

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 1<sup>st</sup> thru September 30<sup>th</sup> 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 1<sup>st</sup> thru April 30<sup>th</sup>.

#### **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.

- C. Grading plans and specifications shall be prepared in accordance with Subarticle 3.1 of the Grading Manual.

**15.52.120 Grading Permit - Geotechnical (Soils) Reports**

- A. Surface and Subsurface Conditions. The City Engineer shall require a geotechnical report to correlate surface and subsurface conditions with the proposed grading plan. The results of the investigation shall be presented in a report in conformance with the requirements of this Ordinance and Subarticle 3.6 of the Grading Manual.
- B. Supplemental Reports/Data. The City Engineer shall require such supplemental reports and data, as he deems necessary upon his review of the site and the reports and other data submitted. Such required data may include tests for soil fertility and agricultural suitability to be performed at the conclusion of rough grading by a recognized agronomic soil-testing laboratory, with written analysis and recommendation, to be utilized during any required revegetation.
- C. Waiver of Geotechnical Report Requirements. For a specific project, the City Engineer may determine that the geological and geotechnical conditions at the site are such that public safety is adequately protected and no mitigation is required. This finding shall be based on a report presenting evaluations of site in the immediate vicinity having similar geologic and geotechnical characteristics. The report shall be prepared by a certified engineering geologist or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation. The City Engineer shall provide a written commentary that addresses the report conclusions as justification for waiving the requirement of a geotechnical report for the project. All such waivers shall be recorded with the county recorder and a separate copy, together with the report and commentary, filed with the State Geologist within 30 days of the waiver, in accordance with Public Resources Code Section 2697(a).

**15.52.130 Grading Permit - Seismicity Reports (Alquist-Priolo Earthquake Fault Zoning Act)**

A seismicity report shall be required as a condition for issuance of a grading permit for all grading applications associated with subdivisions (tracts); all grading projects that propose the development of critical and major structures as defined by the California Building Code; and all real estate development that lies within an earthquake fault zone. Said reports shall comply with the requirements of the Alquist-Priolo Earthquake Fault Zoning Act (Public Resources Code, Section 2621, et seq.) and the provisions specified in Subarticle 3.6 (E), "Seismicity Reports" of the Grading Manual.

**15.52.140 Dust Prevention and Control Plan**

Dust prevention and control procedures shall be employed while construction activity occurs to minimize wind borne particles. At minimum, all grading operations, land clearing, loading, stockpiling, landscaping, vehicular track-out and haul routes shall comply with South Coast Air Quality Management District (AQMD) Rule 403 (Fugitive Dust Emissions) and the provisions of Subarticle 3.8 of the Grading Manual.

#### **15.52.150 Haul Route Plan**

Where soil or construction materials are moved on public roadways from or to the site of a grading operation, a haul route shall be approved by the City Engineer in accordance with the provisions of Subarticle 3.9 of the Grading Manual. Deviation from the designated haul route shall constitute a violation of the conditions of the permit issued under this Ordinance. Vehicular track-out shall be controlled, as directed by the City Engineer, to prevent sediment deposition outside of the project site boundaries.

#### **15.52.160 Erosion and Sediment Control Plan**

All grading plans, regardless of the date of submittal, shall include an erosion and sediment control plan designed to limit erosion and sediment of all disturbed portions of the property and to minimize the transport of soil onto adjacent properties or into streets, storm drains, or drainage ways in accordance with the provisions of Subarticle 6 of the Grading Manual.

#### **15.52.170 Grading Permits – Issuance, Expiration and Renewal**

- A. Every permit issued shall be valid for a period of one year from the date of issuance.
- B. Every permit issued shall expire by limitation and become null and void of the work authorized by such permit is not commenced within one hundred eighty (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 one hundred eighty (180) days.
- C. A permit issued hereunder shall expire upon a change of ownership if the work for which said grading permit was issued has not been completed. In such instances, a new permit shall be required for completion of the work.
  - a. If the time limitations of subsections A and B of this section are not applicable, and no changes have been made to the plans and specifications last submitted to the City Engineer, no charge shall be made for the issuance of a new permit.
  - b. If changes have been made to the plans and specifications last submitted to the City Engineer, fees based on the valuation of the additional or new work, additional yardage and necessary plan checking shall be charged to the permit applicant.
  - c. New securities and/or deposits shall be submitted by the new owner in accordance with Section 15.52.310, "Grading, Erosion and Sediment Control Securities" of this Ordinance.
- D. The City Engineer may extend the one hundred eighty (180) day expiration time limits on permits not to exceed one successive period of one hundred eighty (180) days upon written request by the applicant showing that circumstances beyond the control of the applicant have prevented, delayed or extended the time required to complete the grading operations.

