

## NOTICE OF PUBLIC WORKSHOP

**TAKE NOTICE THAT** the City of Lompoc Public Works Department will hold a public workshop on Thursday, June 27, 2013 at 3:00 P.M., in the Council Chambers at City Hall, 100 Civic Center Plaza, Lompoc, California, to discuss the following:

Draft Ordinance No. 1576 (13) Grading Ordinance.

The City of Lompoc's Storm Water Management Program (SWMP), approved on October 17, 2008, required the City to adopt a Storm Water Ordinance. Ordinance No. 1568(10), the Storm Water Ordinance, amended the City's Municipal Code, Title 13, by adding Chapter 13.32 – Storm Water Quality Management. The City's SWMP has since been revised and is now referred to as the Storm Water Guidance Document (SWG D). The SWGD is a requirement of the California Environmental Protection Agency State Water Resources Control Board Phase II Small Municipal Separate Storm Sewer System (MS4) Permit. The SWGD requires that a Grading Ordinance be developed.

The Draft Grading Ordinance has been developed in conformance with the SWGD, the MS4 Permit and current industry standards. The purpose of the Ordinance is to establish standards for the preparation of sites and construction activities to protect the health, safety and general welfare of those working, or living, on or near the site, by protecting against unwarranted or unsafe grading, drainage alteration and improvement or other aspects of site development.

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Interested parties are encouraged to attend the workshop. If you are unable to attend the workshop, the Draft Ordinance is available for review on the City web page:  
[www.cityoflompoc.com](http://www.cityoflompoc.com)

Send written comments to the City Engineer, City of Lompoc, P.O. Box 8001, Lompoc, CA 93438-8001, or email comments to the email address listed above.

**ORDINANCE NO. 1576(13)**

**An Ordinance of the City Council of the City of Lompoc  
Adding Chapter 15.72 to Title 15 of the Lompoc Municipal Code  
And Relating to the Regulation of Grading, Erosion, Sediment Control,  
Excavation, Fill and Stockpiling of Materials.**

**WHEREAS**, the City has developed a Storm Water Guidance Document (SWG D), as required by the State of California; and

**WHEREAS**, the SWGD requires that a Grading Ordinance be developed; and

**WHEREAS**, the Grading Ordinance has been developed in conformance with the SWGD, the California Environmental Protection Agency State Water Resources Control Board Phase II Small Municipal Separate Storm Sewer System (MS4) Permit and current industry standards; and

**WHEREAS**, the City has adopted the California Building Code (CBC), 2010 Edition including Appendix J, per Ordinance No. 1574(10); and

**WHEREAS**, certain amendments to the IBC included in Ordinance No. 1574(10) are in conflict with this Grading Ordinance; and

**WHEREAS**, the City's proposed Grading Ordinance has been evaluated for potential environmental impacts and has been determined to be Categorically Exempt pursuant to Section 21083 of the California Environmental Quality Act (CEQA), and Section 15307 of the CEQA guidelines (Actions of Regulatory Agencies For Protection of Natural Resources), as well as Section 15308 of the CEQA guidelines (Actions of Regulatory Agencies for Protection of the Environment) as an action taken by a regulatory agency, as authorized by California law, to assure maintenance or protection of a natural resource and the environment; now therefore,

**THE CITY COUNCIL OF THE CITY OF LOMPOC DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Chapter 15.08 of the Lompoc Municipal Code is amended to delete Lompoc City Code Sections J101.1, J101.2, J103.2, J103.3, J103.4, J103.5 and any other amendments to Appendix J of the California Building Code.

**SECTION 2.** Add Chapter 15.72 "Grading Ordinance" to Title 15 of the Lompoc Municipal Code, as follows:

**Article 1 Title, Purpose and General Provisions**

§ 15.72.100 Title

§ 15.72.110 Purpose and Intent

§ 15.72.120 Applicability and Effective Dates

- § 15.72.130 Scope
- § 15.72.140 Severability
- § 15.72.150 Reserved
- § 15.72.160 Powers and Duties of the Building Official
- § 15.72.170 Adopted Codes Regulations and Standards
- § 15.72.180 Definitions
- § 15.72.190 Grading Permits
- § 15.72.200 Fees
- § 15.72.210 Responsibility of Permittees
- § 15.72.220 Security
- § 15.72.230 Transfer of Responsibility for Certification
- § 15.72.240 Uniform Building Code Superseded
- § 15.72.250 Appeals
- § 15.72.260 Amendment to Permit
- § 15.72.270 Extension of Time
- § 15.72.280 Transfer of Permit
- § 15.72.290 Exemptions

Article 2 Grading Regulations and Requirements

- § 15.72.300 Grading Permit Requirements
- § 15.72.310 Excavation
- § 15.72.320 Fill
- § 15.72.330 Permit Always Required
- § 15.72.340 Mining
- § 15.72.350 Erosion and Sediment Control Plan
- § 15.72.360 Application
- § 15.72.370 Plans and Specifications
- § 15.72.380 Issuance
- § 15.72.390 General Grading Standards
- § 15.72.400 Adjacent Structure Protection
- § 15.72.410 Setbacks
- § 15.72.420 Revegetation Standards

Article 3 Drainage Regulations and Requirements

- § 15.72.430 Drainage and Terracing

Article 4 Inspection

- § 15.72.440 Grading and Drainage Inspection

Article 5 Enforcement

- § 15.72.450 Suspension and Revocation of Permit
- § 15.72.460 Right of Entry

- § 15.72.470 Stop Work Orders
- § 15.72.480 Exposure of Work
- § 15.72.490 Hazards
- § 15.72.500 Urgency Abatement
- § 15.72.510 Notice of Noncompliance
- § 15.72.520 Violation of Chapter
- § 15.72.530 Liability for Violation
- § 15.72.540 Legal Action
- § 15.72.550 Recovery of Costs

## **Article 1 TITLE, PURPOSE AND GENERAL PROVISIONS**

### **Section 15.72.100 Title**

This Chapter shall be known as the "Grading Ordinance" of the City of Lompoc and may be so cited.

### **Section 15.72.110 Purpose and Intent**

This Chapter establishes standards for the preparation of sites and construction activities to protect the health, safety and general welfare of those working, or living, on or near the site, by protecting against unwarranted or unsafe grading, drainage alteration and improvement or other aspects of site development, as follows:

- A. To establish standards and procedures for grading and excavation so as to minimize hazards to life and limb, protect against erosion and sedimentation, maintain the natural environment, and protect the safety, use and stability of public rights-of-way, the City's storm drain system and drainage channels;
- B. To assure that projects approved under this Chapter will be free from harmful effects of runoff, including inundation and erosion, and that neighboring and downstream properties will be protected from drainage and erosion problems resulting from new development;
- C. To assure proper stabilization of slopes, and restoration of vegetation and soil systems disturbed by excavation or fill activities, authorized under this Chapter;
- D. To control against dust, erosion, and sedimentation and their consequent effects on soil structure and water quality;
- E. To assure project-associated vehicles and equipment remain on designated haul routes, traffic safety procedures are in place, and roadways are maintained in a clean and orderly condition;

- F. To assure grading operations are performed in compliance with the relevant chapters of the California Building Code adopted by separate resolution, City of Lompoc Standard Requirements for the Design and Construction of Subdivisions and Special Developments adopted by separate resolution, and any other applicable regulations; and
- G. To assure that grading is consistent with the requirements of the City of Lompoc's General Plan and Zoning Ordinance and any specific plans or regulations adopted thereto.

**Section 15.72.120 Applicability and Effective Dates**

This Chapter, including any amendments or revisions thereto, shall apply to all properties within or owned by the City of Lompoc. The provisions and requirements of this Chapter shall take effect and be in force 30 days after the date of its final passage by the City Council.

**Section 15.72.130 Scope**

This Chapter sets forth rules and regulations to control excavation, grading and earthwork construction, including fills and embankments, establishes the administrative procedure for issuance of grading permits, and provides for approval of plans, inspection of grading construction, and enforcement of violations.

**Section 15.72.140 Severability**

The provisions of this Chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Chapter.

**Section 15.72.150 Reserved**

**Section 15.72.160 Powers and Duties of the Building Official**

The Building Official is hereby authorized and directed to enforce and interpret the provisions of this Chapter and of the codes, regulations and standards adopted by reference herein. For such purpose, the Building Official is hereby authorized to consult experts qualified in fields related to the subject matter of this Chapter and of the codes, regulations and standards adopted by reference herein, as necessary to assist him/her in carrying out his/her duties. The decisions of the Building Official in enforcing, interpreting, or in exercising the authority delegated by the provisions of this Chapter and of the codes adopted hereby shall be deemed final, subject to appeal as provided in Section 15.72.250 of this Chapter.

## **Section 15.72.170                    Adopted Codes, Regulations and Standards**

Grading shall be performed in compliance with the relevant chapters of the California Building Code including Appendix J adopted by separate ordinance, City of Lompoc Standard Requirements for the Design and Construction of Subdivisions and Special Developments adopted by separate resolution, Chapter 15.48 “Floodplain Management” of the Lompoc Municipal Code and any other applicable flood plain or SWPP regulations.

## **Section 15.72.180                    Definitions**

The following definitions shall apply to the interpretation and enforcement of this Chapter.

“**Applicant**” - A person, partnership, corporation or public agency applying for a City grading permit.

“**Approved**” - Reviewed and found to be in substantial compliance with requirements of this Chapter.

“**Bench**” - (1) A relatively level step excavated into earth materials on which fill may be placed. (2) A relatively level step excavated or filled for the construction of a drainage device.

“**Bench Drain**” - means a lined channel that conveys surface waters from slopes to a safe disposal point.

“**Berm**” - An earthen mound used to direct the flow of runoff or mitigate noise impacts.

“**Best Management Practices (BMPs)**” - means physical, structural, and/or managerial practices that, when used singly or in combination, reduce the downstream quality and quantity impacts of stormwater. The term is synonymous with Stormwater Control Measure (SCM).

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

“**Building Official**” - means the person holding the title of Building Official of the City of Lompoc, or his/her designees.

“**Certification**” - means the attestation of a licensed professional that, based upon the appropriate level of observation and testing, and in accordance with applicable principles of the professional’s training, background and experience, the work in question has been completed and performed in conformity with the plans and specifications approved and the provisions of this Chapter.

**“Clearing and Grubbing”** – means the removal of vegetation, and surface debris.

**“City”** - means the City of Lompoc, or the City Council of the City of Lompoc.

**“Compaction”** – means the densification of a fill by mechanical means.

**“Conduit”** – means any pipe or approved material for collecting and directing storm water.

**“Continuous”** – means at all times throughout the day (twenty-four hours) while work is in progress.

**“Contour”** – means the earth’s surface at a given elevation; a line drawn on a map connecting elevations of equal height.

