

ORDINANCE NO. 346-06

**AN URGENCY ORDINANCE OF THE CITY OF MURRIETA, CALIFORNIA
AMENDING CHAPTER 15.52 OF THE MURRIETA MUNICIPAL CODE
PERTAINING TO GRADING, EROSION AND SEDIMENT CONTROL, AND
AUTHORIZING THE DIRECTOR OF PUBLIC WORKS / CITY ENGINEER TO
PREPARE A GRADING MANUAL SETTING FORTH THE ADMINISTRATIVE
PROCEDURES AND TECHNICAL REQUIREMENTS NECESSARY TO
IMPLEMENT THIS ORDINANCE**

Declaration of Facts Constituting Urgency – This ordinance is an urgency ordinance and is for the immediate preservation of the public peace, health, and safety. The facts constituting urgency are the following: There is a National Pollution Discharge Elimination System Permit, issued to the City of Murrieta, which requires the City of Murrieta to update the grading ordinance with its provisions, with respect to preservation of public peace and health and the safety of the municipal separate storm sewer systems.

The City Council of the City of Murrieta, does ordain as follows:

Section 1: Growth and development have created permanent changes to the City's landscape and its natural resources. Open space and naturally vegetated areas have been permanently altered through clearing and grading activities associated with construction and land development. Loss of ground cover, coupled with grading, excavation, and compaction of the land contributes to decreased groundwater infiltration, increased storm water flow, erosion and increased sediment runoff into streams and other water bodies. Controlling erosion and sedimentation represents a vital component of protecting the water quality of our watercourses, water bodies and wetlands.

Section 2: Grading and land clearing activities also impact the City's aesthetic value and community character. Establishing minimum standards and requirements relating to land grading, clearing, excavations and fills, and procedures by which these standards and requirements may be enforced, will help to ensure soil is not stripped and removed from lands in the City, leaving them unsightly and susceptible to erosion, subsidence, faulty drainage and sediment deposition.

Section 3: It is desirable to adopt regulations for grading private property that will help to ensure that future grading, clearing and development of land within the City occurs in the manner most compatible with surrounding areas, and is paramount to protecting life, limb and property, and promoting and enhancing the general public welfare and a superior community environment.

Section 4: Chapter 15.52, in the Murrieta Municipal Code, "Grading and Excavation Code", is hereby amended to read as follows:

CHAPTER 15.52

GRADING, EROSION, AND SEDIMENT CONTROL ORDINANCE

15.52.010 General Provisions

A. Title

The ordinance codified in these chapters shall be known as the "City of Murrieta Grading, Erosion, and Sediment Control Ordinance" and will be referred to herein as "this Ordinance."

B. Grading Manual

The Director of Public Works/City Engineer ("City Engineer") shall formulate a manual setting forth the administrative procedures and technical requirements necessary to implement the provisions of this Ordinance. Such rules, procedures, and requirements shall be entitled "The City of Murrieta Administrative and Technical Procedures Manual for Grading, Erosion and Sediment Control" ("Grading Manual"). The City Engineer shall have the authority to change, update or revise the Grading Manual as necessary in order to implement the provisions of this Ordinance and all revisions thereto arising from time to time.

In the event of any conflict between the Grading Manual and this Ordinance, the more restrictive provisions shall govern. The provisions of the Grading Manual shall, to the extent they are made conditions of a permit by the City Engineer, be binding upon the permittee and those claiming under said permittee.

C. Purpose and Intent

This Ordinance is enacted for the purpose of regulating grading activity on property within the city limits of the City of Murrieta to safeguard life, limb, health, property and the public welfare; to avoid discharges of pollutants such as sediment, hazardous materials, wastes and debris from entering public or private storm water conveyance facilities and surface waters; and to ensure that the intended use of a graded site within the city limits is consistent with the City's General Plan, any specific plans adopted thereto and all applicable City ordinances and zoning regulations.

