but not limited to, spillage from the bed of a truck or other vehicle or the dropping of debris collected on the wheels of the haul vehicle. The Permittee, or person on whose behalf the Grading is done if different than the Permittee, shall be responsible for the complete removal of dirt, rocks or debris from the street, if spilled, dumped, or deposited on a public street as a result of the Grading or hauling action. If the Permittee fails to remove completely such spillage, and it is necessary for the City to cause such removal to be made, the Permittee and the person on whose behalf the Grading is done, shall be jointly and severally liable to pay the City the full cost of the removal work. A cash deposit, bond or other security may be required to ensure the clean-up of public streets, and/or repair of any damage to streets resulting from hauling.
- (f) **Dust Prevention.** Where an excess of 5,000 cubic yards of earth per site project is moved on public roadways from or to the site of an earth Grading operation then either water or dust palliative or both must be applied to the transported material to alleviate or prevent excessive dust resulting from the loading or transportation of earth from or to the project site on public roadways.

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- (g) **Points of Access.** Access roads to the premises shall be only at points designated on the approved Grading plan. The last 50 feet of the access road, as it approaches the intersection with the public roadway, shall have a grade not to exceed three percent. There must be a 300-foot clear, unobstructed sight distance to the intersection from both the public roadway and the access road. If the three percent grade or 300-foot sight distance cannot be obtained, flagmen shall be posted in accordance with the requirements of the Administrative Authority. A stop sign conforming to the requirements of the California Vehicle Code shall be posted at the entrance of the access road to the public roadway. Permittee shall obtain a right-of-way permit to install advance warning signs, traffic control, and safety devices shall be posted on the public roadway in the vicinity of the access intersection in accordance with the latest edition American Public Works Association Work Area Traffic Control Handbook"(WATCH) and the current California Manual on Uniform Traffic Control Devices (CA MUTCD). The advance warning signs and/or other devices shall be covered or removed when the access intersection is not in use.
- (h) **Stockpiling.** The Administrative Authority may approve a request for temporary stockpiling of material as part of the review of the grading plan and/or stockpile plan. The erosion and sediment control plans shall depict the location of the stockpile and associated BMPs. Stockpiles shall be included in the Engineer of Record's cost estimate for the grading application to secure the erosion control measures and ultimate removal or appropriate permanent compaction of the stockpiled material in compliance with the security provisions of Section 17.32.065 of this Chapter.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.085 Removal of Vegetation; Clearing; Grubbing.**

(a) **Permits Required for Clearing and Grubbing.**

(1) **Clearing.**

- a. Limited Clearing consistent with the definition in Section 17.32.030 of this Chapter, performed by methods that do not disturb the earth's surface, and that leaves the vegetation and/or other material within four inches above the existing grade intact, does not on its own require a grading permit.
- b. Clearing using heavy equipment or other measures with the potential to disturb the earth's surface are classified as Grubbing for the purposes of this Chapter.
- c. Clearing proposed on a grading plan can be permitted with a valid Grading Permit.
- d. Clearing is proposed in advance of, or in the absence of, an approved Grading Permit may at the discretion of the Administrative Authority be approved via a Landscape Permit.

(2) **Grubbing.**

- a. Grubbing resulting in land disturbance of 10,000 square feet or more shall require a Grading Permit unless otherwise allowed by the Administrative Authority based upon site specifics including but not limited to the potential risk to storm water quality.
- b. At the discretion of the Administrative Authority, the Permittee may pursue a separate grading permit for the exclusive purpose of clearing and/or grubbing. The Clearing and Grubbing Plan shall outline the methods and equipment to be used in clearing, grubbing, storing, and disposing of the cleared vegetation.

- (3) **Prior Approvals.** Clearing and/or Grubbing of vegetation in preparation for land development shall not be undertaken until any applicable discretionary approvals, any applicable permits from resource and/or other outside agencies, and/or any applicable grading permit from the Administrative Authority have been obtained. The Administrative Authority may require supporting evidence of approval from applicable resource and/or other outside agencies.

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- (4) **Routine Landscape Maintenance.** This Section shall not prohibit routine landscape maintenance, the removal of dead or diseased trees, shrubs or groundcover, or the removal of vegetation upon the order of the Fire Marshal in order to eliminate a potential fire hazard, or for the abatement of weeds.
- (b) **Clearing and Grubbing for Agricultural Activities.** No person shall undertake any Grading, Clearing, or Grubbing operations on previously undisturbed land, land covered by native vegetation, or upon land that has not been used for agricultural purposes for five years immediately prior to the institution of the grading operation for the purpose of conducting agricultural activities, unless a permit therefore has been issued by the Administrative Authority and/or by any applicable regulatory agency. A permit may be issued if it is determined by the issuing agency that the agricultural operation will not cause damage to any environmentally sensitive areas and not cause the elimination of any significant wildlife habitat or riparian area. In order to prevent erosion and protect sensitive lands, a grading permit issued in accordance with the provisions of this Chapter is required for any agricultural grading. However, for agricultural grading of land which has been previously graded and used for agricultural purposes for five years the Administrative Authority may waive the requirement for a permit.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.090 Graded Height and Maximum Height of a Manufactured Slope.**

- (a) **Definitions.** The following definitions apply to this Section:

**Approved Grade** means the vertical elevation of the earth surface created by one or more of the human acts above under a Grading permit that is issued in conformance with this Chapter and that complies with all applicable provisions of this Code at the time of performance of the work.

**Contour Graded** means graded to avoid manufactured-looking rectilinearly graded shapes; to utilize rounded and non-angular contours; to incorporate undulating slopes by varying in the slope ratio (for example, varying from 4:1 horizontal to vertical to 2:1 horizontal to vertical); and to create an appearance more closely matching natural slopes. Graded slopes should be contoured by varying slope increments and undulating banks vertically and horizontally.

**Graded Height** at any point disturbed or proposed to be disturbed by grading means the maximum vertical difference between Finish Grade and either Natural Grade or Approved Grade, whichever results in a greater dimension.

**Maximum Height of Manufactured Slope** applies to both cut and fill and means the maximum vertical dimension measured from the top of a slope, earth-retaining structure, or other vertical element to the toe at the Finish Grade. Maximum Height of a Manufactured Slope shall exclude the Graded Height of any relatively level areas sloped less than 5:1 horizontal to vertical. The Maximum Height dimension shall include the entirety of the combination of vertical elements, including all terraces, benches, earth-retaining structures, retaining walls, berms, and features contributing to the overall difference in vertical dimension. However, vertical elements separated by a building pad complying with all provisions of this Code shall be considered as separate vertical features, each requiring an individual maximum height calculation.

**Natural Grade** means the vertical elevation of the earth surface created by natural geologic events and unaffected by human acts such as cutting, filling, building, landscaping, or agricultural practices.

- (b) **Maximum Height of Manufactured Slope Exceeding 15 Feet.** Where the Maximum Height of Manufactured Slope will exceed fifteen feet, the Administrative Authority shall document compliance with the requirements below.

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A Maximum Height of Manufactured Slope exceeding 20 feet is discouraged. The Maximum Height of a Manufactured Slope may be allowed to exceed 20 feet only at the discretion of the Administrative Authority, and if so allowed, the Slope shall comply with all of the criteria below.

- (1) The Slopes, as proposed, shall not be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements within the vicinity;
  - (2) The Slope shall not adversely affect the implementation of the General Plan;
  - (3) The Administrative Authority shall find that the Slope is needed given the existing characteristics of the site, and that alternatives to efficiently develop the site without use of said slopes are infeasible;
  - (4) Project Grading and site development shall maximize the clearance from, and shall leave intact, prominent topographic features;
  - (5) The Slope shall be primarily internal to the site, and/or views of the Slope shall be limited from the public street, other Public Places, and adjacent properties in the determination of the Administrative Authority. The Administrative Authority may in their sole discretion require a visual simulation to analyze visual impacts and determine compliance;
  - (6) The Slope, including the entirety of the combination of vertical elements, shall be screened by landscaping, land forms, and/or other appropriate elements to the satisfaction of the Administrative Authority;
  - (7) The Geotechnical Engineer shall certify that the Slope as proposed meets required factors of safety for Surficial and deep-seated Stability and does not pose a risk to public or private property from loose or erodible materials;
  - (8) Landscape irrigation lines shall be installed below ground. Where above-ground irrigation is necessary due to Soil constraints, said irrigation facilities shall be adequately screened to blend into the Slope and vegetation;
  - (9) Slopes shall be landscaped with a mixture of trees, shrubs, and ground cover meeting the requirements of Section 17.32.170, Title 19, and Title 20 of this Code. Hydroseeding may be an acceptable alternative for single-family residences on one lot, with approval by the Administrative Authority. In areas of native vegetation, the plant palette shall consist of plant types that are similar in kind and in appearance to the surrounding native plants;
  - (10) Berms shall be used at the top of Slopes and other locations to screen, vary profile, and ensure drainage away from Slopes;
  - (11) Mulch, hydro mulch, and other suitable materials for reducing surface erosion and supporting the growth of landscaping shall be installed where necessary based upon the underlying substrate;
  - (12) Drainage terraces shall be provided mid-Slope. Such terraces shall be at least six feet wide for privately maintained terraces and a minimum ten feet wide for publicly maintained terraces, and shall conform to City standards. Cut and fill banks and drainage terrace spacing shall be varied to alleviate monotony and allow variation in landscaping;
  - (13) No hard edge or angle transitions shall be proposed. Cut and fill Slopes shall be placed, shaped, and contoured to be compatible with and blend into the existing natural topographic form;
  - (14) The Slope shall be Contour Graded and shall appear on the grading plan as convex and concave forms when viewed from the side (in cross section) and from above (in plan view).
- (c) **Cut Slopes in Rock.** Cut Slopes in rock and not reliant upon any stabilization method shall not be required to comply with the provisions of items (b)(9) through (b)(14) above. Cut slopes in rock at or exceeding a



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Maximum Height of fifteen feet shall comply with the applicable portions of item (b) above as well as the following:

- (1) Cutting in rock areas shall be performed in a manner so as to achieve an irregular form that blends into the existing topography.
- (2) Freshly broken faces shall be toned with asphalt emulsion spray or appropriately colored paint or other pigmentation to the satisfaction of the Administrative Authority.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.100 Fills.**

- (a) **Applicability.** Unless otherwise recommended in the Geotechnical Report and approved by the Administrative Authority, fill grading shall conform to the provisions of Section 300-4 of the Standard Specifications for Public Works Construction (Greenbook) and the City of San Marcos Special Provisions.

If a Geotechnical Report is not otherwise required by this Code or by the Administrative Authority, the Administrative Authority may waive the provisions in this Section.

- (b) **Fill location.** Fill Slopes shall not be constructed on natural Slopes steeper than three horizontal to one vertical (3:1).

Fill placement in Zones A and B shall comply with Figure 1.

**Zone A.** Zone A shall consist of compacted Soil only (no rock fragments over 12 inches in maximum dimension), must be in conformance with Section 300-4 of the Standard Specifications for Public Works Construction (Greenbook), and shall contain at least 40 percent Soil sizes passing the one-fourth-inch sieve.

Zone A shall extend horizontally fifteen feet from face of slope and vertically a minimum of five feet from Finished Grade. In public rights-of-way and easements, Zone A shall be ten feet minimum and must extend three feet below the deepest utility, whichever is greater.

**Zone B.** Oversize rocks greater than two feet in minimum dimension must be windrowed. Rocks shall be placed in excavations in well compacted Soil conforming to Zone A. Approved granular Soil (SE greater than 30) must be flooded in the windrows to completely fill the voids around and beneath rocks. All windrows must be parallel and may be placed either parallel or perpendicular to face of slope depending on site geometry. All rock placement, fill placement, and flooding of approved granular fill must be continuously observed by the Geotechnical Engineer.

- (b) **Preparation of Ground.** The ground surface shall be prepared to receive Fill by removing vegetation, noncomplying Fill, topsoil, and other unsuitable materials, and by scarifying to provide a bond with the new fill.

Where Slopes are steeper than five horizontal to one vertical and the height is greater than five feet, the Slope shall be prepared by benching into sound Bedrock or other competent material as determined by the Geotechnical Engineer. The bench under the toe of fill on a slope steeper than five horizontal to one vertical shall be at least ten feet wide. The area beyond the toe of fill shall be sloped for sheet overflow, or a paved drain shall be provided.

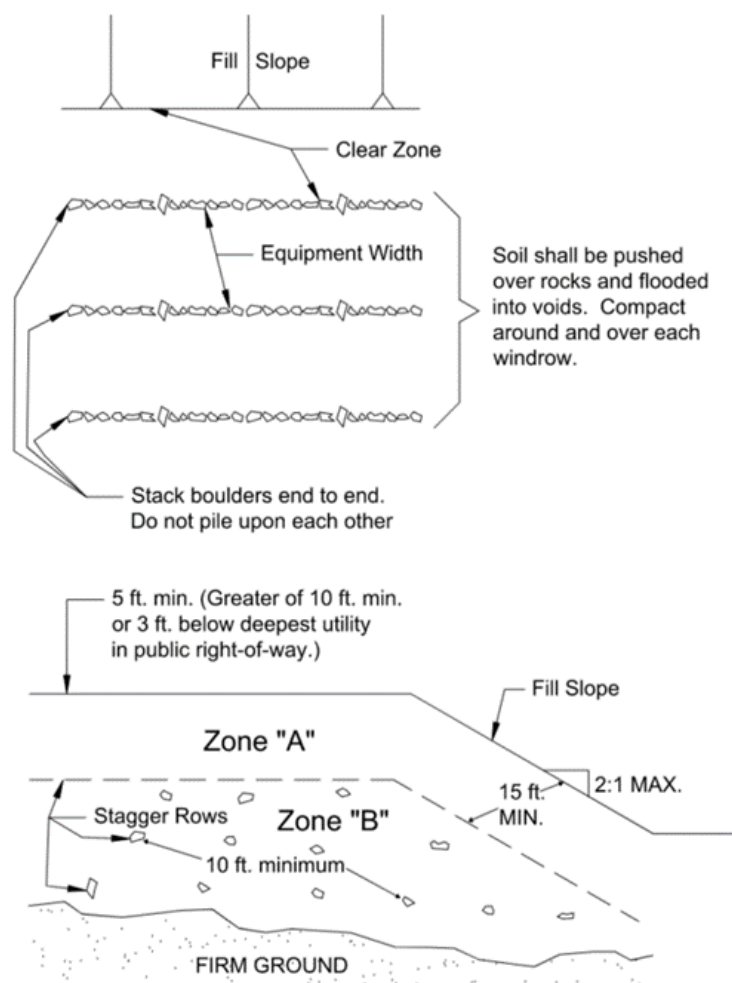
Where fill is to be placed over a cut, the cut shall be approved as suitable by the Geotechnical Engineer and Engineering Geologist prior to fill placement. Suitable Soil is Soil which, in the opinion of the Geotechnical Engineer, Engineering Geologist, and accepted by the Administrative Authority, is competent to support other Soil or Fill, to support structures, and to satisfactorily perform the other functions for which the Soil is intended.

- (d) **Fill Material.** Detrimental amounts of organic material shall not be permitted in Fills. Except as permitted by the Administrative Authority, no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in Fills.

**EXCEPTION:** The Administrative Authority may permit placement of larger rock when the rock disposal areas are delineated on the grading plan complying with the Zone B criteria.

- (e) **Expansive Soils.** Expansive Soil shall not be placed within four feet of Finish Grade in areas intended or designed to support buildings, unless design considerations are specifically addressed in the Geotechnical Report and approved by the Administrative Authority.
- (f) **Compaction.** All Fills shall be compacted to a minimum of 90 percent of maximum density as determined by ASTM D1557. Field density shall be determined in accordance with ASTM D1556 or equivalent as approved by the Administrative Authority.
- (g) **Slope.** The Slope of Fill surfaces shall be no steeper than is safe for the intended use. Fill Slopes shall be no steeper than two horizontal to one vertical.

Figure 1: Placement of Oversized Rock



(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### 17.32.105 Retaining Walls.

Subject to the applicability below, the following items shall be provided with the Grading permit for proposed retaining wall construction:

- (a) **Applicability.** Retaining walls require a Grading permit, with the following exceptions:
  - (1) Walls less than three feet in height as measured from top of footing to top of wall.
  - (2) Walls permitted under a Building Permit from the Administrative Authority.
- (b) **Structural Calculations.** Design calculations and construction drawings, prepared by a qualified engineer registered in California, must be submitted for all proposed walls, with the exception noted in (1) below. The Geotechnical Engineer is required to provide the specific recommendations noted below.
  - (1) **Exception.** Walls designed in strict conformance with the current San Diego Regional Standard Drawings ("SDRSD") may be constructed per the SDRSD without calculations, provided that drainage provisions to the satisfaction of the Administrative Authority are made.
  - (2) **Soil Parameters,** including specific recommendations and design parameters for on-site Soils and/or import material and for retained, reinforced, and foundation Soils. Any imported Soils must be tested and certified by the Soils Engineer as suitable for the specific application.
  - (3) **Design calculations** based on the design parameters provided by the Soils Engineer, with minimum factors of safety for the wall design as established by the Administrative Authority.
- (c) **Drainage Facilities** satisfactory to the Administrative Authority, shall be provided for all walls over three feet in height. The following criteria shall be observed:
  - (1) For all SDRSD-based and similar custom-designed walls, the drainage system shall include continuous vertical and horizontal drains with filter protection leading to an approved outlet.
  - (2) Segmented wall designs shall include permanent drainage interceptors above the wall to ensure that projected 100-year flows are diverted entirely away from the wall and carried to an approved outlet.
  - (3) Segmented wall designs shall be prepared in accordance with specific recommendations from the Soils Engineer regarding drainage behind and through the wall system. The design must provide features adequate to avoid buildup of hydraulic pressure in the Soil behind the wall and to prevent migration of fine material from the backfill.
- (d) **Visual Simulations** shall be required at the discretion of the Administrative Authority. Additionally, retaining walls exceeding four feet in exposed wall face shall be earth-tone colored and textured to provide a natural appearance, or as otherwise required by the Administrative Authority.
- (e) **Engineer of Record Certification** in writing that states, with no disclaimer, that the Engineer of Record has reviewed the calculations, concurs with and approves the design and calculations, and is satisfied that the design meets all applicable standards.
- (f) **Certification Prior to Acceptance.** Upon completion of the wall, and before reliance on any wall for issuance of a Building Permit, the Engineer of Record and Soils Engineer of Record shall submit certification to the City stating that the wall has been constructed in accordance with this Code, the minimum requirements of the manufacturer, the design plans, and specifications as approved by the City, and their recommendations.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

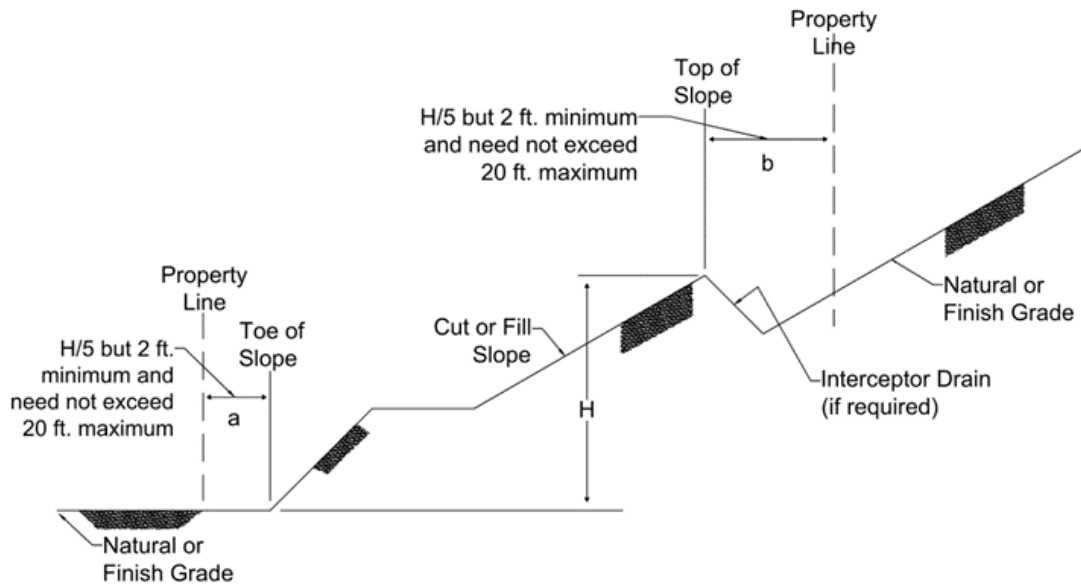
### 17.32.110 Setbacks.