**“Conveyance System”** – means any channel or pipe used for collecting and directing storm water.

**“Culvert”** – means a covered channel or a large-diameter pipe that directs water flow below the ground level.

**“Cut”** – means (1) An excavation; (2) the difference between a point on the original ground and a designated point of lower elevation on the final grade; (3) the material removed in excavation.

**“Debris”** – means loose material arising from the disintegration of rocks and vegetative material transportable by landslides, streams or floods.

**“Discharge”** - means release, spill, leak, pump, flow, escape, dumping, or disposal of any visible or non-visible, liquid, semi-solid or solid substance.

**“Disturbance”** – means exposed soil resulting from activities such as clearing, grubbing, grading, excavating and landscaping.

**“Diversion”** – means a temporary or permanent structure consisting of a channel or ditch and a ridge constructed across a sloping land surface on the contour or with pre-determined grades to intercept and divert surface runoff before it gains sufficient volume and velocity to cause erosion.

**“Drainage”** – means 1) The removal of excess surface water or groundwater from land by means of surface or subsurface drains; or 2) The collection, conveyance, containment, and/or discharge of surface and stormwater runoff.

**“Drainage Pattern”** – means the direction, configuration or arrangement of drainage ways and watercourses within a watershed, sub-watershed, drainage basin, individual property or other area.

**“Earth Material”** – means any rock, natural soil, sediment and/or any combination thereof.

**“Easement”** – means a legal right to use or control the property of another for a designated purpose, which appears of record in favor of the owner of the easement.

**“Engineered Grading”** – means grading designed under the direct supervision of a licensed Civil Engineer or Architect.

**“Engineer, Civil”** – means a Professional Engineer holding a valid registration and license issued by the State of California in Civil Engineering.

**“Engineer, Geotechnical”** – means a Professional Engineer holding a valid registration and license to practice in Geotechnical Engineering issued by the State of California.

**“Engineering Geologist”** – means an individual holding a valid registered Geologist certification and a valid Engineering Geologist certification who is licensed to practice in the State of California.

**“Engineering Geology”** – means the application of geological data and principles to engineering problems dealing with naturally occurring earth material for the purpose of assuring that geological factors are recognized and adequately interpreted in engineering practice.

**“Erosion”** – means the wearing away of the land surface by water, wind, ice or other geological agents, including such processes as gravitational creep. Erosion occurs naturally from weather or runoff, but can be intensified by human activities.

**“Erosion and Sediment Control Plan (ESCP)”** – means a plan which fully indicates necessary land treatment and structural measures, including a schedule of the timing for their installation which will effectively minimize soil erosion, sedimentation, and non-stormwater construction related discharges.

**“Excavation”** – means any activity by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting there from.

**“Fill”** – means (1) A deposit of earth, sand, gravel, rock or any other suitable materials placed by artificial means; any act by which earth, sand, gravel, rock or any other suitable material is placed, pushed, dumped, pulled, transported or moved to a new location. (2) The difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade, as measured in a vertical plane.

**“Finish Grade”** – means the level of the finished surface of the ground at the completion of all grading, as designated in the final project grading plans.



**“Geology Report”** – means a report which includes but is not limited to: a geologic investigation, including site map, boring or trenching locations and soil profile data; an adequate description of the geology of the site, including evaluation of active and potentially active faults; ground motion parameters as required by the current editions of the California Building Code and ASCE 7; slope stability; liquefaction; conclusions and recommendations regarding the effect of geologic conditions on the proposed development; and opinion on the adequacy of the intended use of the site to be developed by the proposed grading and/or building, as effected by geologic factors.

**“Grading”** – means any activity which involves the physical movement of earth material, including any excavation, filling, stockpiling, movement of material, compaction of soil, creation of borrow pits, land reclamation, or combination thereof. Grading does not include surface mining or quarrying operations (including the extraction and stockpiling of excavated products and the reclamation of mined lands) conducted pursuant to the City’s Zoning Ordinance and State Mining Laws and subject to oversight by the State Department of Conservation.

**“Infiltration”** - The downward movement of water from the surface to the subsoil.

**“Infiltration Facility”** - A drainage facility designed to use the hydrologic process of runoff soaking into the ground, commonly referred to as percolation, to dispose of stormwater.

**“Key”** – means designed compacted fill placed in a trench excavated in competent earth material at the bottom of a proposed fill slope.

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

**“Legally Responsible Party”** - means the legal property owner or owners.

**“Low Impact Development (LID)”**- means an approach to land development that uses land planning and design practices and technologies to reduce the volume and rate of flow of runoff and increase infiltration of stormwater in developed areas, in an effort to conserve and protect natural hydrology.

**“Natural Contour”** – means the elevation of the earth’s surface as formed naturally; or as previously modified utilizing approved grading and land use permits.

**“Periodic”** – means occurring intermittently while work is in progress.

**“Permitee”** – A person, partnership, corporation or public agency who has been issued a Grading Permit.

**“Person”** - means an individual, association, partnership, corporation, municipality, State or Federal Agency, commission, political subdivision of a state, any interstate body, or an agent or employee thereof.

**“Pollutant”** - A contaminant in a concentration or amount that adversely alters the physical, chemical, or biological properties of the natural environment. Dredged soil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water (EPA, 2008).

**“Pollution”** means the alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses. Pollution also includes Contamination. (California Water Code §13050(l)(1)).

**“Rough Grade”** – means approximate elevation of ground surface conforming to within two-tenths of a foot of the proposed design elevation.

**“Run on”** - means surface water that originates offsite from precipitation or other sources (e.g., springs, seeps, sprinklers, landscape irrigation) that is found in sheet flow, drainage facilities, rivers, streams, ponds, lakes, wetlands and shallow groundwater and that drains onto another/different/or same site from place of origin.

**“Runoff”** – means surface water originating from precipitation or other sources (e.g., springs, seeps, sprinklers, landscape irrigation) that is found in sheet flow, drainage facilities, rivers, streams, ponds, lakes, wetlands and shallow groundwater.

**“Sediment”** – means solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth’s surface.

**“Sedimentation”** – means deposition of soil particles, clays, silts, sands, or other sediments carried by runoff.

**“Site”** – means any lot or parcel of land or contiguous combination thereof, where grading or non-agricultural land disturbance is performed or permitted.

**“Slope”** – means an inclined ground surface. The inclination of which is expressed as a ratio of horizontal distance to vertical distance, as in two to one (2:1), meaning a horizontal distance of two feet to one foot vertical.

**“Slope Drains”** – means permanent or temporary devices that are used to carry water down cut, fill or natural slopes to and from bench drains.

**“Soil”**– means sediments or other unconsolidated accumulation of solid particles produced by the physical and chemical disintegration of rocks, and which may or may not contain organic matter.

**“Stockpile”** – means the temporary placement of earth material in one location.

**“Storm Drain System”** - means publicly-owned facilities operated by the City, by which storm water is collected and/or conveyed, including but not limited to, streets, alleys, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, and other drainage structures or Storm Water Control Measures (SCMs) which are within the City, or on City property, and are not part of a publicly owned treatment works as defined at 40 CFR §403.3(q).

**“Storm Water”** - means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels, or pipes into a defined surface water channel or a constructed infiltration facility. According to 40 C.F.R. § 122.26(b)(13), this includes stormwater runoff, snow melt runoff, and surface runoff and drainage.

**“Storm Water Inspection (SWI) Fee”** - means a fee for City inspection of construction sites to verify compliance with an approved Erosion and Sediment Control Plan, Storm Water Pollution Prevention Plan, required SCMs and Best Management Practices.

**“Storm Water Pollution Prevention Plan (SWPPP)”** - means a pollution control plan documenting storm water and non-storm water Best Management Practices required under 40 CFR Section 122, the Clean Water Act, the Porter Cologne Act, and as implemented through the California Construction General Storm Water Permit requirements.

**“Storm Water Control Measures (SCMs)”** – means physical, structural, and/or managerial measures that, when used singly or in combination, reduce the downstream quality and quantity impacts of stormwater. Also, a permit condition used in place of or in conjunction with effluent limitations to prevent or control the discharge of pollutants. This may include a schedule of activities, prohibition of practices, maintenance procedures, or other management practices. SCMs may include, but are not limited to, treatment requirements; operating procedures; practices to control plant site runoff, spillage, leaks, sludge, or waste disposal; or drainage from raw material storage.

**“Structure”** – means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, including without limitation, any building, fence, landscaping feature or enclosed barn.

**“Swale”** – means a low-lying stretch of land which gathers or carries surface water runoff.

**“Temporary”** – means lasting only a short time, temporal.

**“Terrace”** – means a relatively level step constructed on the face of a graded slope surface for drainage, landscaping and maintenance purposes.

**“Top of Bank”** – means the uppermost ground elevation paralleling a creek or watercourse where the gradient changes from more vertical to more horizontal.

**“Topsoil”** – means surface soil, ordinarily rich in organic matter or humus debris.

**“Unsuitable Material”** – means all vegetation, non-complying fill, soil containing organic matter, compressible earth material and all other earth material which would adversely affect the safety or stability of proposed grading.

**“Watercourse”** – means a creek or stream designated by a blue line on the largest scale of the latest edition of the United States Geological Survey map or a creek or stream or body of water which supports fish at any time of the year, or has significant water flow thirty (30) days after the latest significant storm.

**“Watercourse/Drainage Setback”** – means the setback buffer measured from either the top-of-bank or the outer drip line of the riparian vegetation, whichever is the furthest from a point at the centerline of the adjacent watercourse/drainage. The minimum setback buffer from a watercourse or drainage is thirty (30) feet.

#### **Section 15.72.190 Grading Permits**

Unless exempted under Section 15.72.290, a Grading Permit is required, prior to the initiation of any clearing, grubbing, grading, excavation, fill or dredging activities included under Section 15.72.310 or Section 15.72.320.

#### **Section 15.72.200 Fees**

A schedule of fees shall be established by resolution of the City Council for all costs incurred in the processing of any grading application. Such fees shall cover the full costs of review, approvals, inspections, certification of compliance, or other determinations or actions necessitated by the permit, including storm water inspections. Fees shall be based on actual City costs incurred for time, equipment, and materials.

#### **Section 15.72.210 Responsibility of Permittee**

- A. The permittee and his agents shall carry out the proposed grading in accordance with the approved plans and specifications, conditions of the permit and the requirements of this chapter and all other applicable conditions, permits and requirements.
- B. The permittee holder and/or the Legally Responsible Party shall ensure that erosion control measures, Storm Water Control Measures (SCMs) and Best Management Practices (BMPs), as outlined in the project's

Erosion and Sediment Control Plan and/or Storm Water Pollution Prevention Plan (SWPPP), and approved by the City of Lompoc, are installed and maintained during grading and construction activity.

