

ORDINANCE 2008-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA AMENDING ENCINITAS MUNICIPAL CODE CHAPTER 23.24 RELATIVE TO GRADING

WHEREAS, the City Council finds that the City's Municipal Code provisions need to be reviewed and amended periodically; and

WHEREAS, the City Council finds that the amendments are consistent with the adopted Local Coastal Program in that the amendments are not adding regulations that would be inconsistent with the Local Coastal Program and that the amendments will enable the protection and preservation of coastal resources and provide controls for drainage and siltation while enhancing storm-water management; and

NOW, THEREFORE, the City Council of the City of Encinitas hereby ordains as follows:

SECTION 1: CHAPTER 23.24: GRADING, EROSION AND SEDIMENT CONTROL

Chapter 23.24 of the Encinitas Municipal Code is hereby amended to read as follows:

See Attachment "A"

SECTION 2: REPEAL OF ORDINANCES 2002-03 AND 2002-15

The City Council having reviewed Section 1 of this Ordinance and with consideration given to the text within Attachment "A", hereby repeals Ordinances 2002-03 and 2002-15 since the language in Ordinance 2002-03 and 2002-15 is substantially consistent with the amendments to Chapter 23.24 adopted herein which will be forwarded to the State Coastal Commission for the purpose of amending the Encinitas Local Coastal Program.

SECTION 3: ENVIRONMENTAL FINDING:

The City Council, in their independent judgment, finds that the adoption of the Municipal Code Amendments will be exempt from Environmental Review pursuant to General Rule 15061 (b) (3) since there would be no possibility of a significant effect on the environment because the amendments will not directly result in development; any development as a result of the amended language will be subject to CEQA review and analysis.

SECTION 4: PUBLIC NOTICE AND EFFECTIVE DATE:

The City Clerk is directed to prepare and have published a summary of this ordinance no less than five (5) days prior to consideration of its adoption, and again within fifteen (15) days following adoption, indicating the votes cast.

This Ordinance was introduced on February 27, 2008 and will become effective following certification by the California Coastal Commission as being consistent with the Local Coastal Program for the City of Encinitas.

PASSED AND ADOPTED this 12th day of March, 2008 by the following vote, to wit:

AYES: Barth, Bond, Dalager, Houlihan, Stocks.

NAYS: None.

ABSTAIN: None.

ABSENT: None.

Jerome Stocks, Mayor of the City of Encinitas, CA.

ATTESTATION AND CERTIFICATION:

I hereby certify that this is a true and correct copy of Ordinance 2008-03, which has been published pursuant to law.

Deborah Cervone, City Clerk/Director of
Legislative Services

23.24.010

CHAPTER 23.24

GRADING, EROSION AND SEDIMENT CONTROL

23.24.010 - Chapter Cited. This Chapter shall be known as the "City of Encinitas Grading, Erosion and Sediment Control Ordinance" and may so be cited. (Ord. 88-16)

23.24.020 - Purpose and Goals. The purpose of this Chapter is to establish minimum requirements for grading, excavating and filling of land, to provide for the issuance of grading permits and to provide for the enforcement of the requirements. This Chapter is adopted pursuant to, and to implement provisions of, the Encinitas General Plan and certified Local Coastal Program Land Use Plan (LUP). It is the intent of the City to protect life and property and promote the general welfare; enhance and preserve the physical environment of the community; and maintain the natural scenic character of the City. The provisions of this Chapter shall be administered to achieve, to the extent possible, appropriate goals and policies of the General Plan/LUP as well as the following goals: (Ord. 94-06)

A. Ensuring that future development of lands occurs in the manner most compatible with surrounding areas and so as to have the least effect upon other persons or lands, or upon the general public;

B. Ensuring that soil will not be stripped and removed from lands in the City, leaving the lands barren, unsightly, unproductive, and subject to erosion and the hazards of subsidence and faulty drainage;

C. Encouraging the planning, design and development of building sites in such fashion as to provide the maximum in safety and human enjoyment, while adapting development to and taking advantage of the best use of the natural terrain;

D. Ensuring that soil erosion, sedimentation, and storm water runoff are regulated to reduce, to the maximum extent practicable, pollutants entering wetlands, the Storm Water Conveyance System and Waters of the State to protect water quality. (Ord. 2008-03)

E. Encouraging and directing special attention toward the retention insofar as practical, of the natural landscaping, especially with regard to existing trees and native plant materials.

23.24.030 - Definitions. When used in this Chapter, the following words shall have the meanings ascribed to them in this Section:

A. Applicant: Any person, corporation, partnership, limited liability company, non-profit entity, joint venture, association of any type, public entity or any other legal entity which submits an application to the City Engineer for a permit pursuant to this Chapter. (Ord. 2008-03)

B. Approved Grade: the grade/earth surface that complies with all sections of the Encinitas Municipal Code and at least one or more of the following criteria as determined by the City Engineer: (Ord. 2008-03)

(1) The natural grade created by natural geological events unaffected by construction techniques such as cutting, filling, landscaping or berming.

(2) A grade created by excavation into a natural grade as defined under subsection (1) above.

(3) The grade created by grading activities before 1986 provided that the grade was shown on one or more of the following: approved grading plans, historical photographs that have not been modified, historical topographic surveys and/or in geotechnical reports prepared by certified professionals. Under this subsection, the City Engineer may, following a review of supporting evidence, determine that evidence submitted to support the pre-1986 grade is adequate.

(4) Grade created after 1986 in accordance with an approved grading permit, grading permit as per an approved tentative map or other permit issued in accordance with the Encinitas Municipal Code.

C. As-Graded: The surface conditions extent on completion of grading.

D. Bedrock: In-place solid rock.

E. Bench: A relatively level step excavated into earth material on a slope on which fill is to be placed.

F. Best Management Practices or BMPs: means schedules of activities, practices or devices, prohibitions of practices, site designs, procedures, and other methods to prevent or reduce the discharge of pollutants directly or indirectly to Storm Water, the Storm Water Conveyance System, or Waters of the State. BMPs may be structural or nonstructural. BMPs may include any type of pollution prevention and pollution control measure which the City Engineer finds is necessary to reduce pollutants entering the Waters of the State to the maximum extent practicable. (Ord. 2008-03)

G. Borrow: Earth material acquired from an off-site location for use in grading on a site.

H. Certify: A signed, written statement that the specific inspections and tests that were required have been performed and that such tests comply with the applicable requirements of this Chapter.

I. Civil Engineer: A professional engineer registered in the State of California to practice in the field of civil works.

J. Civil Engineering: The application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.

K. Compaction: The densification of a fill by mechanical means.

L. Cross lot drainage: Runoff that directly flows on the surface of the ground and across lot lines to a neighboring property. (Ord. 2008-03)

M. Drainageway: A natural or man-made channel which collects and intermittently or continuously conveys stormwater runoff.

N. Earth Material: Any rock, natural soil or fill and/or combination thereof.

O. Engineering Geologist: A geologist experienced and knowledgeable in engineering geology and certified by the State of California to practice engineering geology

P. Erosion: The wearing away of the ground surface as a result of the movement of wind, water, and/or ice.

Q. Excavation or Cut: Any earth, sand, gravel, rock or similar material that is cut into, dug, quarried, uncovered, removed, displaced, or relocated by man and the conditions resulting therefrom.

R. Fill or Embankment: Deposits, removal and recompaction of soil, rock or other similar irreducible materials placed by man. (Ord. 2008-03)

S. Final Erosion and Sediment Control Plan (Final Plan): A set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a particular site after all other planned final structures and permanent improvements have been erected or installed.

T. Grade: The vertical location of the ground surface.

Existing or Grade - the grade prior to grading. (Also see Natural Grade, below and Approved Grade, above) Rough Grade - the stage at which the grade approximately conforms to the approved plan. Rough grades shall be within 0.2 feet of

finish grades. Finish Grade - the final grade of the site which conforms to the approved plan. (Ord. 2008-03)

U. Grading: Any land disturbance or land fill, or removal and recompaction, or combination thereof that results in the displacement, removal, excavation, import, export or recompaction of soil. (Ord. 2008-03)

V. Interim Erosion and Sediment Control Plan (Interim Plan): A set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a particular site during the period in which pre-construction and construction-related land disturbances, fills and soil storage occur, and before final improvements are completed.

W. Key: A designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.

X. Land Fill: Any human activity depositing soil or other earth materials.

Y. Natural grade is the grade/ earth surface that complies with all other sections of the Encinitas Municipal Code and at least one or more of the following criteria as determined by the City Engineer: (Ord. 2008-03)

(1) The grade created by natural geological events unaffected by construction techniques such as cutting, filling, landscaping or berming.

(2) A grade created by excavation into a natural grade as defined under subsection (1) above

(3) The grade created by grading activities before 1986 provided that the grade was shown on one or more of the following:-approved grading plans, historical photographs that have not been modified, historical topographic surveys and/or in geotechnical reports prepared by certified professionals. Under this subsection, the City Engineer may, following a review of supporting evidence, determine that evidence submitted to support the pre-1986 grade is adequate.

Z. Nuisance runoff- runoff generated from sources other than storm water. (Ord. 2008-03)

AA. Permittee: The applicant in whose name a valid permit is duly issued pursuant to this Chapter and his/her agents, employees and others acting under his/her direction.

BB. Priority Project: A project identified by criteria used by the San Diego Regional Water Quality Control Board, the City of Encinitas Storm Water Ordinance, the City of Encinitas BMP Manual Part II or the Encinitas Local Coastal Program as a

priority project for the purpose of post construction storm water pollution control. (Ord. 2008-03)

CC. Road Maintenance: work that is required to keep a public or private access road in proper and functioning order and in the approved completed condition. Typical road maintenance includes overlays and repair of cracks for paved roads. For non-paved roads, typical maintenance includes leveling and smoothing the surface, dust control treatment, and/or replacement of granular materials on the road surface. Road maintenance work shall not include: construction of new paving, road widening, replacement of pavement sections or change of grade in excess of six inches. (Ord. 2008-03)

DD. Runoff or Storm Water Runoff - that portion of water generated from natural sources, such as from rain or melted snow that flows over the ground. (Ord. 2008-03)

EE. Sediment: Earth material deposited by water or wind.

FF. Site: A parcel or parcels of real property owned by one or more than one person which is being or is capable of being developed as a single project.

GG. Slope: An inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

HH. Soil: Naturally occurring superficial deposits overlying bed rock.