D. Scope

This Ordinance sets forth rules and regulations, which reflect the minimum acceptable methods or actions to control land disturbances, landfill, soil storage, pollution, and erosion and sedimentation resulting from construction, grading, excavation, and land clearing activities. This Ordinance establishes procedures for issuance, administration and enforcement of permits for such activities. Any such grading activities within the city limits of the City of Murrieta shall conform to the provisions of this Ordinance and the Grading Manual and other applicable provisions of the City's Municipal Code and the California Building Code, as adopted and amended by the City, together with all other conditions of approval.

In the event that a particular topic is not covered in either this Ordinance or the Grading Manual, the applicable provisions of the City's Municipal Code or the California Building Code, as adopted and amended by the City, shall govern. If a conflict arises between this Ordinance and the City's Municipal Code or the California Building Code, the more restrictive provision shall govern, unless otherwise approved by the City Engineer.

15.52.020 Definitions

Whenever, in this Ordinance and the Grading Manual, or in any resolution or standard adopted by City Council pursuant to this Ordinance, the following terms are used, they shall have the meaning ascribed to them in this section, unless it is apparent that some other meaning is intended:

"As-Graded" means the site configuration upon completion of grading. This includes all horizontal and vertical dimensions and relationships and all physical features installed, reconstructed, eliminated, or altered by the grading operations as shown on the record drawings prepared by the Engineer of Work.

"Accessible Route of Travel" means the continuous unobstructed path connecting all accessible elements and spaces in an accessible building or facility that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by persons with other disabilities, and that also is consistent with the definition of "path of travel".

"Accessibility" means the combination of various elements in a building or area, which allows access, circulation, and the full use of the building and facilities by handicapped persons.

"Applicant" means any person, corporation, partnership association of any type, public agency or any other legal entity who submits an application for a grading permit pursuant to this Ordinance.

"Approval" means that the proposed work or completed work conforms to the requirements of this Ordinance, in the opinion of the City Engineer.

"Approved Plans" means the current grading plans which bear the acceptance of signature of the City Engineer.

"ASTM Standards" means the American Society for Testing Materials, which develops standardized test methods, specifications, practices, guides, classifications and terminology in such subject areas as metals, paints, construction, consumer products and many others.

"Base" means a layer of specified material of planned thickness placed immediately below the pavement or surfacing.

"Bedrock" means in-place solid rock.

"Best Management Practices" (BMPs) defined in 40 CFR 122.2 as schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of Waters of the United States. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

“Bench” means a relatively level step excavated into soil materials on which fill is to be placed.

“Borrow” means soil material acquired from an off-site location for use in grading on a site.

“Buttress Fill” means an engineered fill designed to stabilize an adverse geologic condition (landslide, adverse bedding, etc.).

“Certify” or “Certification” means a signed written statement that the specific inspections and/or tests required to be performed on real property have been performed and that the works comply with the applicable requirements of this Chapter, the plans, and the permit.

“City Engineer” means the Director of Public Works/City Engineer of the City of Murrieta or his or her duly delegated representative.

“Civil Engineer” means a professional engineer registered in the State of California to practice in the field of civil engineering.

“Clearing, Brushing and Grubbing” means the removal or disturbance of vegetation (grass, brush, trees, and similar plant types), weed abatement, manmade structures, environmentally sensitive species and habitats, rocks, archaeological artifacts and sites, or other environmentally sensitive features by any means for purposes of development or compliance with laws, rules or regulations. For purposes of this chapter, a reference to “clearing” means clearing, brushing and grubbing individually and separately.

“Compaction” means the densification of a fill by mechanical or other acceptable means.

“Construction Site” means any project requiring a local grading or building permit, including projects requiring coverage under the General Construction Permit that involves soil disturbing activities. Soil disturbing activities include clearing, grading, disturbances to ground such as stockpiling, and excavation.

“Contour Grading” means grading that creates or results in land surfaces that reflect the pre-graded natural terrain or that simulates natural terrain (i.e. rounded, non-planer surfaces and rounded, non-angular intersections between surfaces).

