EXHIBIT LRP2008-00007:E

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 23 OF THE SAN LUIS OBISPO COUNTY CODE, THE COASTAL ZONE LAND USE ORDINANCE, BY ADDING SECTION 23.04.450; AMENDING SECTION 23.02.030, SECTION 23.02.033, AND SECTION 23.11.030; AND REPEALING AND REPLACING SECTIONS 23.05.020 THROUGH 23.05.058

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1: Subsection b(8)(iv) of Section 23.02.030 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

23.02.030 - Plot Plan:

b. Plot Plan content:

(8) Additional information:

(iv) Grading plan. When required by Section ~~23.05.020~~ 23.05.028 (Grading).

SECTION 2: Subsection a(5) of Section 23.02.033 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended as follows:

23.02.033 - Minor Use Permit.

a. Application content.

(5) Contour map: To be prepared as follows, except when a grading plan is required by Section ~~23.05.020~~ 23.05.028 (Grading):

(i) Inside urban reserve lines: Provide site contour information at five-foot intervals for undeveloped areas and two-foot intervals for building sites and paved or graded areas.

(ii) Outside urban reserve lines: Provide site contour information at 10-foot intervals (which may be interpolated from USGS Topographic Quadrangle Maps) for undeveloped areas, and at two-foot intervals for building sites and paved or graded areas.

(iii) Areas in excess of 30% slope: May be designated as such and contours omitted, unless proposed for grading, construction or other alteration.

SECTION 3: Section 23.04.280 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended by adding new subsections c(3)(vi) and c(3)(vii), to read as follows:

23.04.280 – Solid Waste Collection and Disposal

c. Collection area and recycling area standards.

(3) Enclosure construction standards. Enclosures shall meet the construction requirements as set forth in Chapter 8.12 of the County Code in addition to the following standards.

(vi) Trash container areas shall have drainage from roofs and pavement diverted around the enclosure area(s).

(vii) Trash container areas must be screened or walled to prevent loose debris or trash from being transported to nearby storm drain inlets, channels, and/or creeks.

SECTION 4: Section 23.04.450 is hereby added to the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, to read as follows:

23.04.450 – Stormwater Management

a. Purpose. The purpose of this Section is to implement the Design Standards (Attachment 4) for the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004, as required by the Stormwater Management Plan for the County of San Luis Obispo. These standards are intended to address stormwater runoff from new development projects.

b. Applicability. All discretionary development, including projects requiring grading permit approval, that falls under one or more of the following categories is subject to the provisions of this Section. These categories are:

(1) Single-family hillside residence(s) that involve any site work on slopes of 10 percent or greater.

(2) Regulated development (as defined by this Title – including multi-family residential, commercial, institutional, light industrial development, etc.) with 100,000 cumulative square feet or more of impervious area, including parking areas.

(3) Auto and vehicle repair and services.

(4) Automobile service stations and gas stations.

(5) Restaurants.

(6) Residential subdivisions with the potential for development of ten or more housing units. Secondary units are included in this calculation.

(7) Parking lots and/or outdoor storage yards, when meeting one or more of the following thresholds:

(i) Area is 5,000 square feet or greater; or

(ii) Number of parking spaces is 25 or greater.

(8) Where otherwise required by planning area standards.

c. **Redevelopment.** This Section shall not apply to redevelopment that results in an increase of less than fifty percent (50%) of the impervious surfaces of a previously existing development if the existing development was not subject to this Section. In this circumstance, this Section shall apply only to the addition, and not to the entire development.

d. **Conflicts with other requirements.** If conflicts occur between the General Permit and provisions of this Title, the more stringent standards shall control.

e. **Application contents.** In addition to those items required in Chapter 23.02 as part of a land use permit application and in Title 21 as part of a land division application, the application shall include all information necessary to demonstrate compliance with all applicable standards in this Section.

f. **Certification.** The application shall include certification of Best Management Practices (BMPs) by a qualified professional. A qualified professional shall mean a registered civil engineer, licensed architect, or other individual deemed to be qualified by the Director. In all cases, the qualified professional shall have been trained in the application of Best Management Practices (BMPs) not more than two years prior to the signature date by an organization with stormwater BMP design expertise (e.g. a university, American Society of Civil Engineers, American Society of Landscape Architects, American Public Works Association, or the California Water Environment Association).

g. **General provisions.**

(1) **Stormwater Quality Plan (SWQP).** In order to demonstrate compliance with this Section, applicants shall complete an SWQP application. Best Management Practices (BMPs) shall be in compliance with the Low Impact Development (LID) Handbook.

(2) **Conservation of natural areas.** A narrative description justifying the proposed site design shall be provided and shall address each of the following as applicable to the site:

(i) Concentrate or cluster development on portions of the site while leaving the remaining land in a natural undisturbed condition.

(ii) Minimize clearing and grading of native vegetation to only the amount needed to establish the proposed use, allow access, and provide fire protection. Development shall avoid significant topographic features (steep slopes, ridgelines, bluffs, etc.) and areas of native vegetation to the maximum extent practicable.

(iii) Maximize trees and other vegetation by planting additional vegetation, clustering tree areas, and promoting the use of native and/or drought tolerant plants.

(iv) Promote natural vegetation by using parking lot islands and other landscaped areas.

(v) Preserve riparian areas and wetlands.

(3) **Stormwater pollutants of concern.** Stormwater runoff from a site has the potential to contribute oil and grease, suspended solids, metals, gasoline, pesticides, and pathogens to the stormwater conveyance system. The development must be designed so as to minimize the introduction of pollutants that may result in significant impacts, generated from site runoff of directly connected impervious areas (DCIA), to the stormwater conveyance system as approved by the Building Official. In meeting this specific requirement, "minimization of the pollutants of concern" will require the incorporation of a BMP or combination of BMPs best

suited to maximize the reduction of pollutant loadings in that runoff to the maximum extent practicable. Pollutants of concern consist of any pollutants that exhibit one or more of the following characteristics:

(i) Current loadings or historic deposits of the pollutant are impacting the beneficial uses of a receiving water.

(ii) Elevated levels of the pollutant are found in sediments of a receiving water and/or have the potential to bioaccumulate in organisms therein.

(iii) The detectable amounts of the pollutant are at concentrations or loads considered potentially toxic to humans and/or flora and fauna.

(4) **Drainage plan required.** All projects subject to this Section shall require preparation of a Drainage Plan, pursuant to Section 23.05.040 . Post-development peak stormwater runoff discharge rates shall not exceed the estimated pre-development rate for developments where the increased peak stormwater discharge rate will result in increased potential for downstream erosion.

(5) **Erosion and sedimentation control plan required.** All projects subject to this Section shall require the preparation of an erosion and sedimentation control plan pursuant to Section 23.05.042. Project plans shall include both construction phase and long-term Best Management Practices (BMPs) consistent with this Title to decrease the potential of slopes and/or channels from eroding and impacting stormwater runoff, including the following:

(i) Safely convey runoff away from the tops of slopes and stabilize disturbed slopes.

(ii) Maximize the use of use natural drainage systems.

(iii) Stabilize permanent channel crossings.

(iv) Vegetate slopes with native or drought tolerant vegetation.

(v) Install energy dissipaters (such as riprap) at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels in accordance with applicable specifications to minimize erosion. Approval of all agencies with jurisdiction (e.g. U.S. Army Corps of Engineers, California Department of Fish and Game, etc.) is required.

(6) **Storm drain system marker.** Any project that includes construction or installation of new storm drain inlets shall include a highly visible storm drain marker designed in accordance with the Public Improvement Standards. Legibility of storm drain markers shall be maintained for the life of the project.

(7) **Best Management Practice (BMP) maintenance.** Long-term maintenance of BMPs shall be established through the recordation of a mitigation agreement and/or Covenants, Conditions, and Restriction (CC&Rs), unless the project does not include structural or treatment control BMPs. In order to verify that BMPs will be maintained, the following measures shall be required:

(i) For all properties, the verification will include the developer's signed statement accepting responsibility for all structural and treatment control BMP maintenance until the time the property is transferred to a public entity and, where applicable, a signed agreement from the public entity assuming responsibility for structural or

treatment control BMP maintenance.

(ii) The transfer of property to a private or public owner must have conditions requiring the recipient to assume responsibility for maintenance of any structural or treatment control BMP to be included in the sales or lease agreement for that property stating the owner's responsibility. The condition of transfer shall include a provision that the property owners conduct maintenance inspection of all structural or treatment control BMPs at least once a year and retain proof of inspection. For residential properties where the structural or treatment control BMPs are located within a common area which will be maintained by a homeowner's association, language regarding the responsibility for maintenance must be included in the project's Conditions, Covenants, and Restrictions (CC&Rs).

(iii) Printed educational materials shall be required to accompany the first deed transfer. These materials shall provide information on what stormwater management facilities are present, signs that maintenance is needed, how the necessary maintenance can be performed, and assistance that the applicant can provide to the new landowner. The transfer of this information shall also be required with any subsequent sale of the property.

(iv) If structural or treatment control BMPs are located within a public area proposed for transfer, they will be the responsibility of the developer until they are accepted for transfer by an appropriate public agency. Structural or treatment control BMPs proposed for transfer must meet Low Impact Design (LID) Handbook or other design standards adopted by the County for the BMP installed.

(8) **Structural or treatment control Best Management Practices (BMPs).** Post-construction treatment control BMPs shall incorporate, at a minimum, either a volumetric or flow based treatment control design standard, or both, as identified below to mitigate (infiltrate, filter, or treat) stormwater runoff:

(i) **Volumetric treatment control BMP.**

(a) The 85th percentile 24-hour runoff event determined as the maximized capture stormwater volume for the area, from the formula recommended in Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998); or

(b) The volume of annual runoff based on unit basin storage water quality volume, to achieve 80 percent or more volume treatment by the method recommended in California Stormwater Best Management Practices Handbook – Industrial/ Commercial, (2003); or

(c) The volume of runoff produced from a historical record-based reference 24-hour rainfall criterion for "treatment" that achieves approximately the same reduction in pollutant loads achieved by the 85th percentile 24-hour runoff event.

(ii) **Flow based treatment control BMP.**

(a) The flow of runoff produced from a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the area; or

(b) The flow of runoff produced from a rain event that will result in treatment of the same portion of runoff as treated using volumetric standards above.

(iii) **Limited exclusion.** Restaurants and automobile service stations/gas stations, where the land area for development or redevelopment is less than 5,000 square feet, are excluded from the numerical structural or treatment control BMP design standard requirement only.

(9) **Hydromodification control.** Projects shall comply with the County's hydromodification control requirements, once developed and established in the Low Impact Development (LID) Handbook. Waiver of or modification to the hydromodification control requirements may only be granted as specified in Subsection i.

h. Standards for specific uses.

(1) **Outdoor material storage.** Where proposed projects include outdoor storage areas for storage of materials that may contribute pollutants to the stormwater conveyance system, the following structural or treatment Best Management Practices (BMPs) are required:

(i) Materials with the potential to contaminate stormwater must be:

(a) placed in an enclosure such as, but not limited to, a cabinet, shed or similar structure that prevents contact with runoff or spillage to the stormwater system; or

(b) protected by secondary containment structures, such as berms, dikes, or curbs.