- C. The permittee and his agents shall maintain all required erosion control devices and temporary drainage facilities during the progress of the grading work and shall be responsible for observance of working hours, dust controls and methods of hauling. The permittee and his/her agents shall be responsible for debris and material deposits placed on private or public roads during the construction period of the project. Debris and/or materials shall be removed as necessary in order to prevent offsite impacts to roads and/or watercourses. Such removal shall be included in the Drainage, Erosion and Sediment Control Plan or SWPPP. The permittee and his agents shall be responsible for maintenance of the site until such time as a grading final has been approved by the Building Official. The permittee and his/her agents shall become subject to the penalties set forth herein, in the event of failure to comply with this Chapter and other applicable laws of the City of Lompoc. No approval shall exonerate the permittee or his agents from the responsibility of complying with the provisions and intent of this Chapter.

#### **Section 15.72.220 Security**

The application for a grading permit shall be accompanied by security in a form acceptable to the City of Lompoc's Finance Director and Building Official, and posted by the applicant. The amount of the security shall be a minimum of 150% of the full cost to install the erosion and sediment control measures and for the maintenance of such facilities, per the ESCM or SWPPP, as determined by the Building Official. The security shall be held until the erosion and sediment control measures have performed satisfactorily and such measures are permanently stabilized, as provided for in this Chapter. The security may be used to provide for the installation and maintenance of the erosion and sediment control measures, if not done by the applicant, and when sediment or other pollutant discharge is occurring as a result.

#### **Section 15.72.230 Transfer of Responsibility for Certification**

If the civil engineer, the soils engineer, the engineering geologist, or the testing agency-of-record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for certification upon completion of the work.

#### **Section 15.72.240 Uniform Building Code Superseded**

If there is any inconsistency between the provisions of this Chapter and the California Building Code including Appendix J, as adopted by the City, the provisions of this Chapter shall control.

### **Section 15.72.250 Appeals**

The decision of the Building Official upon applications for permits under this Chapter shall be in writing and a copy of such decision shall be served upon the applicant, in person or by first class mail, postage prepaid. Any other person who files a written request with the Building Official shall also receive a copy of such decision.

If the applicant or any other person is dissatisfied with any determination made by the Building Official, he may appeal in writing within seven (7) days of the date of the Building Official's written decision and as required by the California Building Code. A written request for appeal shall be accompanied by a certified or cashier's check in the amount of \$2,500.00, payable to the City of Lompoc, and shall be received by the City Clerk with the written request. The written request shall include the specific grounds of the appeal.

All costs of the Board of Appeals and expenses of the protest shall be borne by the protestor. The sums deposited with the request for hearing shall be credited to the costs of the Board of Appeals and other hearing expenses. Any unexpended portion of the deposit shall be refunded to the protestor within sixty (60) days following the exhaustion of the protestor's remedies.

### **Section 15.72.260 Amendment to Permit**

All changes in the plans, grades, timing or extent of work authorized by a grading permit shall be submitted to the Building Official for written approval and incorporation into the existing permit before any change in the work is commenced. The Building Official may amend the permit to approve such changes if appropriate, or may deny approval of such changes.

Failure to obtain prior approval for any change in the approved work shall be cause for the suspension of the grading permit until approval is obtained, and may result in the revocation of the permit, if such changes are deemed to be hazardous to adjoining properties or to the public at large.

### **Section 15.72.270 Extension of Time**

Each grading permit shall be valid for a period of one year from the date of issuance unless noted otherwise on the permit.

- A. The permittee may, before the expiration of the permit, apply for an extension of time in which to complete the work in a reasonable and expeditious manner.
- B. Extensions of time may be granted by the Building Official for a period or periods not exceeding a total of one year.

- C. Denial of an extension of time shall not preclude the right of the permittee to apply for a new permit for the remaining balance of the work.
- D. The security must be revised to address any extension of time and must be furnished before the approval of the extension becomes effective, unless the security consists of a cash deposit, which is to be held over.
- E. Every permit issued by the Building Official under the provisions of this Chapter shall expire by limitation and become null and void if the building or work authorized by such permit is suspended or abandoned, at any time after the work is commenced, for a period of one hundred twenty days. Permits may be granted an extension of time where the Building Official finds that unusual circumstances warrant such extension and it will not create or perpetuate a hazard or nuisance.

Before any work can be recommenced, if a permit has expired, a new permit shall be first obtained, and the fee shall be one-half the amount required for a new permit for such work, provided no changes have been made, or will be made, in the original plans and specifications and provided further, that such suspension or abandonment has not exceeded one year.

#### **Section 15.72.280                      Transfer of Permit**

The transfer of a grading permit from the permittee to another person shall be subject to the written approval of the Building Official. The person to whom the permit is being transferred shall agree in writing to such modifications as may be required, and shall furnish the required security before transfer of the permit will be approved.

#### **Section 15.72.290                      Exemptions**

A grading permit is not required if the proposed work consists of the following activities and such activities will not endanger adjacent property, cause increased erosion, sedimentation and rate of water runoff, divert or impair the flow of water within a water course or cause a public nuisance. All development activities, including those which are exempted from grading permit, shall be carried out in a manner which assures the potential for erosion of, and discharge of sedimentation from, any project is minimized. All excavation within the City's designated Cultural Resources Overlay shall comply with the provisions of the City's Cultural Resources Ordinance, prior to, during and after any ground-disturbing activity.

A grading permit is not required for the following:

- A. Excavation below finished grade for basements and footings of a building, retaining wall, swimming pool, or other structure authorized by a valid building permit. This shall neither exempt any fill made with the material

from such excavation, nor exempt any excavation having an unsupported height greater than five feet after the completion of such structures;

- B. Excavation for cemetery graves;
- C. Excavation when all of the following conditions are met:
  - 1. The quantity is fifty (50) cubic yards or less;
  - 2. The depth is two (2) feet or less;
  - 3. The slope of the cut face is two (2) feet horizontal to one (1) foot vertical or less; and
  - 4. The area to be cleared is not within the Cultural Resources Overlay Zone.
- D. Fill when all of the following conditions are met:
  - 1. The quantity is fifty cubic yards or less, placed on ground sloping twenty percent or less;
  - 2. The height is two (2) feet or less;
  - 3. The slope of the fill embankment face is two (2) feet horizontal to one (1) foot vertical or less; and
  - 4. The existing drainage patterns on-site, or on adjacent sites, are not altered.
- E. Clearing and grubbing of vegetation when all of the following conditions are met:
  - 1. The area to be cleared and grubbed is less than one (1) acre in size;
  - 2. The area to be cleared is not located within a Biologically Significant Area, as identified in the Resource Management Element of the City's adopted General Plan;
  - 3. The area to be cleared is not within the Cultural Resources Overlay Zone; and
  - 4. The area to be cleared has not been included in a discretionary project that is being reviewed, or has been conditioned, by the Planning Division, Planning Commission or City Council.



- F. Grading on the Lompoc Landfill for landfill purposes;
- G. Work within the Public Right-of-Way.

### **Article 3 GRADING REGULATIONS AND REQUIREMENTS**

#### **Section 15.72.300 Grading Permit Requirements**

Except as exempted in this Chapter, no person shall do any grading without first obtaining a grading permit from the Building Official. A separate permit shall be required for each site and may cover both excavations and fills. Subdivisions on which all grading is performed as a unit shall be considered a single site.

#### **Section 15.72.310 Excavation**

A grading permit is required for any excavations that:

- A. Disturb more than five thousand (5,000) square feet in surface area or more than fifty (50) cubic yards total cut area, including cut for building pads; or
- B. Any work in the floodway or floodway fringe per Chapter 15.48 of the Lompoc Municipal Code; or
- C. Is more than two (2) feet deep; or
- D. Creates a cut slope more than five (5) feet high and steeper than two (2) feet horizontal to one (1) foot vertical.

A grading permit is not required for any excavations for basements, footings of a building or retaining wall, or other structures authorized by a valid building permit.

#### **Section 15.72.320 Fill**

A grading permit is required for any fill that:

- A. Exceeds fifty (50) cubic yards on any one site, including fill for building pads; or
- B. Any work in the floodway or floodway fringe per Chapter 15.48 of the Lompoc Municipal Code; or
- C. Has an unsupported height more than five (5) feet; or
- D. Is more than one (1) foot high and is placed on natural terrain with a slope steeper than two horizontal to one vertical; or

- E. Is more than two (2) feet high and is intended to support structures; or
- F. Obstructs a natural or manmade drainage course which carries storm water runoff.

### **Section 15.72.330 Permit Always Required**

Grading permits are always required for:

- A. Excavation in any amount within the archeologically sensitive area in the Cultural Resources Overlay Zone.
- B. Parking Lot construction or reconstruction. No permit is required for normal repair and maintenance as determined by the Building Official.
- C. Construction of any SCM, or structure required by the City's Post-Construction Hydromodification Development Requirements.

### **Section 15.72.340 Mining**

Grading as a part of mining, quarrying, excavating, processing and stockpiling of rock, sand, gravel, aggregate or clay shall be conducted in accordance with the laws of the State of California, the Surface Mining and Reclamation Act of 1975 (SMARA), and the City's Zoning Ordinance, as well as with the requirements of any other state or federal agencies having jurisdiction over the mining operation.

### **Section 15.72.350 Erosion and Sediment Control Plan**

An Erosion and Sediment Control Plan (ESCP) shall be required for all grading permits. For those projects disturbing one (1) acre or more in size, or otherwise required to submit a Storm Water Pollution Prevention Plan (SWPPP) to the State Water Quality Control Board, the SWPPP must include all the requirements of the ESCP. The SWPPP and any related drawings prepared for the project, shall be submitted as a part of the grading permit application, in lieu of the ESCP. The ESCP shall be reviewed and if acceptable a written approval issued. Any revisions to the ESCP shall be submitted to the City for review and approval.

In cases where a SWPPP is not required, an ESCP shall be included in the grading plan set.

- A. The ESCP shall include the following items:
  - 1. An approval block for City signature.

2. The ESCP shall indicate the direction of the flow of water onto and off the site.
3. Appropriate site specific construction site SCM/BMP's to be implemented during construction (Reference the California Storm Water Quality Association's or Caltrans' BMP List). SCM/BMPs shall address, at a minimum, erosion and sediment control, soil stabilization measures, dewatering, source controls, pollution prevention measures and prohibited discharges.
4. The rationale for the selected SCM/BMPs chosen shall be included in the ESCP, including soil loss calculations, if necessary.
5. The location of vehicle storage and maintenance, staging, stockpiles, construction entrances, concrete washout, fueling and any detention basins, as applicable, shall be shown on the ESCP.
6. The ESCP shall include a Dust Abatement Program prepared by the applicant and submitted with the grading/improvement plans. The Program shall be reviewed and approved by the Building Official, prior to issuance of grading permits. The Dust Abatement Program shall include, but is not limited to, the following dust control measures:
  - a. Sprinkle all construction areas with water (recycled when possible) at least twice a day, during excavation and other ground-preparing operations, to reduce fugitive dust emissions.
  - b. Construction sites shall be watered and all equipment cleaned in the morning and evening to reduce particulate and dust emissions.
  - c. Cover stockpiles of sand, soil, and similar materials, or surround them with windbreaks.
  - d. Cover trucks hauling dirt and debris to reduce spillage onto paved surfaces or have adequate freeboard to prevent spillage.
  - e. Post signs that limit vehicle speeds on unpaved roads and over disturbed soils to 10 miles per hour during construction.
  - f. Soil binders shall be spread on construction sites, on unpaved roads, and on parking areas; ground cover shall be re-established through seeding and watering.