“Crib Wall” means a crib type wall as described in the most recent publication of “Standard Plans”, Department of Transportation, State of California.

“Cross-Lot Drainage” means any drainage course created through grading or excavation that crosses on to another lot either within or outside the subdivision or construction site.

“Curb Cut” means the interruption of a curb at a pedestrian way, which separates surfaces that are substantially at the same elevation.

“Curb Ramp” means a sloping pedestrian way, intended for pedestrian traffic, which provides access between a walk or sidewalk to a surface located above or below an adjacent curb face.

“Cut” see definition for “Excavation.”

“Dry Season” means May 1st thru September 30th of each year.

“Engineer of Record” means the professional engineer holding a current registration in the State of California who supervised the design and signed the grading plan accepted by the City Engineer.

“Erosion” means the process by which the ground surface is worn away as a result of the movement of wind or water. Often the eroded debris (silt or sediment) becomes a pollutant via storm water runoff.

“Erosion and Sediment Control Plan” is a plan prepared under the direction of and signed by a Civil Engineer competent in the preparation of such plans and knowledgeable about current erosion and sediment control methods. Said plan shall provide for protection of exposed soils and desiltation of runoff at frequent intervals along flowage areas, at entrances to storm drains, at entrances to streets and driveways, and at the exit of the area being graded.

“Erosion and Sediment Control System” means any combination of desilting facilities, retarding basins, flow decelerators, and/or erosion protection (including effective planting and the maintenance thereof) to protect the project site, adjacent private property, watercourses, public facilities, graded improvements, existing natural features, archaeological artifacts, and to relieve waters of suspended sediments or debris prior to discharge from the site.

“Excavation” or **“Cut”** means an act by which soil, sand, gravel, or rock is cut into, dug, quarried, uncovered, removed, or relocated, and shall include the conditions resulting there from.

“Expansive Soils” is any soil with an expansion index greater than twenty (20), as determined by the Expansive Index Tests of the California Building Code.

“Fault” means a fracture in the earth's crust along which movement has occurred. A fault, as defined by the California Division of Mines and Geology, is considered active if the movement has occurred within the last eleven thousand years (Holocene geologic time).

“Fill” means a deposit of soil, sand, gravel, rock, or other material placed by artificial means.

“Fugitive Dust” means the particulate matter entrained in the ambient air as a result of man-made fugitive dust sources as determined by South Coast Air Quality Management District Rule 403.

“General Construction Permit” means the permit issued by the SWRCB to regulate discharges from construction activity.

“Geohydrology” means all groundwater information, water-well usage rate requirement, seepage elevations, pollution evaluations, projected usage rate considerations, evaluations of impact on existing and future users, and long term projections appropriate to site development.

“Geologic Hazard” means any geologic feature capable of producing structural damage or physical injury. Geologic hazards include:

- A. Landslides and potential slope instabilities resulting from bedding faults, weak clay stone beds, and over steepened slopes.

- B. Deposits potentially subject to liquefaction, seismically induced settlement, severe ground shaking, surface rupture, debris flows, or rock falls resulting from fault activity.
- C. Deposits subject to seepage conditions or high-ground water table.

“Geotechnical Engineering Report” means a geotechnical report prepared under the responsible supervision of a geotechnical engineer and approved by the City Engineer or his representative, which includes:

- A. Preliminary information concerning engineering properties of soil and rock on a site prior to grading, present, historical, and future groundwater levels, analysis for both gross and surficial slope stability, fill settlement, liquefaction potential, alluvium deposits, describing locations of these materials and providing recommendations for preparation of the site for its intended use.
- B. A grading report which includes information on site preparation, compaction of fills placed, providing recommendations for structural design and approving the site for its intended use.

“Grade” means the vertical elevation of the ground surface.