II. Soil Engineer: A civil engineer experienced and knowledgeable in the practice of soil engineering.

JJ. Soil Engineering: The application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

KK. Wet Season or Rainy Season: The period from October 1 thru April 30. (Ord.2002-03)

LL. "Maximum Extent Practicable" or MEP- The technology-based standard established by Congress in CWA Section 402(p)(3)(B)(iii) that operators of MS4s must meet. Technology-based standards establish the level of pollutant reductions that dischargers must achieve, typically by treatment or by a combination of source control and treatment control BMPs primarily (as the first line of defense) in combination with treatment methods serving as a backup on a permanent basis after completion of construction (additional line of defense). (Ord. 2008-03)

MM. Person- An individual, corporation, partnership, limited liability company, non-profit entity, joint venture, association of any type, or any other legal entity. (Ord. 2008-03)

NN. Pollutant- any agent that may cause or contribute to the degradation of water quality, including, but not limited to, Earth Materials. (Ord. 2008-03)

OO. Post Construction BMPs – Combinations of site design, erosion control, waste management, and mechanical and bio-filtration devices, intended to limit discharge of pollutants into the municipal storm sewer systems (MS4) on a permanent basis after completion of construction. (Ord. 2008-03)

PP. Storm Water Conveyance System- private and public drainage facilities within the City of Encinitas by which Storm Water may be conveyed to Waters of the United States, including but not limited to, streets, roads, catch basins, natural and artificial channels, natural and artificial drainage features, aqueducts, canyons, stream beds, gullies, curbs, gutters, ditches, and storm drains. Historic and current development make use of natural drainage patterns and features as conveyances for urban runoff. Urban streams used in this manner are part of the Storm Water Conveyance System regardless of whether they are natural, man-made, or partially modified features. (Ord. 2008-03)

QQ. Uncontrolled Stockpiles: Any fill placed on land for which no soil testing was performed or no acceptable compaction reports or other acceptable soil reports were prepared or submitted. Also referred to as “uncontrolled embankment” or “undocumented fill”. (Ord. 2008-03)

RR. Waters of the State- any water, surface or underground, including saline waters within the boundaries of California. The definition of the “Waters of the State” is broader than that for the “Waters of the United States” in that all water in the State is considered to be a “Waters of the State” regardless of circumstances or condition. Under this definition, a municipal storm sewer system (MS4) is always considered to be a “Waters of the State”. [California Water Code Section 13050 (e)]. (Ord. 2008-03)

SS. Waters of the United States- water subject to the regulatory jurisdiction of the United States under the Federal Clean Water Act and applicable case law. In general, this includes “navigable” waters, waters tributary to “navigable” waters, and adjacent wetlands. [40 Code of Federal Regulations section 122.2.]” (Ord. 2008-03)

23.24.040 - Public Health, Safety, and Welfare. Whenever the City Engineer determines that any existing excavation or embankment or fill on private property has become a threat to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, or discharges pollutants into waters of the State, the owner of the property upon which the excavation or fill is located, or other person or agency in control of said property, upon receipt of notice in writing from the City Engineer, shall within the period specified therein repair or eliminate such

excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this code. (Ord. 2008-03)

23.24.050 - Other Laws. Neither this ordinance nor any administrative decision made under it:

A. Exempts the Permittee from procuring other required permits or complying with the requirements and conditions of such a permit; or

B. Limits the right of any person to maintain, at any time, any appropriate action, at law or inequity, for relief or damages against the Permittee arising from the permitted activity.

23.24.055 - Amendment An Amendment to any portion of this Chapter constitutes a proposed amendment to the implementing regulations of the City's Local Coastal Program (LCP). A proposed LCP amendment shall comply in form, content and procedure with the provisions of Chapter 30.82 of the Municipal Code. An amendment to this Chapter shall not become effective until certified by the Coastal Commission pursuant to California Public Resources Code Section 30514. (Ord. 94-06)

23.24.060 - Landscape Guidelines Manual. The City Council may by resolution adopt a Landscape Guidelines Manual to provide for plans, programs and standards for landscaping, fire suppression, open space easement maintenance, erosion control, planting and irrigation. Upon adoption by the City Council and certification by the Coastal Commission, the contents of that Manual shall be part of the requirements of this Chapter. Any permits issued pursuant to this Chapter shall comply with the provisions of that Manual. (Ord. 95-04)

23.24.070 - Erosion and Sediment Control Manual. The City Council may by resolution adopt a Manual of Standards for Erosion and Sediment Control Measures to provide guidance in controlling water quality impacts of construction related erosion. Upon adoption by the City Council and certification by the Coastal Commission, the contents of that Manual shall be part of the requirements of this Chapter. Any permits issued pursuant to this Chapter shall comply with the provisions of that Manual. (Ord. 95-04)

23.24.071 - BMP Manual, Part II. Upon adoption by the City Council and certification by the Coastal Commission, the contents of that Manual shall be part of the requirements of this Chapter. The City Council adopted the City of Encinitas Storm Water Best Management Practices Manual Part II in Ordinance No. 2002-14 on December 11, 2002. This manual provides design, construction, and operation requirements for minimizing storm water pollution, and its content shall be part of the requirements of this Chapter. Any permits issued pursuant to this Chapter shall comply with the provisions of the Best Management Practices Manual Part II. Sections of the Best Management Practices Manual Part II are highlighted for the purpose of inclusion into the Local Coastal Program by this reference. (Ord. 2008-03)

23.24.072- Engineering Design Manual. The City Council may by resolution adopt an Engineering Design Manual, which will include standards and requirements for grading permits and grading plan preparation. Upon adoption by the City Council and certification by the Coastal Commission, the contents of that Manual shall be part of the requirements of this Chapter. Any permits issued pursuant to this Chapter shall comply with the provisions of that Manual. (Ord. 2008-03)

23.24.073-Contaminated Soils. The City Council may by resolution adopt a policy to provide guidance on the testing, handling and disposal of contaminated soils that will include requirements that will be necessary for applicants to comply with prior to issuance of grading permits. Any permits issued pursuant to this Chapter shall comply with the provisions of that policy. (Ord. 2008-03)

23.24.080 - General Requirements. No person may grade, fill, excavate, store or dispose of soil and earth materials, clear existing vegetation or perform any other land-disturbing or land filling activity without first obtaining a permit as set forth in this Chapter. Any removal of BMP's that were required for a priority project will require a grading permit for corrective or other action. If applicable, a requirement may be imposed to replace the BMP with equivalent water quality protection. If the grading is taking place in the Coastal Zone, a Coastal Development Permit may also be required. (Ord. 2008-03)

23.24.090 - General Exemptions. All land-disturbing or land-filling activities or soil storage shall be under-taken in a manner designed to minimize surface runoff, erosion and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this Chapter, if all the following criteria are met:

- A. The land area which is disturbed or filled is 10,000 square feet or less.
- B. The effected natural and finished slopes are less than 25% gradient and the grading could not result in an adverse condition to existing or proposed structures, neighboring properties, public rights-of-way or storm water pollution control devices. (Ord. 2008-03)
- C. The volume of soil or earth materials stored, graded, moved, replaced, imported, exported or otherwise disturbed is 50 cubic yards or less. (Ord. 2008-03)
- D. Rainwater runoff is diverted, either during or after construction, from an area smaller than 5,000 square feet.
- E. An impervious surface, if any, of less than 5,000 square feet is created or replaced.

F. No drainageway is blocked or has its stormwater carrying capacities or characteristics modified.

G. The activity does not take place on an inland or coastal bluff, within 100 feet by horizontal measurement from the top of an inland or coastal bluff, the bank of a watercourse, the mean high water-mark (line of vegetation) of a body of water or within the wetlands associated with a watercourse or water body, whichever distance is greater. (Ord. 2008-03)

H. Retaining wall constructed six feet or lower measured from the top of the wall to the lowest adjacent grade. (Ord. 2008-03)

I. Grading is proposed for a development that is not classified as a priority project for post construction storm water pollution control. (Ord. 2008-03)

J. No clearing and grubbing of vegetation and no disturbance of land within an environmentally sensitive area are proposed. (Ord. 2008-03)

23.24.100 - Categorical Exemptions. Other sections of this Subarticle notwithstanding, the following activities are exempt from the permit requirements:

A. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of the structure.

B. Cemetery graves.

C. Refuse disposal sites controlled by other regulations.

D. Normal agricultural crop management practices that take place on land that has been farmed during each of the preceding three years. (Ord. 94-06)

E. Emergencies posing an immediate danger to life or property, or substantial flood or fire hazards. Emergency shall be as defined in the CEQA Guidelines as published by the State of California Office of Planning and Research. However, a grading permit will be required if the emergency work completed does not otherwise qualify as a general exemption or categorical exemption. If a grading permit is required, the grading permit must be obtained once the emergency work is completed. No final inspection or other permits will be issued for the project site unless and until the required grading permit is issued and all work required by the grading permit is completed to the satisfaction of the City Engineer in conformance with this Chapter. (Ord. 2008-03)

F Excavations within public rights-of-way covered by a public improvement or construction permit issued by the Engineering Services Department. (Ord. 2008-03)

G. Road Maintenance that meets all State and city requirements for storm water pollution control and is not adversely impacting any natural or manmade drainage. (Ord. 2008-03)

23.24.105 Impervious Surface and Drainage. A project that proposes to create over 500 square feet of new impervious surface area will need to obtain a construction permit and adhere to all standards for drainage and Best Management Practices as contained in the Manual of Best Management Practices, Part II as adopted and amended by the City Council. (Ord. 2008-03)

23.24.110 - Environmental Protection Procedure

A. Planning and Building Department Review - Prior to issuing a grading permit, the applicant shall fulfill all environmental protection requirements contained in this Code. All applications shall be reviewed by the Planning and Building Department, whereupon a determination will be made as to whether further environmental review will be required. (Ord. 2008-03)

B. Coastal Development Permit Review - No grading permit shall be issued for a project or development within the California Coastal Zone until the applicant has presented an approved Coastal Development Permit or a certificate of exemption from Coastal Development Permit requirements granted by the Planning and Building Director or, if applicable, the California Coastal Commission. (Ord. 2008-03).

23.24.115- Application Form. The applicant shall provide all requested information on the application form. The application form shall be signed and dated by the owner of the site or by an authorized representative of the owner. The application form shall be submitted with the applicable permit application, required items listed for the permit application, appropriate studies and appropriate fees and deposits. The City Engineer may require additional information in accordance with the Municipal Code prior to issuance of the grading permit or granting final approval of the grading at the property. (Ord. 2008-03)

23.24.120 - Permit Application. The application for any grading permit (regular or minor) must include all of the following items unless a specific item is waived in writing by the City Engineer following a review of the project application: (Ord. 2008-03)

A. Application form.

B. Site Map and Grading Plan.

- C. Interim Erosion and Sediment Control Plan.
- D. Final Erosion and Sediment Control Plan. (Ord. 2008-03)
- E. Drainage Study. (Ord. 2008-03)
- F. Engineering Geotechnical Report. (Ord. 2008-03)
- G. Title Report. (Ord. 2008-03)
- H. Landscape and Irrigation Plan, or other erosion control measure as approved by the City Engineer. (Ord. 2008-03)
- I. Work schedule (prior to issuance of permit).
- J. Application fees.
- K. Acceptable security (prior to issuance of permit).
- L. Any supplementary material required by the City Engineer.
- M. Applicants subject to the Statewide General NPDES Permit for Storm Water Discharges Associated with Construction Activities must provide evidence of existing coverage under the General Construction Permit and submit a Storm Water Pollution Prevention Plan to the City for review and approval as required by the general NPDES permit for construction. (Ord. 2008-03)
- N. Demonstration of compliance with City and State Codes for Post Construction Storm Water Treatment and Pollution Control, including, but not limited to, depiction of all the existing and proposed BMPs, depiction of how all the runoff generated on impervious areas will be routed to BMP areas and treated before discharge, signed maintenance agreements and signed covenants for post construction BMPs. (Ord. 2008-03)
- O. Demonstration of compliance with Municipal Code requirements, including, but not limited to Chapters 23.06 and 23.08 which require that certain grading activities complete a Citizen Participation Program and obtain a Design Review Permit. If grading is proposed in the Coastal Zone, a Coastal Development Permit may also be required (see 23.24.110B) (Ord. 2008-03)
- P. Upon completion of plan-check and approval of grading plans, the applicant's engineer shall prepare photo-mylars for signatures of the City Engineer and any other city or agency official that has reviewed the grading plans for conformance with City of Encinitas and agency codes. (Ord. 2008-03)