(ii) The material storage area shall be sufficiently impervious to contain leaks and spills.

(iii) Where secondary containment is necessary, storage area shall have a roof or awning to minimize collection of stormwater or other approved method.

(iv) For storage areas involving the storage of motor vehicles, site design shall comply with Section H.5.

(2) **Regulated development.** Regulated development, as defined by this Title, includes, but is not limited to, multi-family, commercial, institutional, and light industrial developments. Regulated development with cumulative impervious square footage of 100,000 square feet or more is subject to the following requirements:

(i) **Loading/unloading dock areas.** To minimize the potential for material spills to be transported to the stormwater conveyance system, the following is required:

(a) Loading dock areas shall be covered, or drainage shall be designed to minimize run-on or runoff of stormwater.

(b) Connections to storm drains from depressed loading docks (truck wells) are prohibited. An approved structural source control measure and/or treatment control measure shall be used to prevent stormwater pollution.

(ii) **Repair/maintenance bays.** To minimize the potential for oil/grease, car battery acid, coolant, and gasoline to be transported to the stormwater conveyance system,

design plans for repair/maintenance bays shall include the following:

(a) Repair/maintenance bays shall be indoors or designed in such a way that does not allow stormwater run-on or runoff.

(b) The drainage system for the repair/maintenance bays shall be designed to capture all washwater, leaks, and spills. Drains shall be connected to a sump for collection and disposal. Direct connection to the storm drain system is prohibited. If required by the Regional Water Quality Control Board, an Industrial Waste Discharge Permit shall be obtained.

(iii) **Vehicle/equipment wash areas.** An area for washing/steam cleaning of vehicles and equipment shall be included on the plans. To minimize the potential for metals, oil/grease, solvents, phosphates, and suspended solids to be transported to the stormwater conveyance system, the area for washing/steam cleaning of vehicles and equipment shall be designed to the following specifications:

(a) Self-contained and/or covered, equipped with a clarifier, or other pre-treatment facility; and

(b) Properly connected to a sanitary sewer or other appropriately permitted disposal facility.

(3) **Restaurants.** An area for washing/steam cleaning of equipment and accessories shall be included on the plans. To minimize the potential for metals, oil and grease, solvents, phosphates, and suspended solids to be transported to the stormwater conveyance system, the area for washing/steam cleaning of equipment and accessories shall be designed to the following specifications:

(i) Self-contained, equipped with a grease trap, and properly connected to the sanitary sewer.

(ii) If the wash area is to be located outdoors, it must be covered, paved, have secondary containment, and be connected to the sanitary sewer or other appropriately permitted disposal facility.

(4) **Automobile service stations and gas stations.** Automobile service stations and gas stations are subject to the following standards:

(i) **Fueling area.** To minimize the potential for oil/grease, solvents, car battery acid, coolant, and gasoline to be transported to the stormwater conveyance system, the project plans shall include the following Best Management Practices (BMPs):

(a) The fuel dispensing area shall be covered with an overhanging roof structure or canopy. Provide containment limits on the plans (i.e. grade break, berm, etc.). The canopy's minimum dimensions shall be equal to or greater than the containment limits. The canopy shall not drain onto the fuel dispensing area, and the canopy downspouts shall be routed to prevent drainage across the fueling area.

(b) The fuel dispensing area must be paved with Portland cement concrete (or equivalent smooth impervious surface), and the use of asphalt concrete shall be prohibited.

(c) The fuel dispensing area must have a 2 percent minimum slope to prevent ponding, and must be separated from the rest of the site by a grade break that prevents run-on of stormwater to the maximum extent practicable.

(d) At a minimum, the concrete fuel dispensing area must extend 6.5 feet from the corner of each fuel dispenser, or the length at which the hose and nozzle assembly may be operated plus 1 foot, whichever is less.

(ii) **Repair/maintenance bays.** To minimize the potential for oil and grease, car battery acid, coolant, and gasoline to be transported to the stormwater conveyance system, design plans for shall comply with the provisions of Subsection h(2)(ii).

(iii) **Vehicle/equipment wash areas.** An area for washing/steam cleaning of vehicles and equipment shall be included on the plans, in compliance with the provisions of Subsection h(2)(iii).

(iv) **Loading/unloading dock areas.** To minimize the potential for material spills to be transported to the stormwater conveyance system, the project design shall comply with the provisions of Subsection h(2)(i).

(5) **Parking lots.** Parking lots with an area of 5,000 square feet or more, or 25 parking spaces or more, are subject to the following requirements:

(i) **Parking lot design.** To minimize potential for heavy metals, oil/grease, and polycyclic aromatic hydrocarbons that are deposited on parking lot surfaces by motor vehicles from being transported to the stormwater conveyance system, parking lots shall be designed to meet the following criteria:

(a) Reduce impervious land coverage of parking areas to the maximum extent practicable.

(b) Infiltrate and/or treat runoff.

(ii) **Oil contamination.** To minimize potential for oil, grease, and other water insoluble hydrocarbons from vehicle drippings and leaks from entering the stormwater conveyance system, plans shall provide for the following:

(a) Treat to remove oil and petroleum hydrocarbons.

(b) Ensure adequate operation and maintenance of treatment systems, particularly sludge and oil removal and system fouling and plugging prevention control. At a minimum, this shall include a maintenance program which is funded and carried out by the property owner.

i. **Modification or waiver.** The standards of this Section may be modified or waived if impracticability for a specific property can be established. This may occur in one of two ways:

(1) **Modification or waiver by review authority.** The applicable review authority may consider waiver or modification to the provisions of this Section only where the following findings can be made:

(i) That all other structural or treatment Best Management Practices (BMPs) have been considered and rejected as infeasible; and

(ii) That adherence to these standards is impracticable for the project site because of one or more of the following reasons:

(a) Extreme limitations of space for treatment on a redevelopment project.

(b) Soil conditions at a site, which are unstable or unfavorable for infiltration.

(c) Risk of groundwater contamination because a known unconfined aquifer lies beneath the land less than 10 feet from the soil surface.

The Regional Water Quality Control Board may revoke a justification waiver for cause and with proper notice upon petition.

(2) **Modification or waiver by the Regional Water Quality Control Board.** Any other justification for impracticability must be separately petitioned to the Regional Water Quality Control Board for consideration prior to project approval.

j. **Enforcement.** This Section may be enforced under the provisions established in Section 23.05.056 in addition to the enforcement procedures in Chapter 23.10 .

SECTION 5: Sections 23.05.020 through 23.05.050 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, are hereby repealed and replaced with new Sections 23.05.020 through 23.05.058 of the Coastal Zone Land Use Ordinance, to read as follows:

23.05.020 - Purpose and Intent

Sections 23.05.020 through 23.05.058 shall hereafter be referred to as the Grading Ordinance. The purpose of the Grading Ordinance is to establish standards to safeguard the public health, safety and general welfare, minimize erosion and sedimentation, minimize fugitive dust emissions, prevent the loss of agricultural soils, reduce the harmful effects of stormwater runoff, encourage groundwater recharge, protect fish and wildlife, and to otherwise protect the natural environment. The Grading Ordinance addresses compliance with the National Pollutant Discharge Elimination System (NPDES) Phase II stormwater regulations and sets forth local stormwater requirements, to avoid pollution of watercourses with sediments or other pollutants generated on or caused by surface runoff on or across construction sites.

23.05.022 - Responsibility of the Landowner

Each landowner has the responsibility or duty before, during, and after construction or site disturbance activities, to ensure compliance with this code. The landowner also has a responsibility to ensure compliance with local, state, and federal permitting requirements. No approval shall exonerate the landowner or his agent(s) from the responsibility of complying with the provisions and intent of the Grading Ordinance and other state or federal requirements.

23.05.024 - Scope

The Grading Ordinance sets forth standards, including the incorporation of Best Management Practices (BMPs), to control all grading, excavations, and earthwork. The Grading Ordinance also provides for the approval of plans and inspection of grading construction and BMPs. In the event of any conflict between the provisions of the Grading Ordinance and state law, the more restrictive requirement shall apply. Agricultural grading, whether exempt or required to be permitted by the Grading Ordinance, may be exempted from NPDES Phase II requirements, pursuant to Section 23.05.044.b(3).

No work subject to the provisions of the Grading Ordinance shall be commenced, maintained or completed in violation of these regulations.

23.05.026 - Administrative Procedures

a. **Compliance with building code.** All grading activities shall be in compliance with the provisions of 1997 Uniform Building Code Appendix Chapter 33, the currently adopted California Building Code, and adopted Appendices, which are hereby adopted and incorporated into this Title by reference as though they were fully set forth herein. In the event of any conflict between the provisions of the Grading Ordinance and the Uniform Building Code or California Building Code, this Title shall apply.

b. **Low Impact Development (LID) Handbook.** Low Impact Development requirements shall be imposed, and updated from time to time, by resolution of the Board of Supervisors after a noticed public hearing. Requirements imposed in the LID Handbook shall include any required LID Best Management Practices. Additionally, the LID Handbook may be used to implement other measures as required in the County's Stormwater Management Program. Requirements of the LID Handbook when imposed, shall be a condition of the issuance of permits for, or the approval of, development projects.

23.05.028 - Grading Permit Required

Where not otherwise exempt by Section 23.05.032 (Exemptions from Grading Permits) or authorized through the alternative review process pursuant to Section 23.05.034 (Alternative Review), a grading permit shall be obtained where grading is to occur meeting the definition set forth in Section 23.05.030 (Grading). A separate permit shall be required for each site and shall cover both excavations and fills. Contiguous sites being graded as one integrated project may be considered one site, as deemed appropriate by the Director, in order to enforce the requirements of the Grading Ordinance.

Even those activities that do not constitute grading as defined in the Grading Ordinance, or are exempt from grading permits, may be subject to other applicable sections in this ordinance. This includes requirements, such as preparation and approval of an erosion and sedimentation control plan, drainage plan, and/or stormwater pollution prevention plan.

In granting any permit in compliance with the Grading Ordinance, the Director and, where provided, the Public Works Director, may impose conditions as necessary. These conditions may include requiring a licensed contractor to perform the work or a licensed professional (e.g. civil engineer, geotechnical engineer, etc.) to prepare plans or technical reports in order to prevent creation of a nuisance or a hazard to public health, public safety, or public or private property, or to assure conformity to the County General Plan.

23.05.030 - Grading

a. **Grading.** For the purposes of the Grading Ordinance, "grading" is defined as all new earthwork that involves one or more of the following activities: excavations, cuts, fills, dams, reservoirs, levees, impoundments, diking, dredging, borrow pits, stockpiling, or compaction of fill; or removal of vegetation for the purposes of rangeland management. A grading permit is required in any of the following cases:

(1) **50 cubic yards.** The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned activities exceeds 50 cubic yards.