- A. **“Natural grade (or natural ground)”** means the ground surface unaltered by artificial means.
- B. **“Existing grade”** means the ground surface prior to any grading activity.
- C. **“Rough grade”** means the stage at which the work is in to precise conformance with the approved plan and when all excavations for drainage structures and retaining walls are complete.
- D. **“Finish grade”** means the final grade of the site, which conforms precisely to the City-approved plans, approved construction changes or approved record drawings.

“Grading” means any process of excavation or filling or combination thereof.

“Grading contractor” means a contractor licensed and regulated by the State of California who specializes in grading work or is otherwise licensed to do grading work.

“Greenbook Standards,” means the most recent publication of the Standard Specifications for Public Works Construction, which provides specifications that, have general applicability to public works projects.

“Hillside Site,” means a site where the existing grade is 20 percent (%) or greater and which may be adversely affected by drainage and/or stability conditions within or from outside the site, or which may cause an adverse affect on adjacent property.

“Key” means a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.

“Keyway” means an excavated trench into competent earth material beneath the toe of the proposed fill slope.

“Landslide” means a perceptible down slope movement of rock, soil, or artificial fill ranging in speed from moderately slow (slump) to very rapid (avalanche).

“Maximum Extent Practicable (MEP)” means the technology based standard established by Congress in the Clean Waters Act, Section 402(p)(3)(B)(iii) that operators of MS4 permits must meet. To achieve the MEP standard, municipalities must employ whatever Best Management Practices are technically feasible (i.e. are likely to be effective) in combination with treatment methods serving as a backup.

“Mined Lands” includes the surface, subsurface, and groundwaters of an area in which surface mining operations will be, are being, or have been conducted. This includes private ways and roads appurtenant to any such area, land excavations, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other related materials or property are located.

“Municipal Separate Storm Sewer System (MS4)” means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and / or operated by the City of Murrieta and is designated or used for collecting or conveying storm water.

“Natural Terrain” means the lay of the land prior to any grading or other artificial landform modification.

“NPDES or “National Pollution Discharge Elimination System” shall mean the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under Sections 307, 318, 402, and 405 of the CWA.

“Owner” means a person who owns a site upon which is located grading, clearing, mining, quarrying, and/or commercial extraction operations that are being conducted or may be conducted.

“Path of Travel” means a passage that may consist of walks and sidewalks, curb ramps and pedestrian ramps, lobbies and corridors, elevators, other improved areas, or a necessary combination thereof, that provides free and unobstructed access to and egress from a particular area or location for pedestrians and/or wheelchair users.

“Permit” means the authorization issued pursuant to this Ordinance, together with the application for the same, the conditions upon which it was issued, and any plans, specifications, reports, and approved modifications thereto.

“Permittee” means any person, property owner, contractor or authorized agent to whom a permit is issued pursuant to this Ordinance.

“Person” means an individual, association, partnership, corporation, municipality, State or Federal agency, or an agent or employee thereof [40 CFR 122.2].

“Pollutant” means any agent that may cause or contribute to the degradation of water quality such that a condition of pollution or contamination is created or aggravated.

“Precise Conformance” for purposes of this Ordinance, means:

- A. Pad elevations within plus or minus four-tenths of a foot of planned elevation or approved construction change;
- B. Street subgrade within plus or minus four hundredths of a foot of planned elevation or approved construction change;
- C. Slope grades within plus or minus one foot of planned elevation or approved construction change;
- D. Rock slopes (rip-rap armoring) and horizontal locations within two feet of planned elevation and location or approved construction change;
- E. Drainage gradient to within two-tenths of one percent of planned slope or approved construction change; and
- F. Structures within the tolerances specified in the latest adopted version of the “Standard Specifications for Public Works Construction” (Green Book).

“Precise Grading Permit” means a permit that is issued on the basis of approved plans that show the precise locations of structures, finished elevations, drainage details and all on-site improvements on a given property.

“Priority Development Projects” means new development and redevelopment projects, as indicated in the City’s NPDES Permit requirements.