- g. Sweep up dirt and debris spilled onto paved surfaces immediately to reduce re-suspension of particulate matter through vehicle movement over those surfaces.
  - h. Require the construction contractor to designate a person or persons to oversee the implementation of a comprehensive dust control program and to increase watering, as necessary.
  - i. The name and 24/7 contact information for the person responsible for dust control shall be provided to the City prior to issuance of grading permits.
  - j. If dust is not controlled on the site, the City shall shut down work on the project until the applicant can provide adequate dust control.
  - k. Streets and alleys surrounding the project shall be kept clean and free of dirt.
7. Location and details of permanent sediment catchment basins or other types of sediment retention facilities necessary to prevent discharge of sediment into stream channels. Basins shall be regularly maintained, with accumulated sediment inspected and removed for disposal according to a regular maintenance schedule.
  8. Location and details of permanent vegetation planned, following completion of proposed grading and/or improvements.
  9. Approximate sequence and timing of grading and construction increments and/or subsequent revegetation, stabilization and landscaping work.
  10. All applicable permits directly associated with the grading activity, including but not limited to the State Water Board's CGP, State Water Board 401 Water Quality Certification, US Army Corps of Engineers 404 Permit and California Department of Fish and Wildlife 1600 Agreement.
  11. Prior to issuance of grading permit, the applicant shall submit evidence that all permits directly associated with the grading activity have been obtained, prior to commencing the soil disturbing activities authorized by the grading permit.

### **Section 15.72.360 Application**

To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose by the Building Official. Every application shall include the following:

- A. The name, address, telephone number, and email address of the applicant.
- B. The names, addresses, telephone numbers, and email addresses of all property owners other than the applicant.
- C. The names, addresses, contractor's license numbers, telephone numbers, and email addresses of any and all contractors or persons actually doing the work, and the work that each will be doing.
- D. The name, address, telephone number and registration number of the party responsible for preparing the grading plan.
- E. The name, address and telephone number of the party responsible for preparing the ESCP or SWPPP.
- F. The name, address and telephone number and registration number of the registered civil engineer responsible for the preparation of the soils and engineering report, if required.
- G. Identify and describe the work to be covered by the permit for which application is made.
- H. Describe the land on which the proposed work is to be done, by lot, block, tract, and house and street address or similar description that will readily identify and definitely locate the proposed building or work.
- I. Indicate the use or occupancy for which the proposed work is intended.
- J. Be accompanied by plans and specifications as required in Section 15.72.370.
- K. Be signed by the property owner and permittee, or their authorized agents, who shall be required to submit evidence to indicate such authority.
- L. State the estimated quantity of grading work involved (cut/fill/import).
- M. State the estimated starting and completion dates.
- N. Designate haul routes, borrow sites, and waste disposal locations.

- O. Provide the current status (land use/condition) of the subject property, the size of the project and proposed area of disturbance.
- P. Projected project start and completion dates.
- Q. Give such other information as reasonably may be required by Building Official.

### **Section 15.72.370 Plans and Specifications**

An engineered grading plan is to be submitted for any grading or where the Building Official has determined that a grading project should be engineered.

An engineered grading plan is to be drawn to scale and is to be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that it will conform to the provisions of this Chapter. Two (2) sets of plans and specifications are to be prepared and signed by a Civil Engineer or Architect and are to include the following information as determined by the Building Official:

1. General vicinity map;
2. Property limits of the subject site;
3. Details of terrain and area drainage and accurate contours of existing ground at intervals determined by the Building Official;
4. Location of any buildings or structures that are within fifty (50) feet of the area which may be affected by the proposed grading operations or final drainage and SCM improvements;
5. Limiting dimensions, elevations of finished contours to be achieved by the grading of proposed SCM features, basins, drainage channels and related drainage features;
6. Specifications covering construction and material requirements;
7. Soil engineering report to include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and criteria for corrective measures when necessary, and opinions and recommendations covering adequacy of sites to be developed by the proposed grading and drainage/SCM features;
8. Engineering geology report to include a description of the site, conclusions and recommendations regarding the effect of geologic conditions and recommendations covering the adequacy of sites to be developed by the proposed grading and drainage/SCM features;

9. A statement indicating methods to mitigate any conditions such as steep slopes, location in a geologic study area or flood hazard area, high water table, potential damage to structures on the subject site or adjacent property, potential impairment of natural vegetation, habitat, public view or other sensitive resources;
10. Drainage report; and
11. Erosion and Sediment Control Plan showing any recommendations for mitigating measures described in Item 9 above.

**Section 15.72.380 Issuance**

- A. The application, plans and specifications filed by an applicant for a grading permit shall be checked by the Building Official. Such plans shall be reviewed by other departments of the City to check compliance with the laws and ordinances under their jurisdiction. If the Building Official is satisfied that the work described in an application for permit and the plans filed therewith conform to the requirements of this Chapter and other pertinent laws and ordinances and that the fee specified in Section 15.72.200 has been paid, the Building Official shall issue a permit to the applicant.

When the Building Official issues the permit, he shall endorse in writing or stamp on both sets of plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the Building Official; and all work shall be done in accordance with the approved plans. The Building Official may require that grading operations and project designs be modified if delays occur which result in weather generated problems not considered at the time the permit was issued.

- B. The applicant is to notify the Building Official at least 48 hours in advance of beginning grading operations.
- C. Grading shall not commence on properties of one (1) acre or more, or that are smaller than an acre but are part of a common plan of development of an acre or more in size, or linear projects disturbing an acre or more until the Storm Water Pollution Prevention Plan Notice of Intent and SWPPP have been submitted to the State Water Resources Control Board and the project WDID number issued.
- D. Coordination of Grading Plans. The Building Official may require inspection and testing by an approved testing agency or the Public Works Department, and he is responsible for coordination of the parties to all grading activities including the civil engineer, soils engineer, engineering

geologist, Public Works Department, other City departments where required, the grading contractor, and the testing agency.

- E. Retention of Plans. One set of approved plans, specifications and computations shall be retained by the Building Official, and one set of approved plans and specifications shall be returned to the applicant, which set shall be kept on such building or work site at all times during which the work authorized thereby is in progress.
- F. The issuance of a permit based upon plans and specifications shall not prevent the Building Official from thereafter requiring the correction of errors in said plans and specifications or from preventing building operations being carried on, when in violation of this Chapter or of any other ordinance of the City.
- G. Upon completion of the rough grading and/or final grading for any engineered grading, the Building Official may require submission of an as-graded grading plan and soil and geologic grading reports.
- H. The applicant is to notify the Building Official when the grading operation is ready for final inspection. Final approval will not be given until all work has been completed in accordance with the final approved grading plan including installation of all drainage facilities and their protection devices and all required revegetation and erosion control measures.

**Section 15.72.390                      General Grading Standards**

- A. Excavations and fills are to be conducted in accordance with the standards set out in Section 15.72.391 through Section 15.72.410.
- B. No grading work (except for emergency operations), which requires a grading permit under the provisions of this Chapter, shall take place outside of approved hours of construction. Standard hours of construction shall be defined by separate resolution. Grading shall not create or contribute to flooding, erosion, or increased turbidity, siltation or other form of pollution in the City's storm drain system or in a watercourse;
- C. A minimum thirty (30) foot wide buffer area shall be maintained adjacent to riparian areas, watercourses and wetlands, wherein no grading is to occur, unless specifically permitted by the City of Lompoc and those Resource Agencies having jurisdiction.
- D. Grading operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time, consistent with an anticipated build-out schedule.



- E. Grading activities shall be performed in accordance with all applicable laws, rules and regulations pertaining to air and water pollution and noise control.
- F. If contaminated soils are found during a grading operation, all grading in these areas shall cease. Soils chemical tests shall be taken, with the results provided to the City of Lompoc Building Division and the Santa Barbara County Fire Department (Buellton Office) which acts as the Certified Unified Program Agency (CUPA) of the Department of Toxic Substances Control. Grading in the affected area may recommence, either as a part of an approved clean-up plan, or on receipt by the City of Lompoc Building Division of a Clean Closure Letter from the CUPA.
- G. Grading plans shall include details and calculations (signed and stamped by a licensed Civil Engineer or Architect) for any and all required post-construction SCM infiltration devices or areas (rain garden, detention basin, etc.) necessary to meet the requirements of the City's Storm Water Quality Management Ordinance and its Post-Construction Hydromodification Development requirements.
- H. Storm Water Control Measures, including approved pervious pavement, shall be constructed per specifications and guidelines incorporated into and referenced by the City's Post-Construction Hydromodification Development Requirements.

#### **Section 15.72.390.1 Grading Standards--Cuts and Fills Minimum**

Cuts and fills are to be limited to the minimum amount necessary to provide stable embankments for required parking areas or street rights-of-way, structural foundations, and adequate residential yard area or outdoor storage or sales area incidental to a nonresidential use. Landscape berms and noise berms required by conditions of approval or mitigation measures may be exempted from this requirement.

#### **Section 15.72.390.2 Grading Standards--Cut Slopes**

Cut slopes are to be no steeper than two horizontal to one vertical or fifty percent except where certified by a registered Civil Engineer as to stability and/or approved by the Building Official.

#### **Section 15.72.390.3 Grading Standards - Fills**

Fills are to be subject to the following standards, provided that the Building Official may exempt minor fills that are not intended to support structures unless otherwise recommended in an approved soils engineering report.

- A. Bench Under Toe of Fill. The bench under the toe of a fill on a slope steeper than two to one is to be at least ten (10) feet wide. The area beyond the toe of a fill is to be sloped for sheet overflow or a paved drain provided. Where fill is to be placed over a cut, the bench under the toe of a fill is to be at least ten-feet wide, but the cut must be made before placing any fill and approved by the soils engineer or Building Official as a suitable foundation for fill. Unsuitable soil is soil which is not competent to support other soil or fill, to support structures, or to perform satisfactorily the other functions for which the soil is intended.
- B. Rock in Fill. No rock or similar irreducible material with a maximum dimension greater than twelve inches is to be buried or placed in fills, except that the Building Official may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement and approves the fill stability. The following conditions also apply in such case:
1. Prior to issuance of a grading permit, potential rock disposal areas are to be delineated on the grading plan if required.
  2. Rock sizes greater than twelve inches in maximum dimension are to be below grade, measured vertically at a distance determined by the Building Official.
  3. Rocks are to be placed so as to assure filling of all voids with fines.
- C. Building Pad Fill. All fills for building pads and roads are to be compacted to a minimum of ninety percent of maximum density as determined by the Building Official. Fill density will be determined by the Building Official.