- (a) **General.** The setbacks and other restrictions specified by this Section are minimum and may be increased by the Administrative Authority or by the written recommendation of the Engineer of Record, Geotechnical Engineer, or Engineering Geologist for safety and stability, to prevent damage to adjacent properties from

deposition or erosion, or to provide access for Slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the Administrative Authority.

- (b) **Setbacks from Property Lines.** The top of cut Slopes and toe of Fill Slopes shall be set back from buildings and from the property line, public right-of-way, and easement boundaries, in accordance with Figure No. 2. The public right-of-way or public easement along the property frontage shall be graded at one percent - two percent, unless otherwise allowed by the Administrative Authority.
- (c) **Foundation Setbacks from Slopes.** Setbacks between graded (Cut or Fill) Slopes and structures shall be provided in accordance with Figure No. 3.
- (d) **Lot Line Locations.** Unless extreme conditions of topography prevail, subdivisions shall be designed so that all lot lines shall be located at the top of Slope.
- (e) **Permission from Adjacent Properties.** A letter of permission from the affected property owners shall be provided to the Administrative Authority prior to permit issuance for Grading proposed directly adjacent to the property line and for work that encroaches onto, or will result in disturbance to, an adjacent property.

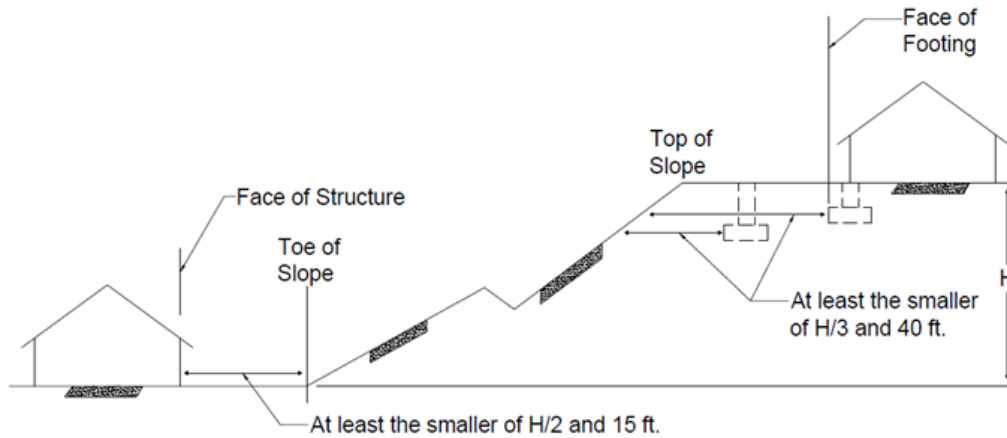
**Figure 2: Slope Setbacks**



Height H (feet)	Required Setback (feet)	
	Setback from Toe (a)	Setback from Top (b)*
Under 5	0	1
5—30	H/2	H/5
Over 30	15	6

;adv=6; \* Additional width may be required for an interceptor drain

**Figure 3: Foundation Clearances from Slopes**



(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### 17.32.120 Terracing and Drainage.

- (a) **Applicability.** Unless otherwise approved by the Administrative Authority, drainage facilities and Slope terracing shall conform to the provisions of this Section.
- (b) **Terraces.**
  - (1) Terraces shall be provided as required by this Chapter when the Maximum Height of Manufactured Slopes exceeds 15 and 20 feet, respectively, as described below.
  - (2) Terraces not less than six feet in width shall be established at not more than 30-foot vertical intervals on all Cut or Fill Slopes to control surface drainage and debris. Suitable access shall be provided to allow for cleaning and maintenance.
  - (3) Where more than two terraces are required, one terrace, located at approximately mid-height, shall be not less than 12 feet in width.
  - (4) Publicly maintained terraces shall be not less than ten feet wide. Landscaped Slopes to be publicly maintained may be required to have one or more ten-foot wide Benches, as deemed necessary by the Administrative Authority, to provide access for maintenance.
- (c) **Terrace Drainage.** Swales or ditches shall be provided on terraces. They shall be paved with concrete not less than three inches in thickness, or with other materials suitable to the application. They shall have a depth not less than 12 inches and a width not less than five feet.  
A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected area) without discharging into a down drain.
- (d) **Subsurface Drainage.** Cut and Fill Slopes shall be provided with subsurface drainage as necessary for stability.
- (e) **Disposal of Storm Water.** All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the Administrative Authority and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down-drains, rip-rap, or other devices.

Building pads shall have a drainage gradient of two percent toward approved drainage facilities. The gradient from the building pad may be one percent if all of the following conditions exist throughout the permit area:

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- (1) No proposed Fills are greater than ten feet in maximum depth.
  - (2) No proposed finish Cut or Fill Slope faces have a vertical height in excess of ten feet.
- (f) **Pad Drainage.** The ground immediately adjacent to the foundation shall be sloped away from the building at a Slope of not less than five percent for a minimum distance of ten feet measured perpendicular to the face of the wall. If physical obstructions or lot lines prohibit ten feet of horizontal distance, a five percent Slope shall be provided to an approved alternative method of diverting water away from the foundation. Swales used for this purpose shall be sloped not less than two percent where located within ten feet of the building foundation. Impervious surfaces within ten feet of the building foundation shall be sloped not less than two percent away from the building.

Exceptions apply:

- (1) Where climatic or Soil conditions warrant, the slope of the ground away from the building foundation shall be permitted to be reduced to not less than a two-percent slope.
- (2) Impervious surfaces shall be permitted to be sloped less than two percent where the surface is a door landing or ramp that is required to comply with California Building Code.

The procedure used to establish the final ground level adjacent to the foundation shall account for additional settlement of the backfill.

- (g) **Cross-Lot Drainage.** Drainage across property lines shall not exceed that which existed prior to Grading. Excess or concentrated drainage shall be contained on site or directed to an approved drainage facility. Erosion of the ground in the area of discharge shall be prevented by installation of non-erosive down drains or other devices with similar effect. A hold harmless agreement in a form acceptable to the Administrative Authority shall be required prior to Grading permit issuance for the proposed perpetuation of existing Cross-Lot Drainage.
- (h) **Interceptor Drains.** Interceptor drains shall be installed along the top of Cut Slopes receiving drainage from a tributary width greater than 40 feet measured horizontally. They shall have a minimum depth of one foot and a minimum width of three feet. The Slope shall be approved by the Administrative Authority, but shall be not less than a two-percent Slope. The drain shall be paved with concrete not less than three inches in thickness, or by other materials suitable to the application, and shall conform to the San Diego Regional Standard Drawings. Discharge from the drain shall be accomplished in a manner to prevent erosion and shall be approved by the Administrative Authority.
- (i) **Drainage Easements.**
- (1) **Private Easements.** A private drainage easement at least ten feet wide shall be required for the construction and maintenance of any drainage facility essential to the protection, use, and benefit of another property under different ownership. The easement recorded shall be recorded against the dominant and servient properties to record the rights of the dominant tenement; to record the obligation of the servient tenement; and to appear on title as a matter of record for each parcel. Where the dominant and servient properties are under the same ownership, a covenant shall be recorded providing for the easement to be granted concurrent with transfer of title of either property. Allocation of maintenance responsibilities and related costs shall be clearly delineated in the easement or covenant for easement. The easement or covenant for easement shall be recorded prior to issuance of a Grading permit, unless otherwise allowed by the Administrative Authority.
  - (2) **Public Easements.** A public drainage easement shall be granted to the City providing continuous maintenance access to any drainage facilities to be publicly maintained. The width of the public drainage easement shall be 20 feet or more based upon the depth of cover criteria as set forth by the Administrative Authority. Said easement, including easements for access to drainage easements, shall be improved, fenced, and marked with survey monuments as may be required by the Administrative

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Authority. The easement shall be recorded prior to issuance of any Grading or improvement permit, unless otherwise allowed by the Administrative Authority.

- (j) **Improvement Plans.** Improvement plans shall be prepared to the satisfaction of the Administrative Authority for construction of public drainage systems as defined above. Fees for plan check and inspection shall be in accordance with current Administrative Authority fee schedules.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.130 Interim Erosion Control.**

- (a) **Interim Erosion Control Requirements.** Interim erosion control plans shall be submitted as part of the grading plans. For bonding purposes, an estimate of the cost of implementing and maintaining all interim erosion and sediment control measures must be submitted in a form acceptable to the Administrative Authority. The Erosion Control Plan prepared by the Engineer of Record shall address mitigation of erosion during any ground-disturbing activity, including all of the following key requirements:
- (1) **Reduce Erodible Soil Exposure** in the event of rain including, but not limited to, a phased grading schedule, consultation with the National Weather Service to determine the forecast during the wet season, and plans to have erosion control measures in place on the site no later than 24 hours prior to the forecasted rain event.
  - (2) **Erosion Control Measures** including, but not limited to, geotextile material, mats, bonded fiber matrix, hydroseeding, vegetation stabilization, preservation of existing vegetation on site, seeding and planting of ground cover, permanent landscaping, and supporting irrigation.
  - (3) **Flow Control Measures** including, but not limited to, gravel bag dikes, fiber rolls, use of stabilized earth to reduce flow velocity and trap sediments, and energy dissipaters.
  - (4) **Diversion of Runoff and Nuisance Flow** around the areas subject to construction, including but not limited to redirection of runoff away from the construction area, conveyance of concentrated flows via lined ditches or pipes, redirection of flows directed away from top of slope, and conveyance over slopes via pipes and lined ditches.
  - (5) **Sediment Control Devices** including, but not limited to, check dams, protection at storm drain inlets, silt fences, gravel bags, berms, fiber rolls, desilting and sediment basins, street sweeping, and stabilized construction entrances.
  - (6) **Confirmation of Coverage** under the current State of California Construction General Permit.
  - (7) **Management of Waste** including, but not limited to, inclusion of a 24-hour emergency contact plan, spill prevention and control, solid waste management, hazardous waste management, liquid waste management, concrete wash outs, and storage of minimum quantities of material on site for spill control.
  - (8) **Any Additional Measures** as required by the Administrative Authority to temporarily stabilize and reseed disturbed Soil areas to protect water quality.
- (b) **Information on Interim Erosion Control Plan.** The plan shall include:
- (1) **Contact Information** including the 24-hour telephone number of the person responsible for performing emergency erosion control work.
  - (2) **Signature and Seal** of the licensed professional who prepared the erosion control plan.

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- (3) All temporary and permanent desilting, sediment control, and erosion protection structures, devices, and facilities necessary to protect drainage ways, storm drain systems, streets, and adjacent property from sediment deposition.
  - (4) The proposed streets and drainage devices and a schedule for their completion.
  - (5) **Access Plan** showing how access will be provided to maintain erosion control facilities during wet weather.
  - (6) **Phasing.** The erosion control provisions shall take into account drainage patterns during the current and future phases of grading throughout the rainy season
  - (7) **Other Information** as the Administrative Authority deems necessary based upon the scale, location, extent, topography and other matters relating to the grading.
- (c) **Interim Erosion Control Maintenance.** The following minimum erosion control maintenance requirements shall be included in each Interim Erosion Control Plan and are a condition of each Grading permit in addition to any applicable storm water permit requirement:
- (1) Equipment and workers for emergency work shall be made available at all times during the rainy season. Necessary materials shall be available on-site and appropriately stockpiled in compliance with applicable permit requirements at convenient locations to facilitate rapid construction of temporary devices when rain is imminent.
  - (2) All removable protection devices shown shall be in place at the end of each working day when the five day rain probability forecast exceeds 40 percent.
  - (3) Graded areas around the tract perimeter must drain away from the face of Slopes at the conclusion of each working day.
  - (4) After each rainstorm, silt and debris shall be removed from check berms and desilting basins and the basins pumped dry.
  - (5) After each rainstorm, the performance of the erosion control system shall be evaluated and revised and maintained and/or repaired as necessary.
  - (6) Devices shall not be removed or modified without the approval of the Administrative Authority.
  - (7) The Permittee and the Permittee's contractor shall be responsible and shall take necessary precautions to prevent public trespass onto areas where impounded water creates a hazardous condition.
  - (8) Paved streets, sidewalks, and other improvements shall be maintained in a neat and clean condition, free of loose Soil, construction debris, and trash. Street sweeping or other equally effective means shall be used on a regular basis to control erosion. Watering shall not be used to clean streets except for fine material not otherwise removed by sweeping or other mechanical means.
  - (9) The Permittee and the contractor who constructed the erosion control devices shall be responsible for inspection and modification of the devices, as necessary, during the rainy season. The contractor, Permittee, or project owner shall be responsible for continual maintenance of the devices during the rainy season. In the event of failure or refusal by the contractor, Permittee, or project owner to properly maintain the devices, the Administrative Authority may cause emergency maintenance work to be done to protect adjacent private and public property. The cost shall be charged to the owner, and shall include an initial mobilization cost plus the cost of doing the work. In the event the Administrative Authority must cause emergency maintenance work to be done, it may revoke the Grading permit by giving written notice of the revocation to the Permittee. The permit shall not be renewed until an erosion control system approved by the Administrative Authority is installed, and the cost of emergency work is paid to the City by the contractor or other responsible party.



### **17.32.135 Permanent Erosion Control and Structural BMPs.**

- (a) **Permanent Erosion Control Requirements.** Final/permanent erosion control plans shall be submitted as part of the Grading plans. For bonding purposes, an estimate of the cost of implementing and maintaining all permanent erosion and sediment control measures must be submitted in a form acceptable to the Administrative Authority.

All the following information shall be provided by the Engineer of Record pertaining to final site condition after final structures and improvements are constructed:

- (1) Maximum runoff from the site's drainage area shall be calculated using the method approved by the Administrative Authority;
- (2) A description of and specifications for sediment retention devices;
- (3) A description of and specifications for surface runoff and erosion control devices;
- (4) A description of and specifications for the permanent storm water quality devices, including but not limited to, low impact development, site design, source control, and Structural BMPs;
- (5) A description of vegetative measures prepared by a landscape architect;
- (6) A description and illustration of permanent landscape and irrigation for grading of slopes four feet or higher or where erosion potential exists, based upon a review of the plans by the Administrative Authority;
- (7) A description of the maintenance necessary for proper functioning of the storm water runoff and erosion control methods used for the site, a routine maintenance schedule, and names and addresses of the persons who will perform the maintenance in a form acceptable to the Administrative Authority and to be recorded against the property; and
- (8) Reports and documentation containing sizing calculations and specifications for the permanent sediments and erosion control devices, including the Hydrology and Hydraulics Report and the Storm Water Quality Management Plan (SWQMP).

- (b) **Permanent Erosion Control and Structural BMP Maintenance.**

- (1) **Perpetual Maintenance.** Permanent erosion control devices shall be maintained in perpetuity and in accordance with maintenance methods and schedule as approved by the Administrative Authority. Failure to perform maintenance in perpetuity is a violation of this Chapter and Chapter 14.15 of this Code and will be subject to the violations and penalties specified in Section 17.32.200 of this Chapter.
- (2) **Maintenance Agreement.** An agreement in a form acceptable to the City Attorney shall be recorded against the affected property to provide for the operation, maintenance, repair, and replacement of the Structural BMPs into perpetuity. Said agreement shall provide for the minimum maintenance frequency and procedures for the standard maintenance of the Structural BMPs.
- (3) **Easements.** Where the Structural BMPs will be located on the private property, easements shall be provided as required by the Administrative Authority to provide for perpetual access, maintenance, repair, and replacement of the Structural BMPs.
- (4) **Irrevocable Offers of Dedication.** When the City requires an Irrevocable Offer of Dedication to provide for the future public maintenance of a Structural BMP, the Structural BMPs shall be privately maintained until such future time as the City may elect to accept the Offer of Dedication and affirmatively assume public maintenance.

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- (c) **Structural BMP Certification.** The Self-Certification of the Engineer of Record for all Structural BMPs shall be provided in accordance with Section 17.32.160 of this Chapter.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.140 Course of Work and Grading Inspection.**

(a) **Responsibilities at Grading Inspection—Administrative Authority.**

- (1) Prior to the approval of any building or Grading plans and specifications, the Administrative Authority may inspect the site to determine that the plans and specifications are current and reflect existing conditions.
- (2) All Grading operations for which a permit is required shall be subject to inspection by the Administrative Authority. When required by the Administrative Authority, special inspection of Grading operations and special testing shall be performed in accordance with the provisions of Chapter 17 of the California Building Code and progress reports shall be submitted to the Administrative Authority.
- (3) The Administrative Authority shall inspect the project at the various stages of the work requiring approval and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.
- (4) The Administrative Authority will require testing and may require inspection and testing by an approved testing agency. The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.
- (5) Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the Administrative Authority may require by written notice, that such work be exposed for examination. The work of exposing and recovering shall not entail or be subject to expense by the City.

(b) **Responsibilities at Grading Inspection—Engineer of Record.**

- (1) The Engineer of Record shall be responsible for the professional inspection and approval of the grading within their area of technical specialty. This responsibility shall include, but need not be limited to, all surveying work, inspection, and approval as to the establishment of line, grade, and drainage facilities. The Engineer of Record shall inspect the site to ensure that the embankment and cut slopes are placed at proper line and grade.
- (2) The Engineer of Record shall act as the coordinating agent in the event the need arises for liaison between the other professionals, utilities, the contractor, and the Administrative Authority.