“Quarrying” means the process of removing or extracting stone, rock, or similar materials from an open excavation for financial gain.

“Record Drawings” means plans prepared by the engineer of work subsequent to the completion of all work on the approved plans and approved changes thereon depicting the as-graded condition.

“Regional Water Quality Control Board” (RWQCB) means the Regional Water Quality Control Board for the San Diego Region, which includes the City of Murrieta.

“Retaining Wall” means a wall designed to resist the lateral displacement of soil or other materials.

“Rough Grading Permit” means a permit that is issued on the basis of approved plans that show finished elevations, interim building pad elevations and drainage.

“Site” means the real property on which activities subject to this Ordinance may occur.

“Slope” means an inclined ground surface of fill, excavation or natural terrain, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

“Slope Revegetation” means the planting of graded slopes with native and/or naturalizing plant species, which, after an initial establishment period, usually requiring irrigation, will survive with normal precipitation.

“Slope Stability” shall be defined as follows:

- A. **“Gross stability”** means the factor of safety against failure of slope material located below a surface approximately three to four feet deep, measured from and perpendicular to the slope face.
- B. **“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.

“Soil” means any rock, natural soil, or fill, and/or any combination thereof.

“South Coast Air Quality Management District” (SCAQMD) means the regulatory authority for all or portions of Los Angeles, Orange, San Bernardino and Riverside Counties that oversees air pollution emissions from stationary sources, including fugitive dust sources generated by construction activity.

“State Water Resources Control Board” (SWRCB) means the regulatory authority that allocates water rights, adjudicates water right disputes, develops statewide water protection plans, establishes water quality standards, and guides the nine Regional Water Quality Control Boards located in the major watersheds of the state.

“Stockpile” means a temporary uncompacted fill or embankment placed by artificial means, which is designated or intended to be moved, or relocated at a later date.

“Stop Work Order” means an order issued by a City official who requires that specific activity or all activity on a work site be stopped.

“Storm Water” means surface runoff and drainage associated with storm events.

“Storm Water Management Plan (SWMP)” means a plan submitted in connection with an application for a City permit or other City approval, identifying the measures that will be used for storm water and non-storm water management during the permitted activity.

“Storm Water Pollution Prevention Plan” (SWPPP) means a document (other than a Storm Water Management Plan), which meets the requirements set out in the State General Construction Storm Water Permit or the State General Industrial Storm Water Permit. The SWPPP submitter to the City must describe the BMPs to be implemented to meet the requirements of this Ordinance.

“Sub-base” means a layer of specified material of planned thickness between a base and the subgrade.

“Subgrade” means the soil prepared to support structures, or that portion of the roadbed on which pavement, surfacing, base or subbase, or layer of other material is placed.

“Standard Urban Storm Water Mitigation Plan (SUSMP) also known as Water Quality Management Plan (WQMP)” means a plan submitted in connection with an application for a

City permit or other City approval, identifying the measures that will be used to mitigate the impacts of urban runoff from Priority Development Projects.

“Terrace” means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

“Topsoil” means soil which is within the uppermost horizon of a soil profile, and which contains organic matter, nutrients, and microorganisms necessary for plant growth.

“Ultimate Right-of-Way” means the right-of-way shown as ultimate on an adopted precise plan of highway alignment, or a street right-of-way shown within the boundary of a recorded tract map, or a recorded parcel map. The latest adopted or recorded document in the above cases shall take precedence. If none of these exist, the Ultimate Right-of-Way shall be considered to be the right-of-way required by the highway classification as shown on the Master Plan of Arterial Highways. In all other instances, the Ultimate Right-of-Way shall be considered to be the existing right-of-way.

“Watercourse” means a permanent or intermittent stream or other body of water, either natural or improved, which gathers or carries surface water.

“Watershed” means the geographical area which drains to a specified point on a water course, usually a confluence of streams or rivers (also know as a drainage area, catchment, or river basin).