- E. The City Engineer may require that grading operations and project designs be modified if delays occur which incur weather-related problems not considered at the time the permit was originally issued.
- F. If the permittee presents satisfactory reasons for failure to continue or begin the work within the period specified in subsection B of this section, the City Engineer, upon receiving a written request, may grant an extension of time as specified in subsection D of this section without additional fees, provided that:
  - 1. No changes have been made in the original plans and specifications for such work;
  - 2. Suspension or abandonment has not exceeded one year;
  - 3. A re-endorsement of the compliance of the plans with the applicable regulations by the engineering department shall be obtained.

Such request for extensions must be submitted no later than the sixtieth day following the date on which the permit would otherwise expire. If the permittee fails to request an extension within the time provided, the City Engineer may renew the grading permit for a fee of one-half the amount required for the original permit provided no changes have been made in the original plans and specification for such work.

- G. If the permittee is unable to complete the work by the end of a one-year period, the City Engineer may renew the grading permit on an annual basis provided that:
  - 1. A written request is received by the City Engineer within sixty (60) days of the expiration of the original permit, specifying the reason for extension and the amount of time needed to complete the subject grading;
  - 2. A copy of the subject grading plans and original permit are submitted with the written request;
  - 3. Any changes made to the original plans and specifications for such work are minor in nature and can be classified as "as built" changes as determined by the City Engineer. Should the City Engineer determine the changes are not "as built" in nature, the extension will be denied, a stop work order issued pending plan check submittal and approval of the changes;
  - 4. Suspension or abandonment has not exceeded one year; and
  - 5. If changes are necessary to the data contained in the original permit, a new permit application must be submitted with the written request.

A processing fee in the amount of the current permit fee per the engineering fee schedule shall be payable together with any deposit amounts deemed necessary to complete inspection of the project by the City Engineer.

**15.52.180 Grading Permit – Denial of Permit**

- A. The City Engineer shall not issue a permit in any case where he finds that the work as proposed by the applicant is liable to:
1. Expose any property to landslide or geologic hazard; or
  2. Adversely interfere with existing drainage courses or patterns; or
  3. Cause erosion and/or flooding, which could result in the depositing of mud, silt, or debris on any other property or public or private street; or
  4. Create any hazard to person or property; or
  5. Damage or endanger any environmentally sensitive species and habitats, rocks and/or archaeological artifacts.
- B. A permit shall not be issued if any of the following apply:
1. If the submittal is incomplete;
  2. If the plan as submitted does not comply with the provisions of this Ordinance;
  3. If the required security is not posted;
  4. If the application contains false information.
- C. If, in the opinion of the City Engineer, the land area for which grading is proposed is subject to geological or flood hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce the hazard to human life or property, the grading permit shall be denied.
- D. The City Engineer may require plans and specifications to be modified in order to mitigate anticipated adverse environmental effects of proposed grading projects. He may, under circumstances where the adverse environmental effects of a proposed grading project cannot be mitigated, deny the issuance of a grading permit.
- E. The City Engineer shall deny the issuance of a permit if prohibited by a duly elected moratorium, court order, injunction, or other legal order; if the applicant or owner has failed to comply with the provisions of this Ordinance; or if the work proposed is not consistent with the City's General Plan, or any element thereof, or any specific plan, use permit, land use ordinance or regulation, zoning ordinance regulation or permit, or approved subdivision map.

**15.52.190 Grading Permit – Time of Grading Operations**

Grading equipment operations within one-half (1/2) mile of an occupied residence shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m., Monday through Saturday. Further, no such activity shall be undertaken on Sunday or Federal holidays. The City Engineer may extend the hours permitted for grading or equipment operations if the City Engineer determines that such operations are not detrimental to the health, safety or welfare of the inhabitants of

nearby structures. Permitted hours of operation may be shortened by the City Engineer's finding of a previously unforeseen effect on the health, safety or welfare of the surrounding community.

#### **15.52.200 Grading Permit – Responsibility of Permittee**

It shall be the responsibility of the permittee to be knowledgeable of the conditions and/or restrictions placed on the permit as outlined in the applicable sections of this Ordinance, the Grading Manual, and as contained on the approved grading plans and geotechnical reports. The permittee shall also be responsible to maintain in an obvious and accessible location on the site a copy of the approved grading plans, while grading operations are in progress.

#### **15.52.210 Grading Permit - Protection of Adjoining Property**

Each adjacent owner is entitled to the lateral and subjacent support that his land receives from the adjoining land, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for purposes of construction or improvement as provided by law, Section 832 of the California Civil Code.