(2) **Work in a watercourse.** The amount of material, measured cumulatively (adding together all proposed earthwork) for any of the above mentioned operations exceeds 20 cubic yards and involves altering or obstructing a drainage way or watercourse.

(3) **Removal of native vegetation.** Rangeland management projects which would involve more than one-half acre of native vegetation removal, except in the following circumstances:

(i) When the project goes through the alternative review process, pursuant to Section 23.05.034; or

(ii) When the project complies with the ongoing grazing exemption discussed in Section 23.05.032.b(11)(ii).

Native vegetation removal is calculated based on the total area of a site which will lack soil cover (i.e. "bare soil") at any given time. Areas subject to previous native vegetation removal are not included in this calculation where permanent revegetation has already achieved a minimum of 70 percent coverage.

Note: The grading thresholds specified in Subsections a(1) and a(2) above are to be measured cumulatively for each project. A project may not be broken down into smaller components with the intention of avoiding a grading permit. Activities progressing towards a common endeavor are considered a single project.

b. **Additional permitting requirements.** Grading may require a land use permit or variance under the following circumstances:

(1) **Site disturbance.** For projects subject to Chapter 23.03, grading may require land use permit approval based upon the amount of site disturbance. The land use permit thresholds are established in Section 23.03.042 (Table 3-A).

(2) **Slopes.** Grading shall be limited to slopes of less than 20 percent, except where:

(i) **Grading adjustment.** Grading on slopes between 20 percent and 30 percent may occur by Minor Use Permit or Development Plan approval, subject to the following:

(a) The applicable review body has considered the specific characteristics of the site and surrounding area, including: the proximity of nearby streams or wetlands, erosion potential, slope stability, amount of grading necessary, neighborhood drainage characteristics, and measures proposed by the applicant to reduce potential erosion and sedimentation;

(b) Grading and erosion control plans have been prepared by a registered civil engineer and accompany the request to allow the grading adjustment;

(c) It has been demonstrated that the proposed grading is sensitive to the natural landform of the site and surrounding area;

(d) It has been found that there is no feasible method of establishing an allowable use on the site without grading on slopes between 20 and 30 percent.

(ii) **Variance.** The applicant has obtained Variance approval pursuant to Section 23.01.045 to allow grading on slopes of 30 percent or greater; or

(iii) **Agricultural use.** The grading is exclusively for one or more of the following agricultural uses:

(a) An exempt agricultural accessory structure as defined in Section 19.02.020.c.14 of the Building and Construction Ordinance (amending Section 105.2 of the California Building Code);

(b) Crop production or grazing.

(c) Any agricultural roads used exclusively for the purposes described above in Subsections b(2)(iii)(a) and b(2)(iii)(b).

While this Subsection exempts the above uses from the 30 percent slope limitation, this Subsection shall not be construed to exempt any uses from the requirement of obtaining a grading permit as described in Section 23.05.028.

c. **Grading adjacent to Environmentally Sensitive Habitats.** Grading shall not occur within 100 feet of any Environmentally Sensitive Habitat except:

(1) Where a setback adjustment has been granted as set forth in Sections 23.07.172.d(2) (Wetlands) or 23.07.174.d(2) (Streams and Riparian Vegetation) of this title; or

(2) Within an urban service line when grading is necessary to locate a principally permitted use and where the approval body can find that the application of the 100-foot setback would render the site physically unsuitable for a principally permitted use. In such cases, the 100-foot setback shall only be reduced to a point where the principally-permitted use, as modified as much as practical from a design standpoint, can be located on the site. In no case shall grading occur closer than 50 feet from the Environmentally Sensitive Habitat or as allowed by planning area standard, whichever is greater.

d. **Coastal Development Permit.** Where a grading permit application proposes a project that is not otherwise subject to land use permit requirements of Chapters 23.03 or 23.08 or other applicable sections of this Title, grading permit approval certifies that the proposed project will satisfy applicable provisions of this Title and thereby constitutes approval of a Coastal Development Permit. Where a grading permit or application for coverage under the Alternative Review Program is appealable to the Coastal Commission pursuant to Section 23.01.043, Minor Use Permit approval is also required as set forth in Section 23.02.033.

23.05.032 - Exemptions from Grading Permits

Note: While the activities under this section are exempted from a grading permit for the purposes of this County's ordinance, the owner and/or applicant should understand that permits may be required by other regulatory agencies, including, but not limited to, the California Department of Fish and Game, Regional Water Quality Control Board, Army Corps of Engineers, U.S. Fish and Wildlife Service, or the California Department of Forestry (Cal Fire).

a. **Minimum requirements to determine exempt status.** The following considerations must be addressed in determining if grading activities qualify for an exemption:

(1) Grading activities are not exempt within a geologic study area and/or flood hazard combining designations as shown in the Land Use Element. Agricultural grading as provided by Subsections b and c, Alternative Review as provided by Section 23.05.034, and geotechnical/geologic exploration activities are not subject to this limitation.

(2) Grading activities shall receive all necessary approvals from other County, state, or federal agencies, regardless of whether the activity is exempt under the Grading Ordinance.

(3) Activities exempted under this section are still required to incorporate all reasonable measures to ensure against erosion and sedimentation both during and after such activities. In all cases, any grading activities which could result in a hazardous condition are not exempt from grading permit requirements. A hazardous condition exists when activities create a hazard to life and limb, endanger property, adversely affect the safety, use or stability of a public right-of-way or drainage channel, or create a significant environmental impact.

(4) Grading activities are not exempt for any site work occurring within 100 feet of mapped Environmentally Sensitive Habitat Areas or within in any area designated as appealable pursuant to Section 23.01.043, except under any of the following circumstances:

(i) A prior land use permit and coastal development permit have been issued for the proposed activity; or

(ii) The activity is not considered development under Section 23.03.040.a or is needed to accommodate a use that is exempted from land use permits and coastal development permits under Section 23.03.040.d.

(5) Grading activities are not exempt under Subsections b and c in non-appealable areas, except under the following circumstances:

(i) A prior coastal development permit has been issued for the proposed activity; or

(ii) The activity is not considered development under Section 23.03.040.a or is needed to accommodate a use that is exempted from land use permits and coastal development permits under Section 23.03.040.d

(iii) Activities which are described in Subsections b and c may be authorized through the Alternative Review Process (Section 23.05.034), where authorization for alternative review constitutes issuance of a coastal development permit.

b. **Exempt grading.** The following grading does not require a grading permit. Exempt grading activities must employ appropriate sedimentation and erosion control measures:

(1) **Excavations below finish grade.** The excavation of materials below finished grade for tanks, vaults, basements, retaining walls, swimming pools, or footings of a building or structure, where such excavations are authorized under the provisions of a valid building permit. This does not exempt any fill made with the material from the excavation.

(2) **Cemeteries.** Cemetery graves, excavation, or fill within a property used or to be used for cemetery purposes is exempt. Grading that is intended to support structures or that will affect natural drainage patterns does not fall under this exemption.

(3) **Flood control maintenance.** Maintenance and construction work within the prescribed easements of the San Luis Obispo County Flood Control and Water Conservation District as long as width, height, length or capacity is not increased.

(4) **Public work projects.** Public works projects constructed by the County or its contractors, including those activities as provided by Section 23.03.040.d(8).

(5) **Refuse disposal.** Refuse disposal sites approved by the County Health Department under the authority of Public Resources Code Sections 40000 et seq.

(6) **Surface mining.** Surface mining operations approved in compliance with Sections 23.08.170 et seq. (Surface Mining). Commercial mines which are planned for conversion to on-site only use shall require reclamation in accordance with the approved reclamation plan. Continuing non-commercial operation after reclamation shall require that a grading permit be obtained.

(7) **Conservation, restoration, and enhancement projects.** Subject to the discretion of the Director, a soil, water, and/or wildlife conservation or enhancement project for which a California Department of Fish and Game Alteration Agreement and/or Army Corps of Engineers permit has been secured and which has a design prepared or approved by, and is inspected and certified by a Resource Conservation District, the U.S. Natural Resources Conservation Service or the State of California, Department of Water Resources, or the Central Coast Regional Water Quality Control Board.

(8) **Vegetation clearance for fire safety.** Clearing of vegetation, (not to include tree removal or removal of vegetation and wildlife protected by County, state, or federal statutes as rare, threatened or endangered) in compliance with CalFire recommendations for fuel reduction or firebreaks for forestry or fire protection purposes. Tree removal is governed by Sections 23.05.060 et seq. Refer to Section 23.03.042 (Table 3-A), if applicable, for specific land use permit requirements which apply to vegetation removal. Best management practices must be applied to avoid erosion and sedimentation.

(9) **Improvement plans.** Construction of, or excavations or fills for roads, drainage, and utilities associated with improvement plans for final subdivision maps or public projects within the County-maintained road right-of-way approved by the County Public Works Department, if consistent with the standards, guidelines and provisions identified in the Grading Ordinance.

(10) **Exploratory excavations and public utility connections.** The following exploratory excavations or fills where the natural slope of the site does not exceed 20 percent and where effective erosion and sedimentation control measures are used in compliance with Section 23.05.042 to protect, restore, and revegetate all disturbed areas within 45 days after the completion of work or before October 15. This 45 day period may be extended where work is completed earlier in the year and an extension is necessary for rainfall to assist onsite revegetation. In order to qualify for this exemption, the proposed grading shall comply with the following, as applicable:

(i) Excavation or fill shall not result in impacts to archaeological resources or the removal of trees or native riparian or wetland vegetation, or rare, threatened or endangered species. After consultation with the Environmental Coordinator, on-site monitoring may be required. This exemption shall not apply within an archaeologically sensitive area as shown in the Land Use Element.

(ii) Excavations for wells and water pipeline maintenance (not to include grading for road work), disturbing an area that does not exceed an aggregate area of 1,000 square feet or exceed a total grading amount (cut plus fill) of 50 cubic yards.

(iii) Excavation for temporary holes or trenches for geological, geotechnical and archaeological exploration, (not to include construction or modification of required access roads) performed under the direction and supervision of a soil engineer, engineering geologist or (where applicable) an archaeologist. The work shall not affect or disturb areas greater than 3,000 square feet in size, shall not cumulatively involve more than 50 cubic yards of material associated with preparing the site for exploration, and shall be protected as required by occupational safety and health agency standards.

(iv) Excavations for the installation, testing, maintenance, or replacement of distribution or service facilities for utilities regulated by the California Public Utilities Commission, including electrical, water, or natural gas lines (not to include construction or modification of required access roads).

(v) Excavation and fill of trenches for utility lines not exceeding 24 inches in width or an average of five feet in depth, or holes for utility poles or anchors and limited accessory grading.

(vi) Initial excavation and fill necessary to effect such temporary repair or maintenance of oil, gas and utility lines as can be completed within seven days of commencement where such combined excavation and fill does not exceed a total of 100 cubic yards of material.

(vii) This exemption shall not apply to the extension of water or sewage service outside of an urban services line, as shown in the Land Use Element.