“Waters of the State” means any water, surface or underground, within the boundaries of the State, including a MS4.

“Wet Season” means October 1st thru April 30th.

15.52.030 Permits Required

- A. Grading Permits - No person shall conduct any grading, stockpiling, excavating, paving, earth moving, filling, clearing, disking, brushing, or grubbing on natural or existing grade, or perform work that is preparatory to grading, without first having obtained a permit in accordance with this Ordinance from the City Engineer, and without having obtained coverage under the State Water Resources Control Board (SWRCB) National Pollution Discharge Elimination System (NPDES) Permit for construction activity (if applicable). Exceptions to this requirement are specified in Section 15.52.040 or as otherwise determined by the City Engineer within the spirit or intent of this Ordinance.
- B. Paving – No person shall construct pavement surfacing in excess of three thousand (3,000) square feet, on natural or existing grade for the purpose of a private road or commercial, industrial or multi-residential parking lot or travel way without a valid grading permit unless waived by the City Engineer or a separate improvement plan for such paving is approved and signed by the City Engineer.
- C. Grading, Watercourse Alteration – No person shall alter and existing watercourse, channel, or revetment by excavating, or placing fill, rock protection or structural improvements therein without a valid grading permit unless waived by the City Engineer, performed as interim protection under emergency flood fighting conditions, or a separate

improvement plan for such alteration is signed by the City Engineer or an authorized County Flood Control District Official or other appropriate government official.

- D. Excavation Blasting Permit – No person shall use explosives and blasting agents to do any excavation without a permit from the appropriate agencies.

15.52.040 Permit Exceptions

Grading permits are not required for:

- A. An excavation below the existing finished grade for recompaction within the building zone (within five feet (5') of footings) or for basements and footings for a building, mobile home, retaining wall, septic system, well, or structure authorized by a building permit. This shall not exempt any fill made with the material from such excavation or exempt any excavation having an unsupported height greater than two feet (2') after the completion of such structure.
- B. Cemetery graves.
- C. Refuse disposal sites controlled by other statutorily authorized regulations or agencies.
- D. Earthwork or construction controlled by the Federal, State, County, or City Governments, or by a local agency as defined by Government Code Section 53090 through 53095 (special districts). Pipeline or conduit excavation and backfill conducted by local agencies or public utilities. Earthwork construction performed by railway companies on their operating property. This exemption, however, shall apply only when the grading activity takes place on the property, or dedicated rights-of-way or easements of the above agencies.
- E. Excavation and backfill for installation of underground utilities by public utilities or companies operating under the authority of a franchise or public property encroachment permit.
- F. Mining, quarrying, excavating, processing stockpiling of rock, sand, gravel, aggregate or clay for commercial purposes where established and provided for by a conditional use permit, provided such operations do not affect the lateral support of any adjacent or adjoining properties, or alter the direction of, or contribute to, sedimentation to natural watercourses.
- G. Exploratory excavations under the direction of civil engineers, geotechnical engineers, engineering geologists, and/or archaeologists or paleontologists, or pursuant to a well permit, provided all excavations are properly backfilled or otherwise restored. All such excavations and trenches are subject to the applicable sections of Title 8 of the State Orders, Division of Industrial Safety.
- H. An excavation which does not exceed fifty (50) cubic yards on any one site and (1) which is less than two feet (2') in vertical depth, or (2) which does not create a cut slope greater than five feet (5') in vertical height and steeper than two horizontal to one vertical (2:1).