#### **15.52.220 Grading Permit – Import and Export of Earth Material**

Where earth is moved on public roadways from or to the site of an earth grading operations, the following requirements may apply:

- A. Either water or dust palliative or both must be applied for the alleviation or prevention of excessive dust resulting from the loading or transportation of earth from or to the project site on public roadways. The permittee shall be responsible for maintaining public rights-of-way used for handling purposes in a condition free of dust, earth, or debris attributed to the grading operation.
- B. Loading and transportation of earth from or to the site must be accomplished within the limitations established in Section 15.52.190 of this Ordinance.
- C. Access roads to the premises shall be only at points designated on the approved grading plan.
- D. The last fifty (50) feet of an accessed road, as it approaches the intersection with the public roadway, shall have a grade not to exceed three percent. There must be three hundred (300) feet clear, unobstructed sight distance to the intersection from both the public roadway and the access road. If the three hundred foot sight distance cannot be obtained, flagmen shall be posted.
- E. 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.
- F. An advance warning sign must be posted on the public roadway four hundred (400) feet on either side of the access intersection, carrying the words "truck crossing." The sign shall be diamond shape, each side being thirty (30) inches in length, shall have a yellow background, and the letters thereon shall be five inches in height. The sign shall be placed six feet from the edge of the pavement and the base of the sign shall be covered or removed when the access intersection is not in use.

### **15.52.230 Types of Permits**

- A. Rough or Precise Grading Permit – The City Engineer may issue a rough or precise grading permit for grading work upon completion of an application in accordance with Subarticle 3.1 of the Grading Manual. The issuance of building permits shall be determined as follows:
1. Building permits may be issued for a site graded under a precise grading permit upon completion and approval of the rough grade inspection as specified in Subarticle 7.6 of the Grading Manual.
  2. Building permits shall not be issued for a site graded under a rough grading permit unless a precise grading permit has been issued.
- B. Stockpile Permit - Upon approval by the City Engineer, a stockpile permit may be issued for the stockpile of soil materials on a lot or parcel provided that the soil materials shall be removed from the site or compacted and graded thereon under a subsequently issued rough or precise grading permit within six (6) months of issuance of a stockpile permit, unless modified by the City Engineer, in accordance with Subarticle 4.3 of the Grading Manual.

### **15.52.240 Contractor Qualifications**

All persons performing work pursuant to this Ordinance shall have all valid licenses and insurance required by the State of California and by the City of Murrieta.

### **15.52.250 Right of Entry**

As a prerequisite for issuance of any grading permit, the owner, contractor, or authorized agent of the site to be graded acknowledges and grants permission to the City for right of entry into the site for inspection, emergency work, or correction of grading not performed in compliance with the terms and conditions of the permit. The owner, contractor, or authorized agent shall agree to indemnify the City for any claims or damages, which may result from the City's entry onto the property including any corrective or emergency action taken pursuant to such right of entry.

### **15.52.260 Protection of Utilities**

- A. During grading operations, the permittee shall be responsible for the prevention of damage to public utilities or services and for confining grading activities to the area permitted on the approved plans. This responsibility applies within the limits of grading or clearing and along any routes of travel of equipment.
- B. Before starting any excavation work, the permittee shall be responsible to contact Underground Service Alert, Inc. and coordinate the proposed excavation with all interested utility companies, districts, and agencies.

### **15.52.270 Maintenance of Protective Devices**

The owner of the property on which a fill or excavation has been made pursuant to a permit granted under the provisions of this division, or any other person or agent in control of such property shall maintain in good condition and repair all retaining walls, cribbing, drainage structures and other protective devices such as erosion and sediment controls and planting shown in the approved plans and specifications or in the record drawings or required by the permit.

### **15.52.280 Debris on Public and Private Streets**

This Ordinance forbids the throwing, leaving, maintaining, keeping, placing, dumping, depositing or spilling soil materials on public and private streets or any portion of the public right-of-way. The permittee shall be responsible for the complete removal and cleanup of such materials from the street or any portion of the public right-of-way. If the permittee fails to immediately remove said spillage or deposit from the street and/or public right-of-way, and it is necessary for the City to cause such removal to be made, the cost of such removal work shall be the responsibility of the permittee. The City may use the grading deposit in accordance with Section 15.52.310, "Grading and Erosion Control Securities" for this purpose without notice to the owner. An additional cash deposit may be required prior to resumption of grading to insure the cleanup of public streets.

### **15.52.290 Disposal of Materials**

The disposal of all waste and recycling materials removed as part of any grading/project shall be in compliance with the City's Solid Waste Franchise Agreement, as specified within the provisions of Chapter 8.28, "Waste Management," of the Murrieta Municipal Code.

