

CALIFORNIA COASTAL COMMISSION

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September 23, 2004

TO: Commissioners and Interested Persons

**FROM: Deborah Lee, Deputy Director
Karl Schwing, Supervisor, Regulation & Planning
Meg Vaughn, Coastal Program Analyst**

SUBJECT: Major Amendment Request No. 2-04 to the City of Laguna Beach Certified Local Coastal Program (For Public Hearing and Commission Action at the October 13-15, 2004 (meeting in San Diego).

SUMMARY OF LCP AMENDMENT REQUEST NO. 2-04

Request by the City of Laguna Beach to amend its certified Local Coastal Program (LCP) in order to revise and update Topic 4 Water Quality and Conservation of the City's Open Space/Conservation Element of the Land Use Plan (LUP); and to revise the Implementation Plan to incorporate new water quality ordinances including the addition of Title 16 (Water Quality) and modifications to Title 22 (Excavating, Grading, and Filling).

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending that the Commission, after public hearing:

- 1. Approve the amendment request to the Land Use Plan as proposed.**
- 2. Approve the amendment request to the Implementation Plan as proposed.**

The motions to accomplish this recommendation are found on pages 3 & 4. The Land Use Plan amendment is in conformity with and adequate to carry out the Chapter 3 policies of the Coastal Act. The Implementation Plan amendment is in conformity with and adequate to carry out the policies of the certified Land Use Plan.

STANDARD OF REVIEW

For the proposed Land Use Plan amendment, the standard of review is conformance with the Chapter 3 policies of the Coastal Act. For the proposed Implementation Plan amendment the standard of review is conformance with the policies of the certified Land Use Plan.

SUMMARY OF PUBLIC PARTICIPATION

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

The City of Laguna Beach Planning Commission held a public hearing on the proposed amendment on June 9, 2004 and voted to recommend approval of the LUP and IP amendments to the City Council. Two speakers spoke at the public comments portion of the Planning Commission hearing. The first speaker spoke in support of the proposed amendments and discussed the need for adequate enforcement of the amendment measures. The second speaker expressed concern with some of the wording of the amendments. The Planning Commission agreed with the concerns raised and made changes to the amendment language. On July 20, 2004, the Laguna Beach City Council held a public meeting and approved the proposed LUP and IP amendments. Three speakers spoke at the public hearing portion of the meeting; two spoke in support of the proposed amendment and the third speaker questioned whether use of the term "Marine Life Refuge and Ecological Reserve" was outdated and should be replaced with the term "Marine Life Protected Area." On August 3, 2004 the City Council approved submittal of the LCP amendment for action by the Coastal Commission. Public notices for the hearings were printed in the Laguna Beach Coastline Pilot newspaper.

ADDITIONAL INFORMATION

Copies of the staff report are available at the South Coast District office located in the ARCO Center Towers, 200 Oceangate, Suite 1000, Long Beach, 90802. To obtain copies of the staff report by mail, or for additional information, contact Meg Vaughn in the Long Beach office at (562) 590-5071.

STAFF NOTE: On February 18, 2004 the Commission approved City of Laguna Beach Land Use Plan amendment (LUPA) 1-02B with suggested modifications. LUPA 1-02B proposed to modify and add to the water quality policies of the City's certified Land Use Plan. At the time of LUPA 1-02B, the City's certified LCP Implementation Plan did not contain any water quality protection ordinances. Thus, a suggested modification to the LUPA was required which delayed certification of the amendment until the City submitted and the Coastal Commission certified an amendment to the City's Implementation Plan that was adequate to carry out and implement the proposed Land Use Plan Amendment as modified.

However, rather than accept the Commission's suggested modifications, City staff (after discussions with Commission staff) determined that a new submittal including both the changes to the LUP and the IP would result in a clearer final document. The suggested modifications approved in conjunction with LUPA 1-02B were not accepted by the City Council within the required six month time period and therefore the Commission's approval with modifications of LUPA 1-02B has lapsed. The City staff has worked closely with Commission staff, and using the previous suggested modifications as a guideline, has developed the proposed LCP amendment language, in an effort to provide the Commission the opportunity to review both the proposed Land Use Plan and Implementation Plan amendments together, as well as to end up with clearer final document.

I. STAFF RECOMMENDATION

Staff recommends adoption of the following motions and resolutions:

A. Approval of the Land Use Plan Amendment as submitted

MOTION: *I move that the Commission certify Land Use Plan Amendment 2-04 as submitted by the City of Laguna Beach.*

STAFF RECOMMENDATION TO CERTIFY:

Staff recommends a **YES** vote. Passage of the motion will result in certification of the land use plan as submitted and adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners.

RESOLUTION TO CERTIFY THE LAND USE PLAN AMENDMENT:

The Commission hereby certifies the Land Use Plan Amendment 2-04 as submitted by the City of Laguna Beach and adopts the findings set forth below on the grounds that the amendment conforms with the policies of Chapter 3 of the Coastal Act. Certification of the Land Use Plan amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the plan on the environment, or 2) there are no further feasible alternatives or mitigation measures which could substantially lessen any significant adverse impact which the Land Use Plan Amendment may have on the environment.

B. Approval of the Implementation Plan Amendment as Submitted

MOTION: *I move that the Commission reject the Implementation Program Amendment 2-04 for the City of Laguna Beach as submitted.*

STAFF RECOMMENDATION OF CERTIFICATION AS SUBMITTED:

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Program amendment as submitted and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY IMPLEMENTATION PROGRAM AS SUBMITTED:

The Commission hereby certifies Implementation Program Amendment 2-04 for the City of Laguna Beach as submitted and adopts the findings set forth below on grounds that the Implementation Program conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan as amended, and certification of the Implementation Program will meet the requirements of the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program on the environment, or 2) there are no further feasible alternatives or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program.

II. PROCEDURAL REQUIREMENTS

Pursuant to Section 13551(b) of the California Code of Regulations, a resolution for submittal must indicate whether the Local Coastal Program amendment will require formal local government adoption after Commission approval, or is an amendment that will take effect automatically upon the Commission's approval pursuant to Public Resources Code Sections 30512, 30513 and 30519. The City's resolution of adoption (Resolution No. 04.075) states that this LCP amendment will take effect upon Commission certification.

III. FINDINGS

The following findings support the Commission's approval of the LUP amendment as submitted, and, the Commission's approval of the IP amendment as submitted.

The Commission hereby finds and declares as follows:

A. Land Use Plan Amendment

1. Amendment Description

The City of Laguna Beach has requested an amendment to the Land Use Plan (LUP) portion of the certified Local Coastal Program (LCP) to revise Topic 4: Water Quality and Conservation in the Open Space/Conservation Element of the LUP. The revisions include replacing the existing eight policies with thirteen new policies. Each new policy has a summary title of the policy topic. The first seven new policies (Policies 4A - 4G) relate to development and the specific requirements for water quality control. Policy 4H requires continued application and maintenance of implemented Best Management Practices (BMPs). Policy 4I promotes the protection and restoration of wetlands and associated habitat. Policies 4J and 4K promote runoff infiltration and water quality public outreach and education. Policy 4L pertains to the protection and enhancement of Laguna Lakes and Policy 4M addresses the periodic reevaluation of the Ocean Oil Spill Contingency Plans.

The City is required by the San Diego Regional Water Quality Control Board to comply with the Municipal Separate Storm Sewer System (MS4) permit which requires, among other things, that the City update their General Plan, as necessary, to add or modify water quality and watershed protection policies to comply with MS4. The MS4 permit implements requirements of the Clean Water Act and the National Pollutant Discharge Elimination System (NPDES) storm water regulations. The City's Local Coastal Program Land Use Plan is part of the General Plan. To meet the requirements of the MS4 permit, the City has submitted the proposed LUP amendment for Commission review and action.

The proposed policies describe methods to maximize water quality protection. Methods to maximize water quality protection proposed in the new policies include: requiring Best Management Practices (BMPs) in development planning and design, minimizing impervious surfaces, minimizing the volume and velocity of runoff, minimizing the introduction of pollutants, preserving the functions of natural drainage systems, ensuring that development encourage water conservation through efficient irrigation practices and the use of native plants, minimizing construction impacts, requiring the continued application of BMPs, promoting area wide watershed protection and restoration, promoting infiltration of runoff, engaging in water quality public education and outreach, protecting the Laguna Lakes as an existing natural hydrological system, and, periodically reevaluating Ocean Spill Contingency Plans that affect the City.

The proposed changes to the narrative portion of Topic 4 include: revisions and additions to the section addressing Laguna Lakes, which are located outside the coastal zone; an update to the section that discusses Ocean Resources by reflecting increased area figures due to the addition of the South Laguna area since the LUP was originally certified, and deleting a reference to an oil spill document dating from 1979; deleting an outdated discussion in the Water Conservation section; and the addition of a Water Quality section. This new section lists the beneficial uses of water including consumption and habitat preservation. The section recognizes that urban runoff which is not properly managed spreads pollution and impairs the beneficial uses of water. The section also recognizes that increases in urban development create concentrated pollution sources. In addition, the importance of restoring the natural hydrological cycle and of increasing filtration to reduce the volume and velocity of runoff and decrease the pollutant loads is discussed. Finally, this new section lists the legal authority for the requirements regarding storm water quality protection.

No changes to land use designation are proposed as part of this amendment request.

2. Consistency with Coastal Act Water Quality

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

For the proposed Land Use Plan amendment, the standard of review is conformance with the Chapter 3 policies of the Coastal Act. One chief objective of the Coastal Act is the preservation, protection, and enhancement of coastal resources, including water quality. Section 30230 requires that marine resources be maintained, enhanced, and where feasible restored.

Section 30231 of the Coastal Act requires that the biological productivity and quality of coastal waters be protected. Section 30231 further requires that the quality of coastal waters be adequate to maintain healthy populations of marine organisms. Section 30231 also requires the use of means, including managing wastewater discharges, controlling runoff, protecting groundwater and surface water, encouraging wastewater reclamation, and protecting streams, to maintain and enhance water quality. Section 30231 provides that natural vegetation buffer areas that protect riparian habitats be maintained, and that the alteration of natural streams be minimized. Natural vegetation buffers also protect riparian habitats by providing area for infiltration of runoff, and minimizing erosion and sedimentation.

Development has the potential to adversely impact coastal water quality through the removal of native vegetation, increase of impervious surfaces, increase of runoff, erosion, and sedimentation, introduction of pollutants such as petroleum, cleaning products, pesticides, and other pollutant sources. In addition, water bodies in and adjacent to the City of Laguna Beach, such as Aliso Creek, currently suffer from water quality impairment.

When development increases impervious surface area, the infiltrative function and capacity of the project site is decreased. The reduction in permeable surface therefore leads to an increase in the volume and velocity of runoff that can be expected to leave the site. The cumulative effect of increased impervious surface is that the peak stream discharge is increased and the peak occurs much sooner after precipitation events. Changes in the stream flow result in modification to stream morphology. Additionally, runoff from impervious surfaces results in increased erosion and sedimentation.

Further, pollutants commonly found in runoff associated with new development include:

- petroleum hydrocarbons such as oil and grease from vehicles;
- heavy metals;
- synthetic organic chemicals including paint and household cleaners;
- soap and dirt from washing vehicles;
- dirt and vegetation from yard maintenance;
- litter and organic matter;
- fertilizers, herbicides, and pesticides from household gardening or more intensive agricultural land use;
- nutrients from wastewater discharge, animal waste and crop residue; and
- bacteria and pathogens from wastewater discharge and animal waste.

The discharge of these pollutants to coastal waters can cause cumulative impacts such as:

- eutrophication and anoxic conditions resulting in fish kills and diseases and the alteration of aquatic habitat, including adverse changes to species composition and size;

- excess nutrients causing algae blooms and sedimentation increasing turbidity, which both reduce the penetration of sunlight needed by aquatic vegetation that provide food and cover for aquatic species;
- disruptions to the reproductive cycle of aquatic species;
- acute and sublethal toxicity in marine organisms leading to adverse changes in reproduction and feeding behavior; and
- human diseases such as hepatitis and dysentery.

These impacts reduce the biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes, reduce optimum populations of marine organisms and have adverse impacts on human health. Also where streams outlet on to recreational sandy beach areas, such as Aliso beach, adverse impacts to public beach access can result. A temporary way of addressing the discharge of polluted summertime nuisance flows from Aliso Creek to nearshore coastal waters has been to divert the runoff, untreated, to the adjacent sewer outfall, which discharges about 1.5 miles offshore. This is not a permanent solution. The permanent solution is to eliminate the upstream discharge of pollutants into the creek.

The goal of the proposed LUP water quality policies is to protect and enhance water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. The objectives of the policies are three-fold:

- Protect, enhance and restore wetlands, streams, and groundwater recharge areas.
- Promote the elimination of pollutant discharge, including nonpoint source pollution, into the City's waters through new construction and development regulation including but not limited to site planning, environmental review and mitigation, and permit conditions of approval.
- Promote Best Management Practices to limit water quality impacts from existing development.

The LUP amendment, as proposed, includes policies to meet the goal of protecting and enhancing water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to development. For example, the proposed amendment includes Policy 4A that specifically provides for the incorporation of Best Management Practices (BMPs) into the project design and identifies the three tiers of BMPs: site design, source control and treatment control. The proposed policy will ensure that adequate BMPs are included for all new development.

In addition, other proposed policies identify specific BMPs to be incorporated into project design, where feasible. These additional policy requirements include, where feasible, measures such as infiltration of runoff (4J), minimization of impervious surfaces, especially contiguously connected impervious areas (4B), minimization of volume and velocity of runoff (4C), and minimization of the introduction of pollutants (4D). The proposed LUP

policies also include requirements for: the continued application and maintenance of BMPs (4H), the preservation and enhancement (to the maximum extent practicable) of natural drainage systems (4E), and the promotion of efficient irrigation and the use of native plants (4F).

Policy 4I promotes the protection and restoration, and to the extent practicable, preservation, of offshore, coastal, lake, stream or wetland waters and their habitats in their natural state. And policy 4K provides for water quality public education and outreach as a means of promoting pollution prevention and watershed protection. Policy 4K includes a requirement that development proposals include, where applicable, water quality Best Management Practices educational components or programs.

The City's proposed water quality policies will ensure that development is designed to maximize protection of water quality. In addition, the amendment includes policies that will ensure that water quality management will be considered on a watershed wide basis. The proposed water quality policies will provide the steps necessary to ensure that biodiversity and optimum populations of marine organisms are protected from water quality impacts, as specified in Coastal Act Sections 30230 and 30231. In addition, Sections 30230 and 30231 of the Coastal Act require the preservation, protection, and enhancement of water quality. The proposed policies will provide for improved water quality in the Laguna Beach area. Therefore, the Commission finds that the City's proposed amendment to the water quality policies is consistent with and adequate to carry out the Chapter 3 policies of the Coastal Act regarding water quality.

B. Implementation Plan Amendment

1. Amendment Description

The City of Laguna Beach is requesting an amendment to the Implementation Plan portion of the certified LCP. The proposed amendment would incorporate new water quality ordinances including the addition of Title 16 (Water Quality) and modifications to Title 22 (Excavating, Grading, and Filling). The existing IP has no water quality control ordinances. Title 16 is part of the City's Municipal Code, but was never before submitted for certification as part of the LCP IP.

Title 22 is currently part of the certified IP. The proposed amendment would make modifications to it. Most of the proposed changes are clarifications and/or are proposed to provide consistency with the language and terms used in Title 16. Changes proposed to Title 22 include additions to the definitions section (22.04.010) to add definitions for terms such as "accelerated erosion", "Best Management Practices", "construction project", "Jurisdictional Urban Runoff Management Plan (JURMP)" and "pollutant". Also proposed to be added to Section 22.06.010 Design Standards is a requirement that construction projects prepare and implement a construction project erosion and sediment control plan; as well as providing the requirements for that plan. Also proposed to be added is a requirement that an applicant must demonstrate receipt of appropriate approvals from State Water Resources Control Board. In addition, Section 22.16.010

Inspection is proposed to be modified with the replacement of the term "grading inspection and control" with "construction site inspection and control". The length of the rainy season is proposed to be changed from October 15 through April 15, to October 1 through April 30. Chapter 22.17, currently "Erosion Control and Water Quality Requirements System" is proposed to be titled "Construction Project Erosion and Sediment Control Maintenance Requirements", and clarifications to that section are proposed.

Title 16 is proposed to be added to the Implementation Plan in its entirety. Title 16 is the City's Municipal Code water quality ordinance. The City has made some changes to their version of Title 16 based on conversations with Commission staff. These changes are incorporated into the version now before the Commission. Title 16 is entitled Water Quality Control and includes sections on Purpose and Authority, Definitions, Prohibition on Illicit Connections and Prohibited Discharges, Control of Urban Runoff, Water Quality/Urban Runoff Management Plan (WQMP) Requirements, Best Management Practices (BMPs) Maintenance, Waiver, Inspections, Enforcement, and Miscellaneous.

The standard of review for an amendment to an Implementation Plan is consistency with and adequacy to carry out the policies of the certified Land Use Plan. It should be noted that, in this case, as discussed in the preceding section, the Land Use Plan water quality policies are proposed to be changed as part of this amendment. The recommendation for this IP amendment is based on the assumption that the LUP water quality amendment has been approved as submitted.

2. Consistency with LUP Water Quality Policies

The Land Use Plan (as amended) includes the following policy:

*Development Planning and Design Best Management Practices (BMPs)
Ensure that development plans and designs incorporate appropriate Site Design, Source Control and Structural Treatment Control Best Management Practices (BMPs), where feasible, to reduce to the maximum extent practicable, pollutants and runoff from the proposed development. Structural Treatment control BMPs shall be implemented when a combination of Site Design and Source Control BMPs are not sufficient to protect water quality.*

Many of the measures that are necessary to improve water quality are technical in nature. The level of detail that is required to assure that the Best Management Practices outlined in the LUP policies are appropriate to the proposed development must be contained in the Implementation Plan. In order for the LUP BMP water quality policies to be effective, specific mechanisms must be in place to implement them. For example, specific standards that BMPs must meet are necessary to assure their effectiveness. In order to assure that the LUP policies that require treatment controls actually result in treatment of the amount of runoff necessary to maximize water quality protection, this standard should be, and is, described in the proposed Implementation Plan amendment.

Best Management Practices include but are not limited to structural and nonstructural controls and operation and maintenance procedure. BMPs can be applied before, during and after pollution-producing activities to reduce or eliminate the introduction of pollutants into receiving waters. A site design BMP is a project design feature that reduces the generation of pollutants or reduces the alteration of the natural drainage features, such as minimizing impervious surfaces or minimizing grading. A source control BMP is a practice that prevents release of pollutants into areas where they may be carried by runoff, such as covering work areas and trash receptacles, practicing good housekeeping, and minimizing the use of irrigation and garden chemicals. A treatment control BMP is a system designed to remove pollutants from the runoff including the use of gravity settling, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

Proposed Title 16 includes, at Section 16.01.020(C), a definition of "Best Management Practices (BMPs)". The proposed definition states:

"Best Management Practices (BMPs)" means any program, activity, technology, process, siting criteria, operational method, practice, facility and/or procedure that when properly implemented will control, prevent, remove or reduce pollutants in discharges. "Source Control" BMPs (both structural and nonstructural) are operational practices or methods that prevent pollution by reducing potential pollutants at the source. A "Site Design" BMP is a Source Control BMP and means any design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's natural flow regime. "Treatment Control" BMPs are structural methods of treatment to remove pollutants from urban runoff. (The City utilizes the BMPs which have been specified in the City's Jurisdictional Urban Runoff Management Program (JURMP). Presently, these BMPs have been developed, and may be amended from time to time, by the California Stormwater Quality Association (CASQA) and can be referenced at www.cabmphandbooks.com. The City reserves the right to implement any equivalent BMP prepared by other qualified water quality organizations or government agencies.)