#### **Section 15.72.390.4 Ground Preparation for Fill Placement**

The natural ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, top soil, and other unsuitable material, and where slopes are six horizontal to one vertical or steeper, by benching into competent material in a manner acceptable to the Building Official. The keyway under the toe, if specified, shall be at least fifteen (15) feet wide.

#### **Section 15.72.390.5 Fill Placement**

Fills shall be constructed in layers. The loose thickness of each layer of fill material before compaction shall not exceed eight inches. Completed fills shall be stable masses of well-integrated material bonded to adjacent materials and to the materials on which they rest. Fills shall be competent to support anticipated loads and be stable at the design slopes shown on the plans. Proper surface and subsurface drainage and other appropriate measures shall be taken to ensure the continuing integrity of fills.

Earth materials shall be used which have no more than minor amounts of organic substances and have no rock or similar irreducible material with a maximum dimension greater than twelve (12) inches. Larger material may be used with the approval of the Building Official and the geotechnical engineer.

#### **Section 15.72.390.6      Fill Compaction and Testing**

All fills shall be compacted throughout their full extent to a minimum of ninety (90) percent of maximum density as determined by the appropriate Caltrans or ASTM-D standard test method or other alternate methods approved by the Building Official. Tests to determine the density of compacted fills shall be made on the basis of not less than one test for each two-foot vertical lift of the fill but not less than one test for each one thousand (1,000) cubic yards of material placed. Additional density tests at a point approximately one foot below the fill slope surface shall be made on the basis of not less than one test for each one thousand (1,000) square feet in slope surface but not less than one test for each ten (10) foot vertical increase of slope height. All tests shall be reasonably uniformly distributed within the fill or fill slope surface. Results of such testing and location of tests shall be presented in the periodic and final reports.

Compaction may be less than ninety (90) percent of maximum density, as determined by the above test, within six inches of the slope surface when such surface material is placed and compacted by a method acceptable to the Building Official for the planting of the slopes. Compaction of temporary stockpile fills, to be used for a period of not greater than six months, shall not be required, except where the Building Official determines that compaction is necessary as a safety measure to aid in preventing saturation, sliding, or erosion of the fill.

#### **Section 15.72.390.7      Area Above Fill Slopes**

Drainage and terracing is to be provided and the area above fill slopes and the surfaces of terraces are to be graded and paved as required in Section 15.72.430.

#### **Section 15.72.390.8      Fill slopes**

The slope of permanent fills shall not be steeper than two horizontal to one vertical exclusive of terraces and exclusive of roundings described herein, unless a soils report supports a steeper slope, but shall not exceed one and one-half horizontal to one vertical unless the fill is reinforced as recommended by the geotechnical engineer. The Economic & Community Development Department may require that the fill be constructed with an exposed surface flatter than two horizontal to one vertical or may require such other measures as deemed necessary for stability and safety.

#### **Section 15.72.390.9      Slope Restrictions; Building Foundation and Pool Setback**

- A. Unless otherwise recommended in an approved geotechnical or geology report, the placement of buildings, pools and other structures on or adjacent to slopes steeper than three (3) units horizontal to one (1) unit vertical shall be in accordance with the most recent edition of the California Building Code adopted by reference, from time to time, by this Chapter.
- B. The setbacks provided in the California Building Code may be modified by the Building Official if the Building Official determines it to be justified because of special conditions.
- C. The setbacks required in the California Building Code may be increased by the Building Official if found to be necessary for safety or stability or to prevent possible damage from water, soil, or debris or to be consistent with zoning regulations.
- D. Buildings, pools or other structures shall not be constructed on slopes two (2) units horizontal to one (1) unit vertical or steeper unless geotechnical engineering and engineering geology reports indicate that the slopes will be stable. The building shall be designed by a registered civil or structural engineer or architect; and the design is approved by the Building Official.
- E. No building, pool or other structure shall be founded partially on cut and partially on fill unless an engineered foundation design is provided.

**Section 15.72.400 Adjacent Structures Protection**

Footings which may be affected by any excavation shall be underpinned or otherwise protected against settlement and shall be protected against lateral movement. Fills or other surcharge loads shall not be placed adjacent to any building or structure, unless such building or structure is capable of withstanding the additional loads caused by such fill or surcharge.

**Section 15.72.410 Setbacks**

Setbacks for cuts and fills are to be as follows:

- A. The tops of cuts and toes of fill slopes are to be set back from the outer boundaries of the permit area including slope right areas and easements in accordance with Figure No. 1 attached to Ordinance 1576(13) codified in this Chapter.
- B. Setbacks between graded slopes and structures are to be provided in accordance with Figures No. 2A and 2B attached to Ordinance 1576(13) codified in this Chapter.

## Section 15.72.420                      Revegetation Standards

- A. Permanent revegetation or approved landscaping is to be commenced on the construction site as soon as practical, and in no case exceeding twelve (12) months after achieving final grades and utility placement. Whenever practical, land is to be developed in increments of workable size which can be completed during a single construction season; erosion control SCM/BMPs are to be coordinated with the sequence of grading or improvements.
- B. All surfaces disturbed by vegetation removal, grading, haul roads, or other activity of construction which alters the natural vegetative cover are to be prepared for expedient revegetation or otherwise maintained to control erosion, unless covered with impervious or other improved surfaces, pursuant to approved plans, within thirty days of following the completion of grading, or removal of vegetation, if no grading was involved.
- C. No topsoil shall be removed from the site unless otherwise directed or approved by the Building Official. Topsoil overburden shall be stockpiled and redistributed where appropriate within the graded area, after rough grading, to provide a suitable base for seeding and planting. Runoff from the stockpiled area shall be controlled to prevent erosion and resultant sedimentation of receiving water. Topsoil removed from the surface in preparation for grading and construction is to be protected from erosion while grading operations are underway; provided, that such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved. After completion of such grading, topsoil is to be restored to exposed cut and fill embankments, so as to provide a suitable base for seeding and planting.
- D. Acceptable methods of revegetation include straw-mulching, hydro-mulching or planting of drought tolerant and/or native plantings, as approved by the Planning Division and as required by the City's Water Efficient Landscape and Irrigation Standards.
- E. All planting activities are to be conducted during the period from November through April, unless irrigation is provided and the plantings are regularly watered. Replacement plantings shall be provided, as required by project Conditions of Approval, Mitigation Measures, the City's landscape and irrigation standards or success criteria established by the California Department of Fish and Game.
- F. The maintenance of vegetative protection on graded slopes shall be the responsibility of the permittee and shall be guaranteed until the vegetation is well established or is officially assumed by another party approved by the Building Official.

- G. The faces of cut and fill slopes shall be prepared and maintained to control against erosion. The protection for the slopes shall be installed as soon as practicable and prior to calling for final approval. If a letter stating that cut slopes of a project have been determined not to be subject to erosion due to erosion-resistant character of the materials is submitted, and is signed and stamped by a licensed engineer, such protection may be omitted.

#### **Article 4 Drainage Regulations and Requirements**

##### **Section 15.72.430 Drainage and Terracing**

Drainage facilities and terracing are to conform to the following unless otherwise indicated on the approved grading plan:

- A. Terraces at least six (6) feet in width shall be established at not more than thirty (30) foot in height intervals on all cut or fill slopes to control surface drainage and debris except that, where only one terrace is required, it is to be a mid-height terrace. Cut slopes greater than sixty (60) feet and up to one hundred twenty (120) feet in height are to have terraces of twelve (12) feet in width. Terraces on cut or fill slopes greater than one hundred twenty (120) feet in height are to be designed by the civil engineer and approved by the Building Official. Suitable access is to be provided to permit proper cleaning and maintenance.
- B. Swales or ditches on terraces shall have a minimum depth of one (1) foot, a minimum longitudinal grade of four (4) percent, and a maximum longitudinal grade of twelve (12) percent. Down-drains or drainage outlets shall be provided at approximately three hundred (300) foot intervals along the drainage terrace. Down-drains and drainage outlets shall be of approved materials and of adequate capacity to convey the intercepted waters to the point of disposal. If the drainage discharges onto natural ground, adequate erosion protection shall be provided. Swales or ditches shall be made with reinforced concrete not less than three (3) inches in thickness or an approved equal paving. They are to have a minimum paved width of five (5) feet.
- C. A single run of swale or ditch shall not be designed to collect runoff from a tributary area exceeding thirteen thousand five hundred (13,500) square feet (projected), without discharging into a down drain, if prior approval of the Building Official is not obtained.
- D. Cut and fill slopes are to be provided with subsurface drainage, as determined necessary by the Building Official, based upon the soils engineer's report, or in accordance with a drainage and/or erosion control

plan prepared pursuant to this Chapter. Check dams, cribbing, rip-rap, or other devices or methods are to be employed to control erosion and provide safety.

- E. All drainage facilities are to be designed to carry waters to the nearest practical drainage way or SCM feature, approved by the Building Official as a safe place to deposit such waters. Erosion of ground in the area of discharge is to be prevented by installation of non-erosive down drains, dissipaters or other devices.
- F. Building pads are to have a drainage gradient of two (2) percent toward the street or in an underground conduit. The approved drainage facilities may be one percent if approved by the Building Official and all of the following conditions exist throughout the permit area:
  - 1. No proposed fills are greater than ten feet in maximum depth;
  - 2. No proposed finish cut or fill slope faces have a vertical height in excess of ten feet;
  - 3. No existing slope faces, which have a slope face steeper than ten (10) horizontally to one (1) vertically, have a vertical height in excess of ten (10) feet.
- G. Paved interceptor drains are to be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than forty feet measured horizontally or as approved by the Building Official. Interceptor drains are to be paved with a minimum of three (3) inches of reinforced concrete or approved equal. They are to have a minimum depth of twelve inches and a minimum paved width of thirty (30) inches measured horizontally across the drain. The slope of such drain is to be approved by the Building Official.

Grading, dredging or diking may not alter any intermittent or perennial stream as shown on any USGS seven and one-half minute map, except as permitted through approval of a Streambed Alteration Agreement from the California Department of Fish and Game issued under Section 1601 or 1602 of the Fish and Game Code, and/or as permitted by the U.S. Army Corps of Engineers.

Contours of finished surfaces are to be blended with adjacent natural terrain to achieve a consistent grade and natural appearance. Borders of cut slopes and fills are to be rounded off to a minimum radius of five (5) feet so as to blend with the natural terrain.