### **15.52.300 Fees**

#### **A. Grading, Erosion and Sediment Control Plan Checking Fee**

Before accepting an application and a set of plans and specifications for review, the City Engineer shall collect a plan-checking fee. Separate permits and fees shall apply to retaining walls or major drainage structures. All applicants submitting plans as required by this Ordinance shall pay all fees and/or deposits as required by this Ordinance and by City Council resolution establishing applicable fees and deposits.

#### **B. Grading Permit and Inspection Fee**

1. All applicants requesting a rough or precise grading permit, stockpile permit, or administrative clearing permit as required by this Ordinance shall pay all fees and/or deposits as required by this Ordinance and by City Council resolution.
2. Failure to pay fees and obtain a permit before commencing work shall be deemed a violation of this Ordinance, except when it can be proven to the satisfaction of the City Engineer that an emergency existed that made it impractical to first obtain the permit. A violation shall result in an assessment of double permit fees for work done prior to permit

issuance. Payment of a double fee shall not relieve any person from fully complying with the requirements of this Ordinance.

3. Additional fees approved by the City Council shall be paid as required to the City Engineer.

C. Cost Recovery Fees

If the City Engineer performs emergency work relating to grading and erosion and sediment control on private property, he shall charge the property owner all direct and indirect costs that are necessary to complete the work to his satisfaction. In addition, the City Engineer may charge a mobilization and collection cost equal to a minimum of five hundred dollars (\$500.00) or ten percent of the cost for performing the work.

**15.52.310 Grading, Erosion and Sediment Control Securities**

- A. Security – Required. A grading permit shall not be issued unless the permittee first posts a security with the City comprised of a cash deposit, letter of credit, or a combination cash deposit and a corporate surety bond issued by a surety authorized to do business in the State of California, in an amount specified in Subarticle 9 of the Grading Manual. The security amount is required to assure that the work, if not completed in accordance with the approved plans and specifications, will be corrected to eliminate any deficiency or hazard created by the work or its lack of maintenance.
- B. On developments where progressive individual grading projects or several concurrent projects are being constructed by one owner, a continuing (blanket) bond or single letter of credit which will cover all such projects may be accepted and the amount determined by the City Engineer.
- C. A cash deposit in an amount determined by the City Engineer may be required to ensure the elimination of hazardous conditions or the emergency maintenance of erosion and sediment control devices. A cash amount in an amount determined by the City Engineer may be required for permits involving temporary earthen stockpiles to ensure their timely removal.
- D. Failure to Complete the Work. In the event of failure to complete the work and failure to comply with all of the conditions and terms of the permit, the City Engineer may order work required by the permit to be completed or put in a safe condition to his satisfaction. The surety executing such bond, deposit, instrument of credit, or letter of credit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended in causing any and all such required work to be done.
- E. Default in Performance of Conditions. Whenever the City Engineer finds or determines that a default has occurred in the performance of any requirement of a condition of a permit issued under the provisions of this Ordinance, written notice thereof shall be given to the principal and when applicable, 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 City Engineer 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 the estimated cost of doing the work as set forth in the notice. Upon receipt of such moneys the City Engineer may cause the required work to be performed and completed. The surety shall pay the City Engineer actual costs in excess of the estimate amount plus a mobilization charge as specified in Section 15.52.300 (C) of this Ordinance.

#### **15.52.320 Cuts**

Cut slopes shall be no steeper than two horizontal to one vertical (2:1) unless otherwise recommended in the geotechnical engineering and / or engineering geology reports and approved by the City Engineer. The slope of cut surfaces shall be no steeper than is safe for the intended use. Cut slopes steeper than 2:1 shall be subject to third party review and fees shall be charged in an amount as approved by the City Council.

#### **15.52.330 Fills**

- A. Unless otherwise approved by the City Engineer and recommended in the approved geotechnical engineering or engineering geology reports, or both, fills shall conform to Subarticle 5.2 of the Grading Manual. The provisions therein may be waived for minor fills not intended to support structures upon written request by the applicant on a form prescribed by the City Engineer.
- B. All soil tests or testing, when required, are to be performed by an approved testing laboratory.
- C. Fill slopes shall be no steeper than two horizontal to one vertical (2:1) unless under three feet or reinforced as approved by the City Engineer.

#### **15.52.340 Setbacks**

The setbacks and other restrictions specified by Subarticle 5 of the Grading Manual are minimum and may be increased by the City Engineer, pursuant to the recommendation of a civil or geotechnical engineer, if necessary for safety and stability or to prevent damage to adjacent properties from sediment deposition, erosion, water runoff of the slopes or to provide access for slope and drainage structure maintenance. The minimum setbacks may be reduced only in special circumstances where stability is proven to the satisfaction of the City Engineer by the soil engineer or engineering geologist and other factors are of primary importance.