(11) **Ongoing crop production and grazing.** Grading for the ongoing production of food and fiber, the growing of plants, and the management of rangeland shall be exempt when all of the following are true:

(i) For grading activities related to crop production, the proposed grading is limited to preparing a field for a crops and associated drainage improvements on land that has been previously cultivated within the previous five years or covered under a conservation plan prepared as part of the Conservation Reserve Program. Cultivation shall include the following practices: disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling.

(ii) For grading activities related to range management for commercial livestock production, the grading is limited to the following activities: vegetation management, such as reseeding or vegetation modification; or livestock watering systems and associated drainage improvements other than ponds or reservoirs. To qualify for this exemption, these activities shall take place only on land where grazing has occurred within the previous five years.

(iii) All site work shall be balanced. No importation or exportation of fill material from/to off-site parcels shall occur. These fill materials include topsoil, sand, and biosolids. The importation or exportation of soil fertility amendments to enhance crop production or rangeland fertility is permissible under this exemption. Soil fertility amendments include materials described in the California Food and Agricultural Code Sections 14511 et seq. (excluding Sections 14552(e) and 14560).

(iv) All site work complies with the standards identified in Subsection c(1).

(v) The grading does not involve construction of or modification to dams, ponds, reservoirs, or roads; however farm roads located entirely within or on the edge of existing fields may be modified or re-oriented under this exemption.

(12) **Routine maintenance.** Routine maintenance of legally established existing (exempt or previously permitted) roads; man-made, engineered flood control channels or levees; agricultural ponds and reservoirs; agricultural drainage channels; agricultural water lines; equestrian facilities (e.g. paddocks and arenas); and public utility lines (as provided by Subsection b(10)); where the width, length, or design capacity is not increased. Material may be imported under this exemption when used for routine maintenance purposes only.

(13) **Water pipelines.** Installation of water pipelines to serve agricultural uses. Water pipelines shall be installed under proper practices recognized by the Natural Resources Conservation Service, which may include importation of gravel or sand.

c. **Agricultural Grading.** This Subsection applies to all grading that does not satisfy the description for exempt grading in Subsection b. In order for agricultural grading to be exempt from a grading permit, as described in this Subsection, an Agriculture Grading Form shall be completed and submitted to the County prior to commencement of any grading activities, for verification that exemption criteria are met. An applicant's signature on the form indicates agreement, and acknowledgment of required compliance, with the standards in Subsections a and c.

(1) **Agricultural Grading Standards.**

(i) All excavated material shall be placed on the same or contiguous parcels.

(ii) Agricultural grading shall employ sound agricultural management measures and practices of the USDA Natural Resources Conservation Service (NRCS) and the UC Cooperative Extension. These practices shall not adversely affect slope stability, or groundwater recharge. Additionally these practices shall prevent off-site drainage and erosion and sedimentation impacts. All agricultural grading, whether requiring a permit or exempt, shall be consistent with the standards and practices contained in the NRCS Field Office Technical Guide (FOTG).

(iii) Effective erosion and sedimentation control measures shall be used on all cut and fill slopes in compliance with Section 23.05.048.c to protect, restore and revegetate within 45 days after the completion of work or before October 15 and shall be continually maintained for the life of the project. This 45 day period may be extended where work is completed earlier in the year and an extension is necessary for rainfall to assist onsite revegetation. All erosion and sedimentation control measures shall be designed to prevent sediment from entering any blue-line stream, river, pond, lake, wetland, bay, or the ocean.

(iv) Any proposed exempt activities within a recorded or unrecorded archaeological site shall comply with the requirements of Section 23.05.140.

(2) **Allowed agricultural grading.**

(i) **Crop production.** Grading to prepare new land for crop production , including drainage improvements, on slopes with a natural gradient less than thirty percent where no off-site fill is proposed. Importation and exportation of commercial soil amendments as specified in Subsection b(11)(iii) is permissible under this exemption.

(ii) **Small reservoir.** A reservoir constructed to regulate or store a supply of water for frost protection, seasonal irrigation, or livestock purposes. Ponds, reservoirs, and dams are subject to the standards in Section 23.05.048.f. To qualify for exemption as a small reservoir the following criteria must be met:

(a) The reservoir shall be designed to contain no more than one acre-foot of water.

(b) All water storage shall be located entirely below natural grade.

(c) The reservoir shall not be located on a stream, lake, or marsh, as identified on any U.S. Geological Survey map.

Storage reservoirs that do not meet the criteria under this standard may qualify for alternative review pursuant to Section 23.05.034.b(4).

23.05.034 - Alternative Review Program

Note: While the activities under this section are exempted from a grading permit for the purposes of this County's ordinance, the owner and/or applicant should understand that permits may be required by other regulatory agencies, including, but not limited to, the California Department of Fish and Game, Regional Water Quality Control Board, Army Corps of Engineers, U.S. Fish and Wildlife Service, or the California Department of Forestry (Cal Fire).

The applicant may elect to use the Alternative Review Program for those projects listed in Subsection b. This process allows an applicant to obtain technical assistance, inspection, and sign-off by either the Natural Resources Conservation Service (NRCS) or the Resource Conservation District (RCD).

An Alternative Review Form shall be completed and submitted to the County to verify that the project qualifies for the Alternative Review Process prior to commencement of any grading activities.

Coastal Zone Land Use Ordinance – Add the following sentence:

Authorization of an Alternative Review Form shall occur only when the Director finds that the project is in compliance with all applicable sections of this Title, the Local Coastal Program and the California Coastal Act.

a. Alternative review program standards.

(1) Grading activities allowed under this section must conform to the minimum requirements to determine exempt status identified in Section 23.05.032, agricultural exempt standards in Subsections c(1)(ii), c(1)(iii), and c(1)(iv) of Section 23.05.032, and the standards in Section 23.05.048.

(2) Within 60 days of County verification that the project qualifies for Alternative Review, the NRCS or RCD shall provide written verification that the project can meet Alternative Review requirements, including compliance with appropriate Field Office Technical Guide (FOTG) management practices. An extension of this period may be approved upon applicant request and agreement by the Director and the NRCS/RCD.

(3) Upon final implementation/installation of appropriate FOTG practices and standard engineering practices, the NRCS/RCD shall submit a project finalization report to the County.

(4) Projects which are not approved for Alternative Review, including projects which do not receive a project finalization report, shall be subject to Section 23.05.056 and Chapter 23.10.

(5) For projects involving roads or ponds, the Agricultural Commissioner's office shall make a written determination that the extent of the existing agricultural use or a proposed agricultural use of the property justifies the need for the road or pond. The Agricultural Commissioner may consider such features as length, width, capacity, and extent of the proposed road or pond in determining whether it is justified.

(6) Where an application for Alternative Review proposes a project that is not otherwise subject to land use permit requirements of Chapters 23.03 or 23.08 or other applicable sections of this Title, approval of an Alternative Review Form by the Director certifies that the proposed project will satisfy applicable provisions of this Title. In these circumstances approval of an Alternative Review Form functions as a Plot Plan (pursuant to Section 23.02.030), and thereby constitutes approval of a Coastal Development Permit. Where an Alternative Review project is appealable to the Coastal Commission pursuant to Section 23.01.043, Minor Use Permit approval is also required as set forth in Section 23.02.033.

b. Projects allowed under the alternative review program.

(1) **Hillside Benches.** Hillside benches and other appropriate methods for planting orchards and vineyards on slopes over thirty percent.

(2) **Rangeland Management Projects.** Rangeland management projects, as specified in Section 23.05.030.a(3).

(3) **New agricultural roads.** New roads, or expansion to the length or width of existing roads, which provide access to farm fields, pastures, water supplies, outdoor equipment or supply storage areas, livestock grazing areas, fence lines, or an agricultural structure which does not require a county building permit (agricultural exempt structure). New roads shall be the minimum width necessary for the planned agricultural use (generally between 12 and 16 feet in width), consistent with the determination made under Subsection a(5). The road shall not supply access to a habitable structure. Ford crossings (i.e. "Arizona" crossings), as determined to be appropriate by the Agricultural Commissioner, may be included in the construction of new agricultural roads.

(i) **Future grading permit required.** A grading permit shall be required for the road if it will serve a structure that requires a construction permit. Further, the road shall be required to be improved to meet all then current standards. The permit shall include all of the work that was previously exempt or subject to alternative review.

(ii) **Qualifying criteria for alternative review.** In addition to the criteria in Section 23.05.032.a, roads shall meet all of the following:

(a) Must be located within an Agriculture or Rural Lands land use category. The roads must also be outside of an urban or village reserve line, or within a Residential Rural land use category where the road is to serve an existing agricultural operation as determined by the Agricultural Commissioner's office.

(b) Shall have properly designed and placed culverts, water bars or other drainage and erosion and sedimentation control features meeting the recommended practices and standards provided by NRCS or RCD. Effective erosion and sedimentation control measures shall be used on all cut and fill slopes in compliance with Sections 23.05.042 and 23.05.048.c to protect, restore and revegetate within 45 days after the completion of work or before October 15. This 45 day period may be extended where work is completed earlier in the year and an extension is necessary for rainfall to assist onsite revegetation. Vegetation buffer strips shall be maintained between the road and blue line streams (as applicable) shown on the latest USGS 7-1/2 minute topographic quadrangle to trap sediment before it reaches the stream.

(c) Have adequate cross-slope for proper drainage and erosion control. Outward sloping roads are encouraged unless infeasible or inappropriate.

(d) Does not divert drainage onto adjacent properties. Does not discharge or threaten to discharge silt on adjacent properties, roads, sensitive resource areas, or into streams as shown on the latest USGS 7-1/2 minute topographic quadrangle.

(e) Constructed between April 15 and October 15; unless temporary erosion control is in place and the reseeding is assured to occur in the appropriate months for germination, as approved by a soil erosion specialist.

(4) **Ponds, reservoirs, and dams.** Agricultural reservoirs constructed to regulate or store a supply of water and drainage basins designed to catch run-off not related to development requiring a County permit. A drainage basin designed to catch run-off relating to development requiring a County permit shall require the issuance of a grading permit in compliance with 23.05.028. Reservoirs, ponds, or basins, with a storage capacity of 15 acre-feet or more and a dam height of 25 feet or more; or with a storage capacity of 50 acre feet or more and a dam height of 6 feet or more are subject to the jurisdiction of the Division of Dam Safety of the California Department of Water Resources. Any pond, reservoir, or basin which catches and retains surface drainage or riparian underflow shall have applicable water rights entitlements from the California Department of Water Resources. Ponds, reservoirs, and dams are subject to the standards in Section 23.05.048.f.

(5) **Streambank protection measures.** Streambank protection measures when using NRCS Practices and with appropriate Fish and Game alteration agreements/permits, Regional Water Quality Control permits, and Army Corps permits, as required.

(6) **Conservation, restoration, and enhancement projects.** A soil, water, and/or wildlife conservation or enhancement project for which a California Department of Fish and Game alteration agreement/permit and/or Army Corps of Engineers permit has been secured.