The proposed BMP definition appropriately describes the different types of BMPs and the role each plays in improving water quality. In addition, because the technology of BMPs is continually evolving, the definition references a reputable source (California Stormwater Quality Association) to provide standards for BMPs based on the intended use of the BMP in a particular project's overall water quality plan. For example, if a structural BMP such as a continuous deflection device is deemed appropriate for a proposed development, the amounts and types of pollutants it would be expected to treat would depend on the location and type of development. The amount and type of pollutants expected from development of a single family home would not require the same level of treatment as those expected to be generated by development of a restaurant and parking lot. In addition, the degree of stormwater a BMP is expected to process must also be described in order to determine an appropriate BMP. These standards are described in the City's JURMP, which includes BMP standards developed by the the California Stormwater Quality Association

(CASQA). The City's JURMP and the CASQA BMP standards are referenced in the IP BMP definition.

The Land Use Plan (as amended) includes the following policy:

*Continue Application and Maintenance of Best Management Practices (BMPs)
Require the property owner, homeowner's association or local government, as applicable, to continue the application and maintenance of Source Control and/or Structural Treatment Control BMPs as necessary to reduce runoff pollution, including appropriate construction related erosion and sediment control measures.*

If BMPs are not continually maintained they will cease to be effective, and consequently water quality protection would not be maximized. In order to assure that the water quality protection that will be achieved by implementation of the BMPs remains in the future, specific standards to implement the above LUP policy must be, and are, included in the proposed IP amendment. Section 16.01.060 of proposed Title 16 requires that maintenance of the BMPs be borne by the property owners and developers, (jointly and severally) and their successors. This section also requires written verification of acceptance for BMP maintenance and establishes the mechanism to achieve this requirement.

The proposed BMP definition, which includes, by reference, appropriate standards and specifications, is adequate to assure that the appropriate BMPs will be applied to development. In addition the proposed amendment will provide for continued maintenance of the required BMPs, which is necessary to assure their continued effectiveness in protecting water quality, and thereby contributing to the effectiveness of the LUP BMP policies.

In addition, to adequately implement the LUP water quality policies, a water quality checklist or other similar review tool is necessary in order to review all developments for their individual impacts on water quality. The checklist/review tool would assist in determining which level of BMPs and which specific types of BMPs should be required with specific project types. The LUP includes water quality policies that require, where feasible and/or to the extent practicable, incorporation into development design BMPs such as minimizing the amount of impervious surfaces, minimizing the volume and velocity of runoff, minimizing the introduction of pollutants, and the preservation of natural drainage systems. A water quality checklist or similar review tool would provide the opportunity to evaluate when these types of BMPs are appropriate.

There are certain types of development that inherently create significant, adverse water quality impacts. These include restaurants, gasoline stations, car washes, automotive repair facilities, and parking lots. Restaurants create water quality problems stemming from oil and grease, solvents, phosphates, suspended solids, and other pollutants being released into the storm drain system due to standard operations such as washing equipment and disposing of grease generated by cooking. Gasoline stations, car washes and automotive repair facilities result in the introduction of oil and grease, solvents, car

battery acid, coolant, gasoline, and other pollutants into the storm drain system from fueling areas, repair and maintenance bays, vehicle/equipment wash areas, and loading/unloading dock areas. Parking lots collect oil and grease, car battery acid, coolant, gasoline, sediments, trash, and other pollutants which are washed into the storm drain system by rain or hosing of the area. Measures to deal with these specific types of developments and their associated pollutant load must be detailed in the Implementation Plan.

Proposed Title 16 includes Section 16.01.050 which requires preparation of Water Quality/Urban Runoff Management Plan (WQMP). This WQMP will function as the above described water quality checklist review tool. Section 16.01.050 (1) establishes that a WQMP is required. Section 16.01.050 (2) sets forth the minimum standards the required WQMP shall include. These requirements include, among other things, that post-development peak storm water runoff discharge rates and velocities maintain or reduce pre-development downstream erosion, and protect stream or downstream habitat; conserve natural areas, where feasible; minimize the introduction of stormwater pollutants, and identification of expected pollutants of concern; removal of pollutants through application of BMPs; and, minimize contiguously connected impervious areas, where feasible. Each of these measures will implement the specific LUP water quality policies mentioned above. In addition, to these measures, Section 16.01.050 (2) includes a number of other measures to be included in the WQMP. Section 16.01.050 (3) states: "Non-construction BMPs selected and incorporated in the WQMP are permanent and will remain in effect after the project is constructed and is placed into use." And, Section 16.01.050 (4) requires that property owners and developers and their successors shall fully comply with the requirements, plans and conditions of an approved WQMP.

The proposed requirement for a WQMP will ensure that each development is reviewed for the types of project and/or location specific impacts generated by each development. In addition, the proposed WQMP requirement will assure that BMPs tailored to address specific impacts will be applied appropriately. For example, some BMPs that would be appropriately required for restaurant development, may not be effective for gas station development. Thus, proposed Section 16.01.050 responds to the issue raised above regarding the fact that specific types of developments and their associated pollutant load be considered when imposing water quality protection requirements.

The LUP includes the following policy:

Minimize Construction Impacts

Ensure that all development minimizes erosion, sedimentation and other pollutants in runoff from construction-related activities to the maximum extent practicable.

Ensure that development minimizes land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize the impacts on water quality.

The proposed changes to Title 22 Excavating, Grading and Filling will serve to clarify that measures to protect water quality are required during earth movement activities, consistent

with the requirements of the LUP policy cited above. Specific changes proposed to Title 22 to reinforce this clarification include the addition of definitions for "accelerated erosion", "Best Management Practices (BMPs)", "construction project", "General Construction Permit (a permit issued by the State Water Resources Control Board)", "Jurisdictional Urban Runoff Management Plan (JURMP)", and, "pollutant". Also proposed to be added is a section, 22.06.010 (f) Design Standards for Erosion and Sediment Control. This section requires that all construction projects, regardless of size, implement an effective combination of Best Management Practices to prevent a condition of accelerated erosion, a prohibited discharge or pollutant that causes a condition of contamination. In addition, this section will add a requirement that all projects that will disturb more than 20 cubic yards of soil prepare a construction project erosion and sediment control plan, and provides the minimum requirements for such plans. Another proposed change to Title 22 would expand the rainy season from October 15th through April 15th to October 1 through April 30th. Chapter 22.17 is proposed to be modified by clarifying the responsibilities for erosion and sediment control maintenance.

Based on the changes described above and the entire language of the proposed IP amendment, the proposed amendment provides the required level of documentation detail necessary to implement the water quality policies of the Land Use Plan. The proposed ordinances, as submitted, provide for the protection and enhancement of water quality and the beneficial uses of local coastal waters and ground waters from adverse impacts related to land development. Therefore, the Commission finds that, as submitted, the IP amendment meets the requirements of and is in conformity with the water quality policies of the certified Land Use Plan.

C. California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act (CEQA) and the California Code of Regulations [Title 14, Sections 13540(f) and 13555(b)] the Commission's certification of this LCP amendment must be based in part on a finding that it is consistent with CEQA Section 21080.5(d)(2)(A). That section of the Public Resources Code requires that the Commission not approve or adopt an LCP:

...if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

As outlined in this staff report, the proposed LCP amendment will result in improved water quality protection within the City of Laguna Beach. As described above, the LUP portion of the LCP amendment is consistent with and adequate to carry to the Chapter 3 policies of the Coastal Act. In addition, as is also outlined above, the IP portion of the LCP amendment is consistent with and adequate to carry out the policies of the Land Use Plan. Therefore, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts under the meaning of CEQA. There are no feasible alternatives under the meaning of CEQA which would reduce the potential for

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significant adverse environmental impacts. Therefore, the Commission certifies Laguna Beach LCP amendment request 2-04 as submitted.

LGB LCPA 2-04 stfrpt 10.04 mv V2

RESOLUTION NO. 04.075

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH, CALIFORNIA, ADOPTING LOCAL COASTAL PROGRAM AMENDMENT 04-04 AND REQUESTING ITS CERTIFICATION BY THE CALIFORNIA COASTAL COMMISSION

WHEREAS, after notice duly given pursuant to Government Code Section 65090 and Public Resources Code Sections 30503 and 30510, the Planning Commission of the City of Laguna Beach held at least one public hearing to consider the adoption of Laguna Beach Local Coastal Program Amendment 04-04; and

WHEREAS, the City Council, after giving notice as prescribed by law, held at least one public meeting regarding the proposed Laguna Beach Local Coastal Program Amendment 04-04, and the City Council finds that the proposed amendment is consistent with the Certified Laguna Beach Coastal Land Use Plan and Chapter 6 of the California Coastal Act; and

WHEREAS, the City Council of the City of Laguna Beach intends to implement the Local Coastal Program in a manner fully consistent and in conformance with the California Coastal Act;

NOW, THEREFORE, the City Council of the City of Laguna Beach does hereby resolve as follows:

SECTION 1. That the Laguna Beach Local Coastal Program Amendment 04-04 is hereby approved, consisting of Resolution No. 04.071 pertaining to amendments to Topic 4 (Water Quality and Conservation) of the Laguna Beach Open Space/Conservation General Plan Element, and Ordinance No. 1442 pertaining to amendments to Title 16 – Water Quality Control and Title 22 – Excavating, Grading and Filling. Copies of the aforesaid Resolution

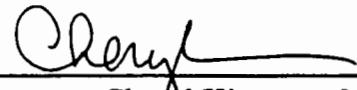
LGB LCPA 2-04
EXHIBIT A

1 and Ordinance are attached hereto as Exhibit A and B, respectively, and are incorporated by
2 this reference as though fully set forth herein.

3 SECTION 2. That the California Coastal Commission is hereby requested to
4 consider, approve and certify Laguna Beach Local Coastal Program Amendment No. 04-04.
5

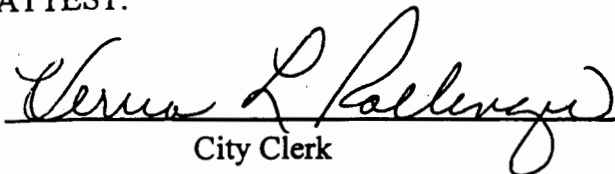
6 SECTION 3. That pursuant to Section 13551(b) of the Coastal Commission
7 Regulations, Laguna Beach Local Coastal Program Amendment No. 04-04 will automatically
8 take effect immediately upon California Coastal Commission approval, as provided in Public
9 Resources Code Sections 30512, 30513 and 30519.
10

11 ADOPTED this 3rd day of August, 2004.
12

13 

14 Cheryl Kinsman, Mayor

15 ATTEST:

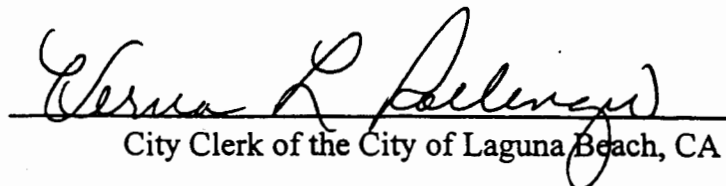
16 
17 City Clerk

18 I, VERNA L. ROLLINGER, City Clerk of the City of Laguna Beach, California, do
19 hereby certify that the foregoing Resolution No. 04.075 was duly adopted at a Regular
20 Meeting of the City Council of said City held on August 3, 2004, by the following vote:

21 AYES: COUNCILMEMBER(S): Dictrow, Baglin, Iseman, Pearson, Kinsman

22 NOES COUNCILMEMBER(S): None

23 ABSENT COUNCILMEMBER(S): None
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26 City Clerk of the City of Laguna Beach, CA
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RESOLUTION NO. 04.071

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LAGUNA BEACH, CALIFORNIA, APPROVING GENERAL PLAN
AMENDMENT 04-04 AMENDING TOPIC 4 (WATER QUALITY AND
CONSERVATION) OF THE OPEN SPACE/CONSERVATION
ELEMENT OF THE CITY'S GENERAL PLAN

WHEREAS, the City of Laguna Beach is one of the copermittees affected by the San
Diego Regional Water Quality Board's issuance of the Municipal Separate Storm Sewer
System ("MS4") Permit on February 13, 2002; and

WHEREAS, the MS4 Permit establishes conditions under which pollutants can be
discharged from the storm drain system to local streams and the Pacific Ocean; and

WHEREAS, the MS4 Permit implements requirements of the Federal Clean Water
Act and National Pollutant Discharge Elimination System ("NPDES") storm water
regulations; and

WHEREAS, the MS4 Permit requires the City to develop a storm water management
program designed to control the discharge of pollutants into and from the storm sewer
system; and

WHEREAS, part of the storm water management program includes an assessment of
the City's General Plan and the addition of water quality and watershed protection policies to
help direct land-use decisions; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA) Section
15061(3) of the CEQA Guidelines, the City has determined that this amendment to the City's
General Plan/Local Coastal Program is exempt; and

1 WHEREAS, after conducting legally noticed public hearings on July 24 and
2 September 25, 2002, the Planning Commission reviewed and unanimously recommended
3 revisions to Topic 4 of the City's Open Space/Conservation General Plan Element/Local
4 Coastal Program to the City Council; and
5

6 WHEREAS, after conducting a legally noticed public hearing on October 15, 2002,
7 the City Council of the City of Laguna Beach approved amendments to Topic 4 of the City's
8 Open Space/Conservation General Plan Element/Local Coastal Program; and
9

10 WHEREAS, the City Council of the City of Laguna Beach desires that the proposed
11 General Plan/Local Coastal Program Amendment be carried out in a manner fully consistent
12 and in conformance with the California Coastal Act; and
13

14 WHEREAS, the City submitted the proposed General Plan/Local Coastal Program
15 Amendment regarding amendments to Topic 4 of the City's Open Space/Conservation
16 General Plan Element to the Coastal Commission for certification; and
17

18 WHEREAS, the California Coastal Commission at its February 18, 2004 meeting
19 approved the proposed Local Coastal Program Amendment with modifications; and
20

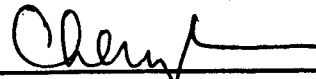
21 WHEREAS, after conducting legally noticed public hearings on June 9, 2004, the
22 Planning Commission reviewed the California Coastal Commission's approved
23 modifications and unanimously recommended further revisions to Topic 4 of the City's Open
24 Space/Conservation General Plan Element/Local Coastal Program to the City Council; and
25

26 WHEREAS, after conducting a legally noticed public hearing on July 20, 2004 and
27 after review of the Coastal Commission's approved modifications and recommendations by
28 the Planning Commission, the City Council of the City of Laguna Beach approved further
amendments to Topic 4 of the City's Open Space/Conservation General Plan Element/Local
Coastal Program; and

1 WHEREAS, , the City Council desires to adopt these subsequent amendments to
2 Topic 4 of the City's Open Space/Conservation General Plan Element instead of the
3 suggested modifications approved by the Coastal Commission on February 18, 2004.

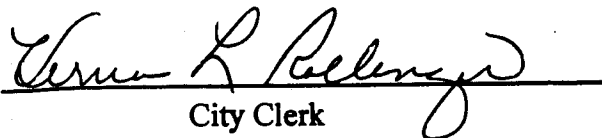
4 NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of
5 Laguna Beach hereby approves the amendments to Topic 4 of the City's Open
6 Space/Conservation General Plan Element contained in Attachment "A" and stipulates that
7 these amendments shall become effective immediately in so far as it pertains to an
8 amendment to the City's General Plan.
9

10 ADOPTED this 20th day of July, 2004.
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14 Cheryl Kinsman, Mayor

15 ATTEST:

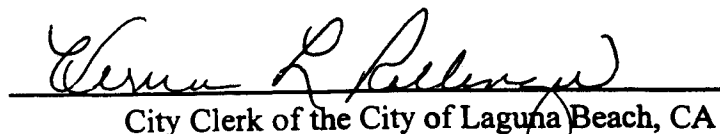
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17 City Clerk
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19 I, VERNA L. ROLLINGER, City Clerk of the City of Laguna Beach, California, do
20 hereby certify that the foregoing Resolution No. 04.071 was duly adopted at a Regular
21 Meeting of the City Council of said City held on July 20, 2004, by the following vote:

22 AYES: COUNCILMEMBER(S): Baglin, Iseman, Pearson, Kinsman

23 NOES COUNCILMEMBER(S): None

24 ABSENT COUNCILMEMBER(S): Dictrow
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26 
27 City Clerk of the City of Laguna Beach, CA
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1 TOPIC 4: WATER QUALITY AND CONSERVATION

2 Background

3 The preservation and conservation of water resources in Laguna Beach are significant local
4 and regional concerns. Water is vital to human survival, and plays a significant role in the
5 recreational, residential, commercial and industrial activities of the community. Water
6 resources in Laguna Beach consist of both inland water bodies and offshore ocean resources.

7 Issue Identification and Analysis

8 Laguna Lakes: Laguna Lakes are located in the vicinity of Laguna Canyon Road north of
9 Sycamore Hills and are the only known natural fresh water lakes in Orange County. The
10 non-tidal lake system is filled by seasonal rains and natural and urban runoff. The Lakes are
11 numbered 1 through 3 from upstream to downstream. Lakes 1 and 2 are on the west side of
12 the road and Lake 3 is on the east side. Lake 3 is the largest lake and is approximately 12
13 acres in size. About 30% (four acres) of Lake 3 is situated within the Laguna Beach City
14 limits and is owned by the City. The three lakes comprise three biotic communities: fresh
15 water aquatic, fresh water marsh and riparian habitat. The Lakes support a variety of biotic
16 species including: microscopic plants; aquatic and semi-aquatic plants such as reeds and
17 willow thickets; migrating waterfowl and birds, frogs, salamanders; and a variety of
18 mammals such as coyote, gray fox and mule deer.

19 The lakes are of local and regional significance. They are the only naturally occurring lakes
20 within Orange County and are an important habitat for many waterfowl and birds that are not
21 widely found within the County. The lakes support significant wildlife habitats in the
22 freshwater marsh and riparian communities, and they possess much regionally uncommon
23 aquatic and marsh-related vegetation.

24 Plans have been approved to improve about a 5-mile stretch of Laguna Canyon Road north of
25 El Toro Road. These improvement plans will generally move this portion of Laguna Canyon
26 Road to the west, away from the lakes and flood plain. It will also widen the highway to two
27 lanes in each direction and elevate areas prone to flooding. This improvement project will
28 allow Lakes 2 and 3 to be recombined.

29 Ocean Resources: The Pacific Ocean is one of the most significant physical features of
30 Laguna Beach, creating about 8 linear miles of coastline and over 100 acres of sandy beach.
31 In addition to its aesthetic and recreational value, the ocean and tidal zone of Laguna Beach
32 also supports a wide variety of plant and animal life. This coastal ecology is particularly
33 vulnerable to pollutants that originate from both land and sea. The quality of the ocean water
34 is also susceptible to degradation from runoff, sedimentation and debris from major
35 urbanized drainage basins such as Aliso Creek and Laguna Canyon, and from sewer outfalls.
36 Degradation of the coastal water resources has the potential of significantly disrupting the
37 ecological balance of the area and adversely affecting tourism.

38 Oil spills are a particularly serious threat because of their potential for widespread damage.
The Federal, State and County governments all have oil spill contingency plans which are
activated during an oil or toxic chemical spill. These contingency plans are designed to
initiate and expedite the process of clean-up and containment of oil and toxic chemical spills

1 occurring offshore. These plans establish lead agencies responsible for the clean-up and
2 administrative support and in some cases technical advice as needed during a major oil spill.

3 The Orange County Plan, however, differs from the State and National plans in that both
4 these plans recognize the Environmental Protection Agency or Coast Guard as the lead
5 agency for the spill response, while the County recognizes the local fire department of the
6 affected jurisdiction as the lead agency.