#### **15.52.350 Drainage and Terracing**

Drainage facilities and terraces shall conform to the provisions of Subarticle 5.7 of the Grading Manual unless otherwise approved by the City Engineer and delineated on the approved grading plan.

#### **15.52.360 Pad Grading**

Storm water runoff from lots or adjacent properties shall not be carried over cut or fill slopes steeper than five (5) horizontal to one (1) vertical (5:1). Such runoff shall conform to the provisions of Subarticle 5.8 of the Grading Manual.

#### **15.52.370 Asphalt Concrete Pavement**

- A. Asphalt concrete pavement for surfacing of parking lots, private streets, driveways or other similar uses shall conform to the provisions of Subarticle 5.9 of the Grading Manual unless otherwise approved by the City Engineer.
- B. The site soil engineer or special inspector shall inspect the construction of asphalt paved areas and verify to the City Engineer that the work has been performed in compliance with the provisions of this section.

#### **15.52.380 Disabled Access**

All site development and precise grading shall be designed to provide access to all entrances and exterior ground-floor exits and to normal paths of travel in accordance with California Disabled Access Regulations (California Code of Regulations, Title 24, Part 2).

#### **15.52.390 Erosion and Sediment Control**

- A. Construction Runoff Compliance
  - 1. All individual proposed construction and grading projects shall implement measures to ensure that pollutants from the site will be reduced to the Maximum Extent Practicable (MEP) and will not cause or contribute to an exceedance of water quality objectives. All grading and construction activities will be in compliance with applicable ordinances, permits and other applicable requirements.
  - 2. The permittee shall adhere to the following requirements:
    - a. Develop and implement a plan to manage storm water and non-storm water discharges from the site at all times in accordance with Subarticle 6 of the Grading Manual. Projects disturbing one (1) acre or more of soil are required to generate a Storm Water Pollution Prevention Plan (SWPPP) per the State General Construction Permit;
    - b. Minimize grading or conduct phased grading operations during the wet season and coincide grading with seasonal dry weather periods to the extent feasible. If grading does occur during the wet season, implement additional BMP's for any rain events, which may occur, as necessary for compliance;
    - c. Emphasize erosion prevention as the most important measure for keeping sediment on site during construction;

- d. Utilize sediment controls as a supplement to erosion prevention for keeping sediment on-site during construction;
- e. Minimize exposure time of disturbed soil areas;
- f. Temporarily stabilize and reseed disturbed soil areas as rapidly as possible;
- g. Permanently re-vegetate or landscape as early as feasible;
- h. Stabilize all slopes; and
- i. Provide evidence of existing permit coverage of the General Construction Permit, if applicable.
- j. Implement the applicable requirements of the City's Standard Erosion and Sediment Control Notes, as identified in the Appendix of the Grading Manual.

Note: The above requirements are applicable to all construction sites regardless of whether the construction site is subject to the General Construction Permit or other individual NPDES permit.

**B. Erosion and Sediment Control Plans Required**

- 1. No grading work will be allowed on any single grading site under permit unless the City Engineer has approved an erosion and sediment control plan.
- 2. All grading plans, regardless of the date of submittal, shall include an erosion and sediment control plan designed to limit erosion of all disturbed portions of the property and to minimize the transport of soil onto downgrade perimeters, curbs, gutters, streets, drainage inlets, private and public storm water conveyance systems, environmentally sensitive areas, adjacent properties and watercourses in accordance with the provisions of this Chapter and Subarticle 6 of the Grading Manual.
- 3. All erosion and sediment control "Best Management Practices" (BMPs) outlined in the Storm Water Pollution Prevention Plan (SWPPP), if applicable, will be shown on the erosion and sediment control plan and implemented prior to October 1<sup>st</sup> of each year.

**C. Erosion and Sediment Control Systems**

- 1. The permittee shall be responsible for control of erosion and sediment discharge on and from all areas of grading until acceptance of the completed grading by the City Engineer. This responsibility extends to completed and occupied lots. Necessary materials shall be available onsite and stockpiled at convenient locations to facilitate rapid construction of temporary devices, with equipment and workers for emergency work available at all times during the rainy season.