(7) **Upland restoration measures.** Projects which are undertaken for soil, water quality, habitat, or wildlife restoration, conservation, or enhancement occurring outside of the channel of a stream.

(8) **Trail and recreation enhancements.** Trails for agricultural production support activities and recreation enhancements of property. If a land use permit is required under this ordinance to establish a recreational facility, no grading shall occur until the appropriate approvals have been secured.

(9) **Waste management systems.** Waste management systems for agricultural production and processing uses.

(10) **Imbalanced Grading.** Any agricultural grading identified in Section 23.05.032, Subsections b(11), b(13), and c which would require the importation or exportation of fill material.

(11) **Exempt uses.** At the applicant's option the Alternative Review Program may be used in lieu of exemption for grading projects described in Section 23.05.032 – Subsections b(11), b(12), b(13), and c.

23.05.036 - Review, Approval and Permits

a. **Timing and restrictions of approval.** Grading permits are subject to the following timing requirements and restrictions:

(1) A grading permit shall not be approved before:

(i) Application for a construction permit, if the grading is proposed for creation of or access to a building site.

(ii) Approval of a land use permit, land division, or General Plan amendment, if such approvals are required for completion of any project located on the same site; all required appeal periods shall have expired.

(iii) Approval of any required permits from state or federal agencies.

(2) Permits cannot be issued until the determination of adequate water and/or sewage disposal, fire safety plan, or other required site investigations are made, land disturbance shall be limited to the extent necessary to allow such an investigation, consistent with Section 23.05.032.b(10)(iii).

(3) This Subsection shall not apply to subdivision improvements or road construction required as a condition of approval of a land division.

b. **Modifications to approved grading plans.** Any alternatives or modifications to approved plans shall be approved by the Director or, where applicable, the Public Works Director. The issuance of a permit in compliance with the Grading Ordinance shall constitute an authorization to do only the work that is described or illustrated by the grading plans, erosion and sedimentation control plans, specifications approved by the Director or drainage plans approved by the Public Works Director.

c. **Special Circumstances.**

(1) **Correction to hazardous condition.** Whenever the Director determines that any existing excavation, constructed embankment or fill on land subject to County regulations has become a hazard to life and limb, endangers property, adversely affects the safety, use or stability of a public right-of-way or drainage channel, or creates a significant environmental impact, the Director shall notify the owner of the property, or other person or agent in control of the property. Corrections, remedies, and repairs made necessary by a hazardous situation may be made as required before permits are applied for or issued, at the discretion of the Director. Upon receipt of written notice from the Director, the owner or agent shall within the period specified therein:

(i) Correct, repair or eliminate the condition; and

(ii) Comply with the requirements of this Code, which may entail preparation of a grading plan, erosion and sedimentation control plan, Stormwater Pollution Prevention Plan, and obtaining any necessary permits.

(2) **Emergency work.** Section 23.03.045 establishes the procedures for issuance of emergency permits in situations that constitute an emergency. Corrections, remedies and repairs made necessary by an emergency situation involving the sudden, unexpected occurrence of a break, rupture, flooding or breach of an existing facility which presents an immediate threat to life, health or property, may be made as required before the grading permits are applied for or issued. For the purposes of the Grading Ordinance, a threat to property may include potential damage to agricultural crops. Written notification and a description of the work shall be submitted to the Director as provided by Section 23.03.045. Permits for emergency work shall be applied for within 15 days of commencement of work. This shall include emergency work done under the Emergency Watershed Protection Program in cooperation with the USDA Natural Resources Conservation Service and the Resource Conservation Districts.

(3) **Unpermitted (as-built) grading.** If grading operations are commenced before first securing a proper grading permit, no permit will be issued until all illegal grading has been stopped, except to restore the site to its original condition or to correct hazardous conditions to the satisfaction of the Director. Once the site is deemed safe, the owner shall obtain proper permits to rectify the code enforcement violation within a reasonable time as determined by code enforcement. If activities were exempt under Section 23.05.032, but failed to adhere to specified requirements for exemption, such as erosion and sedimentation control practices, these activities shall be considered unpermitted grading. Unpermitted grading is also subject to the following:

(i) All unpermitted grading, which is not exempt under Section 23.03.032, shall require a grading permit. Grading which is listed as exempt under Section 23.03.032, but results in erosion and sedimentation control failures, shall also require a grading permit.

(ii) Unpermitted grading shall be ineligible for the alternative review program established in Section 23.05.034, unless the Director determines that site-specific conditions and characteristics warrant use of the alternative review program.

(iii) Grading and drainage plans shall be prepared by a registered civil engineer. All plans shall be signed and stamped by the engineer of record. Plans must include a detailed written scope, description of the intended use of the grading area, and all required grading plan contents as specified in Section 23.05.038.

(iv) A registered civil engineer or geotechnical engineer shall certify that the work performed meets the California Building Code and the Grading Ordinance. In the event that the work performed does not meet these grading standards, then the grading plans must show remedial work to correct deficiencies.

(v) The Director may require approval and implementation of an erosion and sedimentation control plan in the interim if weather or site conditions warrant such action.

(vi) If the engineer of record identifies a potentially hazardous condition as a result of the unpermitted site work, the engineer may recommend pursuing immediate remedial action subject to Subsection c(1).

(vii) In the event that no grading permit or land use permit can be issued for such operations, the site shall be restored to an acceptable condition as determined by the Director.

(4) **Denial and site restoration.** If the Director requires restoration of a site, restoration plans, prepared by a certified sediment and erosion control specialist or by other qualified professionals at the discretion of the Director, shall be submitted for review and approval prior to any restoration. The permit holder shall pay a restoration permit fee, in addition to any applicable penalties, which shall be equal to the grading permit fee for both the unpermitted quantity and restoring quantities of grading material. Restoration shall be made in conformity with the approved plans.

d. **Environmental review.**

(1) **Environmental determination.** As required by Title 14 of the California Administrative Code, all grading permit and restoration permit applications are to be reviewed by the Environmental Coordinator for an environmental determination in compliance with the California Environmental Quality Act (CEQA). This Section does not apply to those applications that are deemed exempt from the provisions of CEQA in compliance with section 15304, 15333, or 15061(b)(3) of the State CEQA Guidelines.

Exempt applications under Section 15304 of the State CEQA Guidelines include those that propose grading on terrain with slopes less than 10 percent, will involve less than 5,000 cubic yards of earthwork, do not involve site work in a waterway or wetlands, and are not located within a Sensitive Resource Area.

Exempt applications under Section 15333 of the State CEQA Guidelines include small habitat restoration projects.

Exempt applications under Section 15061(b)(3) of the State CEQA Guidelines include those projects where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

In any case where a drainage plan is required by Section 23.05.040 and an environmental determination is not otherwise required by Section 23.02.034 (Development Plan), Chapter 23.07 (Combining Designations), or Section 23.05.032 (Exemptions from Grading Permits), the project application shall be subject to an environmental determination in compliance with Section 23.05.034.b(1) before a decision to approve the application, except for single-family residences when exempt from the provisions of CEQA.

Unless exempt, no action shall be taken to approve, conditionally approve, or deny a grading permit or drainage plan until it is:

(i) Accompanied by a written determination by the Environmental Coordinator that the project is exempt from the provisions of CEQA; or

(ii) Accompanied by a duly issued and effective negative declaration; or

(iii) Accompanied by a certified environmental impact report.

(2) **EIR required.** Where an environmental impact report (EIR) is required in compliance with CEQA and:

(i) If a Development Plan is not required by other provisions of the title, a grading permit application shall be processed, reviewed, and approved according to all the provisions of Section 23.02.034 (Development Plan), and the criteria of Subsection e(1) (Criteria for Approval); or

(ii) If the Development Plan is required by other provisions of this Title, a grading permit application shall be processed, reviewed, and approved according to the provisions of this Section, including a requirement that the grading permit application shall be consistent with and satisfy all condition of approval of the Development Plan.

(3) **EIR not required.** Where a grading permit is determined to be exempt from the provisions of CEQA or has been granted a proposed negative declaration, the Director or applicable Review Authority may approve the environmental determination and the permit where the proposed grading is in conformity with applicable provisions of this Title, provided:

(i) The Director may require that grading operations and project designs be modified if delays occur that result in weather-generated problems not addressed at the time the permit was issued.

(ii) Where a proposed negative declaration for a grading permit has been issued upon an agreement by the applicant to incorporate mitigation measures into the project that are necessary to reduce its environmental impacts, such mitigation measures shall be added and shown on the grading plans prior to permit issuance, and their completion and inspection shall be required prior to final inspection approval.

(iii) The comment period for the negative declaration has expired and no comments have been submitted.

(iv) The grading permit received an exemption under CEQA.

e. Approvals.

(1) **Criteria for approval.**

(i) **Grading plan.** A grading permit may be issued where the Director first finds, where applicable, that:

(a) Proposed grading is consistent with erosion and sedimentation control plan requirements (Section 23.05.042) and applicable standards (Section 23.05.048.c);

(b) The proposed grading design is consistent with the characteristics and constraints of the site;

(c) The extent and nature of proposed grading is appropriate for the use proposed, and will not create site disturbance to an extent greater than that required to establish the use;

(d) Proposed grading is consistent with the intent of the General Plan and any applicable specific plan;

(e) Proposed grading will not result in accelerated erosion, stream sedimentation, significantly reduced groundwater recharge or other adverse effects or hazards to life or property;

(f) Proposed erosion and sedimentation control measures are appropriate for the degree of site disturbance proposed and characteristics of the site and will result in the establishment of a permanent vegetative cover on denuded areas not otherwise permanently stabilized;

(g) Unless overriding findings have been made through preparation of an Environmental Impact Report, the proposed grading will not create substantial adverse long-term visual effects;

(h) If the proposed grading is for the creation of a building site, a design for an access road, if necessary, shall be approved with the grading permit;

(i) Adequate sewage disposal and water supplies are available;

(j) Project plans and approvals comply with General Construction Permit and NPDES Phase II provisions, including the preparation of a stormwater pollution prevention plan, if applicable; and

(k) The proposed grading complies with the air quality control procedures identified in Section 23.05.050.c.

(l) If the proposed grading is to accommodate non-agricultural development on agricultural land, the non-agricultural development has been located off of prime agricultural soils to the maximum extent feasible.

(m) The proposed grading complies with all applicable provisions of the Local Coastal Program and the California Coastal Act.

(ii) **Drainage plan.** All drainage plans shall be submitted to the Public Works Director for review, and are subject to the approval of the Public Works Director, prior to issuance of a land use, grading or construction permit, as applicable.

(a) **Appeal.** Actions of the Public Works Director on drainage plans may be appealed to the Board of Supervisors in compliance with the procedure set forth in Section 23.01.042.

(b) **Plan check, inspection and completion.** Where required by the Public Works Director, a plan check and inspection agreement shall be entered into and the drainage facilities inspected and approved before final project approval is issued.