7 The City's role in an oil or chemical spill emergency involves discovery of the spill, taking
8 immediate action to limit damage and protect the public, notifying the appropriate State and
9 Federal agencies, and providing support for clean-up operations by private industry.

10 Water Conservation: Communities can no longer depend entirely upon importing water to
11 meet increased demand, but instead need to conserve water, thus reducing demand. Several
12 jurisdictions have addressed this issue by establishing policies and ordinances to require
13 water conservation. Other methods include reducing water demand in new residential
14 development by reorienting outdoor space and its landscaping, decreasing lot or lawn size
15 and encouraging drought-tolerant landscaping through subdivision and landscape ordinances.
16 In addition, residential water consumption can be reduced through economic and other
17 incentives, building codes that mandate water saving devices, and public education on water
18 conservation opportunities.

19 In Laguna Beach, the Laguna Beach County Water District (LBCWD) conducts a voluntary
20 water conservation program by encouraging people not to waste water and by promoting the
21 planting of native plants which use less water. This program is administered as an
22 information program by printing water conservation messages on water bills and by
23 providing literature on this subject at the LBCWD office.

24 Water Quality: Water is necessary for the survival and well being of humans, plants and
25 wildlife. The beneficial uses of water include, but are not limited to, domestic, agricultural
26 and industrial consumption supply; power generation; recreation; aesthetic enjoyment; and
27 the preservation of human, wildlife and plant habitats. The pollution of water is a direct
28 endangerment to and adversely affects the beneficial uses of water. Conversely, the
protection of the quality of water ensures and promotes the beneficial uses of water.

Urban runoff impairs the beneficial uses of water. The discharge of pollutants from urban
storm water systems into runoff receiving waters impairs or threatens to impair water's
beneficial uses. To help protect the beneficial uses of water, the best "first line of defense" is
pollution prevention at its source. Pollution prevention should be used in conjunction with
source control and treatment Best Management Practices (BMPs) to reduce or eliminate
urban runoff pollution. The most common categories of pollutants in urban runoff include
total suspended solids or sediment; pathogens (e.g., bacteria, viruses and protozoa); heavy
metals (e.g., copper, lead, zinc, and cadmium); petroleum products and polynuclear aromatic
hydrocarbons; synthetic organics (e.g., pesticides, herbicides and PCBs); nutrients (e.g.,

1 nitrogen and phosphorus fertilizers); oxygen-demanding substances (e.g., decaying
2 vegetation and animal waste); and trash.

3 During urban development two important changes occur. First, natural vegetated pervious
4 ground cover is converted to impervious surfaces, such as paved driveways, highways,
5 streets, rooftops and parking lots. Secondly, urban development creates new concentrated
6 pollution sources.

7 The most natural approach to water quality management is to minimize impervious surfaces
8 and filter and infiltrate runoff by allowing runoff to flow slowly over permeable vegetated
9 surfaces. By preserving and restoring the natural hydrological cycle, filtration and
10 infiltration can reduce the volume/peak rate, velocity and pollutant loads of urban runoff.

11 Since the urbanization process is a direct and leading cause of water quality degradation to
12 receiving waters, fundamental changes to existing policies, regulation and practices about
13 urban development are required. The main goal in the implementation of watershed
14 protection principles and policies is to direct land use decisions that protect storm water
15 quality. These changes concentrate on the three phases of urban development: land use
16 planning, construction and the "use" phase.

17 The legal authority for municipal management of water quality is based on the federal Clean
18 Water Act, the Porter-Cologne Water Quality Control Act, all applicable provisions of state
19 and regional Water Quality Control Plans, the California Toxics Rule and the California
20 Toxics Rule Implementation Plan. Laguna Beach is under the jurisdiction of the San Diego
21 Regional Water Quality Control Board and must comply with the Board's Municipal
22 Separate Storm Sewer System (MS4) Permit.

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POLICIES

- 4A Development Planning and Design Best Management Practices (BMPs)
Ensure that development plans and designs incorporate appropriate Site Design, Source Control and Structural Treatment Control Best Management Practices (BMPs), where feasible, to reduce to the maximum extent practicable, pollutants and runoff from the proposed development. Structural Treatment Control BMPs shall be implemented when a combination of Site Design and Source Control BMPs are not sufficient to protect water quality.
- 4B Minimize Impervious Surfaces
Ensure that development minimizes the creation of impervious surfaces, especially contiguously connected impervious areas, or minimizes the area of existing impervious surfaces where feasible.
- 4C Minimize Volume and Velocity of Runoff
Ensure that development is designed and managed to minimize the volume and velocity of runoff (including both stormwater and dry weather runoff) to the maximum extent practicable, to avoid excessive erosion and sedimentation.
- 4D Minimize Introduction of Pollutants
Ensure that development and existing land uses and associated operational practices minimize the introduction of pollutants into coastal waters (including the ocean, estuaries, wetlands, rivers and lakes) to the maximum extent practicable.
- 4E Preserve Functions of Natural Drainage Systems
Ensure that development is sited and designed to limit disturbances and to preserve the infiltration, purification, retention and conveyance functions of natural drainage systems that exist on the site to the maximum extent practicable.
- 4F Water Conservation and Native Plants
Ensure that development encourage water conservation, efficient irrigation practices and the use of native or drought tolerant non-invasive plants appropriate to the local habitat to minimize the need for fertilizer, pesticides, herbicides and excessive irrigation. Prohibit the use of invasive plants, and require native plants appropriate to the local habitat where the property is in or adjacent to Environmentally Sensitive Areas (ESAs).
- 4G Minimize Construction Impacts
Ensure that all development minimizes erosion, sedimentation and other pollutants in runoff from construction-related activities to the maximum extent practicable. Ensure that development minimizes land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize the impacts on water quality.

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- 4H Continue Application and Maintenance of Best Management Practices (BMPs)
Require the property owner, homeowner's association or local government, as applicable, to continue the application and maintenance of Source Control and/or Structural Treatment Control BMPs as necessary to reduce runoff pollution, including appropriate construction related erosion and sediment control measures.
- 4I Watershed Protection and Restoration
Promote the protection and restoration of offshore, coastal, lake, stream or wetland waters and habitats and preserve them to the maximum extent practicable in their natural state. Oppose activities that may degrade the quality of offshore, coastal, lake, stream or wetland waters and habitat and promote the rehabilitation of impaired waters and habitat.
- 4J Infiltrate Runoff
Promote infiltration of both storm water and dry weather runoff, as feasible, to protect natural hydrologic conditions.
- 4K Water Quality Public Education and Outreach
Engage in water quality public education and outreach to promote pollution prevention and watershed protection. Require development proposals to include, where applicable, water quality Best Management Practices (BMPs) educational components or programs.
- 4L Laguna Lakes Protection and Enhancement
Protect and preserve the existing natural hydrological process and enhance the ecological quality of the Laguna Lakes, where feasible. Coordinate with the City of Laguna Woods and the County of Orange in efforts to protect and preserve the ecological quality of Laguna Lakes. Oppose any physical alteration to the Laguna Lakes or adjacent habitat that may result in an adverse impact to water quality, habitat or the visual quality of the lakes.
- 4M Ocean Oil Spill Contingency Plans
Reevaluate periodically the Ocean Oil Spill Contingency Plans affecting the City.

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ORDINANCE NO. 1442

**AN ORDINANCE OF THE CITY OF LAGUNA BEACH AMENDING
TITLE 16 - WATER QUALITY CONTROL AND TITLE 22 -
EXCAVATING, GRADING AND FILLING REGARDING URBAN
RUNOFF WATER QUALITY CONTROL REQUIREMENTS**

WHEREAS, the Planning Commission conducted legally noticed public hearings and, after reviewing and considering all documents, testimony and other evidence presented, unanimously voted to recommend that the City Council approve amendments to Municipal Code Titles 16 and 22 regarding urban runoff water quality control requirements; and

WHEREAS, the City Council conducted a legally noticed public hearing and has reviewed and considered all documents, testimony and other evidence presented;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF LAGUNA BEACH DOES ORDAIN, as follows:

SECTION 1. Title 16 of the Municipal Code regarding urban runoff water quality control requirements is hereby amended to read in its entirety as specified in Attachment A.

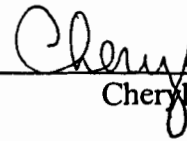
SECTION 2. Title 22 of the Municipal Code regarding urban runoff water quality control requirements related to excavating, grading and filling activities are hereby amended to read in their entirety as specified in Attachment B.

SECTION 3. This Ordinance is exempt from compliance with the California Environmental Quality Act (CEQA) pursuant to Section 15061(3) of the State CEQA Guidelines. Orange County and the Orange County Flood Control District have completed a CEQA Negative Declaration Initial Study Number IP 02-215 for the project titled "Orange County Storm Water Program Drainage Area Management Plan and Local Implementation Plans." The study found the project has or creates no significant environmental impacts requiring mitigation.

SECTION 4. This Ordinance is intended to be of Citywide effect and application. All ordinances and provisions of the Laguna Beach Municipal Code and Sections thereof inconsistent herewith shall be hereby repealed to the extent of such inconsistency and no further.

SECTION 5. The City Clerk of the City of Laguna Beach shall certify to the passage and adoption of this Ordinance, and shall cause the same to be published in the same manner required by law in the City of Laguna Beach. This Ordinance shall become effective thirty (30) days after the final approval by the City Council.

ADOPTED this 3rd day of August, 2004.



Cheryl Kinsman, Mayor

ATTEST:

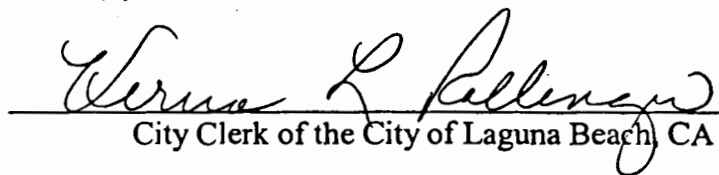

City Clerk

I, Verna Rollinger, City Clerk of the City of Laguna Beach, do hereby certify that the foregoing Ordinance No. 1442 was introduced at a regular meeting of the City Council on July 20, 2004 and was finally adopted at a regular meeting of the City Council of said City held on August 3, 2004 by the following vote:

AYES: COUNCILMEMBER(S): Dictorow, Baglin, Iseman, Pearson, Kinsman

NOES: COUNCILMEMBER(S): None

ABSENT: COUNCILMEMBER(S): None


City Clerk of the City of Laguna Beach, CA

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Chapter 16.01

WATER QUALITY CONTROL

Sections:

16.01.010	Purpose and Authority.
16.01.020	Definitions.
16.01.030	Prohibition on Illicit Connections and Prohibited Discharges.
16.01.040	Control of Urban Runoff.
16.01.050	Water Quality/Urban Runoff Management Plan (WQMP) Requirements.
16.01.060	Best Management Practices (BMPs) Maintenance.
16.01.070	Waiver.
16.01.080	Inspections.
16.01.090	Enforcement.
16.01.100	Miscellaneous.

16.01.010 Purpose and Authority.

The United States Congress passed the Clean Water Act (33 USC Section 1251 et seq., as amended, including Section 402(p) therein) as a mandate, in part, that cities, obtain permits to "effectively prohibit non-storm water discharges into the storm sewers" and "require controls to reduce the discharge of pollutants to the maximum extent practicable..." This permitting authority has been delegated by the United States Environmental Protection Agency ("EPA") to the state of California, which has authorized the State Water Resources Control Board and its local regulatory agencies, the Regional Water Quality Control Boards, to control non-point source discharges to California's waterways.

The San Diego Regional Water Quality Control Board has addressed the obligation to implement the Clean Water Act by issuing waste discharge requirements for the County of Orange, Orange County Flood Control District and those incorporated cities of Orange County within the Board's jurisdiction. This permit shall be referred to herein as the National Pollution Discharge Elimination System ("NPDES")/Municipal Separate Storm Sewer Systems (MS4) Permit.

The City of Laguna Beach is participating as a co-permittee under the NPDES/MS4 Permit in the development and adoption of an ordinance to accomplish the requirements of the Clean Water Act.

Storm water runoff is one step in the natural cycle of water. However, human activities, such as agriculture, construction and the operation and maintenance of an urban infrastructure may result in undesirable discharges of pollutants and certain sediments, which may accumulate in local drainage channels and waterways and eventually may be deposited in the waters of the United States.

The purpose of the ordinance codified in this Chapter is to help in the improvement of water quality and to comply with the federal control requirements of pollutants to storm water runoff within the City.

This Chapter also regulates development within the Coastal Zone in accordance with the policies of the City's Local Coastal Program and Sections 30230, 30231, 30232 and 30240 of the California Coastal Act.

16.01.020 Definitions.

As used in this Chapter, the following terms are defined in this section:

(A) "Accelerated Erosion" means the rate and amount of erosion caused by development activities that exceed the natural processes by which the surface of the land is worn away. Erosion includes the movement or loss of soil by the action of water, wind or chemicals.

(B) "Authorized Water Quality Enforcement Staff" means any person designated or assigned by the City Manager to undertake inspector duties including, but not limited to, inspection, investigation and enforcement of any provisions of this Chapter.

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(C) "Best Management Practices (BMPs)" means any program, activity, technology, process, siting criteria, operational method, practice, facility and/or procedure that when properly implemented will control, prevent, remove or reduce pollutants in discharges. "Source Control" BMPs (both structural and nonstructural) are operational practices or methods that prevent pollution by reducing potential pollutants at the source. A "Site Design" BMP is a Source Control BMP and means any design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's natural flow regime. "Treatment Control" BMPs are structural methods of treatment to remove pollutants from urban runoff. (The City utilizes the BMPs which have been specified in the City's Jurisdictional Urban Runoff Management Program (JURMP). Presently, these BMPs have been developed, and may be amended from time to time, by the California Stormwater Quality Association (CASQA) and can be referenced at www.cabmhandbooks.com. The City reserves the right to implement any equivalent BMP prepared by other qualified water quality organizations or government agencies.)

(D) "City" means the City of Laguna Beach, Orange County, California.

(E) "Clean Water Act Section 303(d) Water Body" is an impaired water body in which water quality does not meet acceptable water quality standards and/or is not expected to meet water quality standards, even after the application of technology based pollution controls required by the Clean Water Act. The discharge of urban runoff to these water bodies by the co-permittees is significant because these discharges can cause or contribute to violations of applicable water quality standards.

(F) "Coastal Development Permit" means a permit issued under the authority of Chapter 25.07 and the California Coastal Act by the City of Laguna Beach or the Coastal Commission to perform or undertake any development, as that term is defined in Section 25.07.066(D), within the City's Coastal Zone.

(G) "Co-Permittee" means the County of Orange, the Orange County Flood Control District, and/or any one of the municipalities, including the City of Laguna Beach, that are responsible for compliance with the terms of the NPDES/MS4 Permit.

(H) "DAMP" means the Orange County Drainage Area Management Plan NPDES Permit Guidance Document, including all appendices, as the same may be amended from time to time.

(I) "Development" means all public and private residential, industrial, commercial, retail, and other nonresidential construction projects, or grading for future construction, for which a discretionary land use approval, such as a Coastal Development Permit, grading permit or building permit is required.

(J) "Discharge" means any release, spill, leak, pump, flow, escape, leaching (including subsurface migration or deposition to groundwater), dumping or disposal of any liquid, semi-solid or solid substance.

(K) "Enforcing Attorney" means the City Attorney acting as counsel to the City of Laguna Beach and his/her designee, which counsel is authorized to take enforcement action as described herein.

(L) "EPA" means the Environmental Protection Agency of the United States.

(M) "Hearing Commission" means the Planning Commission established by separate resolution of the City Council, which shall preside at the appeal hearings authorized by this Chapter and issue decisions on the matters raised therein.

(N) "Illicit Discharge" means a discharge to the City's storm water drainage system that is not entirely composed of storm water except discharges pursuant to a separate NPDES/MS4 Permit (other than the NPDES/MS4 Permit for discharges) and discharges resulting from emergency fire fighting activities.

(O) "Impervious Surfaces" means constructed or modified surfaces that cannot effectively allow for the infiltration of rainfall. The term includes, but is not limited to, building rooftops, pavement, sidewalks and driveways.

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(P) "Impervious Surface Area" means the ground area covered or sheltered by an impervious surface, measured in plan view, i.e., as if directly above. For example, the "impervious surface area" for a pitched roof is equal to the ground area it shelters, rather than the surface area of the roof itself.

(Q) "Invoice for Costs" means the actual costs and expenses of the City, including but not limited to administrative overhead, salaries and other expenses recoverable under state law, incurred during any inspection conducted pursuant to this Chapter, where a notice of noncompliance, administrative compliance order or other enforcement option under of this Chapter is utilized to obtain compliance with this Chapter.

(R) "Illicit Connection" means any man-made conveyance or drainage system, pipeline, conduit, inlet or outlet through which the discharge of any pollutant to the storm water drainage system occurs or may occur. The term illicit connection shall not include legal nonconforming connections or connections to the storm water drainage system that are hereinafter authorized by the City.

(S) "Jurisdictional Urban Runoff Management Plan (JURMP) means the City's local program to implement the NPDES/MS4 Permit requirements based on the County of Orange DAMP Guidance Document, including all appendices, together with any amendments or revisions.

(T) "Legal Nonconforming Connection" means connections to the storm water drainage system existing as of the adoption of this Chapter that were in compliance with all federal, state and local rules, regulations, statutes and administrative requirements in effect at the time the connection was established.

(U) "Maximum Extent Practicable (MEP)" means the technology-based acceptability standard for pollution reduction by Best Management Practices (BMPs) established by Congress in Clean Water Act Section 402(p)(3)(B)(iii) that municipal dischargers of urban runoff must meet. MEP generally emphasizes pollution prevention or Source Control BMPs (as the first line of defense) in combination with treatment methods serving as a backup (additional line of defense).

(V) "Municipal Separate Storm Sewer System (MS4)" is a drainage system of conveyances used for the purpose of collecting, storing, transporting or disposal of storm water (including roads with drainage systems, City streets, catch basins, curbs, gutters, ditches, natural drainage features or channels, modified natural channels, manmade channels or storm drains) that is: 1) owned or operated by the City of Laguna Beach, Laguna Beach County Water District or South Coast Water District; 2) designated or used for collecting or conveying storm water; 3) which is not a combined sewer; and 4) which is not part of a publicly owned treatment works (POTW) defined in 40 CFR 122.2.

(W) "National Pollution Discharge Elimination System /Municipal Separate Storm Sewer Systems (NPDES/MS4) Permit" means the currently applicable municipal discharge permit issued by the Regional Water Quality Control Board, San Diego Region, which permit establishes waste discharge requirements applicable to storm water runoff in the City.

(X) "Non-Prohibited Discharge" means all types of non-storm water discharges into the storm water drainage system that are either: 1) authorized by a separate NPDES/MS4 Permit; or 2) pursuant to 40 CFR 122.26(d)(2)(iv)(B)(1), are listed in the NPDES/MS4 Permit, unless such non-storm water discharges are identified as a significant source of pollutants to waters of the United States. In any action to enforce this Chapter, the burden shall be on the person who is the subject of such action to establish that a discharge was within the scope of non-prohibited discharges.

(Y) "Non-Storm Water" means all of the discharges to and from a storm water drainage system that do not originate from precipitation events (i.e., all discharges to and from a conveyance system other than storm water). Non-storm water includes illicit discharges, non-prohibited discharges and NPDES/MS4 permitted discharges.

(Z) "Person" means any person as well as any corporation, partnership, government entity or subdivision, trust, estate, cooperative association, joint venture, business entity, or other similar entity, or the agent, employee or representative of any of the above.