2. No grading work shall be allowed on any site when the City Engineer determines that erosion, mudflow or sediment discharge may adversely affect downstream properties, drainage courses, storm drains, streets, easements, or public or private facilities or improvements unless an approved erosion and sediment control system has been implemented on the site. If the City determines that it is necessary for the City to cause erosion and sediment control measures to be installed or cleanup to be done, the permittee shall pay all of the City's direct and indirect costs including extra inspection, supervision, and reasonable overhead charges in accordance with Section 15.52.300 (C) of this Ordinance.
3. All removable protective devices shown on the erosion and sediment control plan and outlined in the SWPPP, if applicable, shall be in place at the end of each working day during the rainy season. If the permittee does not install or maintain erosion and sediment controls, the City Engineer may order City crews to do the work or may issue contracts for such work and charge the cost of this work along with reasonable overhead charges to the cash deposits or other instruments implemented for this work without further notification to the owner. No additional work on the project except erosion and sediment control work shall be performed until the full amount drawn from the cash deposit, in accordance with Section 15.52.310, "Grading, Erosion and Sediment Control Securities" of this Ordinance is restored by the permittee.
4. BMP's shall be implemented on a continual basis during construction activities. The following minimum criteria shall be met:
  - a. An effective combination of erosion and sediment controls shall be implemented within seven (7) working days of clearing or inactivity in construction.
  - b. Soil stockpiles must be stabilized with a combination of erosion and sediment controls and have a daily maintenance frequency or as directed by the City Engineer.
  - c. Waterway and watercourse protection shall include, but not be limited to, stabilization of the channel before, during, and after any in-channel work.
  - d. The faces of cut and fill slopes shall be prepared and maintained to control against erosion and sediment discharge in accordance with this Section.
  - e. Permittee shall implement BMPs year round and can vary based on wet and dry seasons. Permittee shall also implement additional site specific BMPs, as necessary, to comply with this ordinance which may be more stringent than those required under the General Construction Permit.
  - f. Permittee shall implement additional controls for construction sites tributary to Clean Waters Act (CWA) section 303(d) water bodies impaired for sediment. Each Permittee shall implement additional controls for construction sites within or adjacent to or discharging directly to receiving waters within environmentally sensitive areas.

- g. Permittee shall conduct construction site inspection for compliance with this Ordinance and all applicable permits.

**D. Erosion and Sediment Control Maintenance**

1. Prior to and after each rainstorm, silt and debris shall be removed from check dams, desilting basins, curbs, gutters, streets, brow ditches, terrace drains, silt fences and other private and public storm water conveyance systems shall be dewatered to prevent overflowing between storm events.
2. Prior to and after each rainstorm, the erosion and sediment control system shall be evaluated and revised and repaired as necessary.
3. The permittee shall be responsible for and shall take necessary precautions to prevent public trespass onto areas where impounded water, due to erosion and sediment control devices, creates a hazardous condition.
4. The permittee shall be responsible for continual maintenance of the devices during the construction activities. In the event of failure or refusal by the permittee to properly maintain the devices, the City Engineer 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 mobilization costs plus the costs of doing the work in accordance with Section 15.52.310 (C) of this Ordinance.
5. In the event the City Engineer must cause emergency work to be done, he or she may revoke the grading permit. The permit shall not be renewed until approved erosion and sediment control system has been installed and the owner has paid any applicable fees.
6. If any grading or clearing subject to Section 15.52.030, "Permits Required" of this Ordinance has commenced on private property without a valid grading permit, the property owner will be required to stop work and prepare and implement an erosion and sediment control plan which has been approved by the City. In the event of failure by the property owner to install an approved erosion and sediment control system, the City Engineer may cause work to be done to protect adjacent private and public property. The cost shall be charged to the owner in accordance with Section 15.52.310 (C) of this Ordinance.

**E. Erosion and Sediment Control – Agricultural**

1. Resource Conservation Plans. For all lands used for agricultural purposes within the City of Murrieta, the property owner shall cause to be prepared a resource conservation plan, utilizing the best management practices for the prevention of erosion and sedimentation. The resource conservation plan shall be prepared by the USDA Soil Conservation Services or a registered agricultural engineer consultant.
2. Implementation of Resource Conservation Plans. The resource conservation plans to be prepared for best management practices implementation is to be

prioritized based upon the soil conservation service "soil erosion hazard map" with those areas of high erosion hazard receiving top priority. Resource conservation plans for agricultural areas shall be submitted for review and filing by the City after acceptance by the Regional Water Quality Control Board.

3. Annual Report. The property owner of agricultural land shall be responsible for the preparation and submittal to the City Engineer an annual report setting forth their progress in the preparation of resource conservation plans and best management practices implementation. Progress reports may be required more frequently if deemed necessary by the City Engineer.