(2) **Agency referrals and conditions of approval.** The Director may refer application materials to appropriate agencies for review and comment prior to grading permit approval. In granting any permit in compliance with the Grading Ordinance, the Director may impose, modify, or add conditions as reasonably necessary to prevent potentially adverse environmental impacts, nuisances, or unreasonable hazards to persons, public or private property, sensitive resources, productive soils, native vegetation, or cultural resources. Conditions may include, but are not limited to:

(i) Modifications necessary to ensure that plans comply with all applicable standards in this Title.

(ii) Improvement of any existing grading to bring it up to the standards required by the Grading Ordinance for new grading.

(iii) Requirements for fencing of excavations or fills which would otherwise be hazardous.

(iv) Adequate fugitive dust control measures as recommended by the San Luis Obispo County Air Pollution Control District and approved by the Director.

(v) An approved operational plan for creating, using and restoring a borrow area or pit.

(vi) Compliance with the purpose and intent of these grading, drainage, erosion and sedimentation control, and stormwater pollution prevention regulations (Section 23.05.040 through 23.05.044) or the grading, drainage, erosion and sedimentation control, and stormwater pollution prevention standards of Section 23.05.048.

(vii) Requirements for fencing or other protective measures around cultural resources, native trees, riparian or wetland vegetation, or other sensitive resources identified for protection.

(viii) Mitigation measures identified in the project's negative declaration, developer's statement, or environmental impact report.

(ix) Limitations on haul routes for materials and hours of operation.

(x) Requirements necessary to implement the recommendations identified in the project's civil engineering report, soils engineering report, engineering geology report, or erosion and sedimentation control plan.

(xi) Transfer of responsibility agreement if original civil engineer, soils engineer, engineering geologist, erosion control specialist, or grading contractor is replaced.

(xii) Groundwater recharge measures if the project site is known as a valuable groundwater recharge area.

(3) **Security.** The Director shall require guarantees of performance for all engineered grading plans as set forth in Section 3311 of the 1997 Uniform Building Code Appendix Chapter 33 and Section 23.02.060, to ensure that the work, if not completed in compliance with the approved plans and specifications, will be corrected to eliminate hazardous conditions, or restore the site to pre-graded or natural condition. The Director may also identify other grading permits that require such security to ensure that environmental impacts are mitigated.

(i) A performance agreement and security posted with the County may be required if, in the Director's opinion, site characteristics including slope, proximity to waterways, neighboring structures, or sensitive resources; or the nature of work to be performed warrant a guarantee.

(ii) The guarantee of performance shall cover one hundred twenty percent (120%), (which includes contingencies, engineering and inspection) of the full amount required to assure completion, restoration and/or remediation, based upon estimates approved by the Director and must provide a right of entry from the property owner.

(iii) Every guarantee of performance shall be made on the conditions that the permit holder shall:

(a) Comply with all the provisions of this Code, applicable laws and ordinances.

(b) Comply with all of the terms and conditions of the grading permit.

(c) Complete all grading, drainage and erosion control work contemplated under the grading permit within the time limit specified in the grading permit, or if no time limit is so specified, the time limit specified in the Grading Ordinance. The Director may, for sufficient cause, extend the time specified in the permit, but no extension shall release the owner or the surety on the bond or person issuing the instrument of credit.

(iv) Each guarantee of performance shall remain in effect until the completion of the work as specified according to the plans, specifications, and terms and conditions of the grading permit to the satisfaction of the Director.

(v) In the event of failure to complete the work or failure to comply with all of the conditions and terms of the grading permit, the Director may order such work as in his opinion is necessary to correct any deficiencies or eliminate any dangerous conditions and leave the site in a safe condition. The Director may order the work authorized by the permit to be completed to a safe and stable condition to the Director's satisfaction, or may order restoration of the site to pre-graded or natural condition, or such condition deemed appropriate by the Director. The permit holder and/or the surety executing the performance agreement 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 County in causing any and all such work to be completed. In the case of a cash deposit, any unused portion thereof shall be refunded to the permit holder.

(vi) The guarantee of performance, less costs of remedial work, if any, shall be released when the Director determines that the erosion, sediment control, and revegetation practices have adequately stabilized the site.

(vii) The grading permit may provide for the partial release of the bond or other security required by this Section upon the partial acceptance of the work in compliance with Subsection f(4) (Notification of Completion).

(viii) Any contractor or other person engaged in continuous or repeated excavations or, in the case of a construction permit, concurrent with that permit, may provide a blanket security or blanket deposit in the amount sufficient to insure prompt completion of all excavation projects being conducted at any one time. If the number or amount of excavation projects exceeds the amount of the security or deposit, the Director may require additional security or deposit to insure completion of all work being done at any one time.

f. Permits.

(1) Permit application procedure. An application for a grading permit consists of written and graphic information in compliance with Section 23.05.038.b (Grading Plan Content) as well as a statement of compliance with Subsection e(1) (Criteria for Approval). Not all applications require the same level of information. In some situations, additional information may be required after initial review based upon the nature, degree, or location of proposed work.

(2) Grading permit time limits.

(i) Grading with no affiliated construction permit. An approved grading permit that is not affiliated with a construction permit is valid for a period of one year from the date of permit issuance, unless:

(a) Grading has begun, and an inspection has been recorded; or

(b) An extension has been granted as set forth in Section 19.02.020f of the Building and Construction Ordinance.

(ii) Grading with an affiliated construction permit. An approved grading permit that is affiliated with a construction permit is subject to the expiration limits, based on the associated structure, as identified in Sections 19.02.020e and 19.02.020f of the Building and Construction Ordinance.

(iii) Expiration. Grading authorized by a permit that expires in compliance with this Subsection shall constitute a nuisance and shall be subject to abatement in compliance with Chapter 23.10 unless a new permit is obtained in compliance with California Building Code Section 105.5.2, as modified by Section 19.02.020.f of the County Code, and work is completed.

(iv) Time limits for unpermitted grading. Projects where grading operations are commenced before first securing a proper permit are subject to the following time limits:

(a) Application. Applications for unpermitted grading shall be valid for a period of 60 days from the date of the application. Failure to issue a permit resulting from an incomplete application submittal during this time period shall cause the application to be expired and referred to the code enforcement official. No extensions are allowed without the express written permission from the code enforcement official or Building Official. Extensions may be authorized as necessary to allow completion of environmental review.

(b) Completion of grading. Grading permits for projects involving previously unpermitted grading shall be valid for a period of 90 days from the date of issuance. Time extensions for a previously unpermitted grading project may only be authorized by the Building Official for due cause.

(3) Revocation of permits.

(i) Failure to comply with any provision of the Grading Ordinance or the permit may cause revocation or suspension of the permit. In either case, the owner or permit holder shall be notified in writing of this action and the reasons for the action.

(ii) If the operations of the permit holder create an unreasonable occurrence of dust, noise, excessive traffic or other nuisance, the Director may require the permit holder to abate the nuisance and may suspend the permit until abatement measures are taken. Continuance of work without abating the nuisance shall be reason to revoke the permit.

(4) **Notification of completion.** The permit holder shall notify the Director when the grading operation is ready for final inspection. Final approval shall not be given until all work, including installation of all drainage facilities, recharge facilities, their protective devices, erosion and sedimentation control measures, and Best Management Practices (BMPs) have been completed in compliance with the final approved plans, and the required reports have been submitted and approved by the Director.

23.05.038 - Grading Plan Requirements

All applications for a grading permit shall be accompanied by a grading plan consistent with this Section.

a. **Professionals qualified to prepare grading plans.**

(1) Grading Plans may be prepared by anyone who can accurately provide the necessary information for the application, grading plan, erosion and sedimentation control plan, drainage plan, and stormwater pollution prevention plan review. This may include the applicant, a draftsperson, designer, certified sedimentation and erosion control specialist or licensed individuals who are normally involved with a project such as a civil engineer, surveyor, architect, or landscape architect. Should additional information be required due to unique physical characteristics of the site, this may require the information be prepared by the appropriate licensed professional.

(2) Grading Plans prepared for an Engineered Grading Plan (as defined by Subsection c) may be prepared only by professionals licensed by the State of California to prepare grading and drainage plans. The assistance of other professionals approved by the County is encouraged. These professionals may include landscape architects, soil engineers, geologists, engineering geologists, certified sedimentation and erosion control specialists, botanists, biologists, and archaeologists.

b. **Grading Plan content.** A grading plan shall be legible and accurately drawn to scale using standard drafting techniques. Plans shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of the Grading Ordinance and all relevant codes and regulations. Plans shall include, but not be limited to, the following information unless waived by the Director:

(1) **General site information.**

(i) The name, address, and phone number of the owner and the person by whom the plans were prepared.

(ii) A description of the land upon which the work is to be performed, including Assessor's Parcel Number, street address, tract, block, and lot number.

(iii) An accurate location map with enough detail to find the site in the field and detailed directions to the site.

(iv) An accurate site plan that delineates the limits of grading activities.

(v) Photograph(s) (attached to plans) which clearly show the area to be disturbed and characteristics of the site.

(vi) A written scope of work, including references to any documents associated with the scope of work. Where grading was previously unpermitted, discussion on background and history of the grading activities shall be included.

(2) Work schedule and information.

(i) A statement as to the specific intentions or ultimate purpose for which the grading is being performed.

(ii) A work schedule, including the following information:

(a) Proposed grading schedule and construction sequence of excavation, filling, stockpiling and other land disturbing activities.

(b) Proposed timing and application of all erosion and sedimentation control and stormwater pollution prevention methods, practices, devices, and methods of cleaning and disposing of accumulated sediment collected by temporary and permanent sediment control devices.

(c) Amount of time needed to complete grading activities, and the number and types of earth moving equipment to be used.

(d) Testing schedule for compacted fills.

(iii) A list of the inspections required under Section 23.05.052.

(3) Topography and earthwork quantities.

(i) Existing or natural ground contours, and proposed ground contours at intervals of no more than two feet for area to be graded and five feet for the remainder of site. On rural parcels exceeding 80 acres, existing and proposed contours shall be shown at two foot intervals for area to be graded, and the remainder of site at 20 foot intervals. The latest USGS topographic maps may be used as a source of information for the 20 foot intervals.

(ii) An estimate of the volume of earth to be moved, expressed in cubic yards, verified and stamped by the engineer of record. Calculations shall be provided to support the estimate.

(iii) An estimate of the surface area of earth to be moved, expressed in square feet, verified and stamped by the engineer of record. Calculations shall be provided to support the estimate.

(iv) An estimate of the total area of site disturbance, expressed in square feet. This total shall include all vegetation removal in addition to soil disturbance.

(v) An estimate of total area in square feet of native vegetation to be removed.

(4) Cuts and fills.

(i) Cuts and fills shall be limited to the minimum amount necessary to establish the proposed use. Specify amounts of cut and fill. Identify location of site(s) to receive fill, showing area and depth of fill. Identify location of borrow site(s) and depth of borrow. Whenever possible, cut and fill should be balanced on the site.

(a) If fill materials are imported to the site, provide information regarding the proposed source(s) and amount of material. If the source changes due to other materials becoming available, this information shall be provided to the Department of Planning and Building as known.

