

ORDINANCE NO. 346-06

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

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

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

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

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

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

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

CHAPTER 15.52

GRADING, EROSION, AND SEDIMENT CONTROL ORDINANCE

15.52.010 General Provisions

A. Title

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

B. Grading Manual

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

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

C. Purpose and Intent

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

D. Scope

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

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

15.52.020 Definitions

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

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

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

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

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

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

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

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

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

"Bedrock" means in-place solid rock.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Cut” see definition for “Excavation.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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