(c) **Responsibilities at Grading Inspection—Geotechnical Engineer.**

- (1) The Geotechnical Engineer shall be responsible for the professional inspection and approval concerning the preparation of ground to receive fill, compaction testing, final slope stability, sub drain and wall drain installation, design of buttress fills, and incorporation of data supplied by the Engineering Geologist.
- (2) The Geotechnical Engineer and the Engineering Geologist shall submit to the Engineer of Record and the Administrative Authority Geotechnical reports as specified in Section 17.32.040 of this Chapter, including compaction data and Soil Engineering and Engineering Geology recommendations.

(d) **Responsibilities at Grading Inspection—Engineering Geologist.**

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- (1) The Engineering Geologist shall inspect unsuitable Soil removal, placement of subdrains, and preparation of benching prior to placement of fill.
  - (2) The Engineering Geologist's area of responsibility shall include, but need not be limited to, professional inspection and written approval of the adequacy of natural ground for receiving fills, the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. The engineering geologist shall report professional findings to the Soils Engineer and the Civil Engineer of Record for engineering analysis.
- (e) **Responsibilities at Grading Inspection—Landscape Architect.**
- (1) All landscaping work shall be designed under the supervision of a Landscape Architect.
  - (2) The Landscape Architect shall be responsible for all inspections to ensure conformance with the plans. However, a Registered Civil Engineer or Registered Architect, at the discretion of the Administrative Authority, may be responsible for the inspection of all landscaping and irrigation required per the grading permit and plans in conjunction with a project they have been contracted to do.
  - (3) The Landscape Architect shall certify the proper installation of the site irrigation; all irrigation systems shall be pressure tested prior to backfilling and after completion.
- (f) **Notification of Noncompliance.**
- (1) If the Engineer of Record, Engineering Geologist, or Geotechnical Engineer finds that the permit work is not being done in conformance with this Chapter or the plans approved by the Administrative Authority, or in accordance with acceptable practices, they shall immediately notify in writing the person in charge of the Grading work and the Administrative Authority of the nonconformity and of the corrective measures to be taken.
  - (2) Whenever the Administrative Authority finds the Soil or other conditions not as stated in the approved plans, reports, or accompanying information required for issuance of the grading permit, the Administrative Authority may, using reasonable judgment, refuse to allow further work until approval is obtained for a revised Grading plan which will conform to the conditions. Likewise, whenever the Administrative Authority determines that any work does not comply with the terms of a permit, or this Chapter, the Administrative Authority may refuse to allow further work until such noncompliance is satisfactorily remedied. In either case, the Administrative Authority may order the work stopped by notice in writing served on any persons engaged in doing such work or causing such work to be done, and any such persons shall stop such work until authorized by the Administrative Authority to proceed with the work.
- (g) **Transfer of Professional Responsibility.** If the Engineer of Record, Geotechnical Engineer, Engineering Geologist, Landscape Architect, the testing agency, or the Grading contractor of record are changed during the course of the work, the work shall be stopped until the requirements below are met to the satisfaction of the Administrative Authority. All exceptions to requirements below must be approved by the Administrative Authority.
- (1) The owner submits a letter of notification verifying the change of the responsible professional; and
  - (2) The new responsible professional submits in writing that they have reviewed all prior reports and/or plans (specified by date and title) and work performed by the prior responsible professional, concur with the findings, conclusions, and recommendations, and are satisfied with the work performed. The new responsible professional must state the date upon which the assumption of all responsibility within their area of technical competence is to be effective.
- Where clearly indicated that the firm, not the individual professional, is the contracting party, the designated engineer, architect or geologist may be reassigned and another individual of comparable

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professional accreditation within the firm may assume responsibility, without complying with the requirements of paragraphs (g)(1) and (g)(2) above.

- (3) The prior professional of record provides a release of responsibility in writing.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.160 Completion of Work, Release of Security, and Issuance of Building Permits.**

(a) **Key Stages of Work Completion.**

- (1) **Rough Grade.** When all rough Grading has been completed. Under normal circumstances, all subdrains and Slope drains shall be in place and approved as a condition for rough Grading approval. Rough grades shall be within 0.2 feet of finish grades.
- (2) **Final.** After all work, including installation of all drainage structures and other protective devices, has been completed and all written professional approvals and the required reports have been submitted. An as-built plan will be required to document any changes made to the project in the field.

- (b) **Notification of Completion.** The Permittee or their agent shall notify the Administrative Authority when the grading operation is ready for rough grade inspection or final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed in accordance with the City final approved grading plan and the required reports have been submitted.

- (c) **Requests for Release of Security.** The Permittee or their agent shall notify the Administrative Authority in writing to initiate the release of securities when work is complete and all required reports, written certifications, drawings, and supplements thereto have been accepted by the Administrative Authority.

- (d) **Final Reports.** Upon completion of the rough Grading work and at the final completion of the work the Administrative Authority may require the following reports, written certifications, drawings, and supplements thereto. All required reports, written certifications, drawings, and supplements shall be provided and accepted by the Administrative Authority prior to release of security or issuance of building permits, unless otherwise allowed by the Administrative Authority.

(1) **Responsibilities Upon Completion of Work—Engineer of Record.**

- a. **As-Graded Grading plan** prepared by the Engineer of Record including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. They shall provide certification that the work was done in accordance with the final approved grading plan. The Engineer of Record also shall be responsible for the preparation of revised plans and the submission of as-graded Grading plans upon completion of the work. The Grading contractor shall submit in a form prescribed by the Administrative Authority a statement of compliance to said as-built plan.
- b. **Grading Certification.** The Engineer of Record shall provide a written statement that in their professional opinion, all work incorporated in the grading and drainage plans and authorized under the grading permit, including grading, drainage, and construction of appurtenant structures, has been completed to the lines and grades in substantial conformance with the approved plans, or any approved revisions thereto.
- c. **Structural BMP Self-Certification Package.** The Engineer of Record shall provide a written certification in a form acceptable to the Administrative Authority documenting the appropriate design, installation, testing, and function of any required Structural BMPs. At a minimum, the certification package shall include the following:

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1. A statement that Structural BMPs have been installed as per the approved Grading plan and any modifications thereto approved by the Administrative Authority;
  2. A statement that all modifications to the Structural BMPs have been reflected on the Administrative Authority's record plan set;
  3. Delineation of any and all modifications to the Structural BMPs approved by the Administrative Authority since the time of Permit issuance and an explanation of the site conditions and/or the justification for each modification;
  4. Final calculations documenting compliance with the current order from the RWQCB;
  5. Engineer of Record's inspection reports and notes, photographic documentation, or other evidence in a form acceptable to the Administrative Authority documenting correct and complete construction of the Structural BMPs, particularly sub-surface features and appurtenant drainage facilities;
  6. A statement that all Structural BMP facilities and appurtenances have been cleared of any and all construction-related debris, including sediment;
  7. A statement that all Structural BMP facilities and appurtenances have been tested and that the Engineer of Record has verified appropriate function consistent with the submitted calculations and with the current order from the RWQCB;
  8. The signature and seal of the Engineer of Record;
  9. Supplemental information, calculations, covenants, maintenance documents, and certifications as may be required by the Administrative Authority.
- (2) **Responsibilities Upon Completion of Work—Geotechnical Engineer.**
- a. **As-Graded Geotechnical Report** prepared by the Geotechnical Engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data. Such report shall detail changes made during grading and their effect on the recommendations made in the geotechnical engineering investigation report.
  - b. **Approval of Adequacy of the Site** for the intended use.
  - c. **Written Statement** that in their professional opinion, all work incorporated in the Grading plan authorized under the permit and soils/compaction report has been constructed in accordance with the approved plans and any approved revisions thereto.
- (3) **Responsibilities Upon Completion of Work—Engineering Geologist.**
- a. **Geologic Grading Report** prepared by the Engineering Geologist, including final description of the geology of the site including any new information disclosed during the Grading and the effect of same on recommendations incorporated in the approved Grading plan.
  - b. **Approval of Adequacy of the Site** for the intended use as affected by geologic factors.
- (4) **Responsibilities Upon Completion of Work—Landscape Architect.**
- a. The Landscape Architect, Civil Engineer, or Architect professionally responsible for the inspection of all landscaping and irrigation required as per the grading permit and plans shall provide a written statement that in their professional opinion, all work incorporated in the landscape and irrigation plans authorized under the permit has been constructed in accordance with the approved plans and any approved revisions thereto; that the contractor's work is in conformance with the landscape plans; and that all individual plants show vigorous established growth typical of their species.
  - b. The Landscape Architect shall provide a written statement to the Administrative Authority that all irrigation systems were pressure tested prior to backfilling and after completion and shall show evidence of proper functioning prior to acceptance by the City. Such systems shall not be accepted by the City until plant growth is established and maintenance responsibilities have been accepted by the appropriate party.
- (5) **Certification of Slope Stabilization** shall be made by the Geotechnical Engineer or Landscape Architect, when required by the Administrative Authority. Where necessary due to factors beyond the control of

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the developer, temporary postponement of the installation of a Slope stabilization may be permitted by the Administrative Authority as an exception to the above required certification provided that a secured agreement or other assurance acceptable to the City assuring repair of slopes and related damage, and installation of stabilization work within a satisfactory specified time is first executed by the Permittee.

- (e) **Requirements Prior to Building Permits.** Prior to the issuance of building permits for any given lot or lots, the following are required:
- (1) **Responsibilities Prior to Building Permit Issuance: Engineer of Record** shall submit a statement as evidence that rough Grading has been completed within standard tolerance in accordance with the approved plans, and that all embankments, cut Slopes, and pad sizing are as shown on the approved plans.
  - (2) **Responsibilities Prior to Building Permit Issuance: Geotechnical Engineer** shall submit a statement that all fills, under their direction, have been compacted to at least 90 percent maximum density, and all street and parking lot base courses have been compacted to at least 95 percent maximum density.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.170 Landscape and Irrigation Plan.**

The Landscape and Irrigation Plan required by this Section shall include landscaping, permanent erosion control, slope plantings, water quality landscaping, and irrigation facilities, and shall be prepared by a Landscape Architect or by a qualified landscape company when approved the Administrative Authority.

- (a) **Single-Family Homes on Individual Lots.** The construction of a single-family home on an individual lot without graded Slopes may not require the submission of a separate landscape plan unless specific landscape requirements were made as a condition of approval and/or a separate landscape plan is otherwise required by the Administrative Authority.

Notwithstanding the above, single-family units must still conform to all applicable Sections of the City Code and Ordinances pertaining to landscaping prior to occupancy, including Water Efficient Landscape Standards as per Title 20 of this Code. The landscaper should refer to the provisions of this Code relating to Zoning and Subdivisions Titles for additional requirements which may apply.

- (b) **Landscape Plans** shall be required for, but not limited to the following development:
- (1) Commercial;
  - (2) Grading Permits;
  - (3) Grading Slopes;
  - (4) Industrial;
  - (5) Parking Lots;
  - (6) Multi-Family Residential Developments;
  - (7) Remodeling which requires a permit, except for remodels meeting the definition in subsection (a) above;
  - (8) Single-Family Residential Subdivisions.
- (c) The plan shall conform to good, accepted standard procedures and requirements with special consideration for Soil conditions encountered within the project area. The plan shall include detailed specifications for the preparation of the existing soils or for the application of topsoil to the slopes to encourage vigorous growth.
- (d) **Landscape Guidelines and Standards.** Permits issued pursuant to this Chapter shall comply with the provisions of the City's Landscape Design Standards, Standard Drawings, Special Provisions, Approved

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Materials, and Tree List, and other applicable guidelines and standards as established by the Administrative Authority.

- (e) **Slopes.** The faces of Cut and Fill Slopes shall be prepared, planted, and maintained to control against erosion. The protection for the slopes shall be installed as soon as practical and prior to for final inspection. The Permittee shall maintain Slope stabilization until it is well-established. Irrigation systems shall be required for perpetual maintenance of the plant life used for slope stabilization. Where Cut Slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted at the option of the Administrative Authority.
- (f) **City Maintained Landscape Areas.** All projects approved with landscaped areas, Slopes, or open spaces that are to be maintained by the City either through a Maintenance District or as public property, will conform to the following guidelines:
  - (1) **Terracing or Benches of Slopes.** Landscaped Slopes shall meet terracing and Benching requirements as specified in Section 17.32.120 of this Chapter.
  - (2) **Other Graded Access.** All publicly-maintained landscaped or open space areas will have graded access roads from public maintained streets with sufficient easement/access rights in place. All slopes will have graded access to the bottom of the slope. Slopes of a height requiring Benches as per Section 17.32.120 of this Chapter shall have maintenance access roads at both the bottom and the top. If a public street is at either of these locations, it may serve as one access road.
  - (3) **Irrigation Systems.** The irrigation system should be installed and inspected per standard specifications established by the Administrative Authority and shall be guaranteed for a period of one year with a warranty bond supplied by the developer.
  - (4) **Plant Establishment.** A 30-day plant establishment period shall be strictly enforced and will not begin until all other work is completed and accepted by the Administrative Authority. The performance and labor and materials bonds will be retained until the expiration of this period. Trees and shrubs will be guaranteed for a period of one year and the cost of replacement shall be covered in the one-year warranty bond required for the irrigation system.
  - (5) **Maintenance and Irrigation Schedules and Estimated Annual Costs.** Prior to commencement of the plant establishment period, the Permittee shall be required to submit detailed maintenance and irrigation schedules and a detailed estimate of the anticipated annual costs for maintenance and utilities.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.180 Grading Operation Hours of Work.**

Permits and plans issued pursuant to this Chapter shall include provisions that the Permittee, their agent, contractor(s) and employees, shall not conduct any Grading, excavation or other related forms of earth movement during any times or days other than listed herein:

- (a) Grading, excavation, blasting, other related movement of earth and/or materials, equipment warm-up, repair, and other noise activities are hereby restricted to the hours of 7:00 a.m. to 4:30 p.m., Monday through Friday.
- (b) Grading, excavation, blasting, or other related movement of earth are hereby forbidden at any time on Saturdays, Sundays, and City Holidays.
- (c) The Administrative Authority may authorize Grading at other hours and on other days in cases of urgent necessity or in the interest of public health and safety.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### **17.32.185 Depositing Earth, Sand, Gravel, or Like Materials Upon Public or Private Property.**

- (a) No person shall dump, move, or place any earth, sand, gravel, rock, stone or other like material nor shall any person leave any bank, slope, or other excavated surface unprotected so as to cause any such materials to be deposited upon or to roll, blow, or wash upon or over the premises of another, nor upon or over any public property, easement, place, or way, without the express consent of the owner(s) of all such affected premises or properties. Such consent shall be in writing and in a form acceptable to the Administrative Authority.
- (b) When, due to a violation of Subsection (a) of this Section, any earth, sand, gravel, rock, stone, or other excavated material is caused to be deposited upon or to roll, flow, or wash upon any public place or way, the person responsible therefor shall cause the same to be removed from such public place of way within 12 hours. In the event it is not removed, the Administrative Authority shall cause such removal and the cost of such removal by the Administrative Authority shall be paid to the City by the person who failed to so remove the material.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.190 Appeals.**

An applicant may appeal the denial by the Administrative Authority, or the conditions of approval of, an application for a permit to the City Council within ten working days after such decision. Appeals shall be in writing and shall state the specific nature of the appeal. Appeals shall be filed with the City Clerk and are subject to fees established by the City's fee schedule.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.200 Violations and Penalties.**

- (a) **False Statements in Applications, Plans, Certifications, and Construction.** No person who prepares or signs any application, plans, reports, or drawings shall willfully make any false statement or furnish false data therein or thereon. It is a violation of this Chapter for any person to verify that the Grading-related work has been satisfactorily completed in accordance with this Chapter, if such work is not in compliance with the approved design or code requirement at the time of verification.
- (b) **Public Nuisance.** Any Grading commenced or done contrary to the provisions of this Chapter, or other violation of this Chapter, shall be, and the same is determined to be, a public nuisance. Upon request of the Administrative Authority, the City Attorney is authorized to commence necessary proceedings for the abatement of any such public nuisance in the manner provided by law. Any failure, refusal or neglect to obtain a permit as required by this Chapter shall be prima facie evidence of the fact that a public nuisance has been committed in connection with any grading commenced or done contrary to the provisions of this Chapter.
- (c) **Violation of Federal or State Requirements.** Any violation of an applicable federal or State requirement, or any failure to conform to an applicable provision or condition of any federal or State permit, or any failure to comply with the provisions of a Grading permit or of a Grading plan prepared in conjunction with such a permit, is a violation of this Chapter.
- (d) It shall be unlawful for any person, firm, or corporation to violate any provisions of this Chapter. Any person, firm, or corporation violating any of the provisions of this Chapter shall be deemed guilty of an infraction and/or misdemeanor and shall be punishable in accordance with the provisions of Section 1.12.010 of this Code; and each person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Chapter is committed, continued, or



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permitted. In the event that grading is commenced without a permit, the Administrative Authority shall cause such work to be stopped until a permit is obtained. The permit fee, in such instance, shall then be double that which would normally be required. The payment of such double fee shall not relieve any person from fully complying with the requirements of this Chapter and the performance of the work. Such fee shall not be construed to be a penalty, but for enforcement of the provisions of this Chapter in such cases.

(e) **Civil Actions.** In addition to any other remedies provided in this Chapter, any violation of this Chapter may be enforced by civil action brought by the City. In any such action, the City may seek, without limitation, and the Court shall grant, as appropriate, any or all of the following actions:

- (1) Injunctive relief.
- (2) Assessment of the violator for the costs of any investigation, inspection or monitoring which led to the establishment of the violation, and for the reasonable cost of preparing and bringing legal action under this subsection.
- (3) Costs incurred in placing or removing soils to correct the violation, as well as costs to correct or terminate the adverse effects resulting from the violation.
- (4) Compensatory damages.
- (5) A maximum civil penalty of \$2,500.00 per violation of this Chapter for each day which any violation of any provision of this Chapter is committed, continued, permitted or maintained by such person(s).

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

**EXHIBIT D**

**San Marcos Municipal Code Chapter 17.32 Amendments - Redlined**

## CHAPTER 17.32 GRADING AND RELATED ACTIVITIES<sup>1</sup>

### 17.32.010 Purpose.

To protect the public health, safety, and welfare, preserve property values, and ensure quality construction. This Chapter establishes standards regulating the design and construction of building sites and the development of property by grading.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### 17.32.020 Scope.

This Chapter regulates the alteration of the ground surface; protects adjacent properties from damage caused by blockage or diversion of waters; requires engineering analysis of Soil conditions, slope stability, and drainage; provides for prompt development, restoration, replanting, and permanent landscaping after clearing or grading procedures to effectively control erosion and/or sedimentation; establishes an administrative procedure for issuance of grading permits; and provides for approval of grading plans and inspection of grading construction.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### 17.32.030 Definitions.