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(AA) "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, including but not limited to:

1. Artificial materials (such as floatable plastics, wood products or metal shavings);
2. Household waste (such as trash, paper, and plastics; cleaning chemicals; yard wastes; animal fecal materials; used oil and fluids from vehicles, lawn mowers and other common household equipment);
3. Metals and nonmetals, including compounds of metals and nonmetals, (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic), with characteristics which cause an adverse effect on living organisms;
4. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);
5. Animal wastes (such as discharge from confinement facilities, kennels, pens and recreational facilities, including, stables, show facilities, or polo fields);
6. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;
7. Waste materials and wastewater generated on construction sites and by construction activities (such as painting and staining; use of sealants and glues, use of lime; use of wood preservatives and solvents; disturbance of asbestos fibers, paint flakes or stucco fragments; application of oils, lubricants, hydraulic, radiator or battery fluids; construction equipment washing; concrete pouring and cleanup; use of concrete detergents; steam cleaning or sand blasting; use of chemical degreasing or diluting agents; and use of super chlorinated water for potable water line flushing);
8. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;
9. Materials which contain base/neutral or acid extractable organic compounds;
10. Those pollutants defined in Section 1362(6) of the federal Clean Water Act; and
11. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial uses of the receiving waters, flora or fauna of the state.

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(BB) "Priority Development Project" as defined in the NPDES/MS4 Permit means any of the following development categories:

1. Residential subdivisions for 4 or more housing units. This category includes single-family, multi-family, condominiums and apartments.
2. Commercial developments of 100,000 or more square feet in area. This category consists of any development that is not heavy industrial or residential and includes, but is not limited to: hospitals; laboratories; and other medical facilities; educational institutions; recreational facilities; commercial nurseries; multi-apartment buildings; car wash facilities; mini-malls and other business complexes; shopping malls; hotels; office buildings; public warehouses, automotive dealerships; commercial airfields; and other light industrial facilities.
3. Automotive repair shops. This category is defined as a facility that is categorized in any one of the following Standard Industrial Classification (SIC) Codes: 5013, 5014, 5541, 7532-7534 or 7536-7539.
4. Restaurants. This category is defined as a facility that sells prepared foods and drinks for consumption, including stationary lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption (SIC Code 5812) and where the land area for development is equal to or greater than 5,000 square feet. Restaurants where land development is less than 5,000 square feet shall meet all non-structural BMP WQMP requirements.
5. All hillside development that creates 5,000 or more square feet of impervious surface area. This category is defined as any development that creates an impervious surface area of 5,000 or more square feet that is located in an area with known erosive soil conditions (as indicated in a site-specific geological or geotechnical report) or where the development will grade on any natural or preexisting slope that is twenty-five percent (25%) or greater.
6. Parking lots of 5,000 or more square feet in area or with 15 or more parking spaces. Parking lot is defined as a land area or facility for the parking or storage of motor vehicles used personally, for business or for commerce.
7. Street, roads, highways and freeways. This category includes any paved surface that is 5,000 or more square feet in area and is used for the transportation of automobiles, trucks, motorcycles and other vehicles.
8. Water Quality Environmentally Sensitive Area Development. All development and significant redevelopment located within, directly adjacent to or discharging directly to an environmentally sensitive area (where discharges from the development or redevelopment will enter receiving waters within an environmentally sensitive area), which either creates 2,500 or more square feet of impervious surface area on a proposed project site or increases the preexisting impervious surface area condition by 10% or more. "Directly adjacent" means situated within 200 feet of the environmentally sensitive area. "Discharging directly to" means the outflow from a drainage conveyance system that is entirely composed of flows from the subject development or redevelopment site, and not co-mingled with flows from adjacent lands. "Environmentally sensitive area" are areas that include: 1) the Clean Water Act Section 303(d) Water Bodies, including Aliso Creek and portions of the Pacific Ocean coastline; 2) the Natural Community Conservation Planning (NCCP) program areas; 3) coastline areas of special biological significance, including the Heisler Park Ecological Reserve, Laguna Beach Marine Life Refuge and South Laguna Marine Life Refuge; 4) areas of critical aquatic resource, including the mouth of Aliso Creek; and 5) local environmentally sensitive areas, including areas of the Pacific Ocean coastline not listed as a Clean Water Act Section 303(d) Water Body. Environmentally sensitive areas are depicted on the Water Quality Environmentally Sensitive Area (WQESA) Map, (adopted as part of this Chapter by reference). The

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areas directly adjacent to (within 200 feet) of an environmentally sensitive area are also shown on the WQESA Map.

(CC) "Prohibited Discharge" means any discharge into and from the storm water drainage system done in a manner causing, or threatening to cause, a condition of pollution, contamination or nuisance (as defined in Clean Water Act Section 13050), in waters of the State as defined in the NPDES/MS4 Permit; and discharges from the storm water drainage system that cause or contribute to exceedance of receiving water quality objectives for surface water or groundwater. The term prohibited discharge shall not include discharges defined as non-prohibited discharges.

(DD) "Significant Redevelopment" means the creation or addition of 5,000 or more square feet of impervious surface area of an existing developed site. Significant redevelopment includes, but is not limited to: the expansion of a building footprint or addition or replacement of a structure; structural development including an increase in gross floor area and/or exterior construction or remodeling; replacement of impervious surface that is not part of a routine maintenance activity; and land disturbing activities related with structural or impervious surfaces. Where significant redevelopment results in an increase of less than fifty percent (50%) of the impervious surface area of a previously existing development, and the existing development was not subject to WQMP requirements, the design sizing criteria for Structural Treatment BMP facilities applies only to the addition, and not to the entire development.

(EE) "State General Permit" means either the state general industrial storm water permit or the state general construction permit and the terms and requirements of either or both. In the event the U.S. Environmental Protection Agency revokes the in-lieu permitting authority of the State Water Resources Control Board, then the term state general permit shall also refer to any EPA administered storm water control program for industrial and construction activities.

(FF) "Storm Water" means that portion of precipitation that flows across a surface to the storm water drainage system or receiving waters. Examples of this phenomenon include, but are not limited to: the water that flows off a building's roof when it rains (runoff from an impervious surface); the water that flows from a vegetated surface when rainfall is in excess of the rate at which it can infiltrate into the soil (runoff from a pervious surface); and the water that flows into streams when snow on the ground begins to melt (runoff from a semi-impervious surface). Runoff generally increases as the perviousness of a surface decreases. During precipitation events in urban areas, rain water picks up and transports pollutants through storm water conveyance systems and ultimately to water of the United States.

(GG) "Storm Water Drainage System" means any street gutter, channel, storm drain, constructed drain, lined diversion structure, wash area, inlet, outlet or other facility which is a part of or tributary to the City-wide storm water runoff system and used for the purpose of collecting, storing, transporting or disposing of storm water. (Refer to Municipal Separate Storm Sewer System.)

(HH) "Urban Runoff" means all flows in a storm water drainage system and consists of the following components: 1) storm water (wet weather flows) and 2) non-storm water discharges (dry weather flows). Storm water and non-storm water flows may consist of both prohibited and non-prohibited discharges as defined in the NPDES/MS4 Permit and this Code.

(II) "Water Quality/Urban Runoff Management Plan (WQMP)" means a water quality plan which identifies and details appropriate/necessary Source Control, Site Design, and Structural Treatment BMPs that are incorporated into the project design to prevent, reduce or remove, to the maximum extent practicable, pollutant discharges, accelerated erosion and sediment runoff during development construction and operation activities. Another synonymous term for such a water quality plan is Standard Urban Stormwater Mitigation Plan (SUSMP).

16.01.030 Prohibition on Illicit Connections and Prohibited Discharges.

No person shall:

- (1) Construct, maintain, operate and/or utilize any illicit connection;
- (2) Cause, allow or facilitate any prohibited discharge or pollutant that causes or contributes to a condition of contamination;

(3) Act, cause, permit or suffer any agent, employee, or independent contractor, to construct, maintain, operate or utilize any illicit connection, or cause, allow or facilitate any prohibited discharge; or

(4) Cause or allow a condition of accelerated erosion.

16.01.040 Control of Urban Runoff.

(1) Compliance with Best Management Practices (BMPs). Every person owning property or conducting an activity or use of premises which cause or contribute to storm water pollution or contamination, prohibited discharges, or non-storm water discharges shall comply with BMP guidelines or pollution control requirements reasonably established by authorized water quality enforcement staff in order to prevent, reduce or remove, to the maximum extent practicable, pollutants from entering the storm water drainage system.

(2) All development, including significant redevelopment as defined above, within the City shall be undertaken and the required Site Design, Source Control and Treatment Control BMPs implemented to ensure that pollutant discharges from development are prevented, reduced or removed, to the maximum extent practicable, and in accordance with:

(i) The NPDES/MS4 Permit requirements and the JURMP and BMPs of the City. Site Design and Source Control BMP's shall be utilized as a set of first priority measures to control pollutant discharges; and

(ii) Any conditions and requirements established by the Community Development Department which are reasonably related to the reduction or elimination of pollutants in storm water runoff from the project site.

(3) Water Quality/Urban Runoff Management Plan (WQMP) Requirements. All development, including significant redevelopment as defined above, that is a priority development project shall comply with Section 16.01.050 requirements of this Chapter.

(4) Prior to the issuance by the City of a grading permit, building permit or Coastal Development Permit for any development, including significant redevelopment as defined above, the Community Development Department shall review the project plans and impose BMPs, terms, conditions and requirements on the project in accordance with Section 16.01.040(2). If the new development or significant redevelopment will be approved without application for a grading permit or building permit, the Community Development Department shall review the project plans and impose BMPs, terms, conditions and requirements on the project in accordance with Section 16.01.040(2). prior to the issuance of the approval of the plans.

(5) Compliance with the conditions and requirements of the NPDES/MS4 Permit and JURMP shall not exempt any person from the requirement to independently comply with each provision of this Chapter.

(6) The owner of a new development or significant redevelopment project or upon transfer of the property, its successors and assigns shall implement and adhere to the terms, conditions and requirements imposed pursuant to Section 16.01.040 on a new development or significant redevelopment project. Each failure by the owner of the property, or its successors or assigns to implement and adhere to the terms, conditions and requirements imposed pursuant to Section 16.01.040 on a new development or significant redevelopment project shall constitute a violation of this Chapter.

(7) The City's Community Development Department may require that the terms, conditions and requirements imposed pursuant to Section 16.01.040 be recorded with the County Recorder's office by the property owner. The signature of the owner of the property or any successive owner shall be sufficient for the recording of these terms, conditions and requirements and a signature on behalf of the City shall not be required for recordation.

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16.01.050 Water Quality/Urban Runoff Management Plan (WQMP) Requirements.

(1) A Water Quality/Urban Stormwater Management Plan (WQMP) shall be prepared and submitted for all priority development projects and for non-priority projects where the City Engineer or Director of Water Quality have determined that typical Site Design and Source Control BMPs are not adequate to protect water quality along with the applicable land use, building or Coastal Development Permit application. The WQMP shall be prepared by a qualified water quality professional, (e.g., a Civil Engineer or Architect, including Landscape Architects, licensed by the State of California). The City may require independent review of the submitted WQMP, and the development project proponent shall pay for the cost of the independent review. The WQMP shall include proposed Source Control, Site Design, and Structural Treatment Control BMPs as specified in the NPDES/MS4 Permit, and the WQMP shall be prepared in conformance with the JURMP. Structural Treatment BMPs may be required for any non-priority project that requires a Coastal Development Permit for which the City Engineer or the Director of Water Quality determines that Source Control and Site Design BMPs are not sufficient to protect water quality. Factors that the City Engineer or Director of Water Quality shall consider in making the determination of a non-priority project's impact to water quality shall include, but not be limited to, the development's size, proximity to sensitive resources, drainage conditions, erosion potential of the site, amount of impervious surface, and types and quantities of contaminants at the site. Structural Treatment BMP's shall be designed to comply with the volume or flow design criteria specified in the NPDES/MS4 Permit.

(2) The BMPs contained in the WQMP shall at a minimum:

(i) Control the post-development peak storm water runoff discharge rates and velocities to maintain or reduce pre-development downstream erosion, and to protect stream or downstream habitat;

(ii) Conserve natural areas where feasible;

(iii) Minimize storm water pollutants of concern in urban runoff from development, including significant redevelopment as defined above, through implementation of Source Control BMPs, including Site Design BMPs. Identification of pollutants of concern should include at a minimum consideration of any pollutants for which water bodies receiving the development runoff are listed as impaired under Clean Water Act section 303(d), any pollutant associated with the land use type of development and any pollutant commonly associated with urban runoff;

(iv) Remove pollutants of concern from urban runoff through a combination of advanced Site Design, stringent Source Control or, where necessary, implementation of Structural Treatment BMPs;

(v) Minimize contiguously connected impervious areas where feasible;

(vi) Protect slopes and channels from eroding;

(vii) Include storm drain stenciling and signage;

(viii) Include properly designed outdoor material storage areas;

(ix) Include properly designed trash storage areas;

(x) Include proof of a mechanism, to be provided by the project proponent or City, which will ensure ongoing long-term Structural Treatment BMP maintenance.

(xi) Include additional water quality provisions applicable to individual priority project categories;

(xii) Be correctly designed so as to remove pollutants to the maximum extent practicable;

(xiii) Be implemented close to pollution sources, when feasible, and prior to discharging into receiving waters supporting beneficial uses; and

(xiv) Ensure that post-development runoff does not contain pollutant loads which cause or contribute to an exceedance of water quality objectives and which have not been reduced to the maximum extent practicable.

(3) Post-construction (permanent) Best Management Practices (BMPs). Non-construction BMPs selected and incorporated in the WQMP are permanent and will remain in effect after the project is constructed and is placed into use.

(4) Property owners and developers, jointly and severally, and their successors shall fully comply with the requirements, plans and conditions of an approved WQMP.

16.01.060 Best Management Practices (BMPs) Maintenance.

The responsibility of maintaining BMPs incorporated into the project by an approved WQMP shall be borne by the property owners and developers, jointly and severally, and their successors. The WQMP shall include guidance on the proper maintenance of each permanent BMP. Constructive and timely notice shall be provided to all future owners of this maintenance responsibility. The owners/developers shall provide written verification to the City of acceptance for BMP maintenance. This verification shall include:

- The owners/developers signed statement accepting responsibility for maintenance until the responsibility is legally transferred; and either
- A signed statement from the property owner or public entity assuming responsibility for the BMP maintenance and that it meets all local agency design standards; or
- Written text in the project's conditions, covenants and restrictions (CC&Rs) for residential properties assigning maintenance responsibility to the Home Owner Association for maintenance of the BMPs; or
- Any other legally enforceable agreement that assigns responsibility for the maintenance of the BMPs, including a maintenance inspection schedule appropriate for the type of BMP.

16.01.070 Waiver.

A waiver of infeasibility, which waives the requirement for priority projects to implement Structural Treatment Control BMPs, may be granted in the event the City Engineer or Director of Water Quality determines that all Structural Treatment Control BMPs have been considered and determined that they are not feasible. Where waivers of infeasibility are granted, a WQMP shall be required to show how additional Source Control and Site Design BMPs, (e.g., requirements to use only landscaping that does not require irrigation or pesticides), will be implemented to minimize impacts to water quality. Projects may be denied, if the project cannot provide a combination of Site Design, Source Control and/or Treatment Control BMPs sufficient to protect water quality. Recognized situations of infeasibility include; extreme limitations of space for treatment on a redevelopment project; unfavorable or unstable soil conditions at a site to attempt infiltration; and risk of groundwater contamination because a known unconfined aquifer lies beneath the land surface or an existing or potential underground source of drinking water is less than ten (10 feet) from the soil surface. The City shall notify the San Diego Regional Water Quality Control Board (SDRWQCB) and the California Coastal Commission within five (5) days of each waiver issued and shall include the name of the persons granting each waiver. Any waiver granted by the City may be revoked by the SDRWQCB for cause and with proper notice.

16.01.080 Inspections.

(1) Right to Inspect. Prior to commencing any inspection as herein below authorized, the authorized water quality enforcement staff shall obtain either the consent of the owner or occupant of the property or shall obtain an administrative inspection warrant or criminal search warrant.

(2) Entry to Inspect. The authorized water quality enforcement staff may enter property to complete water quality inspections and to investigate the source of any discharge to any public street, inlet, gutter, storm drain or the storm water drainage system located within the jurisdiction of the City.

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(3) Compliance Assessments. The authorized water quality enforcement staff may inspect property for the purpose of verifying compliance with this Chapter, including but not limited to: (i) identifying products produced, processes conducted, chemicals used and materials stored on or contained within the property; (ii) identifying point(s) of discharge of all wastewater, process water systems and pollutants; (iii) investigating the natural slope at the location, including drainage patterns and man-made conveyance systems; (iv) establishing the location of all points of discharge from the property, whether by surface runoff or through a storm drain system; (v) locating any illicit connection or the source of prohibited discharge; (vi) investigating the condition of any legal nonconforming connection; (vii) determining if BMPs are being satisfactorily implemented to eliminate sources of runoff pollution.

(4) Records Review. The authorized water quality enforcement staff may inspect all records of the owner or occupant of property relating to chemicals or processes presently or previously occurring on-site, including material and/or chemical inventories, facilities maps or schematics and diagrams, material safety data sheets, hazardous waste manifests, business plans, pollution prevention plans, state general permits, storm water pollution prevention plans, monitoring program plans and any other record(s) relating to illicit connections, prohibited discharges, a legal nonconforming connection or any other source of contribution or potential contribution of pollutants to the storm water drainage system.

(5) Sample and Test. The authorized water quality enforcement staff may inspect, sample and test any area runoff, soils area (including groundwater testing), process discharge, materials within any waste storage area (including any container contents), and/or treatment system discharge for the purpose of determining the potential for contribution of pollutants to the storm water drainage system. The authorized water quality enforcement staff may investigate the integrity of all storm drain and sanitary sewer systems, any legal nonconforming connection or other pipelines on the property using appropriate tests, including but not limited to smoke and dye tests or video surveys. The authorized water quality enforcement staff may take photographs or video tape, make measurements or drawings, and create any other record reasonably necessary to document conditions on the property.

(6) Monitoring. The authorized water quality enforcement staff may erect and maintain monitoring devices for the purpose of measuring any discharge or potential source of discharge to the storm water drainage system.

(7) Test Results. The owner or occupant of property subject to inspection shall, on submission of a written request, receive copies of all monitoring and test results conducted by the authorized water quality enforcement staff.

16.01.090 Enforcement.

(A) Best Management Practices (BMPs). The City authorized water quality enforcement staff shall be authorized to reasonably require the establishment of BMPs pursuant to Section 16.01.040.

(B) Administrative Remedies.

(1) Notice of Noncompliance. The authorized water quality enforcement staff may deliver to the owner or occupant of any property, or to any person responsible for an illicit connection or prohibited discharge a notice of noncompliance. The notice of noncompliance shall be delivered in accordance with this Chapter.

(i) The notice of noncompliance shall identify the provision(s) of this Chapter or the applicable term(s), condition(s) or requirement(s) imposed under Section 16.01.040 which have been violated. The notice of noncompliance shall state that continued noncompliance may result in additional enforcement actions against the owner, occupant and/or person.

(ii) The notice of noncompliance shall state a compliance date that must be met by the owner, occupant and/or person; provided, however, that the compliance date may not exceed ninety days unless the authorized water quality enforcement staff extends the compliance deadline an additional ninety days where good cause exists for the extension.

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(2) Administrative Compliance Order.

(i) The authorized water quality enforcement staff may issue an administrative compliance order. The administrative compliance order shall be delivered in accordance with this Chapter. The administrative compliance order may be issued to:

(a) The owner or occupant of any property requiring abatement of conditions on the property that cause or may cause a prohibited discharge or an illicit connection in violation of this Chapter;

(b) The owner of property subject to terms, conditions and requirements imposed on a project in accordance with Section 16.01.040 to ensure adherence to those terms, conditions and requirements; or

(c) Any person responsible for an illicit connection or prohibited discharge.