#### **Section 15.72.430.1      Drainage Plan Content**

Drainage plans are to be accurately and neatly drawn to include the following as determined by the Building Official:

- A. A site plan showing pre- and post-development flow of surface water onto and off the site.
- B. Existing and finished contours, at intervals determined by the City Engineer.
- C. Building and road elevations, existing and proposed.
- D. Proposed drainage flow lines.
- E. Location and design of any proposed SCM facilities for storage, infiltration, evaporation, or conveyance of storm water runoff. All SCM designs shall comply with specifications and guidance referenced in the Post-Construction Hydromodification Development Requirements. These would include: channels, sumps, basins, rain gardens, bio-swales, culverts, ponds, storm drains and drop inlets and similar structures.
- F. Calculations showing compliance with the City's Post-Construction Hydromodification Development Requirements and related conditions of approval, as applicable.

#### **Section 15.72.430.2 Storm Drain System Standards**

Drainage facilities are to be adequate to assure that the development will not result in storm water run-off that exceeds the requirements of the Storm Water Quality Management Ordinance or that could cause flooding, ponding, soil erosion, sediment production, and sediment pollution. The following standards also apply:

- A. All flow retained within a site and discharged from a site, including drainage facility overflows, and drainage from properties not subject to Post-Construction Standards, shall be designed to carry storm water to the nearest properly designed infiltration, evaporation or retention feature, or to a stable channel or natural drainage way with adequate capacity to carry or retain the flow as required by Section 15.72.430.1(F), above. If drainage facilities discharge onto natural ground, the applicant is to provide percolation tests, as needed, to show that the discharge will infiltrate properly and not adversely affect existing grading, structures or improvements. A method to reduce the velocity of flow in order to prevent erosion or other harmful effects to the subject site or other adjoining properties shall also be provided.

### **Article 4 Grading and Drainage Inspection**

#### **Section 15.72.440 Grading Inspection**

- A. General. All grading operations for which a permit is required shall be subject to inspection by the Building Official. When required by the Building Official, special inspection of grading operations and special testing shall be performed in accordance with the provisions of this Chapter.



- B. Engineered Grading Requirements. For engineered grading, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He shall also be responsible for the professional inspection and certification of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and certification as to the establishment of line, grade, and drainage of the development area. The civil engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the Building Official. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work.

Soil engineering and engineering geology reports may be required as specified in Section 15.72.370. During grading all necessary reports, compaction data, and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and Building Official by the soil engineer and the engineering geologist. The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and certification of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters and the need for sub-drains or other ground water drainage devices. He shall report his findings to the soils engineer and the civil engineer for engineering analysis. The Building Official shall inspect the project at the various stages of the work requiring certification and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.

- C. Regular Grading Requirements. The Building Official may require inspection and testing by an approved testing agency, the expense of which shall be borne by the applicant. The testing agency's responsibility shall include, but need not be limited to, certification concerning the inspection of cleared areas and benches to receive fill and the compaction of fills.

When the Building Official has cause to believe that geologic factors may be involved, the grading operation will be required to conform to engineered grading requirements at no expense to the City.

- D. Grading shall not be commenced until the permittee or his agent shall have posted an inspection record card in a conspicuous place on the site to allow the Building Official to make the required entries thereon regarding inspection of the work. This card shall be maintained on site by the permittee until the finish grading is complete and approved by the Building Official.

- E. The builder or contractor shall have an approved set of grading plans, specifications, and Erosion and Sediment Control Plans (or SWPPP, if required) on the site at all times while work is in progress.
- F. In the absence of specific work site designation upon which grading is to be performed, the Building Official may require the site surveyed and staked by a civil engineer or land surveyor licensed by the State of California to perform land surveying so that the proper location of the work on the lot may be determined.
- G. Inspections for a grading permit shall be made as provided herein and work shall not continue until approval to proceed has been granted following each required inspection. The permittee shall be responsible for notifying the Building Division at least twenty-four (24) hours prior to the time when the inspection is to be made.

#### **Section 15.72.441 Required Storm Water Inspections**

All grading operations for which a grading permit is required shall have Storm Water Inspections to assess compliance with the Storm Water Management Ordinance, the ESCM, SWPPP and State storm water regulations, as applicable. The inspections shall include but not be limited to:

- A. Pre-Construction Inspection: when the permittee is ready to begin work, but before any grading, clearing or grubbing has begun, inspect and review erosion and sediment control SCM/BMP's with permittee.
- B. Toe/bench/keyway inspection: after the natural ground is exposed and prepared to receive fill, but before any fill is placed, inspect and review erosion and sediment control SCM/BMP's for placement, maintenance and effectiveness with permittee.
- C. Drainage device inspection: after forms are in place, but before any concrete is placed, after pipe or drainage devices are in place but before pipes or devices are buried, inspect erosion and sediment control SCM/BMP's for placement, maintenance and effectiveness with permittee.
- D. Final inspection: when all work, including installation of drainage structures, other protective devices, planting and slope stabilization has been completed, temporary erosion and sediment control measures no longer needed have been removed, and the "as-graded" plan and required reports have been submitted to the Building Official and accepted as complete.

- E. In addition to the inspections above, such other inspections of any work to ascertain compliance with the provisions of this Chapter and other laws and regulations as may be required, including the requirements of the City's NPDES Phase II Municipal Separate Storm Sewer System Permit. A licensed landscape architect, qualified biologist, archeologist, or other qualified professional may be required to be present during inspections. The City may inspect for adequate installation and functionality of Best Management Practices (SCM/BMPs) prescribed by the Erosion and Sediment Control Plan or SWPPP, at any time throughout the year. The City may identify SCM/BMP maintenance and repair needs on the site with the permittee, or permittee's agent, to ensure compliance with the minimum requirements of the City's NPDES Phase II Municipal Separate Storm Sewer System Permit.

#### **Section 15.72.442 Required Grading Inspections**

All grading operations for which a grading permit is required shall have Grading Inspections. The inspections shall include but not be limited to:

- A. Periodic reports by a geotechnical engineer, an engineering geologist, or other qualified professional, certifying the compaction or acceptability of all fills may be required. These shall include, but need not be limited to, inspection of cleared areas and benches prepared to receive fill and removal of all unsuitable materials, the bearing capacity of the fill to support structures, the placement and compaction of fill materials, and the inspection of buttress fills, subterranean drains, cut slopes and similar devices.
- B. Upon completion of the work, the Building Official may require a certification from the civil engineer of record that all grades, lot drainage, and drainage facilities have been completed in conformity with the approved plans and as-graded plan of the completed work.
- C. A geotechnical engineering report including, but not limited to, certification of soil capacity, and compaction summaries of field and laboratory tests, location of tests, and showing limits of compacted fill on a grading plan. This certification shall include specific approval of the grading as affected by soils on the site.
- D. An engineering geology report by an engineering geologist based on the grading plan, including specific approval of the grading as affected by geological facts. Where necessary, a revised geologic map and cross-sections and any recommendations necessary shall be included.
- E. Where the nature of the project, type of soils, geologic conditions or drainage dictate that special engineering, geotechnical engineering, or

geological inspections are necessary to prevent danger to public health, safety or welfare, the Building Official may require the permittee to retain one or more of the following:

1. A civil engineer authorized to practice land surveying or a land surveyor to supervise and coordinate all field surveys and the setting of grade stakes in conformity with the plans, to check elevation of grades, inclination of slopes, installation of drainage structures and other matters related to the geometric design of the work, including the design of revised or modified plans and "as-graded" plans, if necessary.
  2. A geotechnical engineer shall provide either periodic or continuous inspection of all soils work, including grading and compaction.
  3. An engineering geologist to provide geological inspections. On work requiring the continuous supervision and inspection of a civil engineer or geotechnical engineer, required inspections may be delegated to the civil engineer or geotechnical engineer by the Building Official. At the time of checking of the plans, the Building Official shall indicate on each application for a grading permit the types of inspection, if any, to be made by the Civil Engineer or Geotechnical Engineer. If the Civil Engineer or Geotechnical Engineer or Geologist finds that the work is not being performed in substantial conformity with this chapter, or the plans and specifications, the engineer shall issue a notice to the persons in charge of the grading work and to the Building Official. All work shall immediately stop upon issuance of the notice of violation by the Building Official, or upon termination of the services of the engineer approved to supervise grading work, the permit holder shall terminate all such grading work, and it shall not commence again until a Civil Engineer, Geotechnical Engineer or Engineering Geologist certifies in writing to the Building Official that he/she has reviewed all phases of the project, is thoroughly familiar with the proposed work, and that he/she approves the work already completed or will assume responsibility for making the necessary improvements thereto. Upon receipt of this notice, the Building Official shall immediately give written notice that work may proceed. No work shall proceed unless and until the issuance of such written notice that work may proceed.
- F. If the Building Official determines by inspection that grading, as authorized, is likely to endanger public health, safety or welfare in the deposition of debris on any public way or interfere with any existing drainage course, the Building Official may require that reasonable safety precautions be taken to remove such likelihood of danger. Written notice

to comply shall be served onto the permittee allowing no more than ten (10) calendar days for corrections to begin unless an imminent hazard to the public health, safety or welfare exists, in which case the corrective work shall begin immediately.

- G. Final inspection, as required in this Chapter, shall be made by the Planning, Building and Engineering Divisions, as applicable.

## **Article 5 Enforcement**

### **Section 15.72.450 Suspension and Revocation of Permit**

- A. A grading permit shall be suspended or revoked by the Building Official, unless exempted by said Official, if:
1. Conditions at the site vary appreciably from those shown on the approved plans.
  2. Construction does not conform to the approved grading plan, final erosion and sediment control plan or SWPPP time schedules, or conditions of the grading permit.
  3. The site is left in a condition hazardous to the public or to the adjacent properties, and permittee does not comply with reasonable requirements to correct said conditions.
  4. The permittee does not comply with reasonable requirements to safeguard the workmen, the public or other persons acting in a lawful manner.
  5. The permittee, in connection with the operations for which the permit was issued, fails to operate his equipment properly on public roads; or allows material to encroach, obstruct, or be deposited within a public road right-of-way or within the storm drain system in a manner not authorized by said permit; or causes unauthorized obstruction or diversion of drainage channels.
  6. The permittee fails to have a qualified inspector, working under the supervision of a registered Civil Engineer or Architect, on the site during operations when so required by the permit, or fails to have the work under proper supervision at all times.
  7. Emergency conditions exist on the site which constitutes a threat to health, safety or public welfare.
  8. Roadways are not kept clean and safe.

9. Dust is not properly controlled.
  10. Non compliance with the approved ESCP or SWPPP.
- B. Prior to the suspension or revocation of a permit, the Building Official shall give to the permit holder written notice of intention to suspend or revoke the permit, which notice shall specify the grounds for such intended action and the time and place for the holding of a conference between the Building Official and the permit holder and/or their authorized representatives to review the grounds for the proposed action. Notice of the proposed action shall be given to the permit holder at least forty-eight (48) hours prior to the scheduled conference.