23.24.125 - Minor (Simplified) Grading Permit (Ord. 2008-03)

- A. A minor (simplified) grading permit may be authorized by the City Engineer if Subsections 1 through 7, below, are met to the satisfaction of the City Engineer.
1. The proposed grading is between 50 and 250 cubic yards. The City Engineer may authorize a Minor Grading Permit in accordance with Subsection 8, below. If the City Engineer authorizes a minor grading permit for removal and recompaction grading in excess of 250 cubic yards, additional inspection fees will be assessed for grading in excess of 250 cubic yards.
 2. The grading does not propose to create slopes more than six feet high.
 3. The grading is proposed on an existing slope less than six feet high.
 4. The grading is not proposed within any environmentally sensitive areas, floodplain, floodway, within 100 feet of any coastal or inland bluffs, or area with geologic or slope stability problems, and does not divert or adversely impact any drainage flow.
 5. The grading or other aspects of the development do not require any discretionary permit review by the Planning and Building Department other than a Coastal Development Permit.
 6. The grading or other aspects of the development neither proposes nor is required to provide public improvements.
 7. The grading or other aspects of the development do not propose cross lot drainage or major drainage improvements.
 8. If the proposed grading is for removal and recompaction of unsuitable soils under a building footprint, and the proposed depth of excavation is four feet or less, a simplified grading permit may be issued for grading up to 750 cubic yards.
- B. It is the intent of this Section to simplify issuance of grading permits for proposed grading meeting the requirements described in Section 23.24.125(A), above. The application for a minor grading permit must include all of the following items:
1. Three copies of the grading plan prepared on a standard D-size sheet. The plan must be prepared, stamped and signed by a California Registered Civil Engineer. At a minimum, the grading plan shall include:
 - a. Existing and proposed ground contours and spot elevations;
 - b. Cross sections (to scale) showing existing and proposed grading, property lines, adjacent properties and improvements on adjacent properties, and any adjacent public improvements;
 - c. Existing and proposed drainage;
 - d. Proposed Best Management Practice storm water pollution control measures for both construction and post construction

phases of the project in conformance with the City standards contained within City of Encinitas BMP Manual, Part II;

- e. Existing and proposed hard surface areas;
 - f. Existing and proposed landscape materials, including any trees or vegetation proposed for removal;
 - g. Existing and proposed building footprints, including any buildings proposed for removal; and
 - h. Interim erosion control measures.
- 2. Payment of applicable fees or deposits for plan-check, permit issuance and inspection.
 - 3. Any additional items required by the City Engineer in order to verify compliance with applicable City codes and regulations.
- C. The application and grading plan for a minor grading permit must also be in compliance with all applicable City codes, regulations and procedures, including those contained within this Chapter.
- D. The City Engineer may require a full grading permit in addition to a minor grading permit if it is discovered during construction that one or more of the requirements under subsection 23.24.125 (A) are not satisfied.

23.24.126-Precise Grading Plan A precise grading plan with the following elements shown must be submitted for review and approval of the City Engineer if the approved grading plan does not show in sufficient detail any existing and/or proposed structures, building pad elevations and building footprints, existing and proposed drainage and post construction BMPs. The precise grading plan must be approved by the City Engineer prior to the issuance of any building permits for the property. If a precise grading plan is consistent with the standards for a minor grading permit, the precise grading plan may be processed in accordance with Section 23.24.125. (Ord. 2008-03)

In addition to the requirements contained in Section 23.24.120, the following information must be accurately depicted on the precise grading plan:

- A. Building footprint;
- B. Hardscape, existing and proposed;
- C. Landscaping, existing and proposed;
- D. Invert elevations in their exact locations must be shown for area drains, swales and sewer;
- E. Post construction BMPs;
- F. Sewer and water laterals, any hydrants, dry utilities and any other subsurface construction must be shown in the exact locations;
- G. Any walls, freestanding and/or retaining must be shown in their exact locations;
- H. Pools and spas, if applicable;
- I. Any other existing or proposed structures not listed above;
- J. Detention basins;

- K. Driveways/easements;
- L. Setbacks in accordance with Encinitas Municipal Code Title 30 (Zoning Ordinance); and
- M. Reference to any previous permits for the property, including Coastal Development Permits, Use Permits or Variances.

23.24.140 - Grading Plan. The Grading Plan shall be prepared and signed by a California registered civil engineer and if a soils and geology report is required, the grading plan shall also be signed by a registered soils engineer and a certified engineering geologist. The grading plan shall contain the following information:

A. Existing and proposed topography of the site taken at a contour interval sufficiently detailed to define the topography over the entire site. The contour elevation, pad and finished floor elevations, and all other elevations shown on the Grading Plan shall be based upon the most recent vertical datum approved by the City Engineer. The plan shall provide benchmark information and description used for preparation of the grading plan. The plan shall also provide the engineering scale and north arrow pointing to the top or right on appropriate sheets of the plan. (Ord. 2008-03)

B. Cross sections (to scale) showing existing and proposed grading, property lines, adjacent properties and improvements on adjacent properties, and any adjacent public improvements. (Ord. 2008-03)

C. Contours shall extend a minimum of 50 feet off-site, or a sufficient distance to show on- and off-site drainage.

D. Site's property lines and existing and proposed easements shown in true location with respect to the most recent horizontal control monuments approved by the City Engineer. If easements or property lines are not correctly shown, the grading permit may be revoked by the City Engineer. (Ord. 2008-03)

E. Location and graphic representation of all existing and proposed natural and man-made drainage facilities. (Ord. 2008-03)

F. Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams, and other protective devices to be constructed with or as a part of the proposed work, together with a map showing the drain-age area and the estimated runoff of the area served by any drain.

G. Location and graphic representation of proposed excavations and fills, of onsite storage of soil and other earth material, and of onsite disposal.

H. Location of existing trees with trunks greater than 4 inches 3 feet above natural grade and the location and type of vegetation to be left undisturbed.

I. Location of proposed final surface runoff, erosion and sediment control measures.

J. Quantity of soil or earth material in cubic yards to be excavated, filled, removed or recompact, stored or otherwise utilized onsite. (Ord. 2008-03)

K. Outline of the methods to be used in clearing vegetation, and in storing and disposing of the cleared vegetation. (Ord. 2008-03)

L. Proposed sequence and schedule of excavation, filling and other land-disturbing and filling activities, and soil or earth material storage and disposal. Grading shall be phased whenever the City Engineer finds that phasing is feasible and necessary to protect the Waters of the State. Areas that are cleared and graded shall be minimized to only portions of the site that are necessary for construction, and the exposure time of disturbed soil areas shall be minimized. (Ord. 2008-03)

M. Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent owners which are within 15 feet of the property or which may be affected by the proposed grading operations.

N. An estimate of the cost of implementing all grading improvements submitted in a form acceptable to the City Engineer.

O. 100 year flood plain as shown on the most recent FEMA flood insurance rate map_(FIRM) map, if applicable. (Ord. 2008-03)

P. Location, design, detail, and cross section of all proposed post construction BMPs. (Ord. 2008-03)

Q. If applicable, location, design, detail, and cross section of any proposed shoring. (Ord. 2008-03)

R. Setbacks in accordance with Encinitas Municipal Code Title 30 (Zoning Ordinance); and (Ord. 2008-03)

S. Reference to any previous or existing permits for the property, including Coastal Development Permits, Use Permits or Variances. (Ord. 2008-03)

23.24.150 - Interim Erosion and Sediment Control Plan. (Ord. 2008-03) All the following information shall be provided on the grading plan by a California registered civil engineer with respect to conditions existing on the site during land disturbing or filling activities or soil storage:

A. A plan and schedule to reduce erodible soil exposure in the event of rain must be graphically and verbally described on the grading plan. The plan and schedule to reduce erodible soil exposure must include, but may not be limited to, a phased grading schedule, consultation with the National Weather Service to determine the forecast during the wet season and plans to have erosion control measures in place on the site no later than 24 hours prior to the forecasted rain event.

B. Erosion control measures must be graphically and verbally described on the grading plan. The description of erosion control measures may include, but may not be limited to: geotextile material, mats, bonded fiber matrix, hydro seeding, vegetation stabilization, preservation of existing vegetation on site, seeding and planting of ground cover and permanent landscaping and necessary irrigation.

C. Flow control measures must be graphically and verbally described on the grading plan. The description of flow control measures may include, but may not be limited to: dikes made of gravel bags, fiber rolls, use of stabilized earth to reduce flow velocity and trap sediments and energy dissipaters.

D. Diversion of runoff and nuisance flow around the areas subject to construction must be graphically and verbally described on the grading plan. The diversion of runoff may include, but may not be limited to: runoff from off-site, conveyance of concentrated flows via lined ditches or pipes, flows directed away from the construction area and away from and over slopes via installation of pipes and lined ditches.

E. Sediment control devices must be graphically and verbally described on the grading plan. The description of sediment control devices may include, but may not be limited to: storm drain inlet protection by installation of check dams around, but not blocking the inlets, silt fences, gravel bags, berms, fiber rolls, desilting and sediment basins and stabilized construction entrances/exits.

F. The management of waste on the construction site must be graphically and verbally described on the grading plan. The description of the waste management plan may include, but may not be limited to: inclusion of a 24 hour emergency contact plan, spoil prevention and control, solid waste management, hazardous waste management, liquid waste management, concrete wash outs, and storage of minimum quantities of material on site for spill control.

G. Any additional measures as required by the City Engineer to temporarily stabilize and reseed disturbed soil areas to protect the waters of the State.

H. For bonding purposes, an estimate of the cost of implementing and maintaining all interim erosion and sediment control measures must be submitted in a form acceptable to the City Engineer.

23.24.160 - Final Erosion and Sediment Control Plan. All the following information shall be provided by a California registered civil engineer with respect to conditions existing on the site after final structures and improvements (except those required under this Section) have been completed and where these final structures have not been covered by an Interim Plan:

A. Maximum runoff from the site shall be calculated using the method approved by the City Engineer.

B. The Final Plan shall also contain the following information:

1. a description of and specifications for sediment retention devices;
2. a description of and specifications for surface runoff and erosion control devices;
3. a description of vegetative measures prepared by a landscape architect;
4. a description and illustration of permanent landscape and irrigation for grading of slopes four feet or higher or where erosion potential exists, based upon a review of the plans by the City Engineer; and (Ord. 2008-03)
5. a graphic representation of the location of all items in Subsections (1)-(4) above; (Ord. 2008-03)
6. A description of the maintenance necessary for proper functioning of the storm water runoff and erosion control methods used for the site, a maintenance schedule, and names and addresses of the persons who will perform the maintenance. (Ord. 2008-03)

C. For bonding purposes, an estimate of the costs of implementing all final erosion and sediment control measures must be submitted in a form acceptable to the City Engineer. (Ord. 2008-03)

D. The required elements of the Grading Plan and the Final Erosion and Sediment Control Plan must be combined onto one plan. (Ord. 2008-03)

23.24.170 - Soil Engineering Report. (Ord. 2008-03) A soil engineering report, when required by the City Engineer, shall be prepared and certified by a California registered soils engineer and shall be based on adequate and necessary test borings, and shall, unless otherwise stipulated in Municipal Code Chapter 30.34, contain all the following information:

A. A description of site conditions addressing on-site soils and geological conditions.

- B. A description of site geology and seismic and regional geology.
- C. Information relative to current and past use of the site if applicable.
- D. Evaluation and description of on-site soils and geological problems including, but not limited to fill, undocumented fill, compressible material, ground water seepage, slope stability, liquefaction, collapsible soils, landslide and erosion. A minimum factor of safety of 1.5 shall be used for static slope stability analysis.
- E. Evaluation and description of subsurface soil conditions based upon excavation of adequate numbers of boreholes and/or trenches. Results of laboratory soil tests providing adequate information on soil type and strength.
- F. Conclusions and recommendations addressing grading procedures, soil stabilization during and post construction, foundation design, and slope stability.
- G. Recommendations for corrective measures relative to other potential site geotechnical issues such as temporary shoring, interim slopes during construction, expansive soils, liquefaction, collapsible soils, consolidation, undocumented fill, compressible material, soil erosion, seepage, and landslide.
- H. All recommended measures shall be shown on the proposed grading plans or improvement plans.
- I. Recommendations included in the report and approved by the City Engineer shall be incorporated in the grading plans or specifications.