(ii) The administrative compliance order may include the following terms and requirements:

(a) Specific steps and time schedules for compliance as reasonably necessary to eliminate an existing prohibited discharge or to prevent the imminent threat of a prohibited discharge, including but not limited to a prohibited discharge from any pond, pit, well, surface impoundment, holding or storage area;

(b) Specific steps and time schedules for compliance as reasonably necessary to discontinue any illicit connection;

(c) Specific requirements for containment, cleanup, removal, storage, installation of overhead covering, or proper disposal of any pollutant having the potential to contact storm water runoff;

(d) Any other terms or requirements reasonably calculated to prevent the imminent threat of or continuing violations of this Chapter, including, but not limited to requirements for compliance with best management practices guidance documents promulgated by any federal, State of California or regional agency;

(e) Any other terms or requirements reasonably calculated to achieve full compliance with the terms, conditions and requirements of any permit issued in compliance with this Chapter.

(3) Cease and Desist Orders.

(i) The authorized water quality enforcement staff may issue a cease and desist order. A cease and desist order shall be delivered in accordance with this Chapter. A cease and desist order may direct the owner or occupant of any property and/or other person responsible for a violation of this Chapter to:

(a) Immediately discontinue any illicit connection or prohibited discharge to the storm water drainage system;

(b) Immediately contain or divert any flow of water off the property, where the flow is occurring in violation of any provision of this Chapter;

(c) Immediately discontinue any other violation of this Chapter; and

(d) Clean up the area affected by the violation.

(ii) The authorized water quality enforcement staff may direct by cease and desist order that the owner of any property or his/her successor-in-interest, which property is subject to any terms, conditions or requirements issued pursuant to Section 16.01.040, immediately cease any activity not in compliance with those conditions and requirements.

(4) Recovery of Costs. The authorized water quality enforcement staff may deliver to the owner or occupant of any property, any permittee or any other person who becomes subject to a notice of noncompliance or administrative order, an invoice for costs. An invoice for costs shall be delivered in accordance with this Chapter. An invoice for costs shall be immediately due and payable to the City for the actual costs incurred by the City in issuing and enforcing any notice or order.

If any owner or occupant or any other person subject to an invoice for costs fails to either pay the invoice for costs or appeal successfully the invoice for costs in accordance with this Chapter, then the enforcing attorney may institute collection proceedings.

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(5) Delivery of Notice. Any notice of noncompliance, administrative compliance order, cease and desist order or invoice of costs to be delivered pursuant to the requirements of this Chapter shall be subject to the following:

(i) The notice shall state that the recipient has a right to appeal the matter as set forth in this Chapter;

(ii) Delivery shall be deemed complete upon (a) personal service to the recipient; (b) deposit in the U.S. mail, postage pre-paid for first class delivery; or (c) facsimile service with confirmation of receipt;

(iii) Where the recipient of notice is the owner of the property, the address for notice shall be the address from the most recently issued equalized assessment roll for the property or as otherwise appears in the current records of the City;

(iv) Where the owner or occupant of any property cannot be located after the reasonable efforts of the authorized water quality enforcement staff, a notice of noncompliance or cease and desist order shall be deemed delivered after posting on the property for a period of ten business days.

(6) Appeal Hearing for Notices of Noncompliance, Administrative Compliance Orders, Invoices for Costs and Adverse Determinations. Except as set forth in this Chapter, any person receiving a notice of noncompliance, administrative compliance order, a notice of legal nonconforming connection, an invoice for costs, or any person who is subject to any adverse determination made pursuant to this Chapter, may appeal the matter by requesting an appeal hearing. Notwithstanding the foregoing, these administrative appeal procedures shall not apply to criminal proceedings initiated to enforce this Chapter.

(7) Request for Appeal Hearing. Any person appealing a notice of noncompliance, an administrative compliance order, a notice of legal nonconforming connection, an invoice for costs or an adverse determination shall, within thirty days of receipt thereof, file a written request for an appeal hearing, accompanied by an appeal hearing fee as established by separate resolution, with the community development department. Thereafter, a hearing on the matter shall be held before the hearing commission within forty-five business days of the date of filing of the written request unless, in the reasonable discretion of the hearing commission and pursuant to a written request by the appealing party, a continuance of the hearing is granted.

(8) Appeal Hearing for Cease and Desist Orders and Emergency Abatement Actions. An appeal hearing on the issuance of a cease and desist order or following an emergency abatement action shall be held within five business days following the issuance of the order or the action of abatement, unless the hearing (or the time requirement for the hearing) is waived in writing by the party subject to the cease and desist order or the emergency abatement. A request for an appeal hearing shall not be required from the person subject to the cease and desist order or the emergency abatement action.

(9) Appeal Hearing Proceedings. The authorized water quality enforcement staff shall appear in support of the notice, order, determination, invoice for costs or emergency abatement action, and the appealing party shall appear in support of withdrawal of the notice, order, determination, invoice for costs, or in opposition to the emergency abatement action. Each party shall have the right to present testimony and other documentary evidence as necessary for explanation of the case.

(10) Final Decision and Appeal. The final decision of the hearing commission shall be issued as soon as possible after the conclusion of the hearing and shall be delivered by first-class mail to the appealing party. The final decision shall include notice that any appeal of the decision shall be subject to the provisions of Section 25.05.070.

(11) City Abatement. In the event the owner of property, the operator of a facility, a permittee or any other person fails to comply with any provision of a compliance schedule issued to such owner, operator, permittee or person pursuant to this Chapter, the authorized water quality enforcement staff may request the enforcing attorney to obtain an abatement warrant or other appropriate judicial authorization to enter the property, abate the condition and restore the area. Any costs incurred by the City in obtaining and carrying out an abatement warrant or other judicial authorization may be recovered pursuant to this Chapter.

(12) Administrative Citation. Authorized water quality enforcement staff may issue an administrative citation pursuant to Chapter 1.15 of the Municipal Code. Upon issuance of such a citation, all of the provisions of Chapter 1.15 shall apply.

(C) Any condition in violation of the prohibitions of this Chapter, including but not limited to the maintenance or use of any illicit connection or the occurrence of any prohibited discharge, shall constitute a threat to the public health, safety and welfare, and is declared and deemed a nuisance pursuant to Government Code Section 38771.

(1) Court Order to Enjoin or Abatement. At the request of the City Manager, the enforcing attorney may seek a court order to enjoin and/or abate the nuisance.

(2) Notice to Owner and Occupant. Prior to seeking any court order to enjoin or abate a nuisance or threatened nuisance, the City Manager shall provide notice of the proposed injunction or abatement to the owner and occupant, if any, of the property where the nuisance or threatened nuisance is occurring.

(3) Emergency Abatement. In the event the nuisance constitutes an imminent danger to public safety or the environment, the City Manager or persons designated and under his/her instruction may enter the property from which the nuisance emanates, abate the nuisance and restore any property affected by the nuisance. To the extent reasonably practicable, informal notice shall be provided to the owner or occupant prior to abatement. If necessary to protect the public safety or environment, abatement may proceed without prior notice to or consent from the owner or occupant thereof and without judicial warrant.

(i) An imminent danger shall include, but is not limited to, exigent circumstances created by the dispersal of pollutants, where the same presents a significant and immediate threat to the public safety or the environment.

(ii) Notwithstanding the authority of the City to conduct an emergency abatement action, an appeal hearing pursuant to this Chapter hereinabove shall follow the abatement action.

(4) Reimbursement of Costs. All costs incurred by the City in responding to any nuisance, all administrative expenses and all other expenses recoverable under state law, shall be recoverable from the person(s) creating, causing, committing, permitting or maintaining the nuisance.

(5) Nuisance Lien. All costs shall become a lien against the property from which the nuisance emanated and a personal obligation against the owner thereof in accordance with Government Code Section 38773.1 and Section 38773.5. The owner of record of the property subject to any lien shall be given notice of the lien prior to recording as required by Government Code Section 38773.1.

At the direction of the City Manager, the enforcing attorney is authorized to collect nuisance abatement costs or enforce a nuisance lien in an action brought for a money judgment or by delivery to the County Assessor of a special assessment against the property in accord with the conditions and requirements of Government Code Section 38773.5.

(D) Criminal Sanctions.

(1) Prosecutor. The enforcing attorney may act on the request of the City Manager to pursue enforcement actions in accordance with the provisions of this Chapter.

(2) Infractions. Any person who may otherwise be charged with a misdemeanor under this Chapter may be charged, at the discretion of the enforcing attorney, with an infraction punishable by a fine specified by the Administrative Citation Schedule of Fines adopted by the City Council in accordance with the requirements set forth in Section 1.15.070 of this Code.

(3) Misdemeanors. Any person who negligently or knowingly violates any provision of this Chapter, undertakes to conceal any violation of this Chapter, continues any violation of this Chapter after notice thereof, or violates the terms, conditions and requirements of any permit issued in conformance to this Chapter, shall be guilty of a misdemeanor punishable by a fine of not more than two thousand dollars or by imprisonment for a period of not more than six months, or both.

(E) Consecutive Violations. Each day in which a violation occurs and each separate failure to comply with either a separate provision of this Chapter, an administrative compliance order, a cease and desist order, an applicable water quality management plan, or a permit issued pursuant to

this Chapter, shall constitute a separate violation of this Chapter punishable by fines or sentences issued in accordance herewith.

(F) Nonexclusive Remedies. Each and every remedy available for the enforcement of this Chapter shall be nonexclusive and it is within the discretion of the authorized water quality enforcement staff or enforcing attorney to seek cumulative remedies, except that multiple monetary fines or penalties shall not be available for any single violation of this Chapter.

(G) Citations. Pursuant to Penal Code Section 836.5, the authorized water quality enforcement staff shall have the authority to cause the arrest of any person committing a violation of this Chapter. The person shall be released and issued a citation to appear before a magistrate in accordance with Penal Code Sections 853.5, 853.6 and 853.9, unless the person demands to be taken before a magistrate. Following issuance of any citation the authorized water quality enforcement staff shall refer the matter to the enforcing attorney.

Each citation to appear shall state the name and address of the violator, the provisions of this Chapter violated, and the time and place of appearance before the court, which shall be at least ten business days after the date of violation. The person cited shall sign the citation giving his or her written promise to appear as stated therein. If the person cited fails to appear, the enforcing attorney may request issuance of a warrant for the arrest of the person cited.

(H) Violations of Other Laws. Any person acting in violation of this Chapter also may be acting in violation of the Federal Clean Water Act or the State Porter-Cologne Act and other laws and also may be subject to sanctions including civil liability. Accordingly, the enforcing attorney is authorized to file a citizen suit pursuant to Federal Clean Water Act Section 505(a), seeking penalties, damages, and orders compelling compliance, and other appropriate relief. The enforcing attorney may notify EPA Region IX, the San Diego Regional Water Quality Control Board, or any other appropriate state or local agency, of any alleged violation of this Chapter.

(I) Injunctions. At the request of the City Manager, the enforcing attorney may cause the filing in a court of competent jurisdiction, of a civil action seeking an injunction against any threatened or continuing noncompliance with the provisions of this Chapter.

Any temporary, preliminary or permanent injunction issued pursuant hereto may include an order for reimbursement to the City of all costs incurred in enforcing this Chapter, including costs of inspection, investigation and monitoring, the costs of abatement undertaken at the expense of the City, costs relating to restoration of the environment and all other expenses as authorized by law.

16.01.100 Miscellaneous.

(A) Compliance Disclaimer. Full compliance by any person or entity with the provisions of this Chapter shall not preclude the need to comply with other local, state or federal statutory or regulatory requirements, which may be required for the control of the discharge of pollutants into storm water and/or the protection of storm water quality.

(B) Severability. If any provision of this Chapter or the application of the Chapter to any circumstance is held invalid, the remainder of the Chapter or the application of the Chapter to other persons or circumstance shall not be affected.

(C) Judicial Review. The provisions of Section 1094.5 and Section 1094.6 of the Code of Civil Procedures set forth the procedure for judicial review of any act taken pursuant to this Chapter. Parties seeking judicial review of any action taken pursuant to this Chapter shall file such action within ninety days of the occurrence of the event for which review is sought.

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Attachment B

Title 22

EXCAVATING, GRADING AND FILLING

Chapters:

- 22.02 Intent**
- 22.03 Process Overview**
- 22.04 Definitions**
- 22.06 Design Standards**
- 22.08 Landscaping**
- 22.10 Permits Required**
- 22.12 Concept Plans**
- 22.14 Final Plans**
- 22.16 Inspection**
- 22.17 Construction Project Erosion and Sediment Control Maintenance Requirements**
- 22.18 Certifications**
- 22.20 Maintenance**
- 22.22 Exceptions**
- 22.24 Powers and Duties of the Building Official**

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Chapter 22.02

INTENT

Sections:

22.02.010 Intent and purpose.

22.02.010 Intent and purpose.

The purpose of this Title is to safeguard life, limb, property and public welfare; to aid in the implementation of the General Plan and to avoid the creation of a monotonous and artificial hillside environment by establishing minimum requirements and procedures for regulating excavation, grading and filling on all private and public properties in the City, as well as Water Quality Requirements relevant to construction project activities subject to this Title.

(a) It is the declared intent of the City to promote the conservation of natural resources, including the natural beauty of the land, streams and watersheds, hills and vegetation and, as described in the Safety Element of the General Plan and Government Code Section 65560(b)(1), to protect the health and safety, including the reduction or elimination of the hazards from earth slides, mud flows, rock falls, undue settlement, erosion, siltation and flooding, or other conditions as described in California Government Code Section 65560(b)(4) by minimizing the adverse effects of grading, cut and fill operations, water runoff and soil erosion.

(b) The following regulatory provisions of this Chapter are hereby adopted for the purpose of rigorous control of all aspects of grading operations. This title sets forth rules and regulations to control excavations, grading, and earthwork construction, including fills or embankments, establishes the administrative procedures for the review and issuance of permits, and provides for approval of plans and inspection of grading construction. If two or more provisions of this title and any other applicable law or ordinance are in conflict, that which is more restrictive and provides the greater safety shall prevail.

(c) This Title also regulates development within the Coastal Zone in accordance with the policies of the City's Local Coastal Program and Sections 30230, 30231, 30232 and 30240 of the California Coastal Act.

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Chapter 22.03

PROCESS OVERVIEW

Sections:

22.03.010 Process overview.

22.03.010 Process overview.

(a) Grading activities are generally classified as discretionary projects as defined in the California Environmental Quality Act and its implementing guidelines and are subject to a public hearing although certain classes of minor, limited grading activities as defined in the following regulations may be exempted as ministerial projects.

(b) The process for projects needing discretionary approval is divided into a preliminary, concept-level review stage followed by the preparation of detailed final plans and issuance of a grading and building permit construction permits. Concept plans are checked for compatibility with zoning regulations, the General Plan and with standards of design before they are reviewed in a public hearing conducted by the Design Review Board or Planning Commission. The determination as to which agency will review the project is based upon the nature of the lead project that is to be benefited by the underlying grading activity. Projects that would normally require other Planning Commission hearings such as subdivisions, street extensions and access variances will have the concept grading plans reviewed concurrently by the Commission together with any other project hearing and decision. All other grading projects that require a hearing will be reviewed by the Design Review Board in accordance with Chapter 25.05 of the Municipal Code.

(c) Once a project has secured concept approval, detailed final plans consisting of technical reports, specifications, construction drawings and erosion control plans leading towards the issuance of a grading permit are submitted for City review. The subsequent issuance of a permit is a ministerial activity if the final plans and specifications are in substantial compliance with the approved concept plans and otherwise consistent with these regulations.

(d) Certain types of minor work, as defined herein, may qualify for a streamlined process that eliminates the need for a public hearing, but all other requirements of this Chapter may still apply.

(e) All excavation and grading projects, including those subject to the provisions of this Title, shall also be subject to the Coastal Development Permit requirements defined in Chapter 25.07 of the zoning regulations.

(f) During permitted construction the City will inspect the construction site to verify that the approved grading, construction and approved Best Management Practices (BMPs), including ongoing maintenance, are in compliance with approved plans and issued permits.

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Chapter 22.04

DEFINITIONS

Sections:

22.04.010 Definitions.

22.04.010 Definitions.

"Accelerated Erosion" means the rate and amount of erosion caused by development activities that exceed the natural processes by which the surface of the land is worn away. Erosion includes the movement or loss of soil by the action of water, wind or chemicals.

"Approved" means approved by the City.

"Approved method" means a method approved by the City which it finds will produce the results specified in this title.

"Architect" means a registered architect licensed by the State of California.

"As-graded" means the ground surface conditions extant on completion of grading.

"Best Management Practices (BMPs)" means any program, activity, technology, process, siting criteria, operational method, practice, facility and/or procedure that when properly implemented will control, prevent, remove or reduce pollutants in discharges. "Source Control" BMPs (both structural and nonstructural) are operational practices or methods that prevent pollution by reducing potential pollutants at the source. A "Site Design" BMP is a Source Control BMP and means any design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's natural flow regime. "Treatment Control" BMPs are structural methods of treatment to remove pollutants from urban runoff. (The City utilizes the BMPs which have been specified in the City's Jurisdictional Urban Runoff Management Program (JURMP). Presently, these BMPs have been developed, and may be amended from time to time, by the California Stormwater Quality Association (CASQA) and can be referenced at www.cabmhandbooks.com. The City reserves the right to implement any equivalent BMP prepared by other qualified water quality organizations or government agencies.)

"Bedrock" means the solid, undisturbed rock in place either at the ground surface or beneath surficial deposits of gravel, sand or soil.

"Bench" means a relatively level terrace or shelf excavated into earth material on which fill is to be placed or within a cut or fill slope.

"Blending" is a term for the intermixing and compaction of natural site soils, such as of materials from two natural soil horizons, or for the intermixing or admixing and compaction of natural site soils with imported soil or other materials.

"Borrow" means soil, rock or other material acquired from an off-site location for use in the planned grading.

"Buttress fill" means a compacted fill which is placed in an area where soft natural soils beneath a planned fill would be overstressed by the weight of the new fill. The buttress fill is placed after the soft natural soils have been removed.

"City" means the City of Laguna Beach and/or its Building Official, City Engineer, designated assistant, or other person who may be designated by the City Manager.

"Certification" means a written engineering and engineering geological opinion concerning the progress and completion of the work including a professional opinion that the graded site is suitable for the intended use.

"Compaction" means the densification of earth materials by mechanical manipulation.

"Competent material" means earth material capable of withstanding the loads which are to be imposed upon it without failure or detrimental settlement as properly certified.

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"Construction project" means any activity which disturbs the ground, such as grading, stockpiling or excavation usually done in preparation to place and assemble finish materials for human use or habitation, such as driveways, roads or structures.

"Contour rounding" means the rounding of cut and fill slopes in the horizontal and vertical plane to blend with existing contours or to provide horizontal and vertical variation to eliminate the artificial appearance of slopes.

"Depth of cut or fill" means the vertical distance between existing natural ground and the finish elevation at any location.

"Developed lot" means those lots with permitted or authorized structures on them.

"Discretionary review body" means the City Council, Planning Commission and/or the Board of Adjustment/Design Review Board of the City in their capacity to conduct public hearings on projects that are not ministerial in nature.

Concept grading plans will be subject to the discretion of the Planning Commission and City Council for those projects otherwise requiring Planning Commission and City Council approval. All other concept grading plans, except those for trenching and backfill of trenches as defined under "Grading" and "Minor Work," will be subject to the discretion of the Design Review Board.

"Earth material" means any rock, natural soil or fill and/or any combination thereof.