(b) If excavated materials are exported provide statement of amount, method of disposal, proposed location(s), and details on applicable permits.

(c) If permits are necessary for the site providing the fill material or receiving excavated material, provide evidence that permits have been issued for that site.

(d) Provide information regarding the proposed routes for hauling material, hours of work, and methods of controlling dust.

(ii) An estimate of the maximum and minimum vertical depth of cuts and fills, expressed in feet and cut and fill slope ratios.

(iii) Any required retaining walls or other means of retaining cuts or fills. Additionally, provide details and calculations of the retaining walls, drainage devices, and all other protective structures to be constructed as part of the grading permit.

(5) Finish elevations.

(i) Elevation of the finish floor of the garage or other parking areas.

(ii) Ground and finish floor elevations at the base of building or structure corners.

(iii) Elevations of the edge of pavement or road at driveway entrance.

(iv) Elevations of the top of wall and bottom of footing of proposed retaining walls.

(6) Site improvements and features.

(i) The location of all existing and proposed surface and subsurface drainage ways and drainage systems on the site and adjacent property which may affect or be affected by the proposed project.

(ii) The location of all existing and proposed buildings, structures, easements, groundwater recharge areas, wells or sewage disposal systems on site, and the approximate location of these items on adjacent property that are within 100 feet of the property boundary or which may affect or be affected by the proposed project. Show spot elevations at corners of existing and proposed buildings or structures and lots where proposed grading will occur.

(iii) Location, description, type or topographic description of existing rock outcropping, natural feature, vegetation, individual oak trees, wooded areas or trees that are five inches or greater in diameter measured 4.5 feet above ground level proposed for disturbance and/or removal. Botanical, archaeological, or biological surveys prepared by a qualified individual may be required where warranted. Show centerline of streams and flood plain lines, if applicable. Clearly identify on the plan the boundary and general characteristics of areas within which no disturbance will occur.

(7) Soils.

(i) A copy of a soils map and soils descriptions covering the project site and adjacent properties (available for free through the USDA Natural Resources Conservation Service, Upper Salinas - Las Tablas and Coastal San Luis Resource Conservation Districts, or online).

(ii) When required by the Director, each application for a grading permit shall be accompanied by two sets of supporting data consisting of a civil engineering report, soil engineering report, engineering geology report, erosion and sedimentation control report, and/or any other reports necessary. In many instances this information may be shown on the face of the plan.

(iii) Reports shall be prepared by qualified professionals with experience in report preparation and grading plan implementation. Recommendations included in the reports that are approved by the Director shall be incorporated into the grading plan. (See Subsection c, Engineered Grading Requirements.)

(iv) Clearly shown groundwater recharge methods that have been incorporated into the project design.

(v) A drainage plan if required by Section 23.05.040.

(vi) An erosion and sedimentation control plan (Section 23.05.042), including protective measures to be taken during construction, such as hydro-mulching, berms (temporary or permanent), interceptor ditches, subsurface drains, terraces, and/or sediment traps in order to prevent erosion of the cut faces of excavations or of the sloping surfaces of fills. No grading work shall be permitted unless the plans and specifications submitted for approval include an erosion and sedimentation control plan (and SWPPP if applicable) approved by the Building Official. The requirements of the erosion and sedimentation control plan shall be implemented, as required by the plan, prior to, during, and after any grading. Control measures contained in the erosion and sedimentation control plan shall be implemented according to the California Stormwater Quality Association (CASQA) Stormwater Best Management Practice (BMP) Handbooks (reference: http://www.cabmphandbooks.com).

(vii) **Stormwater control measures.** Where required by Section 23.05.044 (such as when construction activity includes one acre or more of disturbance or is part of a common development of one acre or greater):

(a) The application shall include a copy of the Notice of Intent (NOI) and the Stormwater Pollution Prevention Plan (SWPPP).

(b) The owner and/or permit holder of any property on which grading has been performed and that requires a grading permit under Section 23.05.028 shall put into effect and maintain all precautionary measures necessary to protect adjacent watercourses and public or private property. These measures shall be designed to avoid damage by erosion, flooding, and deposition of mud, debris and construction-related pollutants originating from the site. These measures shall remain in effect during and after grading and related construction activities as set forth in the SWPPP.

(c) The owner and/or permit holder shall be responsible for applying and maintaining appropriate measures necessary to prevent any change in cross-lot surface drainage that may adversely affect any adjoining property as a result of grading and/or construction-related activities. Such measures to prevent any adverse cross-lot surface drainage effects on adjoining property shall be required whether shown on approved grading plans or not.

(viii) All applicable dust control measures identified in Section 23.05.050.c.

(8) **Additional information.** Additional plans, drawings, calculations, or information deemed necessary by the Director to adequately review, assess, and evaluate the proposed project's impacts and to show that the proposed work conforms with the requirements of the Grading Ordinance and other applicable provisions of this Code.

c. **Engineered Grading Plan requirements.** When required pursuant to Subsection c(1), the grading plan shall be prepared and signed and sealed by a qualified, registered civil engineer or other qualified professional licensed by the state to perform such work, and shall include specifications covering construction, inspection and material requirements in addition to the information required in compliance with Subsection b. Additionally, those items required by Subsections c(2) through c(4) shall accompany the grading plans.

(1) **When required.** Engineered grading is required when one or more of the following circumstances exist:

(i) The grading will involve 5,000 cubic yards or more (cumulative).

(ii) The grading involves site work on slopes of 20 percent or greater.

(iii) The proposed grading is located within a Geologic Study Area or Flood Hazard area.

(iv) The Director has cause to believe that geologic hazards may be involved.

(v) The proposed grading is located within 100 feet of an Environmentally Sensitive Habitat Area.

(2) **Site and drainage report.** The site and drainage report, shall include, but not be limited to:

(i) The date the report was prepared and the name, address, and phone number of firm or individual who prepared the report.

(ii) Hydrology calculations showing maximum peak discharges of water runoff for 10-year and 100-year storm frequencies and comparison of runoff with and without project. Hydraulic calculations for existing down stream runoff conveyance systems that will be impacted by the proposed project runoff.

(iii) Summary of the groundwater recharge methods that have been incorporated into the project design.

(iv) Inspection and approval to establish lines and grades, design criteria for corrective measures, including the required safe storm drainage capacity of channels both on- and off-site.

(v) Soils, geology, or civil engineer's opinions and recommendations concerning adequacy of site to be developed by the proposed grading.

(vi) Sequence and type of recommended inspections.

(3) **Geotechnical report.** The geotechnical report, shall contain, but need not be limited to, all the following information:

(i) The date the report was prepared and the name, address and phone number of firm or individual who prepared the report.

(ii) Data regarding the nature, distribution, and strength of existing soils.

(iii) Data regarding the nature, distribution, and strength of soil to be placed on the site, if any.

(iv) Conclusions and recommendations for grading procedures.

(v) Conclusions and recommended designs for interim soil stabilization devices and measures for permanent soil stabilization after construction are completed.

(vi) Design criteria for corrective measures including buttress fills, when necessary.

(vii) Identification of existing cuts and fills on site, recommended measures for compaction, slope stability and other factors affecting suitability for support of a structure.

(viii) Engineer's opinions and recommendations concerning adequacy for the intended use of site to be developed by the proposed grading as affected by soils engineering factors, including the stability of slopes, foundation recommendation, soil design criteria, liquefaction, expansive soil, loose or soft soils, areas of unknown problems, undocumented fill, cut/fill, unusual loading, shallow ground water or springs, and landslides.

(ix) Sequence and type of recommended inspections.

(4) **Engineering geology report.** The engineering geology report shall comply with protocol approved by the Department of Planning and Building and shall contain, but need not be limited to, the following information:

(i) The date the report was prepared and the name, address, and phone number of firm or individual who prepared the report.

(ii) An adequate description of the geology of the site.

(iii) Conclusions and recommendations regarding the effect of geologic conditions on the proposed development.

(iv) An opinion on the adequacy for the intended use of site to be developed by the proposed grading, as affected by geologic factors.

(v) Need for underground drainage devices or opportunities for underground recharge devices.

(vi) Sequence and type of recommended inspections.

(vii) If the proposed grading is for a habitable structure, and the geologist has identified evidence of recent fault ruptures occurring near the proposed structure, additional geological information will be necessary. The guidelines suggested in the California Division of Mines and Geology Notes #49 or subsequent additions shall be used to prepare this supplemental report.

23.05.040 - Drainage Plan Required

a. **Requirements.** Drainage plans shall be prepared and submitted for review and approval by the Public Works Director, where required by this Title, by the planning area standards of the Land Use Element, or where a project:

(1) Increases or decreases runoff volume or velocity leaving any point of the site beyond those that existed prior to site disturbance activities; or

(2) Involves a land disturbance (grading, or removal of vegetation down to duff or bare soil, by any method) of more than 20,000 square feet; or

(3) Will result in an impervious surface of more than 20,000 square feet; or

(4) Is subject to local ponding due to soil or topographic conditions; or

(5) Is located in an area identified by the Public Works Director or building inspector as having a history of flooding or erosion that may be further aggravated by or have a harmful effect on the project or adjoining properties; or

(6) Is located within a Flood Hazard (FH) combining designation; or

(7) Is located over a known high recharge area identified by the Public Works Director; or

(8) Involves land disturbance or placement of structures within 100 feet of the top bank of any watercourse shown with a blue line on the most current USGS 7½ minute quadrangle map; or

(9) Involves hillside development on slopes steeper than 10 percent; or

(10) May, by altering existing drainage, cause an on-site erosion or inundation hazard, or change the off-site drainage pattern, including, but not limited to any change in the direction, velocity, or volume of flow; or

(11) Involves development on a site adjacent to any coastal bluff.

b. **Exemptions.** Preparation of a drainage plan is not required where grading is exclusively for an exempt agricultural accessory structure, crop production, or grazing. This shall include any agricultural roads used exclusively for these purposes when they do not require issuance of a County grading permit. Drainage plans may also be waived where authorized by the Public Works Director.

c. **Submittal.** Where required by Subsection a, drainage plans are to be submitted with or be made part of the Zoning Clearance, Plot Plan, Minor Use Permit, Site Plan Review, Development Plan, grading permit, or construction permit application.

d. **Drainage plan content.** Drainage plans shall be legible and accurately drawn, at an appropriate scale that will enable ready identification and recognition of submitted information. The Public Works Director may require drainage plans to be prepared by a registered civil engineer.

(1) **Basic drainage plan contents.** A drainage plan shall include the following information about the site:

(i) Flow lines of surface waters onto and off the site.

(ii) Existing and finished contours at two-foot intervals or other topographic information required by the Public Works Director.

(iii) Building pad, finished floor and street elevations, existing and proposed.

(iv) Location and graphic representation of all existing and proposed natural and man made drainage facilities for storage or conveyance of runoff, including drainage swales, ditches, culverts and berms, sumps, sediment basins, channels, ponds, storm drains and drop inlets. In addition, private water wells and sewage disposal systems must be shown. Include detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with or as a part of the proposed work.