23.24.180 - Engineering Geology Report. (Ord. 2008-03) In addition to a soils report, an engineering geology report will be required when the City Engineer determines that the proposed development is located within an existing or a potential geologic hazardous area. Geological hazardous area is referred to as areas subject to landslide, faulting, or other hazards identified by the City Engineer. The report shall be prepared by a California certified engineering geologist and California certified civil engineer or geotechnical engineer and shall be based on adequate and necessary test borings and shall, unless otherwise stipulated in Municipal Code Chapter 30.34, contain the following information.

- A. An adequate description of the geology of the site and its effect on the proposed grading/development of the site.
- B. Conclusions and recommendations regarding the mitigation of geologic conditions on the proposed development.
- C. Faulting and seismic evaluation of the site.

D. Opinions and recommendations covering the adequacy of the sites to be developed by the proposed grading.

E. The report shall contain a geologic map and cross-sections.

F. Large diameter boring and downhole logging of said boring will be required to evaluate landsliding and slope stability issues.

G. Recommendations included in the report and approved by the City Engineer shall be incorporated in the grading plans or specifications.

23.24.190 - Landscape and Irrigation Plan. A landscape and irrigation plan and cost estimate, when required by the City Engineer, shall be prepared by a person authorized by the State of California Business and Professions Code to prepare landscape and irrigation plans. All landscape and irrigation plans prepared shall conform to all the requirements set forth in the City Landscape Guidelines Manual. All landscaping and irrigation shall be completed as early as feasible. (Ord. 2008-03)

23.24.200 - Work Schedule. The Applicant must submit a master work schedule showing the following information prior to issuance of permit:

A. Proposed grading schedule.

B. Proposed schedule for installation of all interim erosion and sediment control measures.

C. Schedule for construction of final improvements, if any.

D. Schedule for installation of permanent erosion and sediment control devices where required.

23.24.210 - Security.

A. The City Engineer shall only require security to be posted for items of work which, if not completed by the applicant, may impact public health, safety, erosion control, storm water pollution control or result in a visual impact as determined by the City Engineer. For purposes of inspection fee calculations, all engineering work shall be included. The security shall be in the form of one or more of the following as determined by the City Engineer: (Ord. 2008-03)

1. A deposit of money or negotiable securities of the kind approved for securing deposits of public monies.

2. An instrument of credit from one or more financial institutions subject to regulation by the State or Federal government and pledging that the funds

necessary to carry out the permitted works are on deposit and guaranteed for payment, or a letter of credit issued by such a financial institution.

3. A performance bond with an automatic renewal provision from an approved bonding company. Bonding may be for up to a maximum of 80% of the total security required by the permit with the remaining portion of the required security in the form of cash or approved instrument of credit. (Ord. 2008-03)

B. The security shall be conditioned upon the payment to the City of any costs incurred by the City in completing the required work or in employing a contractor to complete such work. Whenever the City Engineer finds that a default has occurred in the performance of any term or condition of work authorized by a permit, written notice shall be given of such default to the Permittee by the City Engineer. Such notice shall state the work remaining to be done, and the time estimated by the City Engineer to be necessary for the completion of work. After receipt of such notice, the Permittee must, within the time specified, satisfactorily complete the permitted work. (Ord. 2008-03)

C. If the default is not corrected by the Permittee within the time specified, the City Engineer shall proceed without delay and without further notice of proceedings to use the security or any portion thereof to complete the required work. The balance, if any, of any cash deposit shall, upon completion of the work, be returned to the depositor or to appropriate successors or assigns after deducting the cost of the work.

23.24.220 – Fees and Deposits.

A. Before accepting a grading permit application and plans and specifications for checking, the City Engineer shall collect a plan checking and application processing fee or deposit, as approved by resolution of the City Council. (Ord. 2008-03)

B. A fee for each grading permit shall be collected by the City Engineer prior to issuance of a grading permit as approved by resolution of the City Council. (Ord. 2008-03)

C. If a deposit account is established, any portion of said deposit not used to cover the actual costs of the City in processing a permit application will be refunded, but no funds will be released until all billings are in, and until final acceptance of the work by the City Engineer. In determining the actual costs incurred by the City in connection with the processing of grading permits, the costs as recorded by the Director of Finance shall be prima facie evidence of actual costs of services performed by the City. (Ord. 2008-03)

D. Failure to pay fees and obtain a permit before commencing work shall be deemed a violation of this Ordinance, except when it can be proven to the satisfaction of the City Engineer that an emergency existed which made it impractical to first obtain the permit. A violation shall result in an assessment of double permit fees for work done prior to permit issuance. Payment of a double fee shall not relieve any person from fully complying with the requirements of this Ordinance nor from any other penalties prescribed herein. (Ord. 2008-03)

E. Additional fees approved by resolution of the City Council shall be collected as required by the City Engineer.

F. If the City Engineer performs emergency work on private property, the City shall charge the property owner all direct and indirect costs that are necessary to complete the work in the quality expected by standard engineering practices. In addition, the City Engineer may charge a mobilization cost equal to ten (10) percent of the cost for performing the work. (Ord. 2008-03)

G. The State of California, its political subdivisions or other governmental agencies shall file applications for permits and shall be issued permits as required by this Article; provided, however, that no fees shall be required for work to be performed directly by the State of California, its political subdivisions or other governmental agencies. Contractors working for the State of California, its political subdivisions, or other governmental agencies shall obtain a permit and shall pay all applicable permit fees.

23.24.230 - Permit Limitations and Conditions. All grading permits shall be subject to the following limitations and conditions:

A. **General Conditions.** The issuance of a grading permit shall constitute an authorization to do only that work which is described or illustrated on the application for the permit, or on the grading plans and specifications approved by the City Engineer. If a grading plan shows work beyond the property, or the work proposed impacts adjacent properties, appropriate agreements/easements shall be secured to the satisfaction of the City Engineer by the applicant prior to commencement of construction. (Ord. 2008-03)

B. **Jurisdictions of Other Agencies.** Permits issued under the provisions of this code shall not relieve the owner of the responsibility for securing permits or licenses that may be required from other City departments or other governing agencies. All grading plans and grading operations shall comply with the State Water Resources Control Board regulations in effect at the time of grading. (Ord. 2008-03)

C. **Conditions of Approval.** In granting any permit under this Code, the City Engineer may attach such conditions as may be reasonably necessary to prevent creation of a nuisance or threat to public or private property. Such conditions may include, but shall not be limited to:

1. Improvements of any existing grading to bring it up to the standards of this Code;

2. Requirements for fencing of excavations of fills which would otherwise be hazardous if not fenced. (Ord. 2008-03)

D. Modification of Approved Plans. Any modifications of or changes to the approved grading plans must be approved by the City Engineer. Modifications which significantly affect the tract layout, land use, or conditions of approval must have the approval of the appropriate authorizing agency. Approval shall only be considered at a properly noticed public meeting. All property owners within 500 feet of the permit site shall be notified of the meeting. (Ord. 2008-03)

E. It shall be a condition of every permit issued under this Chapter that the applicant shall comply with all the provisions of the City of Encinitas Watercourse Protection, Storm Water Management and Discharge Control Ordinance in Chapter 64.20.08 of this Code and City of Encinitas BMP Design Manual, Part II. (Ord. 2008-03)

23.24.240 - Permit Duration.

A. The Permittee shall fully perform and complete all of the work required to be done pursuant to the grading permit within the time limit specified therein or, if no time is so specified, within one hundred eighty days after the date of issuance of the permit. The time limit specified may be extended by the City Engineer upon written request of the Permittee, owner or surety, if in the discretion of the City Engineer, good and sufficient cause has been shown.

B. Every permit issued shall expire by limitation and become null and void if the work authorized by such permit is not commenced within ninety days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period on ninety days.

C. In order to revalidate an expired permit the Permittee shall resubmit all required application forms, maps, plans, reports, schedules, and security to the City Engineer except where an item to be resubmitted is waived by the City Engineer. The City Engineer may require additional fees to be paid.

D. If a permit is not issued in accordance with the approved plans within ninety days from the date of such approval by the City Engineer, the applicant shall resubmit updated application forms, maps, plans, reports, schedules, and security to the City Engineer for review and re-approval. The City Engineer may waive the resubmittal if the original material is found by the City Engineer to meet necessary standard engineering practices. (Ord. 2008-03)

23.24.250 - Assignment of Permit. A permit issued pursuant to this Chapter may be assigned, provided:

- A. The Permittee notifies the City Engineer of the proposed assignment.
- B. The proposed assignee:
 - 1. submits an application form pursuant to this Chapter; and
 - 2. agrees in writing to all the conditions and duties imposed by the permit; and
 - 3. agrees in writing to assume responsibility for all work performed prior to the assignment; and
 - 4. provides security pursuant to this Chapter; and
 - 5. agrees to pay all applicable fees.
- C. The City Engineer approves the assignment.

The City Engineer shall set forth in writing the reasons for his/her approval or disapproval of an assignment.

23.24.260 Permit Denial, Suspension, Revocation, and Default (Ord. 2008-03)

23.24.260 .01 Permit Denial. (Ord. 2008-03) Unless approved corrections are made to the grading plan, a grading permit shall not be issued if any of the conditions under Subsections A through C are found to exist.

A. Hazardous Grading. The City Engineer finds that the work, as proposed by the applicant, will damage any private or public property, or interfere with any existing drainage course in a manner which may cause damage to any adjacent property, or result in the depositing of debris on any public way, or create an unreasonable hazard to person or property, or cause or contribute to an exceedance of state water quality objectives, or fails to reduce pollutants from the site to the maximum extent practicable. If it can be shown, to the satisfaction of the City Engineer, that the hazard can be essentially eliminated by the construction of retaining structures, buttress fills, drainage structures, construction and post construction BMPs, or by other facilities and means, the City Engineer may issue the grading permit on the condition that such construction work is shown on the grading plans and installed as part of the grading permit.

B. Geological Hazard. If, in the opinion of the City Engineer, the land area for which grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce the hazard to person or property, the grading permit shall be denied.