"Engineer" means a Civil Engineer licensed by the State of California. Soil engineer shall mean a Civil Engineer who is knowledgeable and experienced in soil mechanics and slope stability analysis. Tract or site engineer means the Civil Engineer who is responsible for the design and engineering supervision of the tract or site development.

"Engineering" means the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials for the evaluation, design and construction of civil works for the beneficial uses of mankind.

"Engineering geologist" means a person approved by the engineering geologist qualification board of the County of Orange or other approved government agency.

"Engineering geology" means the application of geological knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for the purpose of assuring that geological factors are recognized and adequately interpreted in engineering practice.

"Erosion" means the process by which the ground surface is worn away by the action of water or wind.

"Excavation" means any mechanical act by which earth, sand, gravel, rock or any other material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and includes the conditions resulting therefrom.

"Existing grade" means the elevation of the existing ground surface prior to excavating or filling.

"Fill" means deposits of soil, rock or other materials placed by artificial means.

"Finish grade" means the final grade or elevation of the ground surface conforming to the approved design.

"General Construction Permit" means a permit issued by the State Water Resources Control Board for a construction activity which disturbs 1 or more acres of soil or which disturbs less than 1 acre but are part of a larger common plan of development that in total disturbs 1 or more acres. Construction activities subject to this "General Construction Permit" include clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade or capacity of a facility. The "General Construction Permit" requires the filing of a "Notice of Intent" and the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). The SWPPP contains site map(s) which show the construction site perimeter, existing and proposed buildings, lots, roadways, storm water collection and discharge points, general topography both before and after construction, and drainage patterns across the project. The SWPPP must list Best Management Practices (BMPs) the discharger will use to protect storm water runoff and the placement of those BMPs. Additionally, the SWPPP must contain a visual monitoring program;

a chemical monitoring program for "non-visible" pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment.

"Grade" means the vertical location of the ground surface.

"Grading" means any excavation, filling or combination thereof, including grubbing and stockpiling, and includes the conditions resulting from any excavation or fill. Grading also includes excavation and backfill of trenches for sanitary sewers, storm drainage pipes, oil, gas or water pipelines not covered by a subdivision agreement, in any area beyond the limits of paved street surfaces, where any public or private property can be subjected to flood, earth slide, erosion or debris damage as a result of the proposed trench excavation.

"Grubbing" means any act by which vegetation, including trees, timber, shrubbery and plants is removed, dislodged, uprooted or cleared from the surface of the ground. Grubbing does not include landscaping activities on developed lots nor the cutting of vegetation without substantial disturbance of the soil.

"Height of cut and fill slopes" means the finish vertical distance from the top to toe of slope as measured prior to the application of any required slope rounding.

"Jurisdictional Urban Runoff Management Plan (JURMP) means the City's local program to implement the National Pollution Discharge Elimination System / Municipal Separate Storm Sewer System (NPDES/MS4) Permit requirements based on the County of Orange Drainage Area Management Plan (DAMP) Guidance Document, including all appendices, together with any amendments or revisions.

"Landscape architect" means a registered landscape architect licensed by the State of California.

"Key or keyway" is a designated compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.

"Minor work" means excavation or fill involving twenty cubic yards or less, for landscaping on developed lots including landscape construction such as planters, planter walls or low retaining walls not exceeding two feet six inches in height, not supporting a surcharge, and not located within three feet of a property line, public right-of-way or public sidewalk.

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

"Permittee" means any person or entity to whom a grading permit is issued.

"Person" means any individual, firm, copartnership, joint venture, association, social group, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, or any other group or combination acting as a unit, except the United States of America, the State of California, and any political subdivisions thereof. For the purposes of this title, the City of Laguna Beach shall be considered a person.

"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, including but not limited to:

1. Artificial materials (such as floatable plastics, wood products or metal shavings);
2. Household waste (such as trash, paper, and plastics; cleaning chemicals; yard wastes; animal fecal materials; used oil and fluids from vehicles, lawn mowers and other common household equipment);
3. Metals and nonmetals, including compounds of metals and nonmetals, (such as cadmium, lead, zinc, copper, silver, nickel, chromium, cyanide, phosphorus and arsenic), with characteristics which cause an adverse effect on living organisms;
4. Petroleum and related hydrocarbons (such as fuels, lubricants, surfactants, waste oils, solvents, coolants and grease);
5. Animal wastes (such as discharge from confinement facilities, kennels, pens and recreational facilities, including, stables, show facilities, or polo fields);
6. Substances having a pH less than 6.5 or greater than 8.6, or unusual coloration, turbidity or odor;

7. Waste materials and wastewater generated on construction sites and by construction activities (such as painting and staining; use of sealants and glues, use of lime; use of wood preservatives and solvents; disturbance of asbestos fibers, paint flakes or stucco fragments; application of oils, lubricants, hydraulic, radiator or battery fluids; construction equipment washing; concrete pouring and cleanup; use of concrete detergents; steam cleaning or sand blasting; use of chemical degreasing or diluting agents; and use of super chlorinated water for potable water line flushing);
8. Materials causing an increase in biochemical oxygen demand, chemical oxygen demand or total organic carbon;
9. Materials which contain base/neutral or acid extractable organic compounds;
10. Those pollutants defined in Section 1362(6) of the federal Clean Water Act; and
11. Any other constituent or material, including but not limited to pesticides, herbicides, fertilizers, fecal coliform, fecal streptococcus or enterococcus, or eroded soils, sediment and particulate materials, in quantities that will interfere with or adversely affect the beneficial uses of the receiving waters, flora or fauna of the State.

"Prohibited Discharge" means any discharge into and from the storm water drainage system done in a manner causing, or threatening to cause, a condition of pollution, contamination or nuisance (as defined in Clean Water Act Section 13050), in waters of the State as defined in the NPDES/MS4 Permit; and discharges from the storm water drainage system that cause or contribute to exceedance of receiving water quality objectives for surface water or groundwater.

"Rock" means natural solid mineral matter occurring in large masses or fragments.

"Rough grade" means an approximate elevation of the ground surface conforming to the approved design.

"Site" means a lot or parcel of land or contiguous combination thereof where grading is performed or permitted.

"Slope" means the exposed inclined ground surface of a fill excavation or natural terrain having an incline of greater than twenty to one with a horizontal plane.

"Soil" means sediments or other unconsolidated accumulation of soil particles produced by the physical and chemical disintegration of rock, and which may or may not include organic matter. Soil includes earth and topsoil.

"Stockpiling" means the temporary storage of soil, sand, gravel, rock, or other similar material upon premises for the purpose of using the material as fill material at any location at a future time.

"Storm Water Permits" are any permits issued by a local, state or federal regulatory agency regulating stormwater flow over and from any project subject to this title including, but not limited to, the San Diego Regional Water Quality Control Board (SDRWQCB) National Pollutant Discharge Elimination System (NPDES) or Municipal Separate Storm Sewer System (MS4) Permit.

"Water Quality Requirements" are the requirements relevant to activities that are found in City of Laguna Beach Municipal Code Title 16 - 'Water Quality Control' Ordinance, the Orange County Drainage Area Management Plan (DAMP) including all appendices and the City's Jurisdictional Urban Runoff Management Program (JURMP) as amended, individual Water Quality/Urban Runoff Management Plans (WQMPs), as well as requirements relevant to construction project activities that are subject to this Title.

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Chapter 22.06

DESIGN STANDARDS

Sections:

22.06.010 Design standards.

22.06.010 Design standards.

It is the purpose of this section to quantify methods by which the overall shape, height and grade of any cut or fill slopes may be developed, such that they are responsive and suitable with respect to the existing natural terrain of a particular site. Interpretations of any standards herein will be subject to the review and final decision of the appropriate discretionary review body for concept plans.

(a) General Design Standards. All cut and fill slopes shall conform to the following standards:

(1) All cut and fill slopes in excess of five feet vertical height shall be rounded with vertical curves from the crest of the slope and from any surface drains constructed on the face or top of the slope and must keep concentrated water from roofs, drives or pads from going over slopes or onto properties;

(2) Where two cut or fill slopes intersect, the ends of each slope shall be horizontally rounded and blended with a minimum radius of twenty-five feet. A smaller radius may be permissible for short slope lengths;

(3) Where a cut or fill slope intersects a natural slope, the horizontal contours of the slope shall be curved so as to blend with the natural slope;

(4) Where any cut or fill slopes exceed seventy feet in horizontal length, the horizontal contours of the slope shall be curved in a continuous undulating fashion with radii no greater than three hundred feet. Alternate designs may be considered with approval of the Design Review Board;

(5) The top and toe of each slope in excess of ten feet vertical height, excepting the toe of any slope within twenty-five feet of a dwelling, shall be vertically rounded with radii no less than five feet and designed in proportion to the total height of the slope. This shall not apply to the toe of any cut slope which is supported by a retaining wall;

(6) Slope stabilization measures shall be prepared and approved for all slopes. These include, but are not limited to, professional identification, analysis and recommendations for cleanouts, keyways, benching, buttressing, sub-drainage, blending of earth materials and identification of competent materials. Both gross and surficial stability shall be considered;

(7) No cut or fill slope shall exceed twenty-five feet vertical height.

Exception. Grading for foundation retaining walls on structures or designs which incorporate alternate solutions such as retaining or crib walls may exceed the height limit if approved by the Design Review Board;

(8) Remedial, reconstructive and repair grading may exceed the twenty-five foot slope height limit if the preexisting artificial slope likewise exceeded such height.

(b) Design Standards For Cut Slopes.

(1) Maximum slope. No excavation shall be made with a cut face steeper in slope than two horizontal to one vertical, unless said cut face is to be immediately supported with a retaining wall or other approved support for which a building permit has been obtained. Said retaining walls shall not exceed five feet maximum height. The appearance of the retaining walls shall be subject to the approval of the Design Review Board.

(2) Exception.

(A) Less than two to one (2:1) slope. Where the City determines that a less steep slope is necessary in order to ensure the stability of the excavation and general safety, it may require a cut slope less steep than two horizontal to one vertical.

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(B) Greater than two to one (2:1) slope. When the engineering geologist certifies in his report that the site has been investigated and in his opinion the material in cut areas will be stable, resistant to erosion and free from hazardous rock fall if cut to a steeper slope, the City may permit a cut slope steeper than two horizontal to one vertical subject to such conditions as it may require. The City may waive the requirement for an engineering geologic report in grading of individual building sites where conditions are favorable. Such slopes may not exceed five feet in vertical height.

(c) Design Standards For Fills.

(1) Maximum slope. No fill shall be made which creates any surface steeper than two horizontal to one vertical.

(2) Exception. Less than two to one (2:1) slope. Where the soil conditions are such that, in the opinion of the City, a less steep slope is necessary in order to ensure the stability of the fill, to prevent damaging erosion, or to ensure the general safety, it may require a fill slope less steep than two horizontal to one vertical.

(3) Compaction required. All fills shall be compacted to a minimum of ninety percent of maximum density as determined by the prevailing standards contained in Chapter 70 of the Uniform Building Code, latest edition. Where lower density and expansive types of soil exist, permission for lesser compaction may be granted by the City upon showing of good cause in a soils engineering report. Fill shall be placed in layers not exceeding 0.67 feet (eight inches) thick before compaction unless deviation is approved in writing by the soils engineer. Fill slopes placed for the purpose of landscaping which are not compacted shall not exceed four horizontal to one vertical.

(4) Preparation of ground. The natural ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, noncomplying top soil and, where natural slopes are five horizontal to one vertical or steeper, by bedding into sound bedrock or other competent material. All fill keys and cleanouts shall be inspected by a registered engineering geologist or registered soils engineer.

(5) Fill material. No organic material shall be permitted in fills. No rock or similar irreducible material with a maximum diameter greater than eight inches shall be buried or placed in fills without proper disposition and compaction as directed by the soils engineer.

(6) Slopes to receive fill. Fills toeing out on natural slopes which are steeper than two horizontal to one vertical will not be permitted unless stability is substantiated by geological and soils engineering investigation and report.

(d) Design Standards For Cut And Fill Setbacks. Cuts and fills shall generally be set back from property lines in accordance with Chapter 70 of the Uniform Building Code unless site-specific engineering design and evaluation justifies a lesser setback. Fill placed on or above the top of an existing or proposed cut or natural slope steeper than three horizontal to one vertical shall be set back from the edge of the slope a minimum of six feet unless stability is substantiated by a soils engineer.

(e) Design Standards For Drainage.

(1) Disposal. All drainage facilities shall be designed to carry surface waters to the nearest practical street, storm drain or natural watercourse approved by the City and/or other appropriate governmental agency, as a proper place to deposit such waters. Where disposal is into a natural watercourse, the City Engineer shall determine if a dissipator is required. Whenever geotechnical, engineering and/or terrain considerations are favorable, on-site detention of storm runoff to predevelopment levels should be implemented.

All plans shall show adequate provisions for the conveyance of runoff from and through the project site.

(2) Building pad drainage. Each building pad at or above street level shall drain directly to the street and shall be graded at a slope at least two percent perpendicular to the street from which the pad has its driveway access.

(3) Erosion prevention. Adequate provision shall be made to prevent any surface waters from damaging the face of an excavation or fill. All slopes shall be protected from surface runoff from above by berms or paved interceptor ditches according to City standards.

(4) Storm drains. Storm drains for conveying water which does not originate on the surface of the cut or fill slope shall not be constructed in any cut or fill slope where an alternate route for said storm drain is available.

(f) Design Standards For Erosion and Sediment Control.

(1) All construction projects, regardless of size, are required to implement an effective combination of Best Management Practices (BMPs) to prevent a condition of accelerated erosion, a prohibited discharge or pollutant that causes a condition of contamination.

(2) A construction project erosion and sediment control plan is required for all projects that will disturb more than 20 cubic yards of soil, or is required by the Building Official to provide adequate BMP protection.

(3) At a minimum the following types of Best Management Practices (BMPs), as defined in the City's Jurisdictional Urban Runoff Management Plan (JURMP) and in Title 16 – "Water Quality Control" Ordinance, or their equivalent, shall be required during all phases of construction project activity, as applicable:

Erosion prevention;

- i. Seasonal restrictions on grading;
- ii. Slope stabilization requirements;
- iii. Phased grading;
- iv. Revegetation as early as feasible;
- v. Preservation of natural hydrological features;
- vi. Preservation of riparian buffers and corridors;
- vii. Maintenance of all Source Control and Structural Treatment BMPs; and
- viii. Retention and proper management of sediment and other construction pollutants on site.

(4) Construction projects that are covered under the State Water Resources Control Board's "General Construction Permit" shall comply with the conditions of such permit, including the Storm Water Pollution Prevention Plan, and all applicable City BMP requirements as specified in the City's Municipal Code.

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Chapter 22.08

LANDSCAPING

Sections:

22.08.010 Erosion control planting specifications.

22.08.010 Erosion control planting specifications.

(a) Final landscaping, irrigation and drainage plans must be approved by the City prior to issuance of a grading permit. Planting of cut and fill slopes and other disturbed areas shall conform to the following minimum requirements:

(1) Use of fire retardant and drought resistant plant materials shall be encouraged when landscape slopes intersect with natural slopes and should generally take preference wherever appropriate and suitable;

(2) Landscaping shall provide a variety of plant materials, including grasses and groundcovers, shrubs and trees, depending upon the extent of the cut and fill slopes and the extent of existing vegetation on the hillsides affected. Landscaping shall meet the following standards at a minimum. These standards may be modified by the discretionary review body upon approval of the landscape plan;

(A) Shrubs shall be arranged in broad informal masses which shall be combined to produce a mounding textured slope surface, similar to natural chaparral vegetation. Diversity and integration of various types of plants with each other should be provided for in the design;

(B) Trees shall be arranged in informal masses and shall be placed to selectively allow views from housing while partially screening buildings and reducing the scale of large, long steep slopes. Planting along the slope side of development shall be designed to allow controlled views out, yet partially screen and soften the architecture. In general, a fifty percent screening with plant materials shall be accomplished;

(C) Overall quantities of shrubs shall provide one shrub per seventy-five square feet of slope area planted in randomly spaced masses. At least one-third of these shrubs shall be of five gallon size. The remainder shall be of one gallon size minimum;

(D) Overall quantities of trees shall provide a minimum of one five-gallon tree per five hundred square feet. In slope areas adjoining open space preserves or native vegetation, trees may be omitted or reduced in numbers (with shrubs substituted for trees) in order to blend new landscaping with the surrounding area;

(E) Ground cover from flats or containers shall be spaced at three feet on-center maximum along with hydroseed material. Wide spreading shrub type ground covers such as *Acacia ongerup*, *Myoporum pacificum*, *Ceanothus griseus horizontalis*, etc. from liners or one gallon containers count as ground cover. These will take the place of some of the required ground covers. They should, however, be placed at the recommended spacing for further growth, i.e. six to eight feet on center. Other smaller ground covers will be required between them to achieve the required spacing;

(F) All trees on areas sloping less than two to one (2:1) shall be a minimum fifteen gallon size with a ratio of one twenty-four inch box per three fifteen gallon trees. This standard applies throughout except on slopes two to one (2:1) or steeper where five gallon is the minimum size for trees;

(G) Turf that requires moving shall not be used on slopes steeper than four to one (4:1). Lawn may be installed only in limited areas where it will provide for active use. The use of lawn in small strips that would be difficult to irrigate and maintain and in areas where its use is mainly aesthetic shall be avoided;

(3) All plants required by this section shall be selected from a list approved by the City Council or be native vegetation not included on the list but approved through discretionary review;

(4) The applicant is responsible for selecting plants that will thrive in the soil conditions at the site. Work involving tract development or two or more houses shall provide soil tests for agricultural suitability and soil fertility;

(5) Groundcover over eighty-five percent of the required planting area must be accomplished within ninety days of the initial planting. No land surface in excess of one hundred square feet may be without significant plant growth;

(6) For multi-family developments, tract developments, or projects involving two or more single-family dwellings within three hundred feet on the same street under one ownership or designed by the same person or persons, the final landscape, irrigation and drainage plans must be prepared by a landscape architect;

(7) Erosion control planting shall be watered, fertilized, replaced and tended such that bare soil areas will be covered with vigorous and growing plants with sufficient ground cover that only minor erosion gulleys occur. Bare surfaces and slopes that suffer damage by rainfall must be restored so that all parts on the slope are covered with healthy thriving plants and erosion gulleys do not exceed six inches in depth.

(b) Special Requirements For Irrigation Systems.

(1) Plans for each irrigation system shall be submitted to and approved by the City;

(2) Irrigation piping shall be of City-approved materials;

(3) Irrigation systems shall be designed to provide a uniform water coverage at a rate of precipitation which will allow gradual distribution of water without excessive runoff. In no event shall the rate of precipitation or duration of irrigation be permitted to create a saturated condition and cause an erosion problem, or allow the discharge of excess water into a public or private street;

(4) A check valve and balance cock shall be installed in the system where drainage from sprinkler heads will create an erosion problem;

(5) Adequate back flow protection shall be installed in each irrigation system as required by the plumbing code;

(6) A functional test of the irrigation system shall be performed by the installer for every irrigation system prior to approval;

(7) After planting is completed, if the irrigation system creates local erosion problems and adjustment does not correct the condition, the area subject to erosion shall be covered with burlap or jute blanket and be replanted;

(8) The owner shall affect repairs by replacing soil and replanting wherever erosion occurs due to malfunctioning of the irrigation system.