Upon receipt of the notice of intended suspension or revocation, the permit holder shall cease all work in connection with the permit, with the exception of work necessary to correct any condition or perform any work cited in the notice of proposed action as a ground for suspension and/or revocation and work of an emergency nature.

Within forty-eight (48) hours following the conclusion of the conference, the Building Official shall render his written decision, revoking the permit, suspending the permit, or authorizing the permit holder to proceed with the work. Such action may be with or without conditions. The decision shall be served upon the permit holder by personal service or first class mail, postage prepaid, within twenty-four (24) hours after the rendition of the decision.

If the permit holder is dissatisfied by the decision of the Building Official, he may appeal. Said appeal shall be filed within the same time and in the same manner as an appeal under Section 15.72.250.

- C. If the permittee fails to correct said objectionable or emergency conditions, the City may cause the work necessary to correct said conditions to be done, and the City may take action against the permittee's security to cover the cost of performing the work.
- D. Any permit which has been suspended may be either reinstated or revoked by the Building Official.

#### **Section 15.72.460 Right of Entry**

During the course of exercising the duties delegated to the Building Official in Section 15.72.160 of this Chapter, and when, in the opinion of the Building Official, there exists a reason to believe that a violation of this Chapter has occurred or due cause exists to inspect a property, the Building Official, or his designee, is hereby authorized to enter

such property or premises at any reasonable times and to inspect and perform any duty imposed by the provisions of Section 15.72.160 of this Chapter or by other applicable law.

If such property or premises is occupied, the Building Official shall first present proper credentials to the occupant and request entry, explaining his reasons therefore. If such entry is refused or cannot be obtained because the owner or person having charge or control of the property cannot be located after due diligence, the Building Official shall have recourse to every remedy provided by law to enter and inspect the property. Notwithstanding the foregoing, if the Building Official has reasonable cause to believe that there exists an unsafe, substandard, or dangerous condition within the property or premises as to require immediate inspection to safeguard the public's health or safety, he shall have the right to immediately enter and inspect such property and may use any reasonable means required to secure such entry and make such inspection, whether such property be occupied or unoccupied and whether or not permission has been obtained. If the Building Official observes a violation of this Chapter during the normal performance of his duties, he shall have the full right afforded by law to enter the property to enforce the provisions of this Chapter.

#### **Section 15.75.470                      Stop Work**

Whenever any construction or work is being done contrary to the provisions of any approval, rule, regulation, law or ordinance including, but not limited to, dust control conditions of approval and storm water discharge prohibitions, as set forth in the Storm Water Quality Management Ordinance, or whenever approval was based upon misinformation or misrepresentation, or whenever the public's health, safety or welfare is endangered, the Building Official may issue a written notice or order to stop work for any work that is not in compliance with the permit approved for the project or when no such permit exists. Such notice or order to stop work shall be served upon any persons engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work. The notice or order shall state the reason for the notice and no work shall be done on that portion until the matter has been corrected and approval obtained from the Building Official.

- A. It shall be unlawful for any person to continue the progress of any work regulated under the provisions of this chapter in violation of, or contrary to, any stop work notice or stop work order issued pursuant to this section.
- B. It shall be unlawful for any person to commence any work under the provisions of this Chapter in violation of, or contrary to, any stop work order issued pursuant to this section.

### **Section 15.72.480 Exposure of Work**

Whenever any work on which inspections are required is covered or concealed by other work without having first been inspected, the Building Official may require that such work be exposed for examination. The cost of exposing such work shall not entail any expense to the City.

### **Section 15.72.490 Hazards**

Whenever the Building Official determines that any existing excavation, embankment, or fill on private property, including the exemptions listed in Section 15.72.290, has become a hazard to life or limb, endangers property or adversely affects the safety, use or stability of a public way, storm drain system or drainage channel, the Building Official shall issue a written notice to the owner of said property, or other person or agent in control of said property or project. Upon receipt of notice in writing from the Building Official, the owner, or his agent shall, within the period specified therein, repair or eliminate such excavation, embankment or fill, so as to eliminate the hazard and be in conformance with the requirements of this Chapter. The Building Official may issue a cease and desist order, special or conditional permits and/or require financial security, in accordance with Section 15.72.220, to ensure compliance with the intent of this Section.

### **Section 15.72.500 Urgency Abatement**

The Building Official is authorized to require immediate abatement of any violation of this Chapter that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the Building Official, the City is authorized to enter onto private property and to take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the City shall be fully reimbursed by the property owner/violator. Any relief obtained under this section shall not prevent the City from seeking other and further relief authorized under this Chapter.

### **Section 15.72.510 Notice of Noncompliance**

Where the Building Official determines that work has been done without the required permits, or has not been completed in accordance with the requirements of this Chapter or any other code adopted herein, the Building Official may cause a notice of noncompliance to be recorded with the County recorder and shall notify the owner of the property of such action. The notice of noncompliance shall describe the property, shall set forth the noncompliance conditions, and shall state that the owner of such property has been duly notified. The Building Official shall record a notice of release of the notice of noncompliance with the County recorder when it has been determined by the Building Official that the noncompliance conditions have been corrected.



### **Section 15.72.520                      Violation of Chapter**

Any person found to be violating any provision of this Chapter shall be served by the City in person or by registered or certified mail with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Any person with knowledge of the notice shall, within the period of time stated in the notice, or within such extension thereof as may be granted by the City, correct and cease the violation.

Any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City. Violation of this Chapter may be prosecuted as a misdemeanor. The City may order any person found to be violating this Chapter to attend an administrative hearing, not less than fifteen (15) days after Notice of Violation (NOV), at which time the user shall have an opportunity to respond. The user may be required to explain corrective actions and/or show cause why further enforcement action should not take place. Upon review of the information submitted by the user, the City may pursue further enforcement actions.

### **Section 15.72.530                      Liability for Violation**

- A. Any person violating any of the provisions of this Chapter, or rules, regulations, or standards promulgated by the City, shall be liable to the City for all expenses, losses, and damage suffered by the City by reason of such violation.
- B. Any person violating provisions of this Chapter or any rules, regulations, or standards of the City, or who violates any State or Federal regulation or permit relating to the operation of the City's municipal storm water system, of which he or she has knowledge, shall be liable to the City in a sum equal to the amount of any fine or charge made upon the City by the State or Federal government for such a violation plus reasonable attorneys' fees and costs of suit required to collect such an amount.
- C. It shall be the duty of the Building Official and other authorized employees of the City, to enforce the provisions of this Chapter. No oversight or dereliction on the part of the Building Official, or any authorized assistants of any official, or employee of the City vested with the duty or authority to issue permits, shall legalize, authorize, waive or excuse the violation of any provision of this Chapter.
- D. In the administration and enforcement of this Chapter, any duly authorized official or employee of the City shall have authority to enter upon the premises for the purposes of investigation and inspection; provided,

however, that the above referred to right of entry shall be exercised only during the daylight hours. No person shall refuse to permit such inspection.

- E. In the event any person, firm or corporation shall perform any work in violation of this Chapter or any permit issued pursuant thereto, or fail or refuse to perform any work required by this Chapter or any permit issued pursuant thereto, the same is declared to be a public nuisance and at the direction of the City Council, the City Attorney is authorized to bring and prosecute an action in a court of competent jurisdiction to enjoin the performance of such work or, if such work has been accomplished, from maintaining the same.

#### **Section 15.72.540                      Legal Action**

The City Attorney may commence an action for appropriate legal and/or equitable relief in the Superior Court of Santa Barbara County against any person who violates this Chapter or any permit requirement.

- A. Injunction. The City Attorney may commence an action for the issuance of a preliminary or permanent injunction as appropriate to enforce the provisions of this Chapter.
- B. Civil Penalties.
1. Any person, firm, or corporation, whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill or causes the same to be done, contrary to or in violation of any provision of this Chapter, shall be subject to injunction against such activity and shall be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) for each day that the violation continues to exist.
  2. When the Building Official determines that any person has engaged in, is engaging in, or is about to engage in any act(s) or practice(s) which constitute or will constitute a violation of provisions of this Chapter, or order issued, promulgated or executed hereunder, the City Attorney may make application to the Superior Court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing that such person has engaged in or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted by a Superior Court having jurisdiction over the cause. In any civil action brought pursuant to this section in which a temporary restraining order, preliminary injunction or permanent injunction is sought, it shall not be necessary to allege or prove at

any stage of the proceeding that irreparable damage will occur should the temporary restraining order, preliminary injunction, or permanent injunction not be issued, or that the legal remedies are inadequate.

3. Any person, firm, or corporation, whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or causes the same to be done, contrary to or in violation of any provision of this Chapter shall be liable for and obliged to pay the City for all costs incurred by the City in obtaining abatement or compliance, or which are attributable to or associated with any enforcement or abatement action, whether such action is administrative, injunctive or legal; and for all damages suffered by the County, its agents, officers or employees as a result of such violation or efforts to enforce or abate the violation. In determining the amount of a civil penalty to impose, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting the violation; the nature and persistence of such conduct; the length of time over which the conduct occurred; the assets, liabilities and net worth of the persons responsible, whether corporate or individual; and corrective action taken by the persons responsible; and the cooperation or lack of cooperation in public efforts toward abatement or correction. The civil penalty shall be paid to the City, as ordered by the court.

C. Criminal Penalties.

1. The City Attorney may prosecute violations of this Chapter in accordance with the General Penalty provisions of Section 1.24.010 of this Code. Violations shall be subject to fines of up to \$1,000.00 and imprisonment not exceeding six (6) months (reference Government Code Section 36901). Every day any violation continues to exist shall constitute a separate offense.

**Section 15.72.550      Recovery of Costs**

- A. The Building Official shall maintain records of all costs including, but not limited to, administrative, professional fees, court costs, attorneys' fees, laboratory costs, remedial construction costs and other costs incurred in the processing of violations and enforcement of this Chapter, and shall, to the extent feasible, recover such costs from the owner of the property upon which the violation occurs, or other person responsible.