- I. A fill less than one foot (1') in vertical depth, placed on natural grade with a slope flatter than five (5) horizontal to one (1) vertical (5:1), which does not exceed fifty (50) cubic yards on any one lot, does not obstruct a drainage course, and does not support a settlement sensitive structure.
- J. A fill less than three feet (3') in depth, not intended to support structures or mobile homes, which does not exceed fifty (50) cubic yards on any one lot and does not obstruct a drainage course.
- K. Grading performed for agricultural purposes in connection with the raising of crops or animals, but not including grading for buildings or structures that require a building permit unless such grading is exempt under other provisions of this section.
- L. The construction or maintenance of roads or facilities for the generation, storage or transmission of water including floodwaters or electrical energy by public agencies or their agents. Work may be subject to Water Quality Management Plan (WQMP) requirements. A WQMP high priority project includes the construction or reconstruction of 5,000 square feet of pavement in a parking lot, street, road or highway.
- M. Clearing and brushing when directed by the Fire Chief to mitigate a potential fire hazard with the concurrence of the Director of Planning that such clearing and brushing will not cause significant damage to any rare, endangered or protected species of plant or wildlife or cause any significant damage to any habitat of any rare, endangered or protected species of wildlife or endanger any archaeological or historical resources, open space areas with biological significance, or transition areas between land to be cleared for fire fuel mitigation and permanent open space.
- N. Clearing and brushing, expressly for the following purposes:
 - 1. Routine landscaping and maintenance of already landscaped areas, and the removal of dead or diseased trees or shrubs.
 - 2. Clearing which conforms to the location, extent and purpose authorized explicitly by a construction permit pursuant to a discretionary land use permit or a discretionary development permit.

Note: The above listed exemptions do not apply to clearing, grubbing, brushing, dinking or grading when:

- a. Work will occur in, or physically impact, designated or dedicated open space or environmentally sensitive areas designated in the General Plan, or the finally adopted plan of any public agency or governmental office with jurisdiction over the site, or shown on any approved Specific Plan; or
- b. Work will occur in any waterway or wetland, stream, river, channel, pond, lake, marsh, bog, lagoon, vernal pool, or riparian habitat, except as provided in exemption "P", below; or
- c. Work will occur in any floodway or floodplain as shown on the Federal Emergency Management Agency Flood Plain Maps, or on City revised maps except as provided in subsection "P", below.

- O. Repaving, resurfacing, and maintenance of existing private roads and parking lots and the preparation necessary for that work, provided no grading beyond the limits of other exemptions is performed. Work may be subject to WQMP requirements.
- P. Minor maintenance and alterations to natural drainage areas that do not:
 - 1. Obstruct or redirect drainage from adjacent properties, nor
 - 2. Divert the outflow of drainage from the existing or natural discharge point of the property, nor
 - 3. Concentrate or accelerate the flow of drainage as it leaves the property, nor
 - 4. Create ponding, siltation or erosion in or of the streambed, nor
 - 5. Disturb wetlands.

15.52.050 Organization and Enforcement – Powers and duties of the City Engineer

The provisions of Section 104.2 of the most current edition of the California Building Code shall apply to the City Engineer and his or her representative for all grading construction and earthwork to be done as required by any conditions of a permit issued pursuant to this Ordinance.

15.52.060 Organization and Enforcement – Violations and Penalties

- A. It shall be unlawful for any person, firm or corporation to do grading work in the City of Murrieta, or cause the same to be done, contrary to or in violation of any of the provisions of this Ordinance or State or Federal Law.
- B. The issuance of a building permit, performance of building permit inspections, or issuance of a certificate of occupancy may be withheld on property on which a violation of the provisions of this Ordinance exist, including work not performed in accordance with the approved plans, until such violation(s) has been corrected to the satisfaction of the City Engineer.
- C. Failure to pay fees and obtain a permit before commencing work shall be deemed a violation of this Ordinance, except when an emergency existed which made impractical to first obtain the permit. The determination of the existence of an emergency shall be solely within the discretion of the City Engineer and the Chief Building Official. A violation shall result in an assessment of additional fees for work done prior to permit issuance. The fee shall be the actual cost to the City resulting from the illegal activities performed by the applicant, his assignee, or his employee. Payment of additional fee shall not relieve any person from fully complying with the requirements of this Ordinance.
- D. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor. Each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during

which any violations of any provisions of this Ordinance are permitted, continued or committed by such person, firm or corporation and shall be punishable as provided for in Section 1.32, "General Penalty" of the Murrieta Municipal Code.