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Chapter 22.10

PERMITS REQUIRED

Sections:

22.10.010 Permits required.

22.10.010 Permits required.

(a) Permit Required For Grading. No person shall commence or perform grading or install any appurtenant works without first having obtained a grading permit from the City. A grading permit is required for all construction projects that will disturb more than 20 cubic yards of soil, or projects where the Building Official has determined that a grading permit is necessary. A separate permit may be required for each site. One permit may cover both excavation and any fill made with excavated materials or any necessary borrow and stockpiling. If the applicant is not the legal owner of the site, the applicant must present a letter signed by the legal owner of the property designating the applicant as his agent, and authorizing the City to enter upon the site to make such inspections or take such corrective action as the City deems necessary.

Remedial work for slope repair or construction in-kind, when confined to preexisting lines and grades on developed parcels, does not require concept review but shall observe the provisions of Section 22.10.010.

(b) Application Required. Persons desiring to perform grading shall submit an application for a grading permit and shall pay the plan check fee and grading permit fee. The permit application shall be accompanied by information required by the Community Development Department Director, including any necessary information to determine what systems are necessary, if any, to comply with the Water Quality Requirements.

Applications for which no permit is issued within one year following the date of application shall expire by limitation and plans submitted for checking may thereafter be returned to the applicant or destroyed by the City. In order to renew action for an application after expiration, the applicant shall resubmit plans and any required supporting documentation and shall pay a new plan check fee.

(c) Grading Discretionary. Unless otherwise exempted under Section 22.10.010(e), the review of a grading project is a discretionary activity subject to Chapters 22.08.010(b) and 22.10.010(a), (b) and (c), and is subject to environmental documents procedures. Once concept approval of grading plans has been secured, the issuance of a grading permit by City staff is a ministerial activity provided that any rough and precise grading plans authorized under such permit are in substantial compliance with the approved concept plans.

(d) Dumping Prohibited. Spoil dirt or any other material from excavations for cesspools, swimming pools, building foundations or from any other source shall not be dumped or placed in an uncontrolled or unpermitted manner on any public or private property within the City.

(e) Exceptions. A grading permit shall not be required for any of the following conditions, but in all other respects the provisions of this title shall apply:

(1) An excavation below finished grade for footings or walls of a building contiguous to and within the natural terrain, if authorized by a valid building permit. This excavation shall not affect the applicability of this title to, nor the requirements of a grading permit for, any fill made with material from such excavation;

(2) An excavation for a swimming pool if authorized by a valid building permit or valid swimming pool permit;

(3) For purposes of landscaping developed lots, fills of less than twenty cubic yards which do not obstruct a drainage course and are not intended for structural support and which are placed over an existing ground sloping not more than four feet horizontal to one foot vertical and not exceeding three foot maximum height above the preexisting ground surface with side slopes conforming to the requirements of this code and not extending within two feet of any adjoining property line;

(4) For purposes of landscaping developed lots, excavation of less than twenty cubic yards and not exceeding three feet in maximum depth with slopes conforming to the requirements of this code, with top of cut slope not extending within two feet of any adjoining lot or parcel;

(5) Where the applicant can demonstrate that time is of the essence, a grading permit may be issued by the Director of Community Development prior to concept plan approval for emergency work as necessary to protect life, limb or property or to maintain the safety, use or stability of a public way or drainage way provided, however, that a concept application shall be filed and processed in accordance with this chapter as soon as is practical. An emergency permit may be issued administratively only upon the presentation of competent geotechnical opinion attesting to the urgency of the necessary work.

Approval in such cases shall be conditioned on satisfactory assurance, either by sufficient cash deposit or bond in a form satisfactory to the City, that in the event final design approval is not obtained, the site shall be returned to its original condition or to a modified condition satisfactory to the City.

(f) Prior to the issuance of a grading permit, the final project erosion and sediment control plan shall be approved by the City.

(g) Before issuance of a grading permit, projects subject to the State Water Resources Control Board "General Construction Permit" are required to provide the City with proof of coverage under the general permit program.

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Chapter 22.12

CONCEPT PLANS

Sections:

22.12.010 Concept grading plan requirements.

22.12.010 Concept grading plan requirements.

(a) Project Coordination. Unless otherwise exempt, all concept grading plans shall be subject to a discretionary hearing and approval. All concept grading plans which are required for projects receiving other discretionary approvals shall be reviewed and either approved or denied in accordance with the project decision. Concept grading plans will be subject to the discretion of the Planning Commission and City Council for those projects otherwise requiring Planning Commission and City Council approval. All other concept grading plans, except those for trenching and backfill of trenches as defined under "Grading" and "Minor Work" will be subject to the discretion of the Design Review Board.

(b) Project Information. With each concept application for a grading permit, four sets of concept-level plans and specifications shall be submitted. Except as waived by the City on minor work, the plans shall be prepared and signed by an architect, landscape architect or tract or site engineer, and shall show or including the following:

- (1) A vicinity sketch or other data adequately indicating the site locations;
- (2) Property lines of the property on which the work is to be performed;
- (3) Location of any buildings, structures and size and type of any major vegetation on the site where the work is to be performed, and the location of any existing building, structure or major vegetation within fifteen feet of the site on which the grading is to be performed;
- (4) Accurate contours showing the topography of the existing ground. Contours shall be at least five foot intervals if the slope is greater than ten percent and two foot intervals if the slope is ten percent or less;
- (5) Elevations, dimensions, location, extent and the slopes of all proposed grading shown by contours or other approved method. Plans shall be to scale of one inch equals forty feet or other approved scale;
- (6) An estimate of the quantity of excavation and fill involved in cubic yards with a statement as to whether any earth or other materials are to be hauled away or imported and an estimate of the time required to complete the grading operations;
- (7) A map showing the existing and proposed drainage area, designated natural drainage courses, and estimated runoff of storm waters from the area served by any drains, drainage courses or similar features;
- (8) The limits of grading activity.
- (9) A preliminary erosion and sediment control and landscape plan indicating erosion control landscaping to be utilized both during and after grading;
- (10) A preliminary engineering geological and soils engineering report that complies with the Technical Guidelines for Soils and Geology Report published by the county of Orange and which includes a discussion of the future stability or any expected problems associated with the following:
 - (A) Those areas underlain by siltstone;
 - (B) Those areas of high water table and perched water where seepages can and have existed;
 - (C) Those slopes in which well developed and smooth bedding planes are unsupported;
 - (D) Those sea cliff areas and hillsides which have failed in the historic and geologic past;
 - (E) Those canyons where problems of erosion and deposition have been experienced and how the proposed grading will affect the canyon areas;

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(F) This report should also include a discussion of any other anticipated problems which will be associated with the grading and any corrective measures which will be needed to mitigate the problems. The reports shall include information appropriate for the site including any information required by the City. Recommendations included in the reports and approved by the City shall be incorporated into the grading plans and specifications;

(10) Environmental impact information consistent with the procedures and requirements of the California Environmental Quality Act and its local implementing guidelines.

(c) Review Of Grading Plans. In reviewing grading plans for development within hillside areas, the staff, Planning Commission or Design Review Board shall act to ensure attainment of the following objectives:

(1) The preservation of natural topographic features and appearances by means of land sculpturing so as to blend any manmade or manufactured slopes into the natural topography;

(2) The preservation of natural topographic features and appearances through discouragement of successive padding and terracing of building sites in hillside areas;

(3) The retention of major natural skyline profiles and significant ridgelines so as to avoid abrupt changes in grade;

(4) The retention of major natural topographic features such as canyons, drainage swales, steep slopes, watershed areas, flood plains, view corridors and scenic vistas;

(5) The preservation and enhancement of prominent landmark features such as natural rock outcroppings, prominent trees and plant material, and other areas of special natural beauty. Prominent trees shall be judged by the uniqueness of the species, caliper of the trunk, site location, and significance of groupings;

(6) The preservation and introduction of plant material so as to protect slopes from soil erosion and slippage, and to minimize the visual effects of grading and construction on hillside areas;

(7) The utilization of landscaping and irrigation systems to protect against potential hazards due to fire;

(8) Consistency with the adopted Elements of the City's General Plan.

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Chapter 22.14

FINAL PLANS

Sections:

22.14.010 Final plans and grading permit.

22.14.010 Final plans and grading permit.

(a) Plans and Specifications. Following project concept approval, two additional sets of plans and specifications shall be submitted. Except as waived by the City Engineer or Building Official on minor work, the plans shall be twenty-four by thirty-six inches in size and to a form as approved by the City. The plans shall be prepared and signed by a civil engineer and shall contain the following items plus any additional material which the City deems necessary to show conformance of the proposed grading with the requirements of this section and other related ordinances, including Chapter 70 of the Uniform Building Code, latest edition. They shall contain the following information:

(1) All material required under Section 22.12.010, modified as necessary to reflect any changes required for project approval;

(2) Proposed disposal or stockpile area for any excavated materials;

(3) Detailed plans and landscape drawings prepared by an architect, landscape architect or a civil engineer showing all drainage devices, retaining walls, cribbing or other protective devices to be constructed in connection with or as a part of the proposed grading work;

(4) Evidence of a building permit for all retaining walls or crib walls at the time a grading permit is issued;

(5) Evidence of approved plans and a building permit, at the time a grading permit is issued, for shoring devices when work may expose adjoining properties to a loss of subjacent and/or lateral support;

(6) Detailed erosion and sediment control plans prepared by a civil engineer that shows all the Best Management Practices (BMPs) that will be implemented during all phases of the construction project.

(7) Any supplemental plans, drawings, or calculations required by the City.

Exception. Plans for trenching or backfill of trenches for sewer, water, storm drainage, oil, gas or utility pipes, ducts or services as defined under "Grading" or minor work shall not require all of the above listed data, but shall be engineered drawings, and shall include specifications for stabilizing trench backfill and adjacent disturbed areas to prevent soil erosion and storm damage to public or private property.

(8) Final plans shall include the grading, erosion control and water quality plan notes.

(b) Plan Checking Fees. Before accepting a set of plans and specifications for checking, the plan checking fee shall be paid. The plan checking fee shall be based on charges to be determined by resolution of the City Council revised periodically to defray the cost of plan checking.

(c) Grading Permit Fee. A fee for each grading permit shall be paid to the City. The grading permit fee shall be based on charges to be determined by resolution of the City Council revised periodically to defray the cost of permit issuance and inspection of the work.

(d) Permission To Haul Over City Streets. If the proposed grading requires hauling of soil, rock or debris over City streets, the application for a grading permit shall show:

(1) Name and license of contractor who will be in charge or control of the trucks or equipment to be used in hauling;

(2) Number, type and capacity of trucks to perform the hauling;

(3) Proposed route from grading site to dump site or borrow area;

(4) Quantity of materials to be hauled per day (cubic yards).

(e) Engineering Geological and Soils Engineering Reports. In all cases of grading for subdivisions and in any other grading work where deemed necessary by the City, the owner or subdivider shall retain a qualified firm of engineering geologists and soils engineers, experienced in hillside engineering, to conduct a detailed and comprehensive geological and soils investigation

of the entire site, based on the most recent grading plan. The engineering geologic report shall include an adequate description of the geology of the site and conclusions and recommendations regarding the effect of geologic conditions on the proposed development as well as the recommended corrective measures to be incorporated in the grading plan. The soil engineer's report shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures, recommended factors of safety for all fills, and design criteria for corrective measures. Any recommended deviations from the minimum design criteria of this title must be explained in detail in the report. The soils engineering and engineering geologic reports may be combined if the investigation is conducted by one firm of qualified soils engineers and engineering geologists. Recommendations included in the report and approved by the City shall be incorporated in the final grading plans and specifications.

Reports shall comply with the Technical Guidelines for Soil and Geology Reports published by the County of Orange.

(f) City May Retain Consultant. If, based upon experience, knowledge, significant controversy, disagreement among experts or similar circumstances, the City determines that there is cause to question the conclusions contained in any engineering geological or soils engineering report, civil engineering design and reports, landscape plans or similar reports and work products, a qualified professional consultant may be retained by the City at the applicant's expense for the purpose of evaluating said report generally in accordance with the provisions of Chapter 14.78 of this code.

(g) Permit Issuance.

(1) No permit shall be granted until all of the required data has been submitted for the application, the City has approved the plans, and all required fees have been paid.

(2) No permit shall be granted until a copy of the State Water Resources Control Board "General Construction Permit" Notice of Intent and Storm Water Pollution Prevention Plan is submitted to the City.

(3) The City may require plans and specifications to be modified in order to make them consistent with Laguna Beach General Plan, Specific Plans, Zoning Code, Water Quality Requirements or other rules, regulations or conditions applicable to the project. The City may deny the grading permit, if the proposed project cannot be designed in accordance with these rules, regulations or conditions.

Except as provided in Section 22.10.010, no permit shall be granted until the applicant has obtained approval of all legislative requirements, including but not limited to zoning (including any required findings by the Design Review Board, Planning Commission or the City Council), use permit, coastal development permit, tentative map and/or building or site plan review where required. The environmental documents shall be considered in the granting of a permit and conditions may be imposed by the City to minimize, mitigate or monitor any negative environmental effects associated with the project.

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 approved grading plans and specifications.

(h) Jurisdiction of Other Agencies. Permits issued under the requirements of this Chapter shall not relieve the permittee of responsibility for securing required permits for work to be done which is regulated by any other code, division or department of the City or other public agency which may have jurisdiction.

(i) Time Limit and Extension of Permit. Each grading permit shall be valid for a period of six months from the date of issuance and no person shall:

(1) Commence work thereunder after a grading permit has expired, or

(2) After having commenced work thereunder, neglect, refuse, or fail to complete such work prior to the expiration of the permit, unless the City, upon application from permittee, renews the permit and extends the time for completion. Such renewal shall be discretionary and shall be subject to the provisions of this section.

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(j) A permit issued hereunder shall expire upon a change of ownership if the grading work thereon, for which the permit was issued, has not been completed and a new permit shall be required for the completion of the work. If the time limitations of this subsection are not applicable, if no changes have been made to the approved plans and specifications, and if the work has progressed satisfactorily, no charge shall be made for the reissuance of the new permit under such circumstances.

(k) Storm Damage Precautions. The permittee or contractor performing grading shall put into effect such reasonable safety precautions as the removal of loose material from the grading site and the provision of adequate anti-erosion devices, temporary drainage devices, or other temporary drainage devices as required by the City to protect the life, limb, health and welfare of the public and to prevent flood damage to public and private property and the deposition of mud and debris in public streets and storm drains.

(l) Water Quality Requirements. The City shall not issue any permit, waiver, modification or exemption pursuant to this title unless the City finds that the work authorized by the permit, waiver, modification or exemption complies with applicable Water Quality Requirements.

(m) Conditions of Approval. In granting any permit under this title, the City may attach such conditions as may be reasonably necessary to prevent creation of a nuisance or hazard to public or private property and to assure the satisfactory and timely completion of grading. Such conditions may include, but shall not be limited to the following:

(1) Improvement of any existing earth materials and previous grading within the area of a new grading permit to bring the area up to the standards of this title and Chapter 70 of the Uniform Building Code;

(2) Requirements for fencing of excavations or fills which could otherwise be hazardous;

(3) Grading work and hauling of materials over City streets shall be limited to the hours of eight a.m. to four p.m., Monday through Friday. No work shall be permitted on City holidays. Permittee must obtain written approval of the City to work or operate equipment at any other time;

(4) The Building Official or City Engineer may require that grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time the permit was issued.

(n) Cancellation or Suspension of Permit. When permittee fails to comply with the provisions of this chapter or fails to adhere to approved grading plans and specifications, or makes modifications without written approval of the City, or upon receiving proper notice from the City of any hazardous condition, fails to correct such hazardous condition in a reasonably diligent and prompt manner, the City may cancel the grading permit by written notice. Upon receiving such notice stating that the grading permit is canceled or suspended, permittee shall immediately stop all work as directed.

(o) Liability. Neither the issuance of a permit under the provisions of this chapter, nor the compliance with the provisions hereof or with the conditions imposed in the permit issued hereunder shall relieve any person from responsibility for damage to other persons or property, nor impose any liability upon the City or its officials or agents, for damage to other persons or property.

(p) Hazardous Grading. The City shall not issue a permit in any case where it has determined that the work as proposed by the applicant is likely to adversely impact any private property or result in the deposition of debris, mud, sand or rocks on any public ways or private property, or to interfere with any existing drainage course. If it can be shown to the satisfaction of the City that the foreseeable hazard can be eliminated by the construction of retaining structures, buttress fills, drainage devices or by other means, the City may issue the permit with the condition that such work be performed. In such case, all required preventive work shall be designed and shown in detail on approved grading plans.

(q) Modification of Approved Plans. All modifications to the approved grading plans must be approved by the City. All necessary soils and geological reports shall be submitted with the revised plans. No grading work in connection with the proposed modifications shall be done without the approval of the City. Modifications which are substantially inconsistent with the approved concept plans require discretionary review.

(r) Pre-Grade Site Meeting. After grading and building permit issuance and prior to the start of grading, the project general contractor and appropriate project members shall meet with the City at the site to discuss the proposed grading plan, limits of construction and the erosion and sediment control measures and, if applicable the "General Construction Permit" requirements,

Chapter 22.16

INSPECTION

Sections:

22.16.010 Construction site inspection and control.

22.16.010 Construction site inspection and control.

(a) All construction site activities including grading and erosion and sediment control measures shall be subject to inspection by the City. The City may designate an approved independent person or firm to perform deputy inspection at the expense of the applicant.

(b) It shall be the responsibility of the civil engineer who prepared the approved grading plan to incorporate all recommendations from the soils engineering and engineering geology reports into the grading plan. The engineer shall also be responsible for the professional inspection and certification of the grading within his/her technical area of specialty. This responsibility shall include, but need not be limited to, inspection and certification as to the establishment of the limits of grading and drainage of the development area. The civil engineer shall act as the coordinating agent in the event need arises for liaison between the other professionals, the contractor and the City. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-graded plans upon completion of the work.

(c) Prior to construction of site improvements, the engineer shall certify that the building pad or future finish floor elevations do not vary more than two-tenths of a foot from the approved elevations.

(d) During grading, all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the City by the soils engineer and the engineering geologist.

(e) The soils engineer's area of responsibility shall include, but need not be limited to, the professional inspection and certification concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and design of buttress fills and the design and need for subdrains and other ground water control devices where required, incorporating data supplied by the engineering geologist.

(f) The engineering geologist's area of responsibility shall include, but not be limited to, professional inspection and certification of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters. The findings shall be reported to the soils engineer and the civil engineer for engineering analysis with copies furnished to the City.

(g) Permittee. The permittee shall be responsible for the work to be performed in accordance with the approved plans and specifications and in conformance with the provisions of this code, and the permittee shall engage consultants, if required, to provide professional inspections on a timely basis. The permittee shall act as coordinator between the consultants, the contractors and the Building Official. In the event of changed conditions, the permittee shall be responsible for informing the Building Official of such change and shall provide revised plans for approval.

(h) The City, upon at least twenty-four hours' notification from the permittee or agent and upon receipt of professional recommendations in the form of written field memoranda, shall inspect the work at the following stages of the work and shall either approve the portion then completed or shall notify the permittee or agent wherein it fails to comply with the requirements of this chapter:

(1) Initial. When the site has been cleared of vegetation and unapproved fill and has been scarified, benched or otherwise prepared and before any fill is placed;

(2) Rough. When rough grading has been completed and approximate final elevations have been established; drainage terraces, swales and other drainage devices graded ready for paving; and berms installed at the top of slopes;

(3) Final. When work has been completed, all drainage devices, systems and facilities installed and slope plantings have been established, the civil engineer shall certify that all grading, lot drainage and drainage facilities have been completed and the slope plantings installed in conformance with the approved plans and the requirements of this chapter;

(4) Other. The City may make such other inspections as it deems necessary to determine that the work is being performed in compliance with the approved plans and permit and the requirements of this chapter.

(i) Bonds. Instruments of credit or cash deposits are necessary for assuring that grading activity is conducted and completed to a safe condition should the owner not be able to do so.