C. Flood Hazard. If, in the opinion of the City Engineer, the land area for which grading is proposed is subject to flood hazard, the plans showing the corrective work proposed to be done must be approved by the City Engineer before issuance of a permit.

D. Subdivision or Use Permit. Under either of the following circumstances, a grading permit shall not be issued unless and until a Tentative Map or subdivision has been approved or conditionally approved or a use permit issued:

1. If the purpose of the proposed grading as stated in the application is to prepare the land for subdivision or for some use for which a use permit is required; or

2. Notwithstanding the purpose of the proposed grading, as stated in the application, if the City Engineer and the Director of Planning and Building find that the purpose of the proposed grading is to prepare the land for subdivision, or for some use for which a use permit is required.

23.24.260 .02-Permit Suspension. (Ord. 2008-03)

The City Engineer shall suspend the grading permit and issue a stop work order, and Permittee shall cease all work on the work site, except work necessary to remedy the cause of the suspension, upon notification of such suspension when:

(a) the City Engineer determines that the permit was issued in error or on the basis of incorrect or incomplete information supplied, or in violation of any ordinance or regulation or the provisions of this ordinance;

(b) Permittee fails to submit reports when required under this Chapter;

(c) inspection by the City Engineer reveals that the work or the work site:

(1) is not in compliance with the conditions set forth in this Chapter; or

(2) is not in conformity with the Grading Plan, or the Interim or Final Erosion and Sediment Control Plans, as approved or as modified under this Chapter; or

(3) is not in compliance with an order to modify under this Chapter;

(d) Permittee fails to comply with an order to modify the grading and/or grading plan within the time limits imposed by the City Engineer;

(e) Permittee fails to properly provide for wet season activity, as required by this Chapter, or fails to comply with all of the provisions of the City of Encinitas Watercourse Protection, Storm Water Management and Discharge Control Ordinance in Chapter 20.08 of this Code, The Best Management Practice Manual, and the State Regional Water Quality Board Permit.

(f) Permittee fails to construct grading and improvements consistent with the approved grading plan and approved revisions to the plan

(g) The City Engineer shall reinstate a suspended permit upon Permittee's correction of the cause of the suspension.

23.24.260 .03 Permit Revocation (Ord. 2008-03)

The City Engineer shall first have resort to the procedures set forth in this Section before any other enforcement procedure set forth in this Chapter.

1. The City Engineer shall revoke the grading permit if Permittee fails or refuses to perform corrective grading work, as required under Subsections a through c below.

a) Permittee refuses to stop work after suspension of the permit and receipt of a stop work order or work suspension notification.

b) Permittee stops construction for a cumulative total of 90 days or longer. For the purpose of this section, "stops construction" shall mean that the City Engineer finds that no significant construction activities have taken place on the project site.

c) Permittee has failed to remedy the cause of a work suspension within 90 days following the work suspension.

2. The City Engineer shall not reinstate a revoked permit.

3. When a grading permit is revoked in accordance with the provisions of this chapter, the City Engineer shall utilize the project security to remedy the causes of the permit revocation.

23.24.270- No Improvements Planned. (Ord. 2008-03) Where an applicant does not plan to construct permanent improvements on the site, or plans to leave portions of the site graded but unimproved, applicant shall:

A. Meet all the requirements of this Chapter, including an Interim Plan designed to control runoff and erosion on the site for the period of time during which the site, or portions thereof, remain unimproved, and also shall include a description of the maintenance necessary for proper functioning of the storm water runoff and erosion control methods used for the site, a maintenance schedule, and names and addresses of the persons who will perform the maintenance; and

B. Submit an executed contract, secured by the methods described in Section 23.24.210 of this Chapter, for maintenance of Interim Plan runoff and erosion control measures for the period of time that the site remains graded but unimproved.

23.24.280 - Issuance of Permits. The City Engineer shall issue a permit upon approval of a Grading Plan, and where required, Interim Plan, Final Plan, soil engineering report, and engineering geology report, deposit of appropriate security and payment of fees. A permit shall be issued subject to the following conditions: (Ord. 2008-03)

A. The Permittee shall maintain a copy of the permit, approved plans and reports required under this Chapter on the work site and available for public inspection during all working hours.

B. The Permittee shall, at all times, be in conformity with approved Grading Plan, Interim and Final Plans.

23.24.290 - Grading Inspection and Supervision.

A. All grading operations for which a permit is required shall be subject to inspection by the City Engineer or authorized representative.

A. Prior to the approval of any building or grading plans and specifications, the City Engineer may inspect the site to determine that the plans and specifications are current and reflect existing condition.

C. The Permittee, or authorized agent, shall notify the City Engineer when the following grading operations are ready for inspection:

1. Pre-job Inspections and Meetings. Prior to any grading, brushing, or clearing, there shall be a pre-grading meeting held on the site. Prior to construction of any public improvements, there shall be a pre-construction meeting held on the site. If required by the City, as applicable to the specific construction of the project, the project geologist, civil engineer of record, contractor, and owner or developer must be in attendance. The Permittee, or authorized agent, shall notify the City Engineer at least two (2) working days prior to the meetings and shall be responsible for notifying all principals responsible for grading or paving related operations. (Ord. 2008-03)

2. Grading Operation Inspections. It shall be the duty of the person doing the work authorized by a permit to notify the City Engineer at least twenty-four hours prior to the work being ready for the following inspections:

(a) Excavation and Fill Inspection

(1) Canyon Cleanout: After all brush and unsuitable material has been removed and an acceptable base has been exposed, but before any fill is placed.

(2) Toe bench and key: After the natural ground or bed-rock is exposed and prepared to receive fill, but before fill is placed.

(3) Over-Excavation: After the area has been excavated but before fill is placed.

(4) Excavation: After the excavation is started, but before the vertical depth of the excavation exceeds ten (10) feet, and every ten (10) feet interval thereafter. Continuation of this excavation operation need not await the arrival of the grading inspector provided that proper notification has been made to the City Engineer.

(5) Fill: After the fill has started, but before the vertical height of the fill exceeds ten (10) feet, and every ten (10) feet interval thereafter. Continuation of this fill operation need not await the arrival of the grading inspector provided that proper notification has been made to the City Engineer.

(6) Rough grade inspection shall include inspection by City geologist on geologic related items, if required.

(7) The site geologist or geotechnical engineer shall provide documentation of the acceptability of all excavations prior to fill.

(8) Adequate time shall be allowed for City inspectors, the project civil engineer and project geotechnical engineer to perform all required inspections.

(b) Concrete or gunite drainage device inspection:

(1) Alley gutter and/or concrete device draining asphalt:

(i) Subgrade (prior to placement of concrete): Sub-grade is to be prepared and required reinforcement placed. The civil engineer shall provide a field memo that line and grade is set in accordance with the approved plans. The geotechnical engineer shall provide a field memo documenting that subgrade soils have been properly prepared.

(ii) Concrete placement: Concrete placement need not await the arrival of the grading inspector provided proper notification has been made to the City Engineer.

(2) Curb and gutter (private property):

(i) Subgrade (prior to placement of concrete): Sub-grade is to be made, forms and reinforcement are to be placed. The civil engineer shall provide a field memo that line and grade is set in accordance with the approved plans. The geotechnical engineer shall provide a field memo documenting that subgrade soils have been properly prepared.

(ii) Concrete placement: Concrete placement need not await the arrival of the grading inspector provided proper notification has been made to the City Engineer.

(3) Terrace drains, down drains, and all other paved drainage devices:

(i) Subgrade: Prior to placement of welded wire mesh or reinforcing steel. The civil engineer shall provide a field memo that line and grade is set in accordance with the approved plans.

(ii) Reinforcement: Reinforcing steel or welded wire mesh are to be installed but prior to placement of gunite or concrete.

(iii) Concrete placement: Concrete placement need not await the arrival of the grading inspector provided proper notification has been made to the City Engineer.

(c) Drainage device other than concrete or gunite inspection:

(1) Subdrains :

(i) After excavation but prior to placement of filter material and pipe. The subdrain pipe and filter material shall be onsite for inspection.

(ii) After filter material and subdrain has been placed but prior to covering with backfill. The project civil engineer shall survey and verify the location and grade of all subdrains prior to backfill.

(2) Storm drains and inlets:

(i) After placement of storm drains but prior to covering with backfill. The civil engineer shall provide a field memo that line and grade is set in accordance with the approved plans.

(ii) After placement of inlet forms, but prior to pouring concrete. The civil engineer shall provide a field memo that line and grade is set in accordance with the approved plans.

(3) Earth Swales:

(i) Prior to rough grading approval or lumber drop.

(ii) Prior to final grading approval.

(d) Rough Grade Inspection. When all rough grading has been completed. Under normal circumstances, all subdrains and slope drains shall be in place and approved as a condition for rough grading approval.

(e) Final Inspection. After all work, including installation of all drainage structures and other protective devices, has been completed and all written professional approvals and the required reports have been submitted. An As-Built plan will be required to document any changes made to the project in the field. (Ord. 2008-03)

(f) Erosion Control Facilities:

(1) After excavation of desilting basins, but prior to fill placement. Prefabricated devices are to be available onsite for inspection.

(2) After fill placement for desilting basins, but prior to placement of concrete or other non-erosive materials.

(3) After completion of an erosion control system in accordance with an approved erosion control plan and the requirements of the City Engineer.

D. If the inspector finds the soil or other conditions not as stated in the approved plans and soil or geology reports or as in additional information which was required for issuance of the grading permit, the inspector may, using reasonable judgment, refuse to allow further work until approval is obtained for a revised grading plan which will conform to the conditions.

E. The provisions of the Uniform Building Code regulating Stop Orders shall apply to all grading work and whenever the City Engineer determines that any work does not comply with the terms of a permit, or this Ordinance, or that the soil or

other conditions are not as stated on the permit, the City Engineer may order the work stopped by notice in writing served on any persons engaged in doing or causing of such work to be done and any such persons shall forthwith stop such work until authorized by the City Engineer to proceed with the work. (Ord. 2008-03)

F. Prior to the issuance of building permits for a graded site, the rough grading shall be completed in accordance with this Section and to the satisfaction of the responsible civil engineer, or architect, engineering geologist, soil engineer, and the City Engineer.

G. Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the City Engineer may require by written notice, that such work be exposed for examination. The work of exposing and recovering shall not entail or be subject to expense by the City.

23.24.300 - Implementation of Permits.

A. It shall be the responsibility of the civil engineer, who prepares the grading plan approved by the City Engineer, to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. The Civil Engineer of record shall also be responsible for the professional inspection and approval of the grading within the Civil Engineer's approved area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade and drainage of the development area. The project civil engineer and/or general contractor shall act as the coordinating agent in the event the need arises for liaison between the project professional grading contractor, and the City Engineer. The civil engineer who prepares and signs the grading plan shall also be responsible for the preparation of revised plans, erosion control plans, and the submission of as-graded grading plans when required by the City Engineer upon completion of the work. The soil engineer and engineering geologist shall review and sign the grading plans, if required by the City Engineer to assure inclusion of the recommendation. (Ord. 2008-03)

B. Soil engineering and engineering geology reports shall be required as specified in this Chapter. During grading, all necessary reports, compaction data, soil engineering and engineering geology recommendations shall be submitted to the owner by the soil engineer and engineering geologist. The owner shall submit copies of the report to the civil engineer and two copies of all reports to the City Engineer.