15.52.070 Organization and Enforcement – Hazardous Conditions

- A. Hazardous conditions exist when the state of any natural ground, natural slopes, excavation, fill or drainage devices are situated on private property in such a manner that they are a hazard to life or limb, or a danger to public safety, or endangers the safety, usability, or stability of adjacent property, structures or public facilities.
- B. The City Engineer or their designee (including City Code Enforcement) may examine, or cause to be examined, every condition reported as hazardous as set forth in subsection (A) of this section. Potential hazards and mitigation are subject to special technical review by the City Engineer or his duly authorized agents.
- C. Upon confirmation of a hazardous condition, the City Engineer or their designee (including City Code Enforcement) shall provide written notification to the permittee, owner or agent in control of property with confirmed hazardous condition, requiring mitigation of said hazardous condition and stipulation of an acceptable time frame for compliance.
- D. The permittee, owner or agent in control of the property shall comply with any demand for corrective work or repairs as required. In the event that corrective action is not completed within the period specified in writing, the City may exercise any available recourse for correction of said hazardous condition in accordance with Chapter 8.20, "Nuisances Generally" of the Murrieta Municipal Code.

15.52.080 Public Nuisance

For purposes of this Ordinance, the following shall constitute a public nuisance:

- A. Any grading or other work conducted without a permit where it is required by this Ordinance.
- B. Any grading or other work done in violation of any of the conditions imposed thereon by a permit issued pursuant to this Ordinance.
- C. Any grading or other work, which fails to be done as required by any conditions of a permit, issued pursuant to this Ordinance.
- D. The existence of a hazardous condition as defined in Section 15.52.070 of this Ordinance upon the determination by the City Engineer that such condition exists.

15.52.090 Appeals

- A. The applicant, permittee, or any person(s) not satisfied with the decision by the City Engineer in regards to issuance of a grading permit or the performance of the permitted work, may file a written appeal to the City Clerk for a hearing before the City Council.

- B. Any such appeal must be made within three (3) calendar days following the decision.
- C. The City Council will set a hearing to consider the appeal at the earliest possible regularly scheduled City Council meeting.
- D. The City Council, after receiving and considering all testimony and pertinent documents, may:
 - 1. Uphold the City Engineer's decision; or
 - 2. Approve the appeal; or
 - 3. Modify the City Engineer's decision, consistent with the requirements of this Ordinance.

15.52.100 Grading Permit - Application

- A. To obtain a grading permit, the applicant shall first file an application in writing on a form furnished by the City Engineer for that purpose.
- B. Applications for which no permit is issued within 180 days following the date of application shall expire, and plans submitted for checking may thereafter be returned to the applicant or may be destroyed by the City Engineer without additional notice to the applicant.
- C. The City Engineer may extend the time for action by the applicant for a period not exceeding 180 days upon written request by the applicant showing that circumstances beyond the reasonable control of the applicant have prevented action from being taken.
- D. In order to renew action for an application after expiration, the applicant shall resubmit grading plans and pay the most current plan check fee.

15.52.110 Grading Permit - Plans and Specifications

- A. Each application for a grading permit shall be accompanied by plans and specifications, soils engineering and geological reports, erosion and sediment control plans, proof of application for coverage under the State Water Resources Control Board (SWRCB) National Pollution Discharge Elimination System (NPDES) permit for construction activity, and all other information required by the City Engineer as specified in Subarticle 3.1 of the Grading Manual, and payment of the appropriate fees. The information required on the application form shall be kept current until the conclusion of the permitted activities.
- B. Plans and specifications for grading projects requiring permits as defined in Section 15.52.030, "Permits Required" of this Ordinance shall be prepared and signed by the Engineer of Record. This requirement may be extended to any project when, in the opinion of the City Engineer, drainage or geologic factors may warrant a need for civil engineering design and control.