- B. Upon investigation and determination that a violation of any of the provisions of this Chapter exists, the Building Official shall notify the owner of record or person in possession or control of the property, or other person responsible, by mail, of the existence of the violation, the Building Official's intent to charge the person for all administrative costs associated with enforcement, and of the person's right to a hearing on objections thereto.
- C. During the processing of an enforcement case or at the conclusion of the case, the Building Official shall send a summary of costs associated with enforcement to the owner and to the person having possession or control of the subject property, or other responsible person, by mail, first class postage prepaid. Such summary shall include a notice of the right to an appeal, pursuant to Section 15.72.250, to object to the imposition of the charges.
- D. Any request for hearing to be made upon the imposition of the charges proposed shall be filed with the Building Official within ten (10) calendar days of the service of the summary of costs.
- E. The Building Official shall, within thirty (30) calendar days of receipt of such request for hearing, schedule a hearing upon the imposition of such costs, such hearing to be held at a time and place convenient to the parties, as the Building Official may arrange.
- F. In determining the validity of the costs assessed, consideration shall be given as to whether the total costs are reasonable in the circumstances of the case. Factors to be considered include, but are not limited to, whether the present owner created the violation; whether there is a present ability to correct the violation; whether the person responsible moved promptly to correct the violation; the degree of cooperation or lack thereof, provided by the person responsible; whether reasonable minds may differ as to whether a violation exists and whether the current owner knew, or should have known, that violations existed.
- G. Until all costs, fees and penalties assessed by the Building Official under this Chapter are paid in full, no final inspections, certificates of completion, certificates of compliance, certificates of occupancy, conditional use permits, land use permits, or final map shall be issued by the City.

### **SECTION 3.**

This Ordinance shall be effective thirty (30) days after its enactment.

PASSED AND ADOPTED this 18<sup>th</sup> day of June 2013, by the following electronic vote:

AYES: Council member:

NOES: Council member:

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John H. Linn, Mayor  
City of Lompoc

ATTEST:

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Stacey Alvarez, City Clerk,  
City of Lompoc

DRAFT

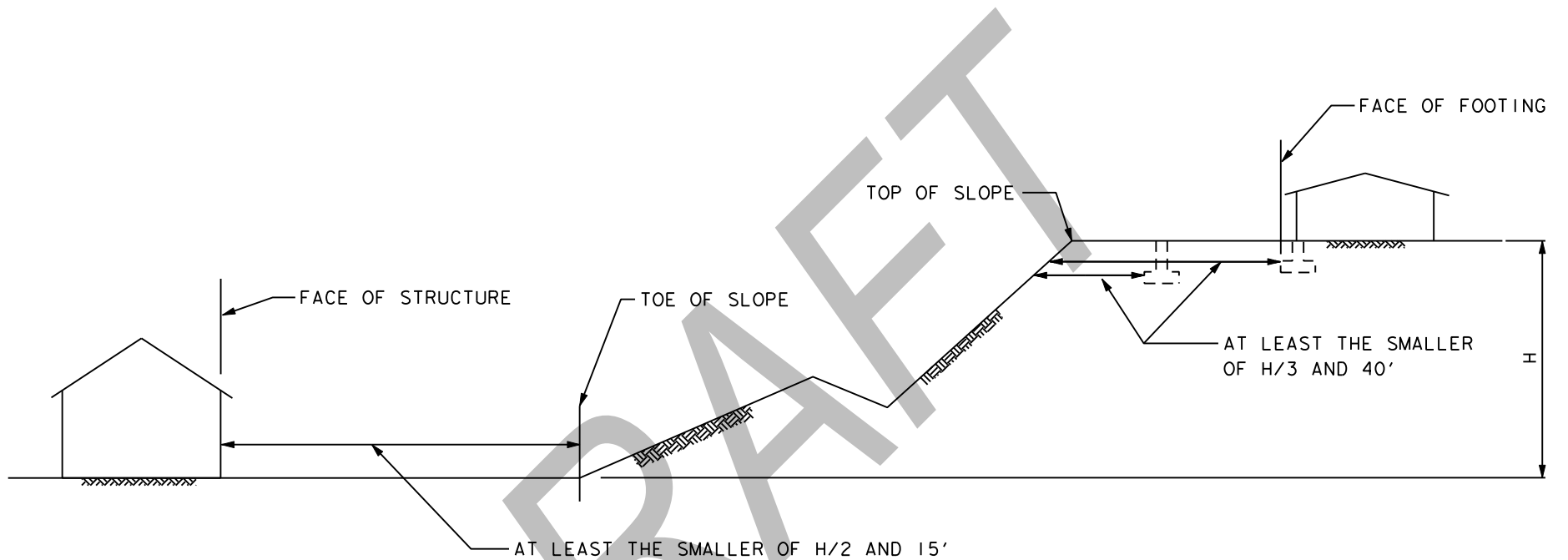


FIGURE I  
 FOUNDATION CLEARANCES FROM SLOPES

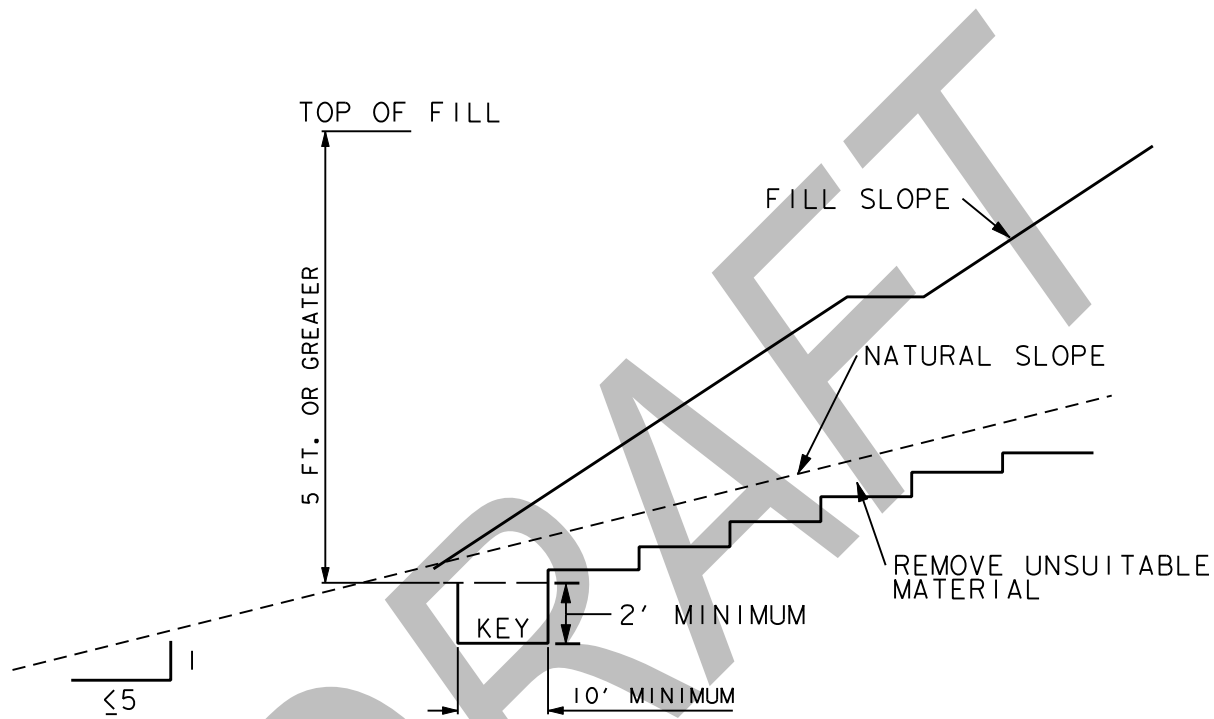


FIGURE 2A  
BENCHING DETAILS

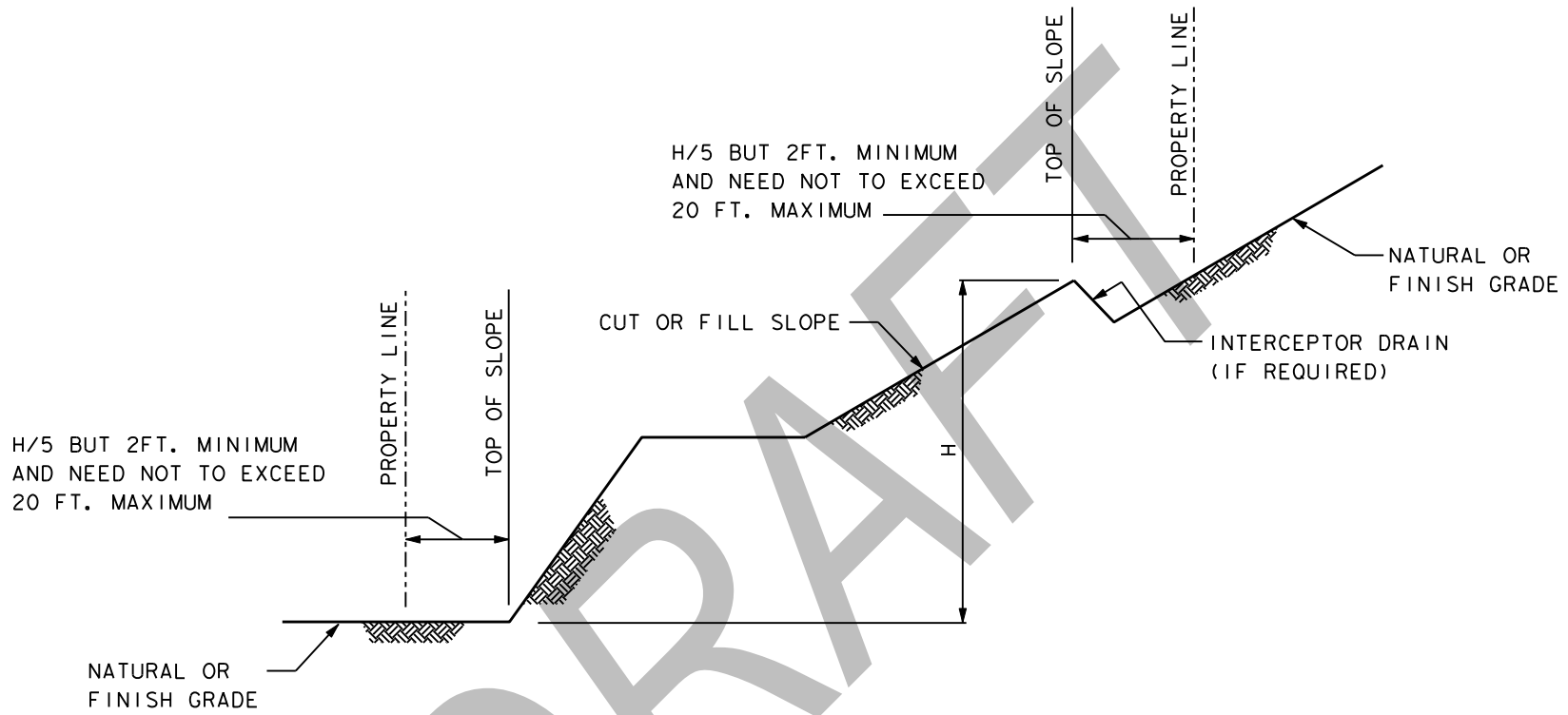


FIGURE 2B  
 DRAINAGE DIMENSIONS