(1) Purpose of bonds. Bonds are required to ensure that partially completed grading on any property is provided with storm water and erosion control devices to protect private and public property from damage due to storm waters, debris, mud flow, and rock fall; to prevent obstructing storm drain channels; to prevent the deposit of mud, rocks or debris on any City street; to abate a dust nuisance; to correct any hazardous conditions within the grading site; and/or correct conditions that pose a threat to environment resources including, but limited to, a threat to water quality.

(2) Requirement for bonds. Before a permit is issued for an excavation or fill of one thousand cubic yards or more, the applicant shall file a bond for the benefit of the City in each case where the approved grading plan includes protective works including slope drainage devices and erosion prevention planting, except where the City finds that the proposed grading is not potentially hazardous or dangerous. Grading performed under a subdivision agreement between a subdivider and the City will not require a separate bond, but the total estimated cost of grading and protective works shall be included as separate items of work in the quantity estimate of the tract agreement.

Based upon site-specific considerations such as proximity to natural drainage courses, drainage devices, streets or other public structures, the City may require bonds for projects less than one thousand cubic yards in order to assure timely and proper compliance with conditions of permit approval.

(3) Types of bonds. All bonds shall be executed by the permittee for the work to be undertaken and the bond shall be in writing and accompanied by a sufficient deposit in cash to ensure the City's timely access to monies in the event an emergency response is necessary. The cash amount shall be no less than twenty-five percent of the estimated cost of grading and drainage devices unless an instrument of credit satisfactory to the City Attorney is acceptable in lieu of a cash deposit.

(4) Conditions of the bond. Every bond shall be in writing and in form and content approved by the City Attorney and shall include the conditions that the permittee shall:

(A) Comply with all the provisions of this chapter and other applicable laws and ordinances;

(B) Comply with all the terms and conditions of the permit;

(C) Complete all the work contemplated under the permit within the time limit specified in the permit. The City may, for sufficient cause, extend the time limit specified in the permit, but no such extension shall release the surety upon the bond.

(5) Amount of the bond. The bond shall be in the amount of one hundred percent of the estimated cost of the work authorized by the permit, plus a contingency amount as deemed necessary to ensure completion of minimum storm drainage protection and erosion prevention and to correct hazardous conditions in event permittee is unable to complete the work, except that the City may waive all or part of the amount to the extent that it is determined that the hazard or danger created by the work does not justify the full amount. The cost shall be estimated by the tract or site engineer and such cost shall include, but shall not be limited to, the cost of slope drainage devices, planting and sprinkler systems on slopes. The City may revise the estimated cost if it is considered to be insufficient. A firm contract will be acceptable in lieu of an estimate.

The bond amount shall include estimated administrative and legal fees necessary to collect funds secured by the bond.

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(6) Failure to complete the work. The term of each bond shall begin upon the date of filing and shall remain in effect until completion of the work authorized or required under the permit. In the event of failure to complete the work, and failure to comply with all of the conditions and terms of the permit, the City may order any remedial work required to bring the area of grading to a safe condition. The surety executing such bond or deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may be incurred or expended by the City in causing any and all such required remedial work to be done. In the case of a cash deposit, said deposit or any unused portion thereof shall be refunded to the permittee upon written request after all grading has been satisfactorily completed.

(j) Completion of Slope Protection Devices.

(1) On completion of finish grading, the construction of berms, interceptor ditches, drainage terraces, crib walls, retaining walls, down drains or other slope protection devices shown on the approved grading plan shall be started immediately after preliminary lines and grades have been checked and approved by the project engineer and soils/geotechnical conditions have been accepted by the soils engineer and engineering geologist. Desilting basins shall be installed and maintained at locations required by the City.

(2) Inspection by soils engineer. The soils engineer shall inspect all cut and fill slopes to determine what erosion control and water quality control measures are to be specified to prevent excessive erosion of soil and to comply with Water Quality Requirements from the finished cut and fill slopes. The soils engineer shall then prepare specifications and plans (where needed) for erosion control and water quality control measures which may include, but not limited to, membrane covering, hydro-mulching, dry mulching, and erosion control planting. All fill slopes shall be planted. All cut slopes in erosive soils shall be planted unless other means of preventing soil erosion is recommended by soils engineer and approved by the City.

(3) Preparation of slopes. Cut slopes shall be cleared of loose material and fill slopes shall be prepared for erosion control measures by trimming off loose soil to a firm, smooth surface, by watering and grid rolling, or by other approved method. The placing of loose soil on previously compacted fill slopes or on completed cut slopes is prohibited.

(k) Engineered Grading Requirements.

(1) Defined. Grading of more than one building site intended for the support of structures or major grading involving more than five thousand cubic yards of excavation or fill shall be designated "engineered grading."

(2) Supervision. Engineered grading shall be performed under the supervision of a tract or site engineer. The tract or site engineer shall also supervise and coordinate all site inspection and testing during grading operations. On completion of the work and prior to the final grading inspection, the tract or site engineer shall submit reports as required by Section 22.18 of this Title.

(3) Inspection. The soils engineer shall be responsible for furnishing qualified soils engineering inspection during all grading work including certification of all terraces prior to placement of gunite or concrete; design, inspection and certification of all soil-cement backfills in sewer and storm drain trenches; all tests of fill compaction including all trench backfill.

(4) Notification of noncompliance. If in the course of fulfilling his responsibility under this chapter, the civil engineer, the soils engineer, the engineering geologist, the testing agency or the permittee finds that the work is not being done in conformance with this title or the approved plans, he shall immediately notify the person in charge of the grading work and the City in writing of the nonconformity and of the corrective measures to be taken.

(l) Regular Grading Requirements.

(1) Definitions. Grading of one building site or grading involving less than five thousand cubic yards of excavation or fill, when the City determines that no special geological, soil or drainage problems exists, may be designated "regular grading." If the City finds that complex geological or soils engineering problems are involved, it may require the work to be done as "engineered grading" under Section 22.16.010(k) even when less than five thousand cubic yards of excavation or fill is proposed.

(2) Supervision. The City will inspect the work, and will require that all fills for supporting structures be inspected and tested by a qualified soils engineering firm. Said firm shall submit a

report signed by a soils engineer describing the manner of placing the fill, containing the record of compaction tests taken, and stating the allowable bearing capacity of the fill for foundation purposes.

(3) Investigation and report. The City may also require an engineering geological investigation, a soils engineering report, as-graded certifications and a final report on regular grading permits.

(m) Safety Precautions.

(1) Order, Compliance. If at any state of the work the City determines by inspection that further grading, as authorized, is likely to endanger any private property or result in the depositions of debris on any public way or interfere with an existing drainage course, it may require, as a condition to allowing the work to be completed, that such reasonable safety precautions be taken as are considered advisable to avoid such likelihood of danger. Safety precautions may include, but shall not be limited to, specifying a flatter exposed slope, construction of additional drainage facilities, berms, terracing, compaction, cribbing or erosion control measures.

Notice to comply shall be submitted to the permittee in writing. After a notice to comply is received, the contractor shall be allowed a period of ten days to begin to make the correction, unless an imminent hazard exists, in which case the corrective work shall begin immediately. If permittee fails to comply with such written instructions within the time specified therein, the City may cancel or suspend the grading permit and/or call any bonds that have been posted for the site.

If the City finds any conditions not as stated in the grading permit or approved grading plans, it may refuse to approve further work in the area of such existing condition until approval is obtained for a revised grading plan which will conform to the existing conditions.

(2) Restriction of work during rainy season. The period between October first (1st) and April thirtieth (30th) is hereby determined to be the period in which heavy rainfall normally can occur in the City. During this period, no grading work will be authorized on any single grading site under permit when the City determines that such work will endanger the public health or safety. Grading permits may be approved by the City for work during rainy season if grading plans include emergency services for controlling storm waters and preventing damaging erosion, said plans to be signed by a civil engineer or architect.

(3) Erosion and sediment control during rainy season. Previously authorized grading work which extends into the rainy season shall be protected by incorporating temporary storm drainage and erosion control devices. Plans for such temporary erosion control devices shall be submitted by permittee and approved by the City not later than September fifteenth (15th) of the coming rainy season.

(n) Responsibility of Permittee and Property Owner.

(1) Compliance with plans and requirements. All permits issued hereunder shall be presumed to include the provision that the applicant, his agent, contractors or employees will carry out the proposed work in accordance with the approved plans and specifications, and in accordance with any applicable Water Quality Requirements prepared and maintained pursuant to federal or state requirements or a City directive, and in compliance with all the requirements of this title and prosecute such work diligently through completion. Failure to carry out the work in accordance with approved plans and specifications, the applicable Water Quality Requirements, and in compliance with all requirements of the permit and this title shall be a violation of this title. Any violation of an applicable federal or state-issued Storm Water Permits or failure to conform to the requirements of such Permit is also a violation of this title.

(2) It shall be the responsibility of the permittee to be knowledgeable of the conditions and/or restrictions of the grading permit as outlined in applicable sections of the Municipal Code and as contained on the approved grading plans and in the approved soil and geology reports. The Permittee shall also be responsible to maintain in an obvious and accessible location on the site a copy of the grading plans bearing the stamp of approval of the Community Development Department.

(3) Protection of utilities. During grading operations, the permittee shall be responsible for the prevention of damage to any public utilities or services. This responsibility applies within the limits of grading, within any earth zones influenced by such grading and along any routes of travel of equipment.

(4) Protection of adjacent property. The permittee 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.

Each adjacent owner is entitled to the lateral and subjacent support which the land receives from the adjoining property, subject to the right of the owner of the adjoining land to make proper and usual excavations on the same for the purposes of construction or improvement as provided by law.

(5) Protection of survey monuments. The permittee shall be responsible for the protection and preservation of all official land survey markers and monuments within the grading area and shall retain a licensed surveyor or registered civil engineer to replace any such markers or monuments as may be damaged or destroyed in the work.

(o) Hauling of Excavated Materials. The permittee shall comply with the following requirements:

(1) All vehicles transporting rock, earth or other materials to or from a grading site over the streets of the City shall travel only over such route and at such hours as may be directed by the City to be the least dangerous to public safety, cause the least interference with general traffic and cause the least damage to the streets;

(2) Any rock or other material that may be spilled on any public street or places from any vehicle transporting such materials to or from any grading site shall be promptly removed in a manner satisfactory to the City at the expense of the person to whom the grading permit was issued.

(p) Transfer of Responsibility. If the civil engineer, the soils engineer, or the engineering geologist of record is changed during grading, all work shall be stopped until the replacement has reviewed the plans and all prior reports and recommendations and has agreed in writing to accept his responsibility within the area of technical competence for approval upon completion of work. It shall be the duty of the permittee to notify the Building Official in writing of such change prior to the continuation of grading.

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Chapter 22.17

CONSTRUCTION PROJECT EROSION AND SEDIMENT CONTROL MAINTENANCE REQUIREMENTS

Sections:

22.17.010 Construction Project Erosion and Sediment Control Maintenance Requirements.

22.17.010 Construction Project Erosion and Sediment Control Maintenance Requirements.

(a) Silt and debris shall be removed by the construction project permittee from check berms and desilting basins and the basin pumped dry after each rainstorm.

(b) The performance of the erosion and sediment control system shall be evaluated and revised and repaired by the construction project permittee after each rainstorm, and as necessary during all phases of construction. Adequate erosion and sediment control systems must be in place during all periods of construction, including periods when construction is halted, interrupted or stalled for any reason.

(c) Erosion and sediment control devices shall not be moved or modified without the approval of the City.

(d) The construction project permittee shall be responsible and shall take necessary precautions to prevent public trespass onto areas where impounded water creates a hazardous condition.

(e) The construction project permittee shall be responsible for implementing and maintaining necessary grading and erosion and sediment control measures during the entire year to adequately control runoff. In the event of failure by the construction project permittee to properly maintain the required erosion and sediment control measures, the City may cause emergency maintenance work to be done to protect adjacent private and public property and environmental resources. The construction project property owner shall be responsible for all costs associated with such emergency maintenance work. The City shall deliver to the construction project permittee and property owner with an invoice for costs, which shall be immediately due and payable to the City. If the construction project owner subject to the invoice for costs fails to pay, then the City Attorney may institute collection proceedings including, but not limited to, nuisance liens in accordance with Government Code Section 38773.1 and Section 38773.5.

(f) In the event the City must cause emergency maintenance work to be done, the City may revoke the construction project permit(s) in writing. The permit(s) shall not be renewed until an erosion control system and/or other systems necessary to comply with Water Quality Requirements approved by the City are installed and a fee of one-half the amount required for the original permit is paid.

(g) If any grading subject to obtaining construction project permit(s) as specified in this Title has commenced on private property without a valid grading permit, the property owner may be required to prepare and implement an erosion control plan as well as other plans required under the Water Quality Requirements which have been approved by the City. In the event of failure by the property owner to install an approved erosion control system and/or other systems necessary to comply with Water Quality Requirements, the City may cause emergency work to be done to protect adjacent private and public property and environmental resources. The cost shall be charged to the property owner in accordance with item (e) of this section.

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Chapter 22.18

CERTIFICATIONS

Sections:

22.18.010 Completion of work and certifications.

22.18.010 Completion of work and certifications.

(a) Final Reports. Upon completion of the work, the following final reports shall be submitted:

(1) The tract or site engineer shall certify that all grading, lot drainage and slope drainage facilities have been completed in conformance with the approved plans and shall furnish a final as-built grading plan of the completed work, the final engineering geology report and the final soils engineering report.

(2) Original and two copies of the "as-built" grading plan must be delivered for review and approval of the City showing the following information before building construction may commence:

(A) Tract and lot boundaries with street right-of-way and all easements;

(B) Toe and crest of cut and fill slopes with elevations shown to indicate the height of slopes between drainage terraces;

(C) Pad dimensions and elevations;

(D) Corrective measures taken such as buttress fills or retaining walls, noted by location and extent of work with reference to final soils report;

(E) Description of erosion preventive or landscape plantings, including details of installation of system for watering the plantings;

(F) All surface drains (drainage terraces, brow ditches and down drains), sub-drains, and underground storm drainage systems, including structures.

(3) The soils engineering reports shall include, but need not be limited to, the following:

Determination of soil bearing capacity; results of all compaction tests; summaries of field and laboratory tests; limits of compacted fill on an "as-built" grading plan; a specific statement of settlement behavior of all fills; a statement of time when buildings may be constructed on all fills without being subjected to settlement damage; recommended setback of building foundations from crest of fill slopes; corrective measures taken to solve special problems; and description and location of all subsurface drains.

(4) The engineering geology report shall be based on the "as-built" grading plan and shall include specific approval of the grading as affected by geological factors, together with a certification of the stability of all cut slopes. A revised geologic map and cross sections and any recommendations regarding building restrictions or special foundation setbacks shall be included.

(b) All planting and irrigation and drainage of slopes shall be completed and approved by the City prior to the release of occupancy approvals or, for projects where concurrent building permits are not active, finalization of the grading permit and release of bonds.

The applicant and/or developer shall be responsible for the maintenance and upkeep of all slope plantings and irrigation systems until such time as all the individual properties and dwellings are occupied or until a prescribed homeowners' association accepts the responsibility to maintain the landscaping in common areas and notifies the City in writing of such.

(c) Notification of Completion. The permittee or his agent shall notify the City when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage structures and slope protective devices, including planting, has been completed and the final "as-built" grading plan and required reports have been submitted.

(d) Suitability for Intended Use. The project civil engineers and engineering geologists, in their final reports, shall render an opinion that to the best of their knowledge the work within their area of responsibility was done in accordance with the final approved plans, specifications and professional reports and that the site is suitable for the intended use.

As-graded reports shall generally be consistent with the Technical Guidelines for Soils and Geology Reports published by the County of Orange.

Chapter 22.20
MAINTENANCE

Sections:

22.20.010 Owner responsible for maintenance.

22.20.010 Owner responsible for maintenance.

(a) Upon completion of grading work, including excavation and fills, the owner of any property on which grading is done pursuant to this Title shall be fully responsible for the continued maintenance of all cut and fill slopes and all other areas of work within the limits of the approved grading and landscape plans on his property. Maintenance shall include repairs to berms, ditches, paved drainage terraces, down drains and erosion control devices, including slope planting. Plantings shall be watered, fertilized and replaced where necessary to cover bare soil areas sufficiently to prevent erosion. Maintenance shall also include repairing eroded slopes by filling erosion gulleys with imported soil or other means when such erosion gulleys create a hazard to paved drainage terraces or other nearby public or private property.

(b) Slope Maintenance. After the City has made a final inspection and has accepted the condition of all cut and fill slopes in a subdivision as being stabilized so that no unusual erosion problems exist, the subdivider shall furnish to the City a form of release of subdivider and acceptance of responsibility of slope maintenance signed by legal owner or owners of each lot in the tract.

(c) Legal Duties and Obligations. Compliance with requirements and conditions of this title or the granting of or issuance of a grading permit shall not be construed to release the owner of real property of any legal duties, obligations or liabilities incident to the ownership of the property while the work of grading, excavating or filling is in process or after the completion thereof.

(d) Hazardous Conditions. Whenever the City determines that any existing excavation or fill has become a hazard to life and limb or endangers property or adversely affects the safety, use or stability of a public way, public utility or drainage channel, the owner of the property upon which the excavation or fill is located or other person or agent in control of said property, upon receipt of notice in writing from the City, shall, within the period specified therein, repair or eliminate such excavation or fill, so as to eliminate the hazard and be in conformance with the requirements of this Title.

If the City performs emergency work on private or public property pursuant to this section, it may charge the property owner all direct and indirect costs which are necessary to complete the work to the City's satisfaction. In addition, the City may charge a mobilization cost equal to fifteen percent of the cost for performing the work. Such costs may be debited against any cash bonds or deposits that have been posted with the City in connection with the grading or building permit.

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Chapter 22.22

EXCEPTIONS

Sections:

22.22.010 Relief from requirements.

22.22.010 Relief from requirements.

(a) By City. The applicant for a grading permit or his tract or site engineer may request the City to approve minor deviations in the design standards of this title where special conditions prevail. Such requests shall be in writing. The City is authorized to approve such minor deviations in said design standards of this title where, in its judgment, such minor deviations are within the spirit and intent of this Title and will not create a hazard to any public or private property.

(b) Application For Relief. When the applicant for a grading permit deems the regulations, requirements, provisions or design standards of this Title to be impractical due to exceptional and extraordinary circumstances applicable to the grading site, such as size or shape, topographic conditions, or geological problems, the applicant may apply in writing to the City Council to be relieved from those regulations, provisions, or requirements which he specifies in his application as being impractical together with the reasons therefore.

Any such application for relief shall first be reviewed and considered by the Design Review Board or Planning Commission, depending upon which body is responsible for the review of concept plans pursuant to Section 22.12.010, and shall be forwarded with a report and recommendation to the City Council. The City Council may, at its discretion, take such action as it deems necessary.

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Chapter 22.24

POWERS AND DUTIES OF THE BUILDING OFFICIAL

Sections:

22.24.010 Powers and duties of the Building Official.

22.24.010 Powers and duties of the Building Official.

(a) The provisions of Title 14 – 'Buildings and Construction,' and in particular the powers and duties of the Building Official as defined in the Uniform Building Code shall apply to construction work.

(b) Stop Orders. Whenever any building or construction work is being done contrary to the provisions of the Municipal Code or the Grading Permit, the Building Official may order the work stopped by notice in writing served on any persons engaged in the work or causing the work to be performed, and any such persons shall forthwith stop such work until authorized by the Building Official to proceed with the work.

(c) Whenever any building or construction work is being done contrary to the provisions of the Water Quality Requirements related to activities subject to this title, in addition to the powers and duties specified in subsections (a) and (b), the Building Official may utilize any enforcement provision specified in Municipal Code Section 16.01.060.

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