For the purpose of this Chapter, the following words or phrases shall have the meaning established by this Section:

- (a) **Administrative Authority** means the Director, or their designee, of the department responsible for the administration and enforcement of this Chapter.
- (b) **Applicant** means any person making written application for a permit hereunder.
- (c) **As-Graded** is the extent of surface and subsurface conditions and configuration upon completion of Grading.
- (d) **Bedrock** is naturally occurring, in-place solid rock.
- (e) **Bench** means a relatively level step graded into sloped earth.
- (f) **Best Management Practices or BMPs** mean the procedures, schedule of activities, prohibitions of practices, maintenance procedures, and devices to prevent or minimize the quantity of runoff pollutants and/or volumes that flow to receiving water bodies. BMPs may include any type of pollution prevention or control measure that the Administrative Authority finds necessary to reduce pollutants entering the Waters of the United States to the maximum extent practicable.
- (g) **Blasting Operation** means the use of an explosive device or explosive materials to destroy, modify, obliterate, or remove any obstruction of any kind from a piece of property.

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<sup>1</sup>Editor's note(s)—Ord. No. 2022-1522, § 2(Exh. A), adopted Sept. 13, 2022, repealed the former Ch. 17.32, §§ 17.32.010—17.32.200, and enacted a new Ch. 17.32 as set out herein. The former Ch. 17.32 was entitled "Building, Construction, and Related Activities," and derived from: Ord. No. 96-1003, adopted Dec. 10, 1996; Ord. No. 2001-1123, adopted Nov. 27, 2001; and Ord. No. 2006-1270, adopted Sept. 12, 2006.

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- (h) **Certify** or **Certification** means the act of to provide a signed (and stamped, as applicable) written statement by the Permittee or by the responsible professional, as required, that the specific inspections and tests have been performed and comply with the applicable requirements of this Chapter.
  - (i) **Civil Engineer** means a Professional Engineer duly licensed and registered with the State of California to practice in the field of civil engineering.
  - (j) **Clearing** means the removal of all unwanted surface material, such as brush, grass, weeds, downed trees, and other material by manual, mechanical, or other methods that do not disturb the earth's surface and that leave the material at existing grade and within four inches above existing grade intact. For purposes of this Chapter, clearing activities using heavy equipment or other measures that do not leave the existing grade intact are not classified as "Clearing." Rather, such activities are classified as "Grubbing," as defined below.
  - (k) **Compaction** means the densification of earth by mechanical means.
  - (l) **Construction General Permit** means the then-current General Permit for Discharges of Storm Water Associated with Construction Activity as issued by the California State Water Resources Control Board, Construction General Permit Order 2009-0009-DWQ as it may be amended and reissued from time to time.
  - (m) **Cross-Lot Drainage** means storm water runoff that flows directly across lot lines to a neighboring property.
  - (n) **Cumulative Impervious Surface Area** means the total measurement of those surface areas within a lot or parcel that prevent aeration, infiltration, and water penetration, and that release all or a majority of the precipitation that falls on the same. Cumulative Impervious Surface Area includes, but is not limited to, sidewalks, driveways, parking lots, roads, pavers or landscape materials that prevent infiltration and water penetration, and rooftops.
  - (o) **Embankment** or **Fill** means the deposition of Soil, sand, gravel, rock, or other earth materials by human activity and the conditions resulting therefrom.
  - (p) **Engineering Geologist** means a Certified Engineering Geologist, registered with the State of California to practice engineering geology.
  - (q) **Engineering Geology** means the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and Soil for use in the design of civil work.
  - (r) **Engineer of Record** means the Civil Engineer with responsible charge for the Grading and associated improvements; authorized to act for a property owner or agent in doing work covered by this Chapter; licensed and registered by the State of California to practice in the relevant field; and responsible for preparation of the Grading plans, certification of the completed Grading work, and preparation of the record plans.
  - (s) **Erosion** means the process by which land is diminished or worn away due to wind, water, or glacial ice. Often the eroded debris (silt or sediment) becomes a pollutant via storm water runoff. Erosion occurs naturally but can be intensified by activities such as Clearing, Grading, Grubbing, farming, development, road building, and timber harvesting.
  - (t) **Erosion Control** means any combination of desilting facilities, pipes, channels, culverts, sandbags and Erosion protection devices, including effective planting and the maintenance thereof, installed or placed to protect property, watercourses, public facilities, and receiving waters from Erosion or from the deposit of sediment or dust.

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- (u) **Excavation** or **Cut** means any earth, sand, gravel, rock, or other similar material, which is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed by man, and the conditions resulting therefrom.
  - (v) **Expansive Soil** means soils meeting all four of the following provisions, except that tests to show compliance with Items 1, 2 and 3 shall not be required if the test prescribed in Item 4 is conducted:
    - (1) Plasticity index (PI) of 15 or greater, determined in accordance with ASTM D4318.
    - (2) More than 10 percent of the Soil particles pass a No. 200 sieve (75  $\mu$ m), determined in accordance with ASTM D422.
    - (3) More than 10 percent of the Soil particles are less than 5 micrometers in size, determined in accordance with ASTM D422.
    - (4) Expansion index greater than 20, determined in accordance with ASTM D4829.
  - (w) **Finish Grade** means the final elevation of the ground surface upon completion of any excavation or fill that conforms to the City-approved grading plan.
  - (x) **Geotechnical Engineer** means a Civil Engineer who has been licensed, registered, and granted authority to hold themselves out as a Geotechnical Engineer by the State of California.
  - (y) **Geotechnical Report** means a report which contains all appropriate Soil Engineering, geologic, hydrologic, and seismic information, evaluation, recommendations, and findings. This type of report combines both engineering and Soil Engineering reports.
  - (z) **Grade** means the vertical location of the ground surface.
  - (aa) **Grading** means any excavating or filling or combination thereof; any earth disturbance; removal, and recompaction; storage; stockpiling; or any combination thereof resulting in the displacement, removal, excavation, import, export, or recompaction of soil.
  - (bb) **Grading Contractor** means a contractor licensed by the State of California who specializes in grading work or is otherwise licensed to do grading work.
  - (cc) **Grading Plan** means a plan prepared in accordance with this Chapter showing Grading and related work.
  - (dd) **Gross Stability** means the factor of safety against failure of slope material below a surface approximately three to four feet deep measured from and perpendicular to the slope face.
  - (ee) **Grubbing** means the removal of vegetative matter such as roots, stumps, buried materials, and other matter using manual, mechanical, or chemical methods that disturb the zone from four inches or less above the earth's surface to beneath the existing grade.
  - (ff) **Interim Erosion Control Plan** means a plan prepared in accordance with this Chapter showing Erosion Control and Best Management Practices designed to control surface runoff, prevent Erosion, and retain sediment on a development site during the period in which pre-construction and construction-related land disturbances and Grading occur, and before final improvements are completed.
  - (gg) **Landscape Architect** means a landscape architect, registered by the State of California, who performs professional work in physical land planning and integrated land development, including the design of landscape planting programs.
  - (hh) **Permanent Erosion Control Plan** means a plan prepared in accordance with this Chapter showing Erosion Control and Best Management Practices designed to control surface runoff, prevent Erosion, and retain sediment on a development site after final structures and permanent improvements have been completed.

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- (ii) **Permittee** means the Applicant or developer in whose name a valid permit is duly issued pursuant to this Chapter and their agents, employees, and others acting under their direction.
  - (jj) **Precise Grading Plan** means a plan showing the precise finish grades, structure locations, and site improvements. A Precise Grading Plan is typically required for the finish work to occur after Rough Grading.
  - (kk) **Public Place** means any public street, way, place, alley, sidewalk, trail, park, square, or any other public property owned or controlled by any government agency in a governmental capacity.
  - (ll) **Retaining Wall** means a structure designed to resist the lateral displacement of Soil or other materials.
  - (mm) **Rock Crushing** means the use of a device, machine, apparatus, or equipment for the purpose of crushing, grinding, breaking, or pulverizing rock or stone. Rock Crusher means the device, machine, apparatus, or equipment to carry out Rock Crushing activities.
  - (nn) **Rough Grade** means the operational stage at which the grade approximately conforms to the approved plan.
  - (oo) **Rough Grading Plan** means a plan for rough grading, clearing and grubbing, stockpiling, and other preliminary work to precede Precise Grading work.
  - (pp) **Surficial Stability** means the factor of safety against failure of the outer three to four feet of slope material measured from and perpendicular to the slope face.
  - (qq) **Slope** is an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.
  - (rr) **Soil** means the naturally occurring superficial earth deposits overlying Bedrock.
  - (ss) **Soils Engineering** means the application of the principles of Soil mechanics in the investigation, evaluation, and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.
  - (tt) **Soils Engineer** means a Civil Engineer experienced and knowledgeable in the practice of Soil Engineering.
  - (uu) **Structural Best Management Practice** or **Structural BMP** means that subset of BMPs which detains, retains, filters, removes, or prevents the release of pollutants to surface waters from development projects in perpetuity, after construction of a project is completed. This general term encompasses the pollutant control BMPs and hydromodification BMPs required for Priority Development Projects under the San Diego Region Municipal Separate Storm Sewer System (MS4) Permit. A structural BMP may be a pollutant control BMP, a hydromodification management BMP, or an integrated pollutant control and hydromodification management BMP.
  - (vv) **They** and **Their** as used herein are the gender-neutral singular pronoun (such as he/she/they) and the associated possessives (his/hers/theirs).
  - (ww) **Terrace** means a relatively level step constructed in the face of a graded slope for drainage, erosion control, and/or maintenance purposes.
  - (xx) **Vertical Height** of a slope means the measurement from the toe of slope to a point projected horizontally directly above it from the top of slope.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### 17.32.040 Grading Permit Requirements.

It is unlawful for any person to do, or cause to be done on their behalf, any of the following, without first obtaining a valid Grading permit issued by the Administrative Authority pursuant to this Chapter, unless the Grading is exempt from the requirement for a Grading permit as provided in this Chapter 17.32:

- (1) Any grading, storage, or disposal of Soil and earth materials;
- (2) Clearing and/or Grubbing;
- (3) Creation and/or replacement of impervious surfaces or other work necessitating implementation of storm water quality Best Management Practice measures consistent with the current order from the Regional Water Quality Control Board (RWQCB);
- (4) Removal or modification of existing Best Management Practice measures.

A separate Grading permit is required for each lot or parcel to be graded, except where the Grading is for a subdivision or common development and the permit is issued for Grading for the design and improvement of all or part of the subdivision or common development.

(a) **Application.** The provisions of Chapter 17.08 (California Building Code) shall apply to the application for Grading permits. In addition to other requirements, the application shall state the estimated quantities of work involved and shall contain such other information and be accompanied by such other reports as may be required by this Section or by Chapter 18.04 of this Code relating to Environmental Review. The application for any Grading permit must include, but shall not be limited to, all of the following items, in a quantity and format as defined by the Administrative Authority, unless a specific item is waived in writing by the Administrative Authority following a review of the project submittal:

- (1) Application form.
- (2) Grading plan and specifications.
- (3) Geotechnical report.
- (4) Hydrology and Hydraulics study.
- (5) Application fees.
- (6) Engineer's cost estimate.
- (7) Temporary Erosion, sediment control, and construction BMP plan, and any applicable Storm Water Quality Management Plan (SWQMP) and/or Storm Water Pollution Prevention Plan (SWPPP) as applicable under the Construction General Permit.
- (8) Permanent erosion and sediment control, post-construction Structural BMP plan, and any applicable SWQMP.
- (9) Storm water pollution control checklists and compliance documents.
- (10) Landscape and irrigation plan.
- (11) Title report, recorded documents referenced therein, and record maps.
- (12) Any applicable environmental documentation and associated studies for compliance with the California Environmental Quality Act and other applicable state and federal laws.
- (13) Other such documentation and information as may be necessary to demonstrate that the grading work will be carried out in substantial compliance with all City codes and City standards.

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- (b) **Grading Plan and Specifications.** Unless otherwise waived by the Administrative Authority, each application for a Grading permit shall be accompanied by plans and specifications prepared and signed by the Engineer of Record, unless otherwise allowed by the California Business and Professions Code.

Plans shall be drawn to an engineering scale and shall be of sufficient clarity to indicate the nature and extent of the work proposed and to show in detail that all Grading will conform to the provisions of this Chapter and all relevant laws, ordinances, rules, and regulations. The plan sheets shall use appropriate screening to clearly indicate in bold the proposed work while "screening back" existing conditions and/or work by others. The title sheet content and format shall be as required by the Administrative Authority.

The plans shall include the following information:

- (1) Site map depicting the general vicinity of the site where the Grading is to be done, assessor's parcel number(s), and name and address of owner.
  - (2) Dimensioned property limits, accurate contours of existing ground, and details of terrain and area drainage.
  - (3) Limiting dimensions, elevations, or finish contours to be achieved by the Grading, and proposed drainage channels and related construction.
  - (4) Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, and other infrastructure either existing or to be constructed together with a map showing the drainage area and the estimated runoff of the area served by any drainage systems.
  - (5) Location of any buildings or structures on the site; location of any buildings or structures on adjacent land and within 15 feet of the property; and locations of adjacent facilities that may be affected by the proposed grading operations, including adjacent septic and/or well installations together with required clearances in accordance with permitting agency requirements.
  - (6) The location of top and toe of all cuts and fills.
  - (7) The location of all "daylight" lines.
  - (8) The amount in cubic yardage of all Excavations, fills, remedial work, and import/export materials.
  - (9) The location of the disposal site for excess material, if any, along with the proposed haul route, if the disposal site is not located on the property being graded.
  - (10) Intended land use and site restrictions and encumbrances, such as easements, fuel protection areas, and biological constraints together with associated limits of work and required protection measures.
  - (11) Information demonstrating to the satisfaction of the Administrative Authority that the work will satisfy the requirements of Chapter 14.15 of this Code and, in particular, that the Permittee will implement the Best Management Practices specified in Sections 14.15.050(c) and (d) to the maximum extent practicable during the Grading process.
  - (12) Information demonstrating compliance with City and State requirements for permanent post-construction storm water Structural BMPs, including, but not limited to, existing and proposed BMPs, depiction of how all the runoff generated on or draining to the development area will be routed to BMP areas and treated before discharge, hydromodification facilities, and references to signed maintenance agreements and covenants for permanent post-construction BMPs.
  - (13) The name, seal, and signature of the Engineer of Record.
- (c) **Precise Grading Plan.** Precise Grading information shall be depicted on the building permit plan set, as applicable. At the discretion of the Administrative Authority, a Precise Grading Plan with the following information shall be submitted for review and approval of the Administrative Authority if the approved



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Grading plan does not show all work in sufficient detail. The precise grading permit shall be issued prior to issuance of building permits. The Precise Grading information will include the following:

- (1) Building pad and finish floor elevations.
  - (2) Building footprint, pools, spas, trash enclosures, and any other existing or proposed structures.
  - (3) Existing and proposed driveways, hardscape, surfacing such as compacted decomposed granite and pavers, and engineered permeable surfaces.
  - (4) Any walls, freestanding and/or retaining, in their exact locations.
  - (5) Landscaping.
  - (6) Invert elevations in their exact locations for drainage and sewer facilities.
  - (7) Sewer and water laterals, any hydrants, dry utilities, and any other subsurface construction, in their exact locations.
  - (8) Structural BMPs, including any existing features to be modified.
  - (9) References to any previous entitlements and/or permits for the property.
- (d) **Preliminary Geotechnical Report.** A preliminary Geotechnical Report addressing the proposed project, development, or construction plan is required for all subdivisions of land (excluding condominium conversions) and all Grading permit applications. The requirement for a preliminary Geotechnical Report may be waived by the Administrative Authority under limited circumstances based upon the development site, the type of development proposed, and/or a finding by the Administrative Authority that, due to the knowledge of the City, no preliminary analysis is necessary. The Administrative Authority's findings setting forth the reasons therefore shall be contained in a writing filed with the Grading Plan.
- (1) **Typical Report Contents.** Where geotechnical investigations are required, a written report of the investigations shall be submitted to the Administrative Authority by the Permittee at the time of permit application. This Geotechnical Report shall be based upon adequate test locations and field investigation and shall include, but need not be limited to, the following information in conformance with the California Building Code:
    - (a) A plot showing the location of the Soil investigations.
    - (b) A complete record of the Soil boring and penetration test logs and Soil samples.
    - (c) A record of the Soil profile.
    - (d) Elevation of the water table, if encountered.
    - (e) Recommendations for foundation type, pavement design, and other design criteria, including, but not limited to: bearing capacity of natural or compacted Soil; provisions to mitigate the effects of Expansive Soils; mitigation of the effects of liquefaction, differential settlement and varying Soil strength; and the effects of adjacent loads.
    - (f) Expected total and differential settlement.
    - (g) Deep foundation information.
    - (h) Special design and construction provisions for foundations of structures founded on expansive soils, as necessary.
    - (i) Compacted fill material properties and testing.
    - (j) Controlled low-strength material properties and testing.
    - (k) Effects of seismic hazard.
    - (l) Infiltration/percolation testing at locations sufficient to verify proper functioning of proposed storm water quality facilities.
  - (2) **Professional Responsibility.** The report shall be prepared under the supervision of a Geotechnical Engineer and Engineering Geologist whose seals of certification shall be stamped on the title sheet of

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said report and the title sheet of the Grading plan. Professional responsibility for the required elements in the Geotechnical Report is as follows:

- (a) Soil Engineering data will be the result of an initial geotechnical investigation conducted to evaluate existing site conditions in order to obtain general Soil and stability information. This basic report is required for all projects involving Grading, and when development is located within geologic hazard zones considered risky for the type of development proposed. Data shall be prepared by a Geotechnical Engineer and containing data regarding the nature, distribution, and strength of existing Soils; conclusions and recommendations for Grading procedures and design criteria for corrective measures when necessary; and opinions and recommendations covering adequacy of the site to be developed by the proposed Grading.
- (b) Engineering Geology data shall be prepared by an Engineering Geologist and containing an adequate description of the geology of the site; conclusions and recommendations regarding the effect of geologic conditions on the proposed development; and opinions and recommendations covering the adequacy of the site to be developed by the proposed Grading.
- (3) **Incorporation into the Plans.** Recommendations in the report as approved by the Administrative Authority shall be incorporated into the Grading plans and specifications by the Engineer of Record. The Geotechnical Engineer and Engineering Geologist shall review and sign the Grading plans to ensure inclusion of appropriate geotechnical recommendations.
- (4) **Slope Stability Analyses** shall accompany Soil Engineering reports for all Slopes steeper than 2:1 and for all Slopes exceeding 40 feet in height, regardless of the Slope ratio. The geotechnical engineer shall consider both gross and Surficial Stability of the Slope and provide a written statement approving the Slope stability.
- (e) **Hydrology and Hydraulics Study.** The hydrology and hydraulics study shall conform to the requirements of the San Diego County Flood Control District for all matters pertaining to storm water damage, and shall show all charts, formulas, and data used for the preparation of the study.