#### **15.52.400 National Pollution Discharge Elimination System (NPDES) Requirements**

- A. General Requirements. The permittee shall abide by all of the provisions set forth in the State Water Resources Control Board (SWRCB) NPDES General Permit for construction activity, if applicable. A Waste Discharge Identification Number (WDID) issued by the SWRCB shall be provided to the City prior to any grading. All grading activities subject to the regulations of this ordinance shall be designed and conducted to minimize runoff of sediment and all other pollutants onto public properties, other private properties and into waters of the United States as required by this Ordinance and City Municipal Code, Title 8, Chapter 8.36, Storm Water / Urban Runoff Management and Discharge Control, in accordance with Subarticle 6 of the Grading Manual.
- B. Responsibility. It shall be the permittee's responsibility to obtain the NPDES application package, submit the Notice of Intent (NOI) and appropriate fee to the SWRCB, complete all site-specific Storm Water Pollution Prevention Plans (SWPPP), monitoring and reporting program plans, reports, certifications, and other information required by the permit and or requested by the Regional Water Quality Control Board (RWQCB), SWRCB, United States Environmental Protection Agency (USEPA), or the City Engineer. The permittee shall update all plans as construction activities are modified from their original schedule and/or progress as originally planned. The permittee shall also maintain the site throughout the duration of the project as required by the permit. All of the information noted above shall be maintained on-site during construction and shall be presented upon demand by the SWRCB and/or City of Murrieta inspectors. NPDES requirements will remain in effect until Notice of Termination (NOT) requirements are fulfilled.

#### **15.52.410 On-site Grading Inspections**

- A. All grading operations for which a permit is issued pursuant to the provisions of this Ordinance shall be subject to inspection by the City Engineer or his or her representative.
- B. Grading Requirements.
  1. It shall be the responsibility of the civil engineer who prepared the grading plans to incorporate the applicable recommendations from the geotechnical engineering and geology reports and to incorporate any City Engineer approved alternatives into the grading plan.

2. The civil engineer shall be responsible for establishing line and grade for the grading and drainage improvements and shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the City Engineer.
3. The civil engineer shall be responsible for the preparation of plan revision, and upon completion of the work, the submission of as-graded drawings incorporating all changes and/or additions made during construction.
4. Prior to issuance of building permits for any given lot or lots, the civil engineer shall submit a written statement as evidence that rough grading for land development has been completed within standard tolerances in accordance with the approved plans and that all embankments and cut slopes and pad sizes are as shown on the approved plans.
5. The geotechnical engineer's area of responsibility shall include, but not be limited to, performing the preliminary geotechnical engineering investigation and preparing the preliminary geotechnical engineering report, determining the suitability of soils during grading, providing compaction inspection and testing, and preparing the final geotechnical engineering report.
6. The engineering geologist's area of responsibility shall include, but not be limited to, professional inspection and approval of the stability of cut slopes with respect to geological matters, and the need for subdrains or other groundwater drainage devices. The engineering geologist shall report the findings to the geotechnical engineer for engineering analysis.
7. The landscape architect shall incorporate applicable recommendations from the geotechnical engineering reports into the landscape and irrigation plans. The landscape architect shall also prepare plan revisions, as required by the City Engineer, and shall submit as-graded drawings incorporating all changes and/or additions made during construction.

C. Notification of Noncompliance

If, in the course of fulfilling their responsibility under this division, the engineer of record, the geotechnical engineer, the engineering geologist, or the testing agency finds that the work is not being performed in accordance with approved plans, specifications, or this Ordinance, the discrepancies shall be reported immediately in writing to the grading contractor, the permittee and the City Engineer. Recommendations for corrective measures shall be submitted for approval to the City Engineer.

D. Transfer of Responsibility for Approval

If the civil engineer, engineer of record, the geotechnical engineer, the engineering geologist, or the grading contractor of record is changed during the course of the work, the project shall be stopped until:

1. The permittee submits a letter of notification verifying the change of the responsible professional; and

2. The new responsible professional submits in writing that he has reviewed all prior reports and/or plans (specified by date and title) and work performed by the responsible professional party, and that he concurs with the findings, conclusions and recommendations, and is satisfied with the work performed. He or she must state that they assume all responsibility within his or her purview as of a specified date. All exceptions shall be justified to the satisfaction of the City Engineer.

Exception: Where clearly indicated that the firm, not the individual engineer and/or geologist, is the contracting party, the designated engineer or geologist may be reassigned and another engineer and/or geologist within the firm may assume responsibility.