(v) Proposed flood-proofing measures where determined to be necessary by the Public Works Director and in accordance with Federal Emergency Management Agency (FEMA) requirements.

(vi) For projects where the Director or Public Works Director determines that increased discharge rates and durations could result in off-site erosion or other impacts to beneficial uses, the project shall incorporate appropriate hydromodification measures as identified in the Low Impact Development (LID) Handbook. Such measures shall be clearly depicted on the drainage plan.

(2) **Engineered plan content.** In addition to the information required by Subsection d(1), engineered drainage plans are to include:

(i) An evaluation of the effects of projected runoff on adjacent properties and existing drainage facilities and systems.

(ii) A map showing the drainage area and hydraulic calculations showing the facilities flow carrying capacities for the design storm event and justifying the estimated runoff of the area served by any drain. Include design discharges and velocities for conveyance devices, and storage volumes of sumps, ponds, and sediment basins based on the design storm.

(iii) Estimates of existing and increased runoff resulting from the proposed improvements and methods for reducing velocity of any increased runoff.

(iv) Methods for enhancing groundwater recharge that have been incorporated into the project design or an explanation of non-necessity of groundwater recharge for this site.

23.05.042 - Erosion and Sedimentation Control Plan Required

a. **Requirements.** An erosion and sedimentation control plan shall be required year-round for the following types of projects:

(1) **Construction and grading.** All construction and grading permit projects.

(2) **Site disturbance activities.** Any site disturbance activities involving removal of one-half acre or more of native vegetation in any of the following areas:

(i) Geologically unstable areas.

(ii) On slopes in excess of 30 percent.

(iii) On soils rated by the National Resources Conservation Service (NRCS) as having severe erosion hazards.

(iv) Within 100 feet of any watercourse shown on the most current 7-1/2 minute USGS quadrangle map.

b. **Exceptions.** An exception to the requirement for an erosion and sedimentation control plan may be authorized by the Building Official or Public Works Director only when all the following site characteristics exist in the area to be disturbed; and all work will be completed, and no portion of the site will remain disturbed between October 15 and April 15:

(1) Site disturbance is located in an area that has a maximum slope of less than 10 percent.

(2) Site disturbance is not located within geologically unstable areas.

(3) Site disturbance is located on soils rated as having a low erosion hazard by the USDA Natural Resources Conservation Service (unless the building inspector or Public Works Director is aware of the potential for erosion problems in the area).

(4) Site disturbance is located more than 300 feet from the top bank of any blue line watercourse or water feature shown on the most current 7 ½ minute USGS quadrangle map.

(5) The grading will not cause organic or earthen materials from logging, construction or other land disturbance activities to be carried into a swale, drainage way, watercourse, or onto adjacent properties by rainfall or runoff.

(6) The project will create minimal site disturbance from combined activities.

c. **Stormwater Quality Plan (SWQP).** All erosion and sedimentation control plans shall be accompanied with a complete SWQP application, unless exempted by the Director or the Public

Works Director. Best Management Practices (BMPs) shall be in compliance with the Low Impact Development (LID) Handbook.

d. **Erosion and sedimentation control plan content.** An erosion and sedimentation control plan shall address pre-construction, during construction, and post-construction measures. Measures shall be in place to control erosion and sedimentation prior to the commencement of grading and site disturbance activities unless the Director of Planning and Building or the Public Works Director determines temporary measures to be unnecessary based upon location, site characteristics or time of year.

Plans may be incorporated into and approved as part of a grading or drainage plan, but must be clearly identified as an erosion and sedimentation control plan. Erosion and sedimentation control plans are reviewed and approved by the Director of Planning and Building or the Public Works Director. The plan shall be prepared by a certified sediment and erosion control specialist, a registered civil engineer, registered architect or landscape architect, certified California nurseryman, licensed landscape contractor, Resource Conservation District or USDA Natural Resources Conservation Service Specialist, or other qualified persons acceptable to the Department of Planning and Building with competence and experience in erosion control plan preparation and implementation.

The plan shall consist of graphic and narrative information of sufficient clarity to indicate the nature, extent, location and placement recommendations (including installation procedures and requirements) of the erosion and sedimentation control measures proposed and show in detail that they will conform to the provisions of the Grading Ordinance. The location of all practices, methods and devices shall be shown on the grading plan, or on a separate plan at the discretion of the Director. If separate, it shall be attached to the grading plan used in the field. The plan shall contain, but need not be limited to, all the following information unless some of the information is waived by the Director of Planning and Building or the Public Works Director as not needed for the review of a particular site and its characteristics:

(1) Grading limits shall be graphically defined on the plan and staked out before site disturbance begins.

(2) An outline of the areas of soil disturbance, cut, or fill which will be left exposed during any part of the rainy season, representing areas of potential soil erosion where erosion and sedimentation control BMPs are required to be used during construction.

(3) Estimates of sediment yields before, during, and after construction of the project for a three year period or until revegetation is established. (One acceptable method is the "Universal Soil Loss Equation" developed by the USDA Agricultural Research Service.)

(4) Proposed methods and a description of the BMPs to be used to protect exposed erodible areas during construction, including temporary mulching, seeding, or other recognized surface stabilization measures.

(5) Proposed pre-construction, during construction, and post-construction methods and a description of the practices to be used for cut or fill slopes to prevent erosive surface runoff, including earth or paved interceptors and diversions, energy absorbing structures, or devices and techniques to reduce the velocity of runoff water.

(6) When revegetation is required for smaller disturbed areas near habitats identified at the state and/or federal levels as sensitive (e.g. near creeks or wetlands, coastal scrub), propose an alternative "native-friendly" mix of seeds and/or cuttings that are compatible with the sensitive habitat. The alternative mix to be used shall: a) grow reasonably quickly; b) be from locally-

or commercially-available native seed or plant stock; c) be compatible with the surrounding native habitat and climate; and d) be free from noxious weed seed of local and statewide importance (as identified by the Agricultural Commissioner's Office). Where larger areas are to be reseeded, the applicant should consult with a qualified botanist or other qualified expert of native plants to survey the site and determine the best mix of native species.

(7) Proposed methods and description of the temporary and final practices to retain sediment on the site, including sediment basins and traps, vegetative filter strips, or other recognized BMPs, a schedule for their maintenance and upkeep, and provisions for responsibility of maintenance. Include design criteria for the trapping efficiency and storage capacities of sediment basins for flows from a 10-year storm.

(8) Proposed methods, application technique, seed and fertilizer rate, sequence, and description of final erosion control practices for revegetation of all surfaces disturbed by vegetation removal, grading, haul roads, or other construction activity, unless covered with impervious or other improved surfaces authorized by the approved plans. A schedule for maintenance and upkeep of revegetated areas shall be included. Erosion control methods may include a combination of approved mechanical or vegetative measures.

(9) The type, location, and extent of pre-existing and undisturbed vegetation on the site, including an outline of the areas of vegetative soil cover or native vegetation onsite which will remain undisturbed during the construction project.

(10) A description of the BMPs and control practices to be used for both temporary and permanent erosion control measures.

(11) A description of the BMPs to reduce wind erosion at all times, with particular attention paid to stock-piled materials.

(12) A proposed schedule for the implementation of erosion control measures.

(13) An estimate of the cost of implementing and maintaining all erosion and sedimentation control practices where bonds or other financial assurances are proposed or required.

(14) A statement signed by the individual preparing the plan certifying that the amount of site disturbance proposed has been reduced to the maximum extent practicable.

(15) Descriptions and graphic representation of proposed methods to limit access routes and stabilize all access points, and to delineate clearing limits, easements, setbacks, sensitive areas, buffer areas, and drainage courses.

(16) Other additional plans, drawings, calculations, photographs, or other information which are necessary to adequately review, assess, and evaluate proposals and to show that they comply with the requirements of the Grading Ordinance.

(17) A statement signed by the preparer of the plan certifying that the plan complies with all applicable standards in the Grading Ordinance, including those standards in Section 23.05.048.c (Erosion and Sedimentation Control standards).

e. **Field and weather conditions.** If field or weather conditions warrant, the Director may require erosion and sedimentation control devices be installed in addition to what is required by the approved plans.

23.05.044 - Stormwater Pollution Prevention Plan (SWPPP) Required

Note: Even if the project results in less than one acre of site disturbance, the Regional Water Quality Control Board may require coverage under a General Construction Permit and preparation of a SWPPP if there is a significant water quality impairment resulting from the activity.

a. **Requirement Criteria.** Unless exempted by Subsection b, a Stormwater Pollution Prevention Plan (SWPPP) is required prior to issuance of grading and/or construction permits, and/or prior to approval of subdivision improvement plans, for a project that involves clearing, grubbing, grading, or disturbance to the ground such as stockpiling or excavation that:

(1) Results in site disturbance of one acre or more of land area; or

(2) Results in site disturbance of less than one acre if the activity is part of a larger common plan of development that encompasses one acre or more of site disturbance.

b. **Exemption from SWPPP preparation.** The following projects do not require the preparation of a Stormwater Pollution Prevention Plan (SWPPP):

(1) Routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of an existing legally established use or development.

(2) Emergency construction activities required to protect public health and safety.

(3) Any project, such as irrigated agricultural activities, exempted from stormwater pollution prevention requirements under a valid waiver or conditional waiver adopted by the State Water Resources Control Board or the Central Coast Regional Water Quality Control Board.

c. **Coverage under the General Construction Permit.** Projects which require preparation of a SWPPP pursuant to this Section shall require coverage to discharge clean stormwater under the General Construction Permit administered by the Central Coast Regional Water Quality Control Board (RWQCB) and State Water Resources Control Board (SWRCB). To gain coverage, the applicant shall submit a Notice of Intent (NOI) or Permit Registration Documents (PRDs) to the SWRCB prior to construction. The SWRCB will issue a Waste Discharge Identification Number (WDID) for approved projects. The SWPPP shall include a copy of the NOI/PRDs and the WDID number. A copy of the SWPPP shall be supplied to the Planning and Building Department.

d. **SWPPP requirements.** SWPPPs shall comply with all of the requirements outlined in Sections A, B, and C of SWRCB General Construction Permit Number CAS000002, or any subsequent General Construction Permits that amend or replace Permit CAS000002. These requirements include, but are not limited to those measures described in Subsections f through j.

e. **County SWPPP review.** At the discretion of the Director and/or Building Official, the County may review and request modifications or amendments to the SWPPP in order to ensure compliance with the County Code and/or the General Construction Permit requirements. At the Director's discretion, a SWPPP may be required to be submitted as part of any discretionary permit review, where a project will meet the thresholds of Subsection a, and where such information is needed to ensure all construction and post-construction measures are appropriately evaluated pursuant to the California Environmental Quality Act (CEQA).

f. **Contents.** A SWPPP shall include the following:

(1) **Site Plan.** A site plan shall be provided showing the same information required on the following plans:

(i) Grading plan, pursuant to Section 