The report shall be prepared under the supervision of a Civil Engineer whose seal of certification shall be stamped on the title sheet of said report.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.041 Issuance, Expiration, and Denial of Permit.**

- (a) **Issuance.** If the Administrative Authority finds that the application for a Grading permit has been properly filed and that all of the required information has been submitted, and any required environmental review of the project has been completed, the Administrative Authority shall issue or conditionally issue a Grading permit. If after issuance of the permit, the Administrative Authority determines that there are weather-generated problems not considered at the time the permit was issued, the Administrative Authority may require that Grading operations and project designs be modified to remedy those problems.
- (b) **Application and Permit Expiration Timelines.** A Grading permit shall be valid for the time period established for the same as set forth in this Chapter.
  - (1) **Lapse of Application Prior to Permit Issuance.** Unapproved permit applications shall lapse after a period of 180 days of inactivity. The time limit may be extended at the Administrative Authority's discretion, or by the Administrative Authority upon written request of the Permittee or owner, if it can be shown that applicant had been in regular communication with the City and diligently pursued completion of required work but encountered unanticipated conditions or requirements including but not limited to, unanticipated site and/or environmental conditions, permitting requirements of other regulatory agencies with jurisdiction over the matter, and/or obtaining necessary easements to

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- facilitate proposed work. Additionally, permit applications shall lapse if a permit is not issued in accordance with approved plans within 180 days from the date of such approval by the Administrative Authority. In either case, the Applicant shall resubmit a complete updated application and all associated documents for review and re-approval with required fees per Section 17.32.040.
- (2) **Lapse Following Permit Issuance.** Every permit issued under the provisions of this Code shall expire by limitation and become null and void if the work authorized by such permit is not commenced within 180 days from the date of such permit or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days or more.
- (a) The Permittee shall fully perform and complete all of the work required to be done pursuant to the Grading permit within the time limit specified therein or, if no time is so specified, within 360 days after the date of issuance of the permit. The time limit may be extended at the Administrative Authority's discretion, or by the Administrative Authority upon written request of the Permittee, owner, or surety, if in the discretion of the Administrative Authority, good and sufficient cause has been shown.
- (b) In order to revalidate an expired permit that has been extended at the discretion of the Administrative Authority, the Permittee shall resubmit all required application forms and documents, including fees, except where waived by the Administrative Authority.
- (3) **Appeal.** An applicant may appeal the denial of extension by Administrative Authority per Section 17.32.190.
- (c) **Denial of a Permit.** A Grading permit shall not be issued if the Administrative Authority finds any of the following conditions to exist:
- (1) **Hazards.** The Administrative Authority shall not issue a Grading permit in any case where the work as proposed by the Applicant is likely to adversely affect the stability of adjoining property, or result in the deposition of debris on any public right-of-way, or interfere with any existing drainage course, or be in an area determined to be subject to geological hazard. If it can be shown to the satisfaction of the Administrative Authority that the hazard can be mitigated to an insignificant level by the construction of retaining structures, buttress fills, drainage devices, or by other means, the Administrative Authority may issue the permit with the condition that such work be performed.
- (2) **Flood Hazard.** If, in the opinion of the Administrative Authority, the land area upon which Grading is proposed is subject to flood hazard to the extent that corrective measures will not eliminate or substantially reduce the hazard to persons or property, or does not comply with Section 20.255.160 of this Code, such Grading permit shall be denied.
- (3) **Minimum Building Site Elevation with Delineated Floodplain.** If determined by the Administrative Authority that the proposed Grading for a building site is within an identified floodplain of the City, the Administrative Authority shall not issue a Grading permit unless the Grading conforms to the requirements of the Flood Damage Prevention Overlay Zone (Chapter 20.255 of this Code) and design the site pad such that the Finish Grade elevations shall not be less than two feet above the base flood elevation or as determined by the Administrative Authority.
- (4) **Land Use.** The Administrative Authority shall not issue a Grading permit for work on a site unless the proposed uses shown on the Grading plan for the site will comply with all provisions of the Zoning and Subdivision Titles of this Code.
- (5) **Environmental Constraints.** The Administrative Authority shall not issue a Grading permit when the environmental review of the project has not been completed. No Grading permit shall be issued for Grading of natural slopes with an inclination of 25 percent or more, for wetlands, or for bluffs, unless the City's approving body for the associated entitlements has found that such Grading is necessary to permit a reasonable economic use of the property. Any application for Grading on slopes with an inclination of 25 percent or more shall contain information showing;

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- (a) The need for the Grading in order to permit a reasonable economic use of the property;
  - (b) That the Grading is the minimum necessary to permit a reasonable economic use of the property; and
  - (c) That the proposed Grading will be accomplished without substantial harm to the environment, or can mitigate for any impacts made to the environment.
- (6) **Ridgeline Protection and Management Overlay Zone.** The Administrative Authority shall not issue a Grading permit for work proposed within the Ridgeline Protection and Management Overlay Zone unless the requirements contained in Section 20.260 of this Code are met.
- (7) **Pollutant Discharges.** The Administrative Authority shall not issue a Grading permit for work on a site where the Applicant has not demonstrated that it will implement the Best Management Practices specified in Code Section 14.15.050(c) and (d) and consistent with the adopted orders of the Regional Water Quality Control Board to ensure that pollutants from the Grading site will be reduced to the maximum extent practicable.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.045 Exemptions from Grading Permit Requirement.**

- (a) The following work shall be exempt from the requirement for the issuance of a Grading permit:
- (1) An excavation below Finish Grade authorized by a valid building permit approved and issued by the Administrative Authority, for basements, footings, or foundations for buildings, mobile homes, swimming pools, septic tanks, leach lines, or other subsurface structures or facilities installed on terrain with grades less than five horizontal to one vertical and located five feet from the top of all slopes and on a site previously graded pursuant to a valid permit. Any Embankment constructed with the excess material from the Excavation exempted by this Section must either be disposed of under an approved Grading permit, or be disposed of on-site without creating Embankments more than five feet in unsupported height, and not obstructing or changing the course of natural or man-made drainage courses. This shall not exempt any Fill made with the material from such Excavation, including remedial work, nor does it exempt the project from any storm water pollution control requirements that may necessitate a Grading permit.
  - (2) Graves to be located in a cemetery regulated by the California Department of Consumer Affairs, Cemetery and Funeral Bureau.
  - (3) Refuse disposal sites controlled by other regulations.
  - (4) Excavations for wells or tunnels or utilities.
  - (5) Excavations within the public right-of-way performed under a permit issued by the Administrative Authority in accordance with Title 14 of this Code.
  - (6) Exploratory Excavations done under the direction of Soil Engineers or Engineering Geologists and approved in writing by the Administrative Authority.
  - (7) Grading which meets all of the following limitations:
    - (a) Occurs on a single legal lot or contiguous lots under identical ownership.
    - (b) Involves grading of not more than 200 cubic yards, including any remedial work.
    - (c) Does not propose cut or fill exceeding four feet in vertical depth at its deepest point.
    - (d) Does not interfere with or modify any existing drainage course; does not propose work within or work that impacts a floodway or floodplain.
    - (e) Does not involve the import or export of hazardous materials.

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- (f) Does not involve a development classified as a Priority Development Project for purposes of water quality. Does not require or involve the installation or modification of storm water quality devices requiring approval of the Administrative Authority.
  - (g) Does not place Fill on an existing Slope of exceeding 5:1 horizontal to vertical.
  - (h) Does not create a Slope greater than 2:1 horizontal to vertical.
  - (i) Does not create and/or replace a cumulative impervious surface area of 5,000 square feet or more.
  - (8) Grading approved by the Administrative Authority as part of the Building Plans. In cases where a Grading permit is not required pursuant to this Section, a plan showing the Grading to be done shall be shown on the building plans submitted with the application for building permit.
  - (9) Paving maintenance activities that do not require storm water quality review and approval by the Administrative Authority.
  - (b) Notwithstanding Subsection (a) of this Section, all Grading within the floodplain established pursuant to the Flood Damage Prevention Overlay Zone of Chapter 20 of this Code requires a permit issued by the Administrative Authority.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.050 Grading Fees.**

- (a) **Plan Review Fees.** When a plan or other data are required to be submitted, a plan review fee in an amount established by City Council resolution shall be paid at the time of submitting plans and specifications for review.

Additional fees will be assessed for plan checks in excess of three review cycles. Fees will be assessed for construction changes requiring review as set forth in the aforementioned resolution. Separate review fees shall apply for reports, calculations, and studies that require extensive staff or third-party expert review time such as, but not limited to, those pertaining to areas within floodplain or floodway, areas of critical Soil conditions, and geotechnical or structural reviews.

Additional plancheck fees will be assessed for lapses in application processing and/or in commencement or timely continuation of construction, unless otherwise allowed by the Administrative Authority. After a lapse of 180 days or more in the processing of a permit application for approval, original application fees will be forfeited and Permittee shall make payment for new application and review fees. After a lapse of 180 days or more between plan approval by the Administrative Authority and the date of permit issuance; when the work authorized by such permit is not commenced within 180 days; when work is suspended or abandoned at any time after commencement for a period of 180 days; or when work is not diligently pursued and timely completed within 360 days, the Permittee shall pay the fee for a grading permit extension as per the current City fee schedule. Application and extension fee waivers shall be approved by the Administrative Authority.

- (b) **Grading Permit Inspection Fees.** Prior to the issuance of a Grading permit, permit and inspection fees in an amount established by City Council resolution shall be paid to the Administrative Authority. Additional inspection fees, in an amount established by City Council resolution, may be required when extensive staff time is required to complete the reviews and inspections.
- (c) **Additional Fee for Work Commenced Prior to Issuance of Valid Permit.** Where Grading requiring a permit is started or done before issuance of a permit, the fees for the permit shall be doubled. Payment of such double fee shall not relieve any person from fully complying with the requirements of this Chapter in the execution of the work nor from liability for any other penalties prescribed herein. The fee required by this Subsection shall not be construed as a penalty but is added to defray the expenses incurred in the enforcement of the provisions of this Chapter.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### 17.32.060 Rights and Responsibilities Under the Permit.

- (a) **Other Agency Requirements.** Issuance of a Grading permit does not relieve a Permittee of the responsibility for obtaining any other permits or licenses that may be required by City Ordinances or by other State or local agencies with jurisdiction over any aspect of the project.
- (b) **Vesting of Rights.** Issuance of a Grading permit shall not vest rights to the issuance of building permits.
- (c) **Responsibilities of the Engineer of Record.** It shall be the responsibility of the Engineer of Record to incorporate all recommendations from the Soil Engineering and Engineering Geology reports into the Grading plan. The Engineer of Record who prepares and signs the Grading plan shall also be responsible for the preparation of Erosion control plans, construction changes, and the submission of As-Graded plans upon completion of the work. The Engineer of Record shall also be responsible for the professional inspection and approval of the grading within the Civil Engineer's approved area of technical specialty, including, but not be limited to, inspection and approval as to the establishment of line, grade, drainage, pollutant control, and flow control.
- (d) **Contractor Qualifications.** Every person performing work in accordance with this Chapter shall meet such qualifications as may be determined by the State of California to be necessary to protect the public interest. All Grading work shall be performed by a contractor licensed by the State of California to perform the types of work required by the permit.
- (e) **Responsibilities of Permittee.**
  - (1) It shall be the responsibility of the Permittee to know the conditions and restrictions placed on the Grading permit, as outlined in applicable sections of this Code, as contained on the approved report(s), and in compliance with any applicable storm water pollution control requirements, the Construction General Permit, the SWPPP, and SWQMP. Permittee shall ensure that its contractors, subcontractors, employees, agents, and consultants are also knowledgeable of the same, and shall ensure that they carry out the proposed work in accordance with the approved plans and specifications and with the requirements of the permit. The Permittee shall maintain in an obvious and accessible location on the site a copy of the permit and Grading plans bearing the approval of the Administrative Authority. Failure to carry out the work in accordance with the terms of the grading permit, SWPPP, Construction General Permit, and/or the SWQMP shall constitute a violation of this Chapter.
  - (2) There is imposed upon the Permittee the following conditions:
    - (a) To comply with the provisions of this Chapter or other applicable laws and ordinances relating to Grading.
    - (b) To comply with all terms and conditions of the permit for Excavation and Fill to the satisfaction of the Administrative Authority.
    - (c) To complete all of the work contemplated under the permit within the time limit specified in the permit, or 360 days, whichever is greater. The Administrative Authority may, for sufficient cause, extend the time specified in the permit, but no such extension shall release the surety upon the bond.
    - (d) To complete all work necessary to put the property and adjacent rights-of-way into a safe condition satisfactory to the Administrative Authority.
  - (3) The obligations of the Permittee shall be secured as provided in section 17.32.065 of this Chapter.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### 17.32.065 Security.

- (a) A permit shall not be issued unless the Permittee first posts with the Administrative Authority one or more of the following securities in a total amount determined by the Administrative Authority to be necessary to secure the obligations under the permit, including, but not limited to, the obligation to install Erosion control devices or systems; the construction of drainage and protective devices; and performance of any corrective work necessary to remove and eliminate engineering and geological hazards, to repair public ways, and to put the graded property into a condition which will not injure the public health, safety or welfare:
  - (1) A bond, in a form prescribed by the City Attorney, executed by the Permittee and a corporate surety authorized to do business in the State as a surety and to issue bonds in the amount required by this Section;
  - (2) A deposit either with the City or a responsible escrow agent or trust company selected by the City of cash or negotiable bonds of the kind approved for securing deposits of its public monies;
  - (3) An irrevocable letter or instrument of credit, in a form approved by the City Attorney, from one or more responsible financial institutions regulated by the Federal or State government and authorized to do business in this State and approved by the Finance Director, pledging that the funds are available and guaranteed for payment on demand by the City. As Grading progresses, the Administrative Authority may reduce the amount of the security to the extent that they determine that the hazard or danger created by the work does not justify the full amount. The Administrative Authority may waive the requirement for security when they determine at their sole discretion that the proposed Grading will not adversely affect the subject property or adjacent property or existing or proposed structures thereon, and will not create, cause, or precipitate a geological, flood, drainage, Erosion, siltation, or other adverse environmental impact if, for any reason, the proposed project or Grading is not completed. On development where progressive individual grading projects or several concurrent projects are being constructed by one owner or Permittee, a continuing bond or single letter of credit may be provided which will cover all such projects; the amount thereof shall be determined by the Administrative Authority.
- (b) Each security shall be valid upon the date of filing and shall remain valid and in full force and effect until the work has been completed to the satisfaction of the Administrative Authority in accordance with the terms and conditions of the permit. Upon satisfactory completion of the work and compliance of all the terms and conditions of the Grading permit, the Administrative Authority may release the Grading security and notify the surety or financial institution of such release.
- (c) Whenever the Administrative Authority finds or determines that a default has occurred in the performance of any requirement of a condition of a permit issued hereunder, written notice thereof shall be given to the principal and to the surety on the bond. Such notice shall specify the work to be done, the estimated cost thereof and the period of time deemed by the Administrative Authority to be reasonably necessary for the completion of such work. After receipt of such notice, the surety shall, within the time specified, cause or require the work to be performed, or failing therein, shall pay over to the Administrative Authority the estimated cost of doing the work as set forth in the notice. Upon receipt of such monies, the Administrative Authority shall cause the required work to be performed and completed. When the Grading permit obligations are secured by an escrow deposit or letter of credit, notice to the financial institution or escrow agent shall be given in the manner provided in this Section for giving of notice to the surety except that the authorization for the security to perform or cause the work to be performed shall not apply and the escrow agent or financial institution shall forthwith pay the security amount to the City.
- (d) A substitute bond or letter of credit may be filed in place of any above-mentioned bond or letter of credit, and the Administrative Authority may accept the same if it is suitable to ensure completion of the work remaining to be performed and in proper form and substance, and the bond or letter of credit for which it is

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substituted may be exonerated if the Administrative Authority finds that the conditions of such bond or letter of credit for which a substitute has been filed have been satisfied and that no default exists as to the performance upon which the bond or letter of credit is conditioned.

- (e) The Administrative Authority may require that up to ten percent of any security be submitted in the form of a cash deposit. The cash deposit may be utilized by the City to ensure that adequate safeguards for the prevention of Erosion and sedimentation are in place when needed.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.070 Existing Hazards.**

Whenever the Administrative Authority determines that any existing Excavation, Fill, or other soils condition on private property has become a hazard, endangers persons or property, adversely affects the safety of a public way, floodplain, floodway, or drainage channel, causes or contributes to an exceedance of state water quality objectives, or fails to reduce pollutants from the site to the maximum extent practicable, the person or agent in control of said property shall, upon written notice from the Administrative Authority and within the period specified in the notice, obtain a Grading permit and repair, remove, and/or eliminate the hazard as necessary to bring the site into conformance with the requirements of this Code.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.075 Temporary Rock Crushing Operations.**

- (a) **Permit Required.** It is unlawful for any person to operate, or cause to be operated on their behalf, Rock Crushing equipment without first obtaining a permit issued by the Administrative Authority. To allow for the temporary operation of a Rock Crusher during Grading operations, a Director's Permit or a Conditional Use Permit is required, as determined by the Administrative Authority.

Any associated Blasting Operations shall comply with the requirements of Chapter 17.60 of this Code.

- (b) **Mitigation of Nuisance.** No person shall operate a Rock Crusher in such a manner so that any dust, dirt, or vibration from such operation shall damage or injure any person or property.
- (c) **Plan of operation.** An Applicant for a Rock Crushing permit shall provide a plan of operation including, at a minimum, the following:
  - (1) Methods of screening from adjacent properties;
  - (2) Hours of operation of the Rock Crushing equipment;
  - (3) Dust and noise control measures;
  - (4) Location(s) of Rock Crusher;
  - (5) Rock Crushing procedures;
  - (6) Location(s) and height of stock piles;
  - (7) A noise impact analysis as may be required by the Administrative Authority; and
  - (8) Other materials as may be required by the Administrative Authority.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)



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### 17.32.080 Import and Export of Earth Material; Stockpiling.

- (a) **Haul Route.** If the Grading project includes the movement of earth material to or from the site in an amount considered substantial by the Administrative Authority, the Permittee shall submit the haul route for review and approval by the Administrative Authority, in conjunction with the Grading permit. The Administrative Authority may suggest alternate routes, hours of work, or special requirements in consideration of the possible impact on the adjacent community environment, potential impacts considered in any applicable environmental analysis, or effect on the public right-of-way itself, which the Administrative Authority shall prescribe as a condition of the permit.

Where excavation or embankment material is imported or exported from one Grading site to another over public streets, whether or not either site is otherwise subject to Grading permit requirements, the Administrative Authority may specify the route to be used in transporting the materials upon public streets. Deviation from this designated haul route shall constitute a violation of the conditions of the permit issued under this Code. The route, if any, shall be specified by written note on the permit document. The approval of the haul route in a Grading permit does not relieve the requirement to obtain a transportation permit for large vehicles/loads.