C. The soil engineer's area of responsibility shall include, but need not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all final slopes, design of buttress fills, subdrain installation and incorporation of data supplied by the engineering geologist.

D. The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and written approval of the adequacy of natural ground for receiving fills, the stability of cut slopes with respect to geological matters, and the need for subdrains or other ground water drainage devices. The engineering geologist shall report professional findings to the soil engineer and the civil engineer for engineering analysis. The engineering geologist shall inspect unsuitable soil removal, placement of subdrain and preparation of benching prior to placement of fill. (Ord. 2008-03)

E. The City Engineer or authorized representative shall inspect the project work at various stages in accordance with the Municipal Code and standard engineering practices. The number and frequency of inspections may be modified by the City Engineer if the work involved requires additional or fewer inspections. (Ord. 2008-03)

F. When preliminary soil engineering reports are not required by the City Engineer, inspection and testing by a certified testing agency shall be required if grading is proposed. The testing agency's responsibility shall include, but need not be limited to, approval of cleared areas and benches to receive fill, and the compaction of fills. (Ord. 2008-03)

G. If the civil engineer, the soil engineer, the engineering geologist, or the testing agency finds that the work is not being done in conformance with the provisions of the approved specifications and grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work. Recommendations for corrective measures, if necessary, shall be submitted to the owner. The owner shall submit two copies of all recommendations and reports to the City Engineer.

H. Protection of Utilities. During grading operations the Permittee shall be responsible for the prevention of damage to any public utilities or services both within the limits of grading and along any routes of travel of equipment.

I. Protection of Adjacent Property. The Permittee, under the grading permit, is responsible for the prevention of damage to adjacent property and no person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley, or other public or private property without supporting and protecting such property from settling, cracking, or other damage which might result.

J. Cross Lot Drainage. Cross lot drainage is not allowed unless, based on evidence submitted and reviewed, the City Engineer finds that the runoff has historically crossed the property lines and construction of a drainage system to receive and convey runoff is not economically feasible. If cross lot drainage is found to be allowable by the City Engineer, the applicant is responsible for providing a design that complies with the State of California and City of Encinitas drainage codes, practices and procedures. The design of cross lot drainage shall include flow control and a discharge system that mimics pre-development conditions of the project site and the receiving site or sites. The City Engineer may also require installation of an infiltration system to reduce nuisance

flow and runoff volume. Refer also to Municipal Code Chapter 30.34 for additional requirements pertaining to properties located on or adjacent to bluffs. (Ord. 2008-03)

23.24.310 - Completion of Work. Upon completion of the rough grading work and at the final completion of the work under the grading permit but prior to the issuance of building permits or release of grading securities or issuance of a certificate of use and occupancy, the City Engineer may require:

A. An as-graded grading plan prepared by the civil engineer, which shall include corrected original ground surface elevations, if necessary, graded ground surface elevations, lot drainage patterns, manufactured slope inclination, and location of all drainage facilities and subdrains.

B. A written approval by the civil engineer approving the grading as being substantially in conformance with the approved grading plan and which specifically approves the following items as appropriate to the project and stage of grading:

1. Construction of line and grade for all engineered drainage devices and retaining walls (rough and final grading releases).

2. Staking of property corners for proper building location if appropriate (rough grading release).

3. Setting of all monuments in accordance with the recorded tract map if applicable (rough or final grading release).

4. Location of permanent walls or structures on property corners or property lines where monumentation is not required (final grading release).

5. Location and inclination of all manufactured slopes (rough and final grading release).

6. Construction of earthen berms and positive building pad drainage (rough and final grading releases).

7. Construction of all post construction BMPs in accordance with the approved grading plans. (Ord. 2008-03)

C. A soil engineering report prepared by the soil engineer, including type of field testing performed, suitability of utility trench and retaining wall backfill, summaries of field and laboratory tests and other substantiating data, and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. Each field density test shall be identified, located on a plan or map, the elevation of test and finish grade elevation shown, and the method of obtaining the in place density described, either ASTM Soil Compaction Test D-1557-

70 or the approved equal shall be so noted. The soil engineer shall provide a written approval as to the adequacy of the site for the intended use, as affected by soil engineering factors. The City Engineer may require that the soil tests or testing be performed by an approved testing agency under the supervision of a licensed civil engineer. (Ord. 2008-03)

D. A geology report if required prepared by the engineering geologist, including a final description of the geology of the site including any new information disclosed during the grading, and the effect of same on recommendations incorporated in the approved grading plan. The engineering geologist shall provide a written approval as to the adequacy of the site for the intended use as affected by geologic factors and when required by the City Engineer, shall submit an as-built geologic map. (Ord. 2008-03)

E. An executed contract, secured by the methods described in Section 23.24.210 of this Chapter, for maintenance of Final Erosion Control Plan runoff and erosion control measures for up to a three year period. (Ord. 2008-03)

F. Partial Release. The City Engineer may, following review of the project, allow rough and final grading releases for portions of the project. Prior to partial release of any work, the appropriate items listed (A) through (E) in this Section shall be provided. (Ord. 2008-03)

G. The permitted grading work will not be considered complete until all requirements of this Section have been fulfilled and the grading permit receives a final approval signature by the City Engineer.

23.24.320 - Time of Grading Operations. Grading and equipment operations within one-half (1/2) mile of a structure for human occupancy shall not be conducted between the hours of 5:30 p.m. and 7:30 a.m. nor on Saturdays, Sundays, and City recognized holidays. The City Engineer may, however, permit grading or equipment operations during specific hours after 5:30 p.m. or before 7:30 a.m. if the City Engineer determines that such operations are not detrimental to the health, safety, or welfare of the inhabitants of such a structure and that the modified hours are consistent with Chapter 9.32 of the Municipal Code regulating times of construction and use of construction equipment. (Ord. 2008-03)

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

23.24.330 - Violations.

A. Any grading commenced or done contrary to the provisions of this Chapter, or other violation of this Chapter, shall be, and the same is declared to be, a

public nuisance. Upon order of the City Council, the City Attorney shall commence necessary proceedings for the abatement of any such public nuisance in the manner provided by law. Any failure, refusal, or neglect to obtain a permit as required by this Chapter shall be prima facie evidence of the fact that a public nuisance has been committed in connection with any grading commenced or done contrary to the provisions of this Chapter.

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

In the event that any grading is commenced or done contrary to the provisions of this Chapter or of the grading permit, the City Engineer may cause to be recorded with the County Recorder a notice of grading violation for the property. The City Engineer shall cause the notice of grading violation to be removed when the City Engineer determines that the violation no longer exists.

C. Any person who commences or does any grading in violation of this Chapter is guilty of a misdemeanor. Every day that a violation of this Chapter is committed, continued or permitted to exist is a separate violation, punishable as provided in this Code (see Chapter 1.08). (Ord. 2008-03)

D. Any grading or clearing which, has been verified by a city field inspection of the property, to be in violation of this Ordinance, may be grounds for denying all applications for grading permits, use permits, major and minor subdivisions, rezones, specific plans, specific plan amendments, and general plan amendments proposed for the property on which the violation occurred until the land and vegetation unlawfully disturbed are, as feasible, restored to their pre-grading/clearing condition. In lieu of a restoration grading plan, the City Engineer may authorize submittal of a grading plan showing grading and corrective measures necessary to bring the unauthorized grading into conformance with the Municipal Code. No other city permits, unless the permits are needed for correcting the unauthorized grading or clearing, may be issued on the property unless the unauthorized grading or clearing has been properly permitted. The permitting process to correct the unauthorized grading may include, but may not be limited to, review by the Planning Department, the Planning Commission or other authorized body of an application for a Coastal Development Permit, a review under the California Environmental Quality Act, a permit for development of constrained property or other required permits for the intended use of the property. The City Engineer may not issue a grading permit to correct the unauthorized grading until all other Encinitas Municipal Code requirements have been satisfied to the satisfaction of the City Engineer. (Ord. 2008-03)

23.24.340 - Action Against Security. The City Engineer may act against the appropriate security if any of the conditions listed in Subsections (a)-(d) below exists. The City Engineer shall use funds from the appropriate security to finance remedial work under-taken by the City or a private contractor under contract to the City, and to reimburse the City for all direct costs incurred in the process of the remedial work.

A. The Permittee ceases land-disturbing activities and/or filling and abandons the work site prior to completion of the Grading Plan.

B. The Permittee fails to conform to the Interim Plan or Final Plan, as approved or as modified under this Chapter and has had his/her permit revoked under provisions of this Chapter.

C. The techniques utilized under the Interim or Final Plan fail within 1 year of installation, or before a Final Plan is implemented for the site or portions of the site, whichever is later.

D. The City Engineer determines that action by the City is necessary to provide for the public safety, to prevent excessive erosion from occurring on the site, or to otherwise protect water quality. (Ord. 2008-03)

23.24.350 - Release of Security. Security deposited with the City for faithful performance of the grading and erosion control work and to finance necessary remedial work shall be released according to the following schedule:

A. Securities held against the successful completion of the Grading Plan and the Interim Erosion Control Plan shall be released to the Permittee at the completion of work, provided no action against such security is filed prior to that date.

B. Securities held against the successful completion of the Final Erosion Control Plan shall be released to the Permittee 1 year after completion of work, provided no action against such security has been filed prior to that date.

C. Securities held for maintenance of runoff and erosion control measures shall be held for the period required by this Chapter. (Ord. 2008-03)

23.24.360 - Transfer of Responsibility for Approval. If the civil engineer, the soil engineer, the engineering geologist, the testing agency or the grading contractor of record are changed during the course of the work, the work shall be stopped unless and until: (1) the owner submits a letter of notification verifying the change of the responsible professional; and (2) the new responsible professional submits in writing that all prior reports and/or plans (specified by date and title) and work performed by the prior responsible professional have been properly reviewed and all findings, conclusions, and recommendations are appropriate, and the work performed is consistent with standard engineering practices. The new responsible professional may modify or revise recommendations, specifications or work performed if accompanied by

supporting data and approved by the City Engineer. The new responsible professional must state that all responsibility within the purview of the area of professional responsibility is assumed as of a specified date. All exceptions must be justified in writing to the satisfaction of the City Engineer. (Ord. 2008-03)

23.24.370 - Wet Season Work.

A. Grading shall be minimized during the wet season to the extent feasible. Grading operations shall be phased as necessary to allow minimal exposure of disturbed soils during the grading operation. If grading does occur during the wet season, the City Engineer may require the applicant to implement additional best management practices for any rain events that may occur. No grading permit shall be issued for work occurring from October 1 to April 30 unless the plans include details of protective measures, including de-silting basins or other temporary drainage control measures, or both, as may be deemed necessary by the City Engineer to protect adjoining public and private property or the Waters of the State from damage by erosion, flooding, or the deposit of mud or debris which may originate from the site or result from grading operations. (Ord. 2008-03)

B. If grading is begun prior to October 1st, all protective measures shall be installed prior to October 1st. If grading is begun on or after October 1st, all protective measures shall be installed before grading is begun. All protective measures shall be maintained in good working order until April 30th of the succeeding year, where grading is done between October 1st and December 31st, or until April 30th of the same year where grading is done between January 1st and April 30th, unless their removal at an earlier date is approved by the City Engineer. (Ord. 2008-03)

C. Where a grading permit is issued and the work is commenced after April 15th and before September 15th of any year, and the permit was issued without an Interim Erosion and Sediment Control Plan, and it appears that the grading and installation of the permanent drainage devices as authorized by the permit will not be completed prior to October 1, then on or before September 15th, the owner of the site on which the grading is being performed shall file or cause to be filed with the City Engineer an Interim Erosion and Sediment Control Plan as provided for in this Chapter and shall implement the measures contained in the approved plan by October 1. The plan check fee for the Interim Erosion and Sediment Control Plan shall be paid at the time of plan submittal and shall be in the amount provided for in this Chapter.