#### E. Site Inspection by the City Engineer

1. Prior to approval of any grading plans and specifications, the City Engineer may inspect the site to determine that the plans and specifications are current and reflect existing conditions.
2. The permittee or his agent shall notify the City Engineer when the grading operations are ready for inspection.
3. If the inspector finds the soil or other conditions not as stated in the approved plans and soil or geology reports or as in additional information which was required for issuance of the grading permit, he / she, using reasonable judgment, refuse to allow further work until approval is obtained for a revised grading plan which will conform to the conditions.
4. The provisions of Section 202(d) of the Uniform Building Code shall apply to all grading work and whenever the City Engineer determines that any work does not comply with the terms of a permit, or this Ordinance, or that the soil or other conditions are not as stated on the permit, the City Engineer may order the work stopped by notice in writing to the permittee.
5. Prior to the issuance of building permits for a graded site, the grading shall be completed in accordance with Subarticle 14 of the grading manual and to the satisfaction of the responsible civil engineer, engineering geologist, soil engineer, and the City Engineer.
6. Whenever any work on which inspections are required is covered or concealed by additional work without first having being inspected, the City Engineer 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.

#### F. Special Inspections.

The City Engineer may establish inspection requirements in accordance with Section 306 of the Uniform Building Code, for special cases involving grading or paving related operations. Special cases may apply to work where in the opinion of the City Engineer it is necessary to supplement the resources or expertise available for inspection.

**15.52.420 Completion of Work**

**A. Final Reports**

Upon completion of the rough grading work and at final completion of the work, the City Engineer may require the written approvals, reports, plans and supplements specified in Subarticle 8 of the Grading Manual.

**B. Notification of Completion**

The permittee or his agent shall notify the City Engineer when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities and their protective devices, and all erosion and sediment control measures, including landscaping and its irrigation system, have been completed in accordance with the approved grading plan, and the required reports have been submitted. Where landscape planting for erosion and sediment control has been installed, final clearance, i.e., release of security deposits, shall not be granted until the plantings have become established. The establishment of such erosion and sediment control plantings shall be certified by a licensed landscape architect and approved by the City Engineer.

**Section 5:** The provisions of this Ordinance shall apply to all grading permits issued on or after the effective date of this Ordinance.

**Section 6:** The City Council authorizes and directs the Director of Public Works/City Engineer to prepare and utilize a manual of standards setting forth the administrative procedures and technical requirements necessary to implement the provisions of this Ordinance. Such rules, procedures, and requirements shall be entitled "Administrative and Technical Procedures Manual for Grading, Erosion, and Sediment Control".

**Section 7:** If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or application, and to this end, the provisions of this Ordinance are declared to be severable.

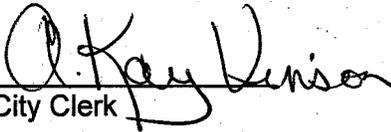
**Section 8:** The potential grading and land clearing activities regulated by this Ordinance represent components of the adopted General Plan that has already received the appropriate review when the General Plan was approved. Based on this fact, the City Council hereby finds that the adoption of this Ordinance is exempt from further review pursuant to CEQA Guideline Sections 15162(a) and 15061(b)(3) of the CEQA Guidelines. Section 15162 states that when an EIR has been certified for a project, no additional environmental review is required unless there is substantial evidence that the project has changed.

**Section 9:** The City Clerk shall certify the Ordinance and cause it to be published as required by law. This Ordinance shall take effect immediately upon adoption.

ADOPTED by the City Council and signed by the Mayor and attested by the City Clerk  
on this 17th day of January, 2006.

  
\_\_\_\_\_  
Mayor

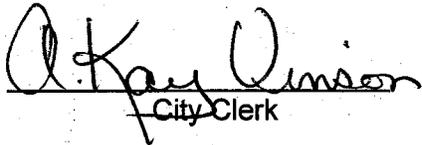
ATTEST:

  
\_\_\_\_\_  
City Clerk

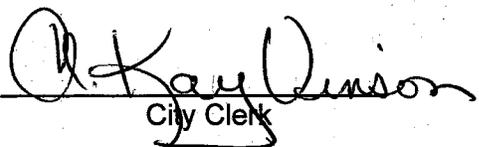
STATE OF CALIFORNIA:  
COUNT OF RIVERSIDE:  
CITY OF MURRIETA:

I, A. Kay Vinson, City Clerk of the City of Murrieta, California, do hereby certify to the adoption of this ordinance and within fifteen (15) days following its adoption shall publish the ordinance in its entirety with the names of the Council members voting for and against the same. This ordinance shall take effect immediately by the following vote, to wit:

AYES: Enochs, Gibbs, McAllister, Ostling, Seyarto  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
\_\_\_\_\_  
City Clerk

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of  
the City of Murrieta, California, this 17th day of January, 2006.

  
\_\_\_\_\_  
City Clerk

(SEAL)