- (b) **Haul Load Limits.** The Administrative Authority may specify load limits when, in the opinion of the Authority, the standard load capacity of vehicles used in such hauling would cause excessive damage to streets on the designated route. Any Grading or hauling contractor moving earth materials in violation of this Chapter shall be financially responsible for any damage to the public streets done by the hauling vehicles, and shall pay to the City the cost, as determined by the Administrative Authority, of repairing the damage.
- (c) **Notification.** The Applicant shall also be required to notify the Administrative Authority at least 24 hours before hauling is to commence. The Administrative Authority may require traffic control devices to be provided by the Permittee as may be reasonably necessary to protect the health, safety, and general welfare of the public.
- (d) **Other Conditions.** The permit may specify other conditions which the Administrative Authority determines are necessary to minimize a disruption in normal traffic activities and public inconvenience on the public streets.
- (e) **Debris.** California Vehicle Code Section 23112(b) forbids the placing, dumping, or depositing of dirt and rocks on the public streets or any portion of the public right-of-way. No person shall, when hauling any earth, sand, gravel, rock, stone or other excavated material over any place, allow such materials to blow or spill over and upon such street, alley, or place, or adjacent private property. No person engaged in hauling materials under a permit issued pursuant to this Chapter shall deposit dirt or debris on the public streets by any means, including but not limited to, spillage from the bed of a truck or other vehicle or the dropping of debris collected on the wheels of the haul vehicle. The Permittee, or person on whose behalf the Grading is done if different than the Permittee, shall be responsible for the complete removal of dirt, rocks or debris from the street, if spilled, dumped, or deposited on a public street as a result of the Grading or hauling action. If the Permittee fails to remove completely such spillage, and it is necessary for the City to cause such removal to be made, the Permittee and the person on whose behalf the Grading is done, shall be jointly and severally liable to pay the City the full cost of the removal work. A cash deposit, bond or other security may be required to ensure the clean-up of public streets, and/or repair of any damage to streets resulting from hauling.
- (f) **Dust Prevention.** Where an excess of 5,000 cubic yards of earth per site project is moved on public roadways from or to the site of an earth Grading operation then either water or dust palliative or both must be applied to the transported material to alleviate or prevent excessive dust resulting from the loading or transportation of earth from or to the project site on public roadways.

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- (g) **Points of Access.** Access roads to the premises shall be only at points designated on the approved Grading plan. The last 50 feet of the access road, as it approaches the intersection with the public roadway, shall have a grade not to exceed three percent. There must be a 300-foot clear, unobstructed sight distance to the intersection from both the public roadway and the access road. If the three percent grade or 300-foot sight distance cannot be obtained, flagmen shall be posted in accordance with the requirements of the Administrative Authority. A stop sign conforming to the requirements of the California Vehicle Code shall be posted at the entrance of the access road to the public roadway. Permittee shall obtain a right-of-way permit to install advance warning signs, traffic control, and safety devices shall be posted on the public roadway in the vicinity of the access intersection in accordance with the latest edition American Public Works Association Work Area Traffic Control Handbook"(WATCH) and the current California Manual on Uniform Traffic Control Devices (CA MUTCD). The advance warning signs and/or other devices shall be covered or removed when the access intersection is not in use.
- (h) **Stockpiling.** The Administrative Authority may approve a request for temporary stockpiling of material as part of the review of the grading plan and/or stockpile plan. The erosion and sediment control plans shall depict the location of the stockpile and associated BMPs. Stockpiles shall be included in the Engineer of Record's cost estimate for the grading application to secure the erosion control measures and ultimate removal or appropriate permanent compaction of the stockpiled material in compliance with the security provisions of Section 17.32.065 of this Chapter.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.085 Removal of Vegetation; Clearing; Grubbing.**

(a) **Permits Required for Clearing and Grubbing.**

(1) **Clearing.**

- a. Limited Clearing consistent with the definition in Section 17.32.030 of this Chapter, performed by methods that do not disturb the earth's surface, and that leaves the vegetation and/or other material within four inches above the existing grade intact, does not on its own require a grading permit.
- b. Clearing using heavy equipment or other measures with the potential to disturb the earth's surface are classified as Grubbing for the purposes of this Chapter.
- c. Clearing proposed on a grading plan can be permitted with a valid Grading Permit.
- d. Clearing is proposed in advance of, or in the absence of, an approved Grading Permit may at the discretion of the Administrative Authority be approved via a Landscape Permit.

(2) **Grubbing.**

- a. Grubbing resulting in land disturbance of 10,000 square feet or more shall require a Grading Permit unless otherwise allowed by the Administrative Authority based upon site specifics including but not limited to the potential risk to storm water quality.
- b. At the discretion of the Administrative Authority, the Permittee may pursue a separate grading permit for the exclusive purpose of clearing and/or grubbing. The Clearing and Grubbing Plan shall outline the methods and equipment to be used in clearing, grubbing, storing, and disposing of the cleared vegetation.

- (3) **Prior Approvals.** Clearing and/or Grubbing of vegetation in preparation for land development shall not be undertaken until any applicable discretionary approvals, any applicable permits from resource and/or other outside agencies, and/or any applicable grading permit from the Administrative Authority have been obtained. The Administrative Authority may require supporting evidence of approval from applicable resource and/or other outside agencies.

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- (4) **Routine Landscape Maintenance.** This Section shall not prohibit routine landscape maintenance, the removal of dead or diseased trees, shrubs or groundcover, or the removal of vegetation upon the order of the Fire Marshal in order to eliminate a potential fire hazard, or for the abatement of weeds.
- (b) **Clearing and Grubbing for Agricultural Activities.** No person shall undertake any Grading, Clearing, or Grubbing operations on previously undisturbed land, land covered by native vegetation, or upon land that has not been used for agricultural purposes for five years immediately prior to the institution of the grading operation for the purpose of conducting agricultural activities, unless a permit therefore has been issued by the Administrative Authority and/or by any applicable regulatory agency. A permit may be issued if it is determined by the issuing agency that the agricultural operation will not cause damage to any environmentally sensitive areas and not cause the elimination of any significant wildlife habitat or riparian area. In order to prevent erosion and protect sensitive lands, a grading permit issued in accordance with the provisions of this Chapter is required for any agricultural grading. However, for agricultural grading of land which has been previously graded and used for agricultural purposes for five years the Administrative Authority may waive the requirement for a permit.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.090 Graded Height and Maximum Height of a Manufactured Slope.**

- (a) **Definitions.** The following definitions apply to this Section:

**Approved Grade** means the vertical elevation of the earth surface created by one or more of the human acts above under a Grading permit that is issued in conformance with this Chapter and that complies with all applicable provisions of this Code at the time of performance of the work.

**Contour Graded** means graded to avoid manufactured-looking rectilinearly graded shapes; to utilize rounded and non-angular contours; to incorporate undulating slopes by varying in the slope ratio (for example, varying from 4:1 horizontal to vertical to 2:1 horizontal to vertical); and to create an appearance more closely matching natural slopes. Graded slopes should be contoured by varying slope increments and undulating banks vertically and horizontally.

**Graded Height** at any point disturbed or proposed to be disturbed by grading means the maximum vertical difference between Finish Grade and either Natural Grade or Approved Grade, whichever results in a greater dimension.

**Maximum Height of Manufactured Slope** applies to both cut and fill and means the maximum vertical dimension measured from the top of a slope, earth-retaining structure, or other vertical element to the toe at the Finish Grade. Maximum Height of a Manufactured Slope shall exclude the Graded Height of any relatively level areas sloped less than 5:1 horizontal to vertical. The Maximum Height dimension shall include the entirety of the combination of vertical elements, including all terraces, benches, earth-retaining structures, retaining walls, berms, and features contributing to the overall difference in vertical dimension. However, vertical elements separated by a building pad complying with all provisions of this Code shall be considered as separate vertical features, each requiring an individual maximum height calculation.

**Natural Grade** means the vertical elevation of the earth surface created by natural geologic events and unaffected by human acts such as cutting, filling, building, landscaping, or agricultural practices.

- (b) **Maximum Height of Manufactured Slope Exceeding 15 Feet.** Where the Maximum Height of Manufactured Slope will exceed fifteen feet, the Administrative Authority shall document compliance with the requirements below.

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A Maximum Height of Manufactured Slope exceeding 20 feet is discouraged. The Maximum Height of a Manufactured Slope may be allowed to exceed 20 feet only at the discretion of the Administrative Authority, and if so allowed, the Slope shall comply with all of the criteria below.

- (1) The Slopes, as proposed, shall not be materially detrimental to the public health, safety, or welfare, or injurious to property or improvements within the vicinity;
  - (2) The Slope shall not adversely affect the implementation of the General Plan;
  - (3) The Administrative Authority shall find that the Slope is needed given the existing characteristics of the site, and that alternatives to efficiently develop the site without use of said slopes are infeasible;
  - (4) Project Grading and site development shall maximize the clearance from, and shall leave intact, prominent topographic features;
  - (5) The Slope shall be primarily internal to the site, and/or views of the Slope shall be limited from the public street, other Public Places, and adjacent properties in the determination of the Administrative Authority. The Administrative Authority may in their sole discretion require a visual simulation to analyze visual impacts and determine compliance;
  - (6) The Slope, including the entirety of the combination of vertical elements, shall be screened by landscaping, land forms, and/or other appropriate elements to the satisfaction of the Administrative Authority;
  - (7) The Geotechnical Engineer shall certify that the Slope as proposed meets required factors of safety for Surficial and deep-seated Stability and does not pose a risk to public or private property from loose or erodible materials;
  - (8) Landscape irrigation lines shall be installed below ground. Where above-ground irrigation is necessary due to Soil constraints, said irrigation facilities shall be adequately screened to blend into the Slope and vegetation;
  - (9) Slopes shall be landscaped with a mixture of trees, shrubs, and ground cover meeting the requirements of Section 17.32.170, Title 19, and Title 20 of this Code. Hydroseeding may be an acceptable alternative for single-family residences on one lot, with approval by the Administrative Authority. In areas of native vegetation, the plant palette shall consist of plant types that are similar in kind and in appearance to the surrounding native plants;
  - (10) Berms shall be used at the top of Slopes and other locations to screen, vary profile, and ensure drainage away from Slopes;
  - (11) Mulch, hydro mulch, and other suitable materials for reducing surface erosion and supporting the growth of landscaping shall be installed where necessary based upon the underlying substrate;
  - (12) Drainage terraces shall be provided mid-Slope. Such terraces shall be at least six feet wide for privately maintained terraces and a minimum ten feet wide for publicly maintained terraces, and shall conform to City standards. Cut and fill banks and drainage terrace spacing shall be varied to alleviate monotony and allow variation in landscaping;
  - (13) No hard edge or angle transitions shall be proposed. Cut and fill Slopes shall be placed, shaped, and contoured to be compatible with and blend into the existing natural topographic form;
  - (14) The Slope shall be Contour Graded and shall appear on the grading plan as convex and concave forms when viewed from the side (in cross section) and from above (in plan view).
- (c) **Cut Slopes in Rock.** Cut Slopes in rock and not reliant upon any stabilization method shall not be required to comply with the provisions of items (b)(9) through (b)(14) above. Cut slopes in rock at or exceeding a

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Maximum Height of fifteen feet shall comply with the applicable portions of item (b) above as well as the following:

- (1) Cutting in rock areas shall be performed in a manner so as to achieve an irregular form that blends into the existing topography.
- (2) Freshly broken faces shall be toned with asphalt emulsion spray or appropriately colored paint or other pigmentation to the satisfaction of the Administrative Authority.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.100 Fills.**

- (a) **Applicability.** Unless otherwise recommended in the Geotechnical Report and approved by the Administrative Authority, fill grading shall conform to the provisions of Section 300-4 of the Standard Specifications for Public Works Construction (Greenbook) and the City of San Marcos Special Provisions.

If a Geotechnical Report is not otherwise required by this Code or by the Administrative Authority, the Administrative Authority may waive the provisions in this Section.

- (b) **Fill location.** Fill Slopes shall not be constructed on natural Slopes steeper than three horizontal to one vertical (3:1).

Fill placement in Zones A and B shall comply with Figure 1.

**Zone A.** Zone A shall consist of compacted Soil only (no rock fragments over 12 inches in maximum dimension), must be in conformance with Section 300-4 of the Standard Specifications for Public Works Construction (Greenbook), and shall contain at least 40 percent Soil sizes passing the one-fourth-inch sieve.

Zone A shall extend horizontally fifteen feet from face of slope and vertically a minimum of five feet from Finished Grade. In public rights-of-way and easements, Zone A shall be ten feet minimum and must extend three feet below the deepest utility, whichever is greater.

**Zone B.** Oversize rocks greater than two feet in minimum dimension must be windrowed. Rocks shall be placed in excavations in well compacted Soil conforming to Zone A. Approved granular Soil (SE greater than 30) must be flooded in the windrows to completely fill the voids around and beneath rocks. All windrows must be parallel and may be placed either parallel or perpendicular to face of slope depending on site geometry. All rock placement, fill placement, and flooding of approved granular fill must be continuously observed by the Geotechnical Engineer.

- (b) **Preparation of Ground.** The ground surface shall be prepared to receive Fill by removing vegetation, noncomplying Fill, topsoil, and other unsuitable materials, and by scarifying to provide a bond with the new fill.

Where Slopes are steeper than five horizontal to one vertical and the height is greater than five feet, the Slope shall be prepared by benching into sound Bedrock or other competent material as determined by the Geotechnical Engineer. The bench under the toe of fill on a slope steeper than five horizontal to one vertical shall be at least ten feet wide. The area beyond the toe of fill shall be sloped for sheet overflow, or a paved drain shall be provided.

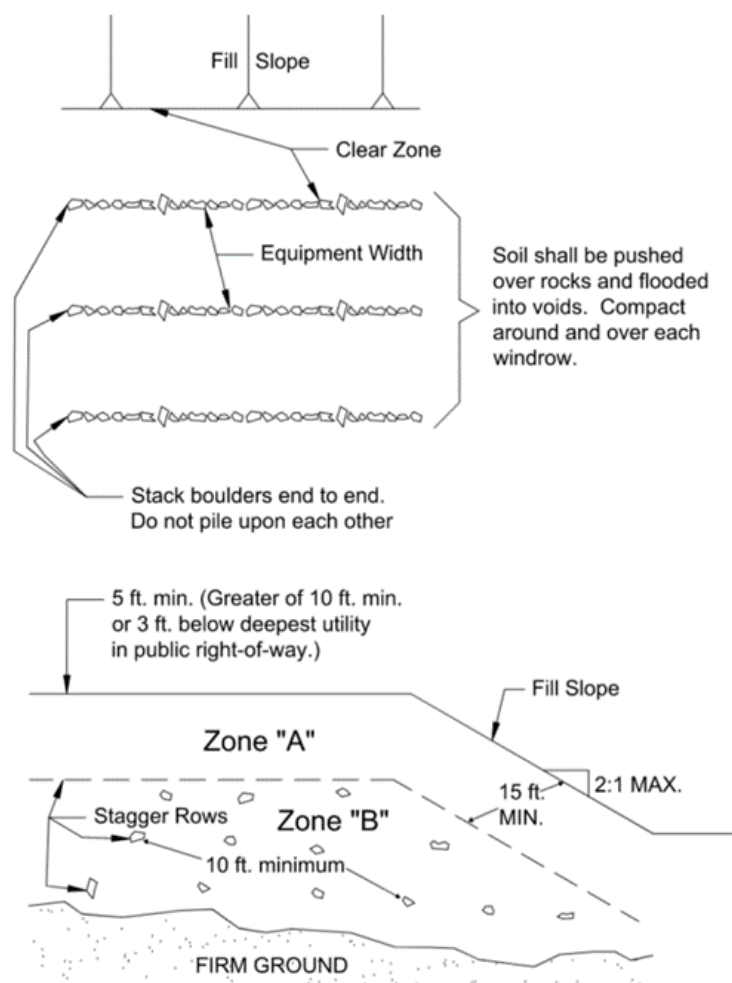
Where fill is to be placed over a cut, the cut shall be approved as suitable by the Geotechnical Engineer and Engineering Geologist prior to fill placement. Suitable Soil is Soil which, in the opinion of the Geotechnical Engineer, Engineering Geologist, and accepted by the Administrative Authority, is competent to support other Soil or Fill, to support structures, and to satisfactorily perform the other functions for which the Soil is intended.

- (d) **Fill Material.** Detrimental amounts of organic material shall not be permitted in Fills. Except as permitted by the Administrative Authority, no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in Fills.

**EXCEPTION:** The Administrative Authority may permit placement of larger rock when the rock disposal areas are delineated on the grading plan complying with the Zone B criteria.

- (e) **Expansive Soils.** Expansive Soil shall not be placed within four feet of Finish Grade in areas intended or designed to support buildings, unless design considerations are specifically addressed in the Geotechnical Report and approved by the Administrative Authority.
- (f) **Compaction.** All Fills shall be compacted to a minimum of 90 percent of maximum density as determined by ASTM D1557. Field density shall be determined in accordance with ASTM D1556 or equivalent as approved by the Administrative Authority.
- (g) **Slope.** The Slope of Fill surfaces shall be no steeper than is safe for the intended use. Fill Slopes shall be no steeper than two horizontal to one vertical.

Figure 1: Placement of Oversized Rock



(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### 17.32.105 Retaining Walls.