D. For continuation of grading activities, other than installation, maintenance, or repair of measures on the Erosion Control Plans, during the wet season, Permittee must apply for and receive, every seven days, special permission to proceed.

E. The City Engineer shall grant permission under this section on the basis of weather forecasts, site conditions, experience and other pertinent factors which indicate the activity may commence or continue without excessive erosion occurring.

F. Should the Permittee fail to submit the plans, fail to provide the protective measures or fail to obtain permission for wet season activities as required by this Chapter by the dates specified therein, it shall be deemed that a default has occurred under the conditions of the grading permit security. Thereupon the City Engineer may enter the property for the purpose of installing, by City forces or by other means, the drainage and erosion control devices shown on the approved plans, or if there are not approved plans, as may be deemed necessary to protect adjoining property from storm damage, or the City Engineer may cause the owner of the site to be prosecuted as a violator of this code, or both actions may be taken.

G. The City Engineer shall have the authority to require implementation of all erosion control systems and requirements at any time of the year.

23.24.380 - Erosion Control System.

A. Erosion prevention shall be considered the most important erosion control measure, with sediment controls as a necessary backup. The faces of cut and fill slopes and the project site shall be prepared and maintained to control against erosion and runoff in accordance with this Chapter. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted only upon approval of the City Engineer. (Ord. 2008-03)

B. Paved streets, sidewalks, and other improvements shall be maintained in a neat and clean condition free of loose soil, construction debris and trash. Street sweeping or other equally effective means shall be used on a regular basis to prevent storm flows from carrying sediment and debris outside the project boundaries. Watering shall not be used to clean streets except for fine material not otherwise removed by sweeping or other mechanical means.

C. The registered civil engineer who prepared the grading plan and designed the erosion control devices shall be responsible for modification of the design of devices, as necessary, during the rainy season. (Ord. 2008-03)

D. Desilting facilities shall be provided at drainage outlets from the graded site.

E. Desilting basins shall be designed in accordance with City standards. Permanent desilting facilities shall be designed and constructed as to be aesthetically compatible with the surrounding development and terrain.

F. Desilting basins constructed of compacted earth shall be compacted to a relative compaction of ninety (90) percent of maximum density. A soil engineering report, prepared by the soil engineer, which includes the type of field testing performed, location and results of testing shall be submitted to the City Engineer for approval upon completion of the desilting basins.

G. Equipment and workers for emergency work shall be made available at all times during the rainy season. Necessary materials shall be available onsite and stockpiled at convenient locations to facilitate rapid construction of temporary devices when rain is imminent.

H. Erosion protection shall consist of effective planting of all cut slopes in excess of three (3) feet high and fill slopes more than three (3) feet high unless otherwise approved by the City Engineer. Slopes exceeding five (5) feet high will require an approved sprinkler system, as determined by the City Engineer. (Ord. 2008-03)

I. Protection for the slopes shall be installed as soon as practicable which may be prior to rough grade approval. Effective planting shall be installed, fully germinated and effectively cover the required slopes prior to final approval unless otherwise approved by the City Engineer.

J. The erosion control provisions shall take into account drainage patterns during the current and future phases of grading throughout the rainy season.

K. All removable protective devices shown shall be in place at the end of each working day when the five (5) day rain probability forecast exceeds forty (40) percent.

L. Unvegetated slopes shall be protected in accordance with the guidelines set forth by the Erosion and Sediment Control Manual or in accordance with other requirements set forth by the City Engineer.

23.24.390 - Erosion Control Maintenance.

A. After each rainstorm exceeding 1/4-inch in a 12 hour period, silt and debris shall be removed from all temporary check berms and de-silting basins and the basins pumped dry. The requirement to clean and pump permanent de-silting basins will be addressed on a case-by-case basis. No person shall allow the removed silt and debris to enter the Storm Water Conveyance System. (Ord. 2008-03)

B. After each rainstorm, the performance of the erosion control system shall be evaluated and revised and repaired as necessary.

C. Devices shall not be moved or modified without the approval of the City Engineer.

D. The contractor shall be responsible and shall take necessary precautions to prevent public trespass onto areas where impounded water creates a threat to public health, safety and welfare.

E. The contractor, the Permittee, and project owner shall be jointly and severally responsible for the continued maintenance of the devices during the wet

season. In the event of failure or refusal by the contractor, permittee or project owner to maintain the devices, the City Engineer may cause emergency maintenance work to be done to protect adjacent private property, public property or the Waters of the State. The cost shall be charged to the owner and shall include an initial mobilization cost plus the cost of doing the work as provided for in this Chapter. (Ord. 2008-03)

F. In the event the City Engineer must cause emergency maintenance work to be done, the grading permit may be revoked in writing. The permit shall not be renewed until an erosion control system approved by the City Engineer is installed and a fee of one-half the amount required for the original permit is paid by the owner. The City Engineer may waive installation of an erosion control system after April 15. (Ord. 2008-03)

G. If any grading subject to the provisions of this Chapter has commenced on private property without a valid grading permit, the property owner shall be required to prepare and implement an erosion control plan which has been approved by the City Engineer. In the event of failure by the property owner to install an approved erosion control system, the City Engineer may cause emergency work to be done to protect adjacent private property, public property or the Waters of the State. (Ord. 2008-03)

23.24.400 - Dry Season Work. The Permittee conducting any earth moving operations under this Ordinance shall be responsible for controlling dust at all times. Provisions for dry season dust control shall be included in the grading plan. (Ord. 2008-03)

23.24.410 - Import and Export of Materials. Where transport of earth is proposed on public roadways from or to the site of an earth grading operation, the following requirements in A through D shall apply. In those instances where an excess of two thousand (2,000) cubic yards of earth per project site is transported on public roadways, in addition to requirements A through D, requirements E through G shall also apply. (Ord. 2008-03)

A. Either water or dust palliative, or both, must be applied for the alleviation or prevention of excessive dust resulting from the loading or transportation of earth from or to the project site on public roadways. The Permittee shall be responsible for maintaining public rights-of-way used for handling purposes in a condition free of dust, earth, or debris attributed to the grading operation.

B. Loading and transportation of earth from or to the site must be accomplished within the time of operation limitations established in this grading Ordinance.

C. Access roads to the premises shall be only at points designated on the approved grading plan.

D. The last fifty (50) feet of the access road, as it approaches the intersection with the public roadway, shall have a grade not to exceed three (3) percent. There must be three hundred (300) feet clear, unobstructed sight distance to the intersection from both the public roadway and the access road. If the three hundred (300) feet sight distance cannot be obtained, contractor personnel for traffic control shall be posted in the locations approved by the City Traffic Engineer. (Ord. 2008-03)

E. A stop sign conforming to the requirements of the California Vehicle Code shall be posted at the entrance of the access road to the public roadway.

F. An advance warning sign must be posted on the public roadway four hundred (400) feet on either side of the access intersection, carrying the words "truck crossing". The sign shall be diamond shape, each side being thirty (30) inches in length, shall have a yellow background, and the letters thereon shall be five (5) inches in height. The sign shall be placed six (6) feet from the edge of the pavement and the base of the sign shall be five (5) feet above the pavement level. The advance warning sign shall be covered or removed when the access intersection is not in use. (Ord. 2008-03)

G. Appropriate security as determined by the City Engineer may be required to guarantee maintenance and repair of City streets used during grading and moving of import or export materials.

23.24.420 - Haul Routes. Where excavation or embankment material is imported or exported from one grading site to another over public streets, whether or not either site is otherwise subject to grading permit requirements, the City Engineer may specify the route to be used in transporting the materials upon public streets.

Deviation from this designated haul route shall constitute a violation of the conditions of the permit issued under this ordinance. When the City Engineer does specify a route, the route shall be specified in writing on the permit document, and the Traffic Division of the Sheriff's Department shall immediately be notified that said haul route has been specified. (Ord. 2008-03)

The City Engineer may further specify load limits where, in his opinion, the standard load capacity of vehicles used in such hauling would cause excessive damage to streets on the designated route. Any grading or hauling contractor moving earth materials in violation of this ordinance shall be financially responsible for any damage to the public streets done by the hauling vehicles, and shall pay to the City of Encinitas the cost, as determined by the City Engineer, of repairing such damage.

At least 24 hours before hauling is to commence, the applicant shall also be required to notify the Traffic Division of the San Diego County Sheriff's Department and the City Engineer. The Sheriff's Department and/or City Engineer may require traffic control devices to be provided by the applicant where reasonably necessary to protect the health, safety, and general welfare.

23.24.430 Depositing Materials on Public or Private Property

A. Where Prohibited. No person shall dump, move or place any earth, sand, gravel, rock, stone, or other graded, filled or excavated material, or leave any bank, slope or other excavated surface unprotected so as to cause any of such materials to be deposited upon or to roll, blow or wash upon or over the premises of another without the express consent of the owner of each such premises so affected or upon or over any public property, place or way. Such consent shall be in writing and in a form acceptable to the City Engineer.

B. Spilling, etc., Loads. No person shall, when hauling any earth, sand, gravel, rock, stone or other excavated material over any place, allow such materials to blow or spill over and upon such street, alley or place or adjacent private property.

C. Removal of Deposits from Public Places. When, due to a violation of Subsection (a) of this Section, any earth, sand, gravel, rock, stone or other excavated material is caused to be deposited upon or to roll, flow or wash upon any public place or way, the person responsible shall inform the City Engineer and cause the same to be removed from such public place or way immediately. The City Engineer shall determine the urgency of the clean up operation and in no case shall the clean up operation take more than twenty four (24) hours. In the event it is not so removed, the City Engineer shall cause such removal and the cost of such removal by the City Engineer shall be paid to the City by the person who failed to so remove the material. (Ord. 2008-03)

23.24.450 - Cuts.

A. General. Unless otherwise recommended in the approved soil engineering and/or engineering geology report, cuts shall conform to the provisions of this Section.

B. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use. Cut slopes shall be no steeper than two horizontal to one vertical. Slopes steeper than two to one may be permitted under special circumstances where the intent of the steeper slope is to provide a slope of varying steepness in order to more closely approximate a natural appearing embankment. All proposed deviations from the two to one limit shall be accompanied by a soils report containing the results of surface and subsurface exploration and analysis and certifications from the soils engineer and engineering geologist that in their professional opinions the underlying bedrock and soil supporting the slope have strength characteristics sufficient to provide a stable slope and will not pose a danger to persons or property. In no case shall the average slope exceed two to one. All slopes shall be protected against erosion and any unstable slopes shall be stabilized. (Ord. 2008-03)

C. Drainage and Terracing. Drainage and terracing shall be provided as required by this Subarticle.

D. Buttress Cuts. All proposed buttress cuts that would exceed a vertical depth of 25 feet, a horizontal dimension of 100 feet or are proposed to remain exposed for more than 5 working days and would lie immediately adjacent to a public right-of-way or offsite structures shall receive special, specific approval from the City Engineer. (Ord. 2008-03)

23.24.460 - Fills.