Subject to the applicability below, the following items shall be provided with the Grading permit for proposed retaining wall construction:

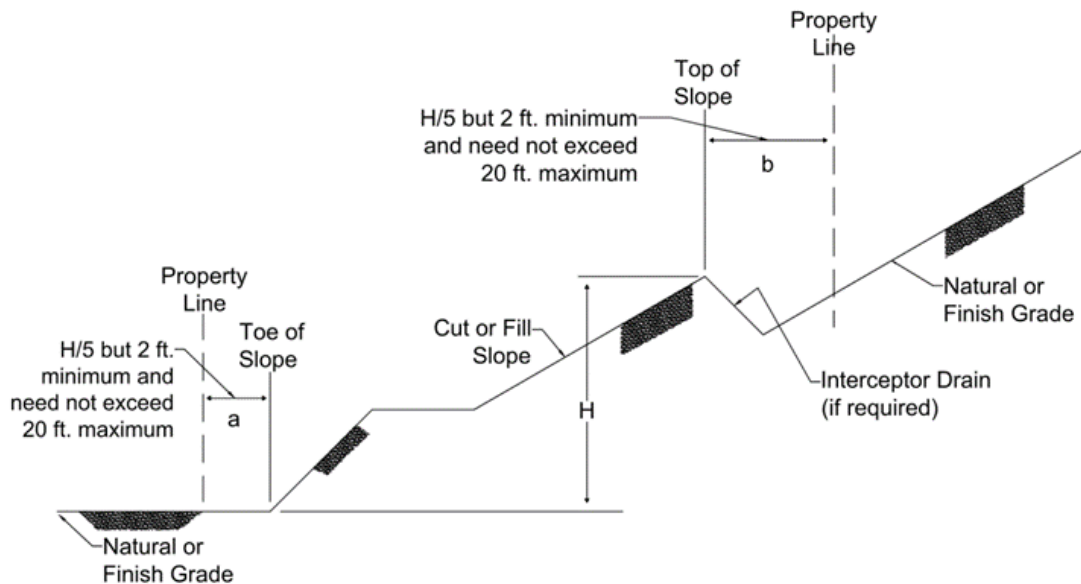
- (a) **Applicability.** Retaining walls require a Grading permit, with the following exceptions:
  - (1) Walls less than three feet in height as measured from top of footing to top of wall.
  - (2) Walls permitted under a Building Permit from the Administrative Authority.
- (b) **Structural Calculations.** Design calculations and construction drawings, prepared by a qualified engineer registered in California, must be submitted for all proposed walls, with the exception noted in (1) below. The Geotechnical Engineer is required to provide the specific recommendations noted below.
  - (1) **Exception.** Walls designed in strict conformance with the current San Diego Regional Standard Drawings ("SDRSD") may be constructed per the SDRSD without calculations, provided that drainage provisions to the satisfaction of the Administrative Authority are made.
  - (2) **Soil Parameters,** including specific recommendations and design parameters for on-site Soils and/or import material and for retained, reinforced, and foundation Soils. Any imported Soils must be tested and certified by the Soils Engineer as suitable for the specific application.
  - (3) **Design calculations** based on the design parameters provided by the Soils Engineer, with minimum factors of safety for the wall design as established by the Administrative Authority.
- (c) **Drainage Facilities** satisfactory to the Administrative Authority, shall be provided for all walls over three feet in height. The following criteria shall be observed:
  - (1) For all SDRSD-based and similar custom-designed walls, the drainage system shall include continuous vertical and horizontal drains with filter protection leading to an approved outlet.
  - (2) Segmented wall designs shall include permanent drainage interceptors above the wall to ensure that projected 100-year flows are diverted entirely away from the wall and carried to an approved outlet.
  - (3) Segmented wall designs shall be prepared in accordance with specific recommendations from the Soils Engineer regarding drainage behind and through the wall system. The design must provide features adequate to avoid buildup of hydraulic pressure in the Soil behind the wall and to prevent migration of fine material from the backfill.
- (d) **Visual Simulations** shall be required at the discretion of the Administrative Authority. Additionally, retaining walls exceeding four feet in exposed wall face shall be earth-tone colored and textured to provide a natural appearance, or as otherwise required by the Administrative Authority.
- (e) **Engineer of Record Certification** in writing that states, with no disclaimer, that the Engineer of Record has reviewed the calculations, concurs with and approves the design and calculations, and is satisfied that the design meets all applicable standards.
- (f) **Certification Prior to Acceptance.** Upon completion of the wall, and before reliance on any wall for issuance of a Building Permit, the Engineer of Record and Soils Engineer of Record shall submit certification to the City stating that the wall has been constructed in accordance with this Code, the minimum requirements of the manufacturer, the design plans, and specifications as approved by the City, and their recommendations.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### 17.32.110 Setbacks.

- (a) **General.** The setbacks and other restrictions specified by this Section are minimum and may be increased by the Administrative Authority or by the written recommendation of the Engineer of Record, Geotechnical Engineer, or Engineering Geologist for safety and stability, to prevent damage to adjacent properties from deposition or erosion, or to provide access for Slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the Administrative Authority.
- (b) **Setbacks from Property Lines.** The top of cut Slopes and toe of Fill Slopes shall be set back from buildings and from the property line, public right-of-way, and easement boundaries, in accordance with Figure No. 2. The public right-of-way or public easement along the property frontage shall be graded at one percent - two percent, unless otherwise allowed by the Administrative Authority.
- (c) **Foundation Setbacks from Slopes.** Setbacks between graded (Cut or Fill) Slopes and structures shall be provided in accordance with Figure No. 3.
- (d) **Lot Line Locations.** Unless extreme conditions of topography prevail, subdivisions shall be designed so that all lot lines shall be located at the top of Slope.
- (e) **Permission from Adjacent Properties.** A letter of permission from the affected property owners shall be provided to the Administrative Authority prior to permit issuance for Grading proposed directly adjacent to the property line and for work that encroaches onto, or will result in disturbance to, an adjacent property.

Figure 2: Slope Setbacks

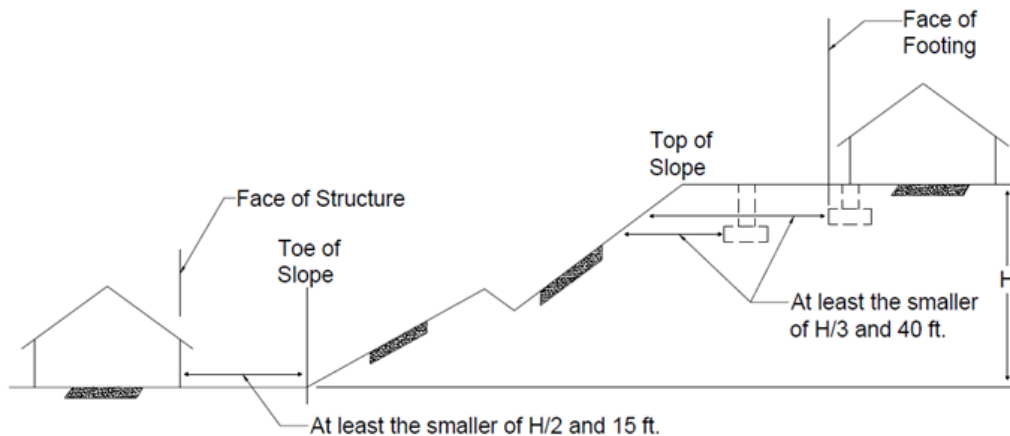


Height H (feet)	Required Setback (feet)	
	Setback from Toe (a)	Setback from Top (b)*
Under 5	0	1
5—30	H/2	H/5
Over 30	15	6

;adv=6; \* Additional width may be required for an interceptor drain



Figure 3: Foundation Clearances from Slopes



(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### 17.32.120 Terracing and Drainage.

- (a) **Applicability.** Unless otherwise approved by the Administrative Authority, drainage facilities and Slope terracing shall conform to the provisions of this Section.
- (b) **Terraces.**
- (1) Terraces shall be provided as required by this Chapter when the Maximum Height of Manufactured Slopes exceeds 15 and 20 feet, respectively, as described below.
  - (2) Terraces not less than six feet in width shall be established at not more than 30-foot vertical intervals on all Cut or Fill Slopes to control surface drainage and debris. Suitable access shall be provided to allow for cleaning and maintenance.
  - (3) Where more than two terraces are required, one terrace, located at approximately mid-height, shall be not less than 12 feet in width.
  - (4) Publicly maintained terraces shall be not less than ten feet wide. Landscaped Slopes to be publicly maintained may be required to have one or more ten-foot wide Benches, as deemed necessary by the Administrative Authority, to provide access for maintenance.
- (c) **Terrace Drainage.** Swales or ditches shall be provided on terraces. They shall be paved with concrete not less than three inches in thickness, or with other materials suitable to the application. They shall have a depth not less than 12 inches and a width not less than five feet.
- A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected area) without discharging into a down drain.
- (d) **Subsurface Drainage.** Cut and Fill Slopes shall be provided with subsurface drainage as necessary for stability.
- (e) **Disposal of Storm Water.** All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the Administrative Authority and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of non-erosive down-drains, rip-rap, or other devices.

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Building pads shall have a drainage gradient of two percent toward approved drainage facilities. The gradient from the building pad may be one percent if all of the following conditions exist throughout the permit area:

- (1) No proposed Fills are greater than ten feet in maximum depth.
  - (2) No proposed finish Cut or Fill Slope faces have a vertical height in excess of ten feet.
- (f) **Pad Drainage.** The ground immediately adjacent to the foundation shall be sloped away from the building at a Slope of not less than five percent for a minimum distance of ten feet measured perpendicular to the face of the wall. If physical obstructions or lot lines prohibit ten feet of horizontal distance, a five percent Slope shall be provided to an approved alternative method of diverting water away from the foundation. Swales used for this purpose shall be sloped not less than two percent where located within ten feet of the building foundation. Impervious surfaces within ten feet of the building foundation shall be sloped not less than two percent away from the building.

Exceptions apply:

- (1) Where climatic or Soil conditions warrant, the slope of the ground away from the building foundation shall be permitted to be reduced to not less than a two-percent slope.
- (2) Impervious surfaces shall be permitted to be sloped less than two percent where the surface is a door landing or ramp that is required to comply with California Building Code.

The procedure used to establish the final ground level adjacent to the foundation shall account for additional settlement of the backfill.

- (g) **Cross-Lot Drainage.** Drainage across property lines shall not exceed that which existed prior to Grading. Excess or concentrated drainage shall be contained on site or directed to an approved drainage facility. Erosion of the ground in the area of discharge shall be prevented by installation of non-erosive down drains or other devices with similar effect. A hold harmless agreement in a form acceptable to the Administrative Authority shall be required prior to Grading permit issuance for the proposed perpetuation of existing Cross-Lot Drainage.
- (h) **Interceptor Drains.** Interceptor drains shall be installed along the top of Cut Slopes receiving drainage from a tributary width greater than 40 feet measured horizontally. They shall have a minimum depth of one foot and a minimum width of three feet. The Slope shall be approved by the Administrative Authority, but shall be not less than a two-percent Slope. The drain shall be paved with concrete not less than three inches in thickness, or by other materials suitable to the application, and shall conform to the San Diego Regional Standard Drawings. Discharge from the drain shall be accomplished in a manner to prevent erosion and shall be approved by the Administrative Authority.
- (i) **Drainage Easements.**
- (1) **Private Easements.** A private drainage easement at least ten feet wide shall be required for the construction and maintenance of any drainage facility essential to the protection, use, and benefit of another property under different ownership. The easement recorded shall be recorded against the dominant and servient properties to record the rights of the dominant tenement; to record the obligation of the servient tenement; and to appear on title as a matter of record for each parcel. Where the dominant and servient properties are under the same ownership, a covenant shall be recorded providing for the easement to be granted concurrent with transfer of title of either property. Allocation of maintenance responsibilities and related costs shall be clearly delineated in the easement or covenant for easement. The easement or covenant for easement shall be recorded prior to issuance of a Grading permit, unless otherwise allowed by the Administrative Authority.
  - (2) **Public Easements.** A public drainage easement shall be granted to the City providing continuous maintenance access to any drainage facilities to be publicly maintained. The width of the public drainage easement shall be 20 feet or more based upon the depth of cover criteria as set forth by the

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Administrative Authority. Said easement, including easements for access to drainage easements, shall be improved, fenced, and marked with survey monuments as may be required by the Administrative Authority. The easement shall be recorded prior to issuance of any Grading or improvement permit, unless otherwise allowed by the Administrative Authority.

- (j) **Improvement Plans.** Improvement plans shall be prepared to the satisfaction of the Administrative Authority for construction of public drainage systems as defined above. Fees for plan check and inspection shall be in accordance with current Administrative Authority fee schedules.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.130 Interim Erosion Control.**

- (a) **Interim Erosion Control Requirements.** Interim erosion control plans shall be submitted as part of the grading plans. For bonding purposes, an estimate of the cost of implementing and maintaining all interim erosion and sediment control measures must be submitted in a form acceptable to the Administrative Authority. The Erosion Control Plan prepared by the Engineer of Record shall address mitigation of erosion during any ground-disturbing activity, including all of the following key requirements:
- (1) **Reduce Erodible Soil Exposure** in the event of rain including, but not limited to, a phased grading schedule, consultation with the National Weather Service to determine the forecast during the wet season, and plans to have erosion control measures in place on the site no later than 24 hours prior to the forecasted rain event.
  - (2) **Erosion Control Measures** including, but not limited to, geotextile material, mats, bonded fiber matrix, hydroseeding, vegetation stabilization, preservation of existing vegetation on site, seeding and planting of ground cover, permanent landscaping, and supporting irrigation.
  - (3) **Flow Control Measures** including, but not limited to, gravel bag dikes, fiber rolls, use of stabilized earth to reduce flow velocity and trap sediments, and energy dissipaters.
  - (4) **Diversion of Runoff and Nuisance Flow** around the areas subject to construction, including but not limited to redirection of runoff away from the construction area, conveyance of concentrated flows via lined ditches or pipes, redirection of flows directed away from top of slope, and conveyance over slopes via pipes and lined ditches.
  - (5) **Sediment Control Devices** including, but not limited to, check dams, protection at storm drain inlets, silt fences, gravel bags, berms, fiber rolls, desilting and sediment basins, street sweeping, and stabilized construction entrances.
  - (6) **Confirmation of Coverage** under the current State of California Construction General Permit.
  - (7) **Management of Waste** including, but not limited to, inclusion of a 24-hour emergency contact plan, spill prevention and control, solid waste management, hazardous waste management, liquid waste management, concrete wash outs, and storage of minimum quantities of material on site for spill control.
  - (8) **Any Additional Measures** as required by the Administrative Authority to temporarily stabilize and reseed disturbed Soil areas to protect water quality.
- (b) **Information on Interim Erosion Control Plan.** The plan shall include:
- (1) **Contact Information** including the 24-hour telephone number of the person responsible for performing emergency erosion control work.
  - (2) **Signature and Seal** of the licensed professional who prepared the erosion control plan.

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- (3) All temporary and permanent desilting, sediment control, and erosion protection structures, devices, and facilities necessary to protect drainage ways, storm drain systems, streets, and adjacent property from sediment deposition.
  - (4) The proposed streets and drainage devices and a schedule for their completion.
  - (5) **Access Plan** showing how access will be provided to maintain erosion control facilities during wet weather.
  - (6) **Phasing.** The erosion control provisions shall take into account drainage patterns during the current and future phases of grading throughout the rainy season
  - (7) **Other Information** as the Administrative Authority deems necessary based upon the scale, location, extent, topography and other matters relating to the grading.
- (c) **Interim Erosion Control Maintenance.** The following minimum erosion control maintenance requirements shall be included in each Interim Erosion Control Plan and are a condition of each Grading permit in addition to any applicable storm water permit requirement:
- (1) Equipment and workers for emergency work shall be made available at all times during the rainy season. Necessary materials shall be available on-site and appropriately stockpiled in compliance with applicable permit requirements at convenient locations to facilitate rapid construction of temporary devices when rain is imminent.
  - (2) All removable protection devices shown shall be in place at the end of each working day when the five day rain probability forecast exceeds 40 percent.
  - (3) Graded areas around the tract perimeter must drain away from the face of Slopes at the conclusion of each working day.
  - (4) After each rainstorm, silt and debris shall be removed from check berms and desilting basins and the basins pumped dry.
  - (5) After each rainstorm, the performance of the erosion control system shall be evaluated and revised and maintained and/or repaired as necessary.
  - (6) Devices shall not be removed or modified without the approval of the Administrative Authority.
  - (7) The Permittee and the Permittee's contractor shall be responsible and shall take necessary precautions to prevent public trespass onto areas where impounded water creates a hazardous condition.
  - (8) Paved streets, sidewalks, and other improvements shall be maintained in a neat and clean condition, free of loose Soil, construction debris, and trash. Street sweeping or other equally effective means shall be used on a regular basis to control erosion. Watering shall not be used to clean streets except for fine material not otherwise removed by sweeping or other mechanical means.
  - (9) The Permittee and the contractor who constructed the erosion control devices shall be responsible for inspection and modification of the devices, as necessary, during the rainy season. The contractor, Permittee, or project owner shall be responsible for continual maintenance of the devices during the rainy season. In the event of failure or refusal by the contractor, Permittee, or project owner to properly maintain the devices, the Administrative Authority may cause emergency maintenance work to be done to protect adjacent private and public property. The cost shall be charged to the owner, and shall include an initial mobilization cost plus the cost of doing the work. In the event the Administrative Authority must cause emergency maintenance work to be done, it may revoke the Grading permit by giving written notice of the revocation to the Permittee. The permit shall not be renewed until an erosion control system approved by the Administrative Authority is installed, and the cost of emergency work is paid to the City by the contractor or other responsible party.

### **17.32.135 Permanent Erosion Control and Structural BMPs.**

- (a) **Permanent Erosion Control Requirements.** Final/permanent erosion control plans shall be submitted as part of the Grading plans. For bonding purposes, an estimate of the cost of implementing and maintaining all permanent erosion and sediment control measures must be submitted in a form acceptable to the Administrative Authority.

All the following information shall be provided by the Engineer of Record pertaining to final site condition after final structures and improvements are constructed:

- (1) Maximum runoff from the site's drainage area shall be calculated using the method approved by the Administrative Authority;
- (2) A description of and specifications for sediment retention devices;
- (3) A description of and specifications for surface runoff and erosion control devices;
- (4) A description of and specifications for the permanent storm water quality devices, including but not limited to, low impact development, site design, source control, and Structural BMPs;
- (5) A description of vegetative measures prepared by a landscape architect;
- (6) A description and illustration of permanent landscape and irrigation for grading of slopes four feet or higher or where erosion potential exists, based upon a review of the plans by the Administrative Authority;
- (7) A description of the maintenance necessary for proper functioning of the storm water runoff and erosion control methods used for the site, a routine maintenance schedule, and names and addresses of the persons who will perform the maintenance in a form acceptable to the Administrative Authority and to be recorded against the property; and
- (8) Reports and documentation containing sizing calculations and specifications for the permanent sediments and erosion control devices, including the Hydrology and Hydraulics Report and the Storm Water Quality Management Plan (SWQMP).

- (b) **Permanent Erosion Control and Structural BMP Maintenance.**

- (1) **Perpetual Maintenance.** Permanent erosion control devices shall be maintained in perpetuity and in accordance with maintenance methods and schedule as approved by the Administrative Authority. Failure to perform maintenance in perpetuity is a violation of this Chapter and Chapter 14.15 of this Code and will be subject to the violations and penalties specified in Section 17.32.200 of this Chapter.
- (2) **Maintenance Agreement.** An agreement in a form acceptable to the City Attorney shall be recorded against the affected property to provide for the operation, maintenance, repair, and replacement of the Structural BMPs into perpetuity. Said agreement shall provide for the minimum maintenance frequency and procedures for the standard maintenance of the Structural BMPs.
- (3) **Easements.** Where the Structural BMPs will be located on the private property, easements shall be provided as required by the Administrative Authority to provide for perpetual access, maintenance, repair, and replacement of the Structural BMPs.
- (4) **Irrevocable Offers of Dedication.** When the City requires an Irrevocable Offer of Dedication to provide for the future public maintenance of a Structural BMP, the Structural BMPs shall be privately maintained until such future time as the City may elect to accept the Offer of Dedication and affirmatively assume public maintenance.

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- (c) **Structural BMP Certification.** The Self-Certification of the Engineer of Record for all Structural BMPs shall be provided in accordance with Section 17.32.160 of this Chapter.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.140 Course of Work and Grading Inspection.**

(a) **Responsibilities at Grading Inspection—Administrative Authority.**

- (1) Prior to the approval of any building or Grading plans and specifications, the Administrative Authority may inspect the site to determine that the plans and specifications are current and reflect existing conditions.
- (2) All Grading operations for which a permit is required shall be subject to inspection by the Administrative Authority. When required by the Administrative Authority, special inspection of Grading operations and special testing shall be performed in accordance with the provisions of Chapter 17 of the California Building Code and progress reports shall be submitted to the Administrative Authority.
- (3) The Administrative Authority shall inspect the project at the various stages of the work requiring approval and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.
- (4) The Administrative Authority will require testing and may require inspection and testing by an approved testing agency. The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.
- (5) Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the Administrative Authority may require by written notice, that such work be exposed for examination. The work of exposing and recovering shall not entail or be subject to expense by the City.

(b) **Responsibilities at Grading Inspection—Engineer of Record.**

- (1) The Engineer of Record shall be responsible for the professional inspection and approval of the grading within their area of technical specialty. This responsibility shall include, but need not be limited to, all surveying work, inspection, and approval as to the establishment of line, grade, and drainage facilities. The Engineer of Record shall inspect the site to ensure that the embankment and cut slopes are placed at proper line and grade.
- (2) The Engineer of Record shall act as the coordinating agent in the event the need arises for liaison between the other professionals, utilities, the contractor, and the Administrative Authority.

(c) **Responsibilities at Grading Inspection—Geotechnical Engineer.**

- (1) The Geotechnical Engineer shall be responsible for the professional inspection and approval concerning the preparation of ground to receive fill, compaction testing, final slope stability, sub drain and wall drain installation, design of buttress fills, and incorporation of data supplied by the Engineering Geologist.
- (2) The Geotechnical Engineer and the Engineering Geologist shall submit to the Engineer of Record and the Administrative Authority Geotechnical reports as specified in Section 17.32.040 of this Chapter, including compaction data and Soil Engineering and Engineering Geology recommendations.

(d) **Responsibilities at Grading Inspection—Engineering Geologist.**

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- (1) The Engineering Geologist shall inspect unsuitable Soil removal, placement of subdrains, and preparation of benching prior to placement of fill.
  - (2) The Engineering Geologist's area of responsibility shall include, but need not be limited to, professional inspection and written approval of the adequacy of natural ground for receiving fills, the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. The engineering geologist shall report professional findings to the Soils Engineer and the Civil Engineer of Record for engineering analysis.
- (e) **Responsibilities at Grading Inspection—Landscape Architect.**
- (1) All landscaping work shall be designed under the supervision of a Landscape Architect.
  - (2) The Landscape Architect shall be responsible for all inspections to ensure conformance with the plans. However, a Registered Civil Engineer or Registered Architect, at the discretion of the Administrative Authority, may be responsible for the inspection of all landscaping and irrigation required per the grading permit and plans in conjunction with a project they have been contracted to do.
  - (3) The Landscape Architect shall certify the proper installation of the site irrigation; all irrigation systems shall be pressure tested prior to backfilling and after completion.
- (f) **Notification of Noncompliance.**
- (1) If the Engineer of Record, Engineering Geologist, or Geotechnical Engineer finds that the permit work is not being done in conformance with this Chapter or the plans approved by the Administrative Authority, or in accordance with acceptable practices, they shall immediately notify in writing the person in charge of the Grading work and the Administrative Authority of the nonconformity and of the corrective measures to be taken.
  - (2) Whenever the Administrative Authority finds the Soil or other conditions not as stated in the approved plans, reports, or accompanying information required for issuance of the grading permit, the Administrative Authority may, using reasonable judgment, refuse to allow further work until approval is obtained for a revised Grading plan which will conform to the conditions. Likewise, whenever the Administrative Authority determines that any work does not comply with the terms of a permit, or this Chapter, the Administrative Authority may refuse to allow further work until such noncompliance is satisfactorily remedied. In either case, the Administrative Authority may order the work stopped by notice in writing served on any persons engaged in doing such work or causing such work to be done, and any such persons shall stop such work until authorized by the Administrative Authority to proceed with the work.
- (g) **Transfer of Professional Responsibility.** If the Engineer of Record, Geotechnical Engineer, Engineering Geologist, Landscape Architect, the testing agency, or the Grading contractor of record are changed during the course of the work, the work shall be stopped until the requirements below are met to the satisfaction of the Administrative Authority. All exceptions to requirements below must be approved by the Administrative Authority.
- (1) The owner submits a letter of notification verifying the change of the responsible professional; and
  - (2) The new responsible professional submits in writing that they have reviewed all prior reports and/or plans (specified by date and title) and work performed by the prior responsible professional, concur with the findings, conclusions, and recommendations, and are satisfied with the work performed. The new responsible professional must state the date upon which the assumption of all responsibility within their area of technical competence is to be effective.
- Where clearly indicated that the firm, not the individual professional, is the contracting party, the designated engineer, architect or geologist may be reassigned and another individual of comparable

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professional accreditation within the firm may assume responsibility, without complying with the requirements of paragraphs (g)(1) and (g)(2) above.

- (3) The prior professional of record provides a release of responsibility in writing.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.160 Completion of Work, Release of Security, and Issuance of Building Permits.**

(a) **Key Stages of Work Completion.**

- (1) **Rough Grade.** When all rough Grading has been completed. Under normal circumstances, all subdrains and Slope drains shall be in place and approved as a condition for rough Grading approval. Rough grades shall be within 0.2 feet of finish grades.
- (2) **Final.** After all work, including installation of all drainage structures and other protective devices, has been completed and all written professional approvals and the required reports have been submitted. An as-built plan will be required to document any changes made to the project in the field.

- (b) **Notification of Completion.** The Permittee or their agent shall notify the Administrative Authority when the grading operation is ready for rough grade inspection or final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed in accordance with the City final approved grading plan and the required reports have been submitted.

- (c) **Requests for Release of Security.** The Permittee or their agent shall notify the Administrative Authority in writing to initiate the release of securities when work is complete and all required reports, written certifications, drawings, and supplements thereto have been accepted by the Administrative Authority.

- (d) **Final Reports.** Upon completion of the rough Grading work and at the final completion of the work the Administrative Authority may require the following reports, written certifications, drawings, and supplements thereto. All required reports, written certifications, drawings, and supplements shall be provided and accepted by the Administrative Authority prior to release of security or issuance of building permits, unless otherwise allowed by the Administrative Authority.

(1) **Responsibilities Upon Completion of Work—Engineer of Record.**

- a. **As-Graded Grading plan** prepared by the Engineer of Record including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. They shall provide certification that the work was done in accordance with the final approved grading plan. The Engineer of Record also shall be responsible for the preparation of revised plans and the submission of as-graded Grading plans upon completion of the work. The Grading contractor shall submit in a form prescribed by the Administrative Authority a statement of compliance to said as-built plan.
- b. **Grading Certification.** The Engineer of Record shall provide a written statement that in their professional opinion, all work incorporated in the grading and drainage plans and authorized under the grading permit, including grading, drainage, and construction of appurtenant structures, has been completed to the lines and grades in substantial conformance with the approved plans, or any approved revisions thereto.
- c. **Structural BMP Self-Certification Package.** The Engineer of Record shall provide a written certification in a form acceptable to the Administrative Authority documenting the appropriate design, installation, testing, and function of any required Structural BMPs. At a minimum, the certification package shall include the following:



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1. A statement that Structural BMPs have been installed as per the approved Grading plan and any modifications thereto approved by the Administrative Authority;
  2. A statement that all modifications to the Structural BMPs have been reflected on the Administrative Authority's record plan set;
  3. Delineation of any and all modifications to the Structural BMPs approved by the Administrative Authority since the time of Permit issuance and an explanation of the site conditions and/or the justification for each modification;
  4. Final calculations documenting compliance with the current order from the RWQCB;
  5. Engineer of Record's inspection reports and notes, photographic documentation, or other evidence in a form acceptable to the Administrative Authority documenting correct and complete construction of the Structural BMPs, particularly sub-surface features and appurtenant drainage facilities;
  6. A statement that all Structural BMP facilities and appurtenances have been cleared of any and all construction-related debris, including sediment;
  7. A statement that all Structural BMP facilities and appurtenances have been tested and that the Engineer of Record has verified appropriate function consistent with the submitted calculations and with the current order from the RWQCB;
  8. The signature and seal of the Engineer of Record;
  9. Supplemental information, calculations, covenants, maintenance documents, and certifications as may be required by the Administrative Authority.
- (2) **Responsibilities Upon Completion of Work—Geotechnical Engineer.**
- a. **As-Graded Geotechnical Report** prepared by the Geotechnical Engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data. Such report shall detail changes made during grading and their effect on the recommendations made in the geotechnical engineering investigation report.
  - b. **Approval of Adequacy of the Site** for the intended use.
  - c. **Written Statement** that in their professional opinion, all work incorporated in the Grading plan authorized under the permit and soils/compaction report has been constructed in accordance with the approved plans and any approved revisions thereto.
- (3) **Responsibilities Upon Completion of Work—Engineering Geologist.**
- a. **Geologic Grading Report** prepared by the Engineering Geologist, including final description of the geology of the site including any new information disclosed during the Grading and the effect of same on recommendations incorporated in the approved Grading plan.
  - b. **Approval of Adequacy of the Site** for the intended use as affected by geologic factors.
- (4) **Responsibilities Upon Completion of Work—Landscape Architect.**
- a. The Landscape Architect, Civil Engineer, or Architect professionally responsible for the inspection of all landscaping and irrigation required as per the grading permit and plans shall provide a written statement that in their professional opinion, all work incorporated in the landscape and irrigation plans authorized under the permit has been constructed in accordance with the approved plans and any approved revisions thereto; that the contractor's work is in conformance with the landscape plans; and that all individual plants show vigorous established growth typical of their species.
  - b. The Landscape Architect shall provide a written statement to the Administrative Authority that all irrigation systems were pressure tested prior to backfilling and after completion and shall show evidence of proper functioning prior to acceptance by the City. Such systems shall not be accepted by the City until plant growth is established and maintenance responsibilities have been accepted by the appropriate party.
- (5) **Certification of Slope Stabilization** shall be made by the Geotechnical Engineer or Landscape Architect, when required by the Administrative Authority. Where necessary due to factors beyond the control of

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the developer, temporary postponement of the installation of a Slope stabilization may be permitted by the Administrative Authority as an exception to the above required certification provided that a secured agreement or other assurance acceptable to the City assuring repair of slopes and related damage, and installation of stabilization work within a satisfactory specified time is first executed by the Permittee.

(e) **Requirements Prior to Building Permits.** Prior to the issuance of building permits for any given lot or lots, the following are required:

- (1) **Responsibilities Prior to Building Permit Issuance: Engineer of Record** shall submit a statement as evidence that rough Grading has been completed within standard tolerance in accordance with the approved plans, and that all embankments, cut Slopes, and pad sizing are as shown on the approved plans.
- (2) **Responsibilities Prior to Building Permit Issuance: Geotechnical Engineer** shall submit a statement that all fills, under their direction, have been compacted to at least 90 percent maximum density, and all street and parking lot base courses have been compacted to at least 95 percent maximum density.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.170 Landscape and Irrigation Plan.**

The Landscape and Irrigation Plan required by this Section shall include landscaping, permanent erosion control, slope plantings, water quality landscaping, and irrigation facilities, and shall be prepared by a Landscape Architect or by a qualified landscape company when approved the Administrative Authority.

- (a) **Single-Family Homes on Individual Lots.** The construction of a single-family home on an individual lot without graded Slopes may not require the submission of a separate landscape plan unless specific landscape requirements were made as a condition of approval and/or a separate landscape plan is otherwise required by the Administrative Authority.

Notwithstanding the above, single-family units must still conform to all applicable Sections of the City Code and Ordinances pertaining to landscaping prior to occupancy, including Water Efficient Landscape Standards as per Title 20 of this Code. The landscaper should refer to the provisions of this Code relating to Zoning and Subdivisions Titles for additional requirements which may apply.

- (b) **Landscape Plans** shall be required for, but not limited to the following development:

- (1) Commercial;
- (2) Grading Permits;
- (3) Grading Slopes;
- (4) Industrial;
- (5) Parking Lots;
- (6) Multi-Family Residential Developments;
- (7) Remodeling which requires a permit, except for remodels meeting the definition in subsection (a) above;
- (8) Single-Family Residential Subdivisions.

- (c) The plan shall conform to good, accepted standard procedures and requirements with special consideration for Soil conditions encountered within the project area. The plan shall include detailed specifications for the preparation of the existing soils or for the application of topsoil to the slopes to encourage vigorous growth.

- (d) **Landscape Guidelines and Standards.** Permits issued pursuant to this Chapter shall comply with the provisions of the City's Landscape Design Standards, Standard Drawings, Special Provisions, Approved

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Materials, and Tree List, and other applicable guidelines and standards as established by the Administrative Authority.

- (e) **Slopes.** The faces of Cut and Fill Slopes shall be prepared, planted, and maintained to control against erosion. The protection for the slopes shall be installed as soon as practical and prior to for final inspection. The Permittee shall maintain Slope stabilization until it is well-established. Irrigation systems shall be required for perpetual maintenance of the plant life used for slope stabilization. Where Cut Slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted at the option of the Administrative Authority.
- (f) **City Maintained Landscape Areas.** All projects approved with landscaped areas, Slopes, or open spaces that are to be maintained by the City either through a Maintenance District or as public property, will conform to the following guidelines:
  - (1) **Terracing or Benches of Slopes.** Landscaped Slopes shall meet terracing and Benching requirements as specified in Section 17.32.120 of this Chapter.
  - (2) **Other Graded Access.** All publicly-maintained landscaped or open space areas will have graded access roads from public maintained streets with sufficient easement/access rights in place. All slopes will have graded access to the bottom of the slope. Slopes of a height requiring Benches as per Section 17.32.120 of this Chapter shall have maintenance access roads at both the bottom and the top. If a public street is at either of these locations, it may serve as one access road.
  - (3) **Irrigation Systems.** The irrigation system should be installed and inspected per standard specifications established by the Administrative Authority and shall be guaranteed for a period of one year with a warranty bond supplied by the developer.
  - (4) **Plant Establishment.** A 30-day plant establishment period shall be strictly enforced and will not begin until all other work is completed and accepted by the Administrative Authority. The performance and labor and materials bonds will be retained until the expiration of this period. Trees and shrubs will be guaranteed for a period of one year and the cost of replacement shall be covered in the one-year warranty bond required for the irrigation system.
  - (5) **Maintenance and Irrigation Schedules and Estimated Annual Costs.** Prior to commencement of the plant establishment period, the Permittee shall be required to submit detailed maintenance and irrigation schedules and a detailed estimate of the anticipated annual costs for maintenance and utilities.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.180 Grading Operation Hours of Work.**

Permits and plans issued pursuant to this Chapter shall include provisions that the Permittee, their agent, contractor(s) and employees, shall not conduct any Grading, excavation or other related forms of earth movement during any times or days other than listed herein:

- (a) Grading, excavation, blasting, other related movement of earth and/or materials, equipment warm-up, repair, and other noise activities are hereby restricted to the hours of 7:00 a.m. to 4:30 p.m., Monday through Friday.
- (b) Grading, excavation, blasting, or other related movement of earth are hereby forbidden at any time on Saturdays, Sundays, and City Holidays.
- (c) The Administrative Authority may authorize Grading at other hours and on other days in cases of urgent necessity or in the interest of public health and safety.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

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### **17.32.185 Depositing Earth, Sand, Gravel, or Like Materials Upon Public or Private Property.**

- (a) No person shall dump, move, or place any earth, sand, gravel, rock, stone or other like material nor shall any person leave any bank, slope, or other excavated surface unprotected so as to cause any such materials to be deposited upon or to roll, blow, or wash upon or over the premises of another, nor upon or over any public property, easement, place, or way, without the express consent of the owner(s) of all such affected premises or properties. Such consent shall be in writing and in a form acceptable to the Administrative Authority.
- (b) When, due to a violation of Subsection (a) of this Section, any earth, sand, gravel, rock, stone, or other excavated material is caused to be deposited upon or to roll, flow, or wash upon any public place or way, the person responsible therefor shall cause the same to be removed from such public place of way within 12 hours. In the event it is not removed, the Administrative Authority shall cause such removal and the cost of such removal by the Administrative Authority shall be paid to the City by the person who failed to so remove the material.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.190 Appeals.**

An applicant may appeal the denial by the Administrative Authority, or the conditions of approval of, an application for a permit to the City Council within ten working days after such decision. Appeals shall be in writing and shall state the specific nature of the appeal. Appeals shall be filed with the City Clerk and are subject to fees established by the City's fee schedule.

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)

### **17.32.200 Violations and Penalties.**

- (a) **False Statements in Applications, Plans, Certifications, and Construction.** No person who prepares or signs any application, plans, reports, or drawings shall willfully make any false statement or furnish false data therein or thereon. It is a violation of this Chapter for any person to verify that the Grading-related work has been satisfactorily completed in accordance with this Chapter, if such work is not in compliance with the approved design or code requirement at the time of verification.
- (b) **Public Nuisance.** Any Grading commenced or done contrary to the provisions of this Chapter, or other violation of this Chapter, shall be, and the same is determined to be, a public nuisance. Upon request of the Administrative Authority, the City Attorney is authorized to commence necessary proceedings for the abatement of any such public nuisance in the manner provided by law. Any failure, refusal or neglect to obtain a permit as required by this Chapter shall be prima facie evidence of the fact that a public nuisance has been committed in connection with any grading commenced or done contrary to the provisions of this Chapter.
- (c) **Violation of Federal or State Requirements.** Any violation of an applicable federal or State requirement, or any failure to conform to an applicable provision or condition of any federal or State permit, or any failure to comply with the provisions of a Grading permit or of a Grading plan prepared in conjunction with such a permit, is a violation of this Chapter.
- (d) It shall be unlawful for any person, firm, or corporation to violate any provisions of this Chapter. Any person, firm, or corporation violating any of the provisions of this Chapter shall be deemed guilty of an infraction and/or misdemeanor and shall be punishable in accordance with the provisions of Section 1.12.010 of this Code; and each person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Chapter is committed, continued, or

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permitted. In the event that grading is commenced without a permit, the Administrative Authority shall cause such work to be stopped until a permit is obtained. The permit fee, in such instance, shall then be double that which would normally be required. The payment of such double fee shall not relieve any person from fully complying with the requirements of this Chapter and the performance of the work. Such fee shall not be construed to be a penalty, but for enforcement of the provisions of this Chapter in such cases.

(e) **Civil Actions.** In addition to any other remedies provided in this Chapter, any violation of this Chapter may be enforced by civil action brought by the City. In any such action, the City may seek, without limitation, and the Court shall grant, as appropriate, any or all of the following actions:

- (1) Injunctive relief.
- (2) Assessment of the violator for the costs of any investigation, inspection or monitoring which led to the establishment of the violation, and for the reasonable cost of preparing and bringing legal action under this subsection.
- (3) Costs incurred in placing or removing soils to correct the violation, as well as costs to correct or terminate the adverse effects resulting from the violation.
- (4) Compensatory damages.
- (5) A maximum civil penalty of \$2,500.00 per violation of this Chapter for each day which any violation of any provision of this Chapter is committed, continued, permitted or maintained by such person(s).

(Ord. No. 2022-1522, § 2(Exh. A), 9-13-2022)