A. General. Unless otherwise recommended in the approved soil engineering report and/or engineering geology report, fills shall conform to the provisions of this Section.

B. Slope. Fill slopes shall not be constructed steeper than is safe for intended use. Fill slopes shall be no steeper than two horizontal to one vertical. Slopes steeper than two to one may be permitted under special circumstances where the intent of the steeper slope is to provide a slope of varying steepness in order to more closely approximate a natural appearing embankment. All proposed deviations from the two to one limit shall be accompanied by a soils report containing the results of surface and subsurface exploration and analysis and certifications from the soils engineer and engineering geologist that in their professional opinions the underlying bedrock and soil supporting the slope have strength characteristics sufficient to provide a stable slope and will not pose a danger to persons or property. In no case shall the average slope exceed two to one. All slopes shall be protected against erosion and any unstable slopes shall be stabilized. (Ord. 2008-03)

C. Preparation of Ground. The existing ground surface shall be prepared to receive fill by removing vegetation, non-complying fill or other incompetent material. No compacted fill shall be placed unless the under-lying soil or bedrock has been investigated by the soil engineer or geologist and found to be capable of safely supporting the additional weight. Where the slope of the existing ground surface is five horizontal to one vertical, or steeper, the fill shall be supported on level benches cut into competent material. Except where recommended by the soils engineer or geologist as not being necessary, subdrains shall be provided under all fills placed in natural drainage courses and in other locations where seepage is evident. Such subdrainage systems shall be of a material and design approved by the soil engineer and acceptable to the City Engineer. The location of the subdrains shall be recorded in plan and elevation by the soil engineer and shown on all as-built plans. (Ord. 2008-03)

D. Fill Material. No organic or other reducible material shall be incorporated in fills. Except as recommended by the soils engineer and approved by the City Engineer, no rock or similar irreducible material with a maximum dimension greater than twelve inches shall be buried or placed in compacted fills. No rock or similar irreducible material with a maximum dimension greater than 6 inches shall be buried within ten feet of finished grade in public or private right-of-ways.

E. Drainage and Terracing. Drainage and terracing shall be provided as required by this Subarticle.

F. Slopes to Receive Fill. Where fill is to be placed above the top of an existing or proposed cut or natural slope steeper than three horizontal to one vertical, the toe of the fill shall be set back from the top edge of the slope a minimum distance as may be specifically recommended by a soils engineer or engineering geologist and approved by the City Engineer. Fills shall not toe out on slopes steeper than two horizontal to one vertical.

G. Inspection and Testing. The soil engineer shall provide sufficient inspection during fill placement and compaction operations to determine that such work is being performed in accordance with conditions of plan approval and requirements of this Code. Continuous inspection shall be provided by the soil engineer, or responsible representative, for all fills that will exceed a vertical height or depth of thirty feet. Tests to determine density of the compacted fill soils 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 cubic yards of material placed. In addition, 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 every 5000 square feet of slope face. All such density 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 soil engineer's report.

H. Compaction. All fills shall be compacted throughout their full extent to a minimum of ninety percent (90%) of the maximum density as determined by ASTM Soil Compaction Test D1557-70. Field density shall be determined by a method acceptable to the City Engineer.

1. Compaction may be less than ninety percent (90%) 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 City Engineer.

2. Slope surfaces may be prepared for planting by scarifying by methods approved by the geotechnical engineer provided such slopes when so prepared otherwise comply with the requirements of this Section.

3. The field representative for the City may require the use of sand cone density tests in combination with nuclear device tests. There shall be at least one sand cone test in every five total density tests.

I. Construction on Cut/Fill Boundaries. The construction of structures across the line separating cut areas from fill areas shall be allowed only when mitigation measures to avoid differential settlements are implemented in accordance with an approved grading plan. The depths of fill under building envelopes on graded pads should be uniform. Uniform depths of fill should be obtained by over-excavating and

blending the fill material prior to replacement and recompaction. The soils engineering report shall make specific recommendations regarding the treatment of the cut/fill transition zone. (Ord. 2008-03)

23.24.470 - Setbacks.

A. General. The setbacks and other restrictions specified by this Section are minimum and may be increased by the City Engineer or by the recommendations of a civil engineer, soil engineer or engineering geologist, if necessary for safety and stability, or to prevent damage of adjacent properties from deposition or erosion, or to provide access for slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the City Engineer.

B. Setback Requirement. Any structure shall be set back a minimum of ten feet from the top of a slope. The setback may be reduced to a minimum of seven feet by the City Engineer following the review of recommendations from the project's qualified geotechnical consultant. As an alternative to the required setback from the top of slope for the structure, the structure's footings may be deepened to provide a minimum horizontal distance of ten feet from the edge of footing to daylight. All structures shall maintain a minimum setback of five feet from the toe of slope.

C. The setback requirements contained in paragraph B, above, are for the structural and geotechnical stability of building foundations and shall not reduce any setback requirements in other sections of the Municipal Code. The setback mentioned here does not apply to dynamic slopes with active erosion such as coastal bluffs, creek or river banks, or canyons as specified in Chapter 30.34 of the Municipal Code. (Ord. 2008-03)

23.24.480 - Drainage and Terracing.

A. General. Unless otherwise indicated on the approved Grading Plan, drainage facilities and terracing shall conform to the provision of this Section.

B. Terrace. Terraces at least 6 feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 60 feet and up to 120 feet in vertical height, one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet in height shall be designed by the civil engineer and approved by the City Engineer. Suitable access shall be provided to permit proper cleaning and maintenance.

Swales or ditches on terraces shall have a minimum gradient of 5%, a maximum gradient of 12%, and shall be constructed per adopted standards.

A single run of swale or ditch shall not collect runoff from a tributary area exceeding 13,500 square feet (projected) without discharging into a downdrain.

C. Subsurface Drainage. Cut and fill slopes shall be provided with sub-surface drainage as necessary for stability.

D. Disposal. All drainage facilities shall be designed to carry waters to the nearest practicable drainageway approved by the City Engineer and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of nonerosive downdrains or other devices.

Building pads shall have a drainage gradient of 2% toward approved drainage facilities, unless waived by the City Engineer.

EXCEPTION: The gradient from the building pad may be 1% if all the following conditions exist throughout the permit area:

1. no proposed fills are greater than 10 feet in maximum depth,
2. no proposed finish cut or fill slope faces have a vertical height in excess of 10 feet,
3. no existing slope faces, which have a slope face steeper than 10 horizontally to 1 vertically, have a vertical height in excess of 10 feet.

Finish grades, other than above, shall conform to the following minimum drainage gradient standards:

Minimum Gradient

a.	Earth swales	2.0%
b.	Earth (sheet flow)	2.0%
c.	Asphalt pavement (sheet flow)	1.0%
d.	Concrete drain in earth area	0.5%
e.	Concrete gutter in asphalt paved area	0.25%

E. Interceptor Drains. Paved interceptor drains shall 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 40 feet measured horizontally. Interceptor drains shall be paved with a minimum of 3 inches of concrete or gunite and reinforced. They shall

have a minimum depth of 12 inches and a minimum paved width of 30 inches measured horizontally across the drain. The slope of drain shall be approved by the City Engineer.

F. **Overflow Protection.** Berms, swales or other devices shall be provided at the top of cut or fill slopes to prevent surface waters from over-flowing onto and damaging the face of the slope. Special drainage provisions shall be made where a building or structure exists within five feet of the top of a slope.

23.24.490 - Rounding and Blending of Slopes. (Ord. 2003-10).

Grading plans shall be reviewed to insure compliance with all of the following:

A. All slopes greater than 10 feet high shall be rounded into the existing terrain to create an undulated condition and to produce a naturally appearing contoured transition from slope face to natural ground and abutting cut or fill surfaces where conditions permit.

B. In order to avoid a man-made appearance and avoid straight, uniform slopes, every effort shall be made to construct slopes that appear natural in character. In order to accomplish this, the steepness of slopes should vary and slope faces should undulate in an effort to produce a more natural appearing slope and avoid sharp, angular changes in the direction of slope faces.

C. Grading shall be designed to retain natural topography and vegetation and cause the least amount of disturbance while allowing development.

D. Uniform "stair-stepping" of building pads shall be avoided where feasible. Diversity in building and subdivision design solutions, including but not limited to pad shape and location/offsets and the shape of slopes, which add to the variety of hillside development, shall be encouraged.

E. Whenever possible, use of existing building sites and pads shall be encouraged. Proposed development shall be designed to conform to the existing site conditions and terrain where feasible.

F. Use of engineered vertical walls, including keystone and other block or masonry walls, shall be avoided where possible and minimized where necessary in order to avoid visual impact. Consideration should be given to rounding of walls and use of offset walls softened with landscape treatment. This provision is not intended to apply to sea walls regulated pursuant to Chapter 30.34 of the Municipal Code.

23.24.500 Clearing of Vegetation and Other Surface Materials. The clearing of vegetation from an area shall not be undertaken until both of the following have occurred:

A. All discretionary approvals have been issued if the clearing of vegetation is taking place in preparation for land development, and

B. A Grading permit has been issued if the site to be cleared exceeds 10,000 square feet.

23.24.510 - Planting of Slopes.

A. Planting. The surface of slopes shall be protected against damage from erosion by planting with grass or ground cover plants. If grass or ground cover is not established by the beginning of the wet season, temporary erosion control measures such as erosion control mats or blankets shall be installed on the slopes. All permanent (inactive) slopes shall be protected by groundcover or grass. Temporary slopes shall be stabilized during the rainy season and during storm events in the dry season. Slopes exceeding fifteen feet in vertical height shall also be planted with shrubs, spaced at not to exceed ten feet on centers; or trees, spaced at not to exceed twenty feet on centers; or a combination of shrubs and trees at equivalent spacings, in addition to the grass or ground cover plants. The plants selected shall be from a list of plants approved by the City Engineer and planting methods used shall be suitable for the soil and climatic conditions of the site. Plant material shall be selected which will produce a permanent planting coverage effectively controlling erosion. Consideration shall be given to deep-rooted plant material needing limited watering; to low maintenance during the lifetime of the project; to high root to shoot ratio (weight above ground parts versus root system); wind susceptibility and fire retardant characteristics. Planting need not be provided for cut slopes rocky in character and not subject to damage by erosion and any slopes protected against erosion damage by other methods when such methods have been specifically recommended by a soils engineer, engineering geologist, or equivalent authority and found to offer erosion protection equal to that provided by the planting specified in this Section. Planting shall be done as early as feasible. (Ord. 2008-03)

B. Irrigation. Slopes required to be planted by Subsection (a) shall be provided with an approved system of irrigation, designed to cover all portions of the slope and plans therefore shall be submitted and approved prior to installation. A functional test of the system will be required. The requirements for permanent irrigation systems may be modified upon specific recommendation of a landscape architect or equivalent authority that because of the type of plants selected, the planting methods used and the soil and climatic conditions of the site, irrigation will not be necessary for the maintenance of the slope planting.

C. Release of Security. The planting and irrigation systems, required by this Section, shall be installed within 30 days after rough grading. Prior to final

approval of grading and before the release of the grading security, the planting shall be well established and growing on the slopes. Well established shall mean that at least 80 percent of the slope area has germinated and is in a healthy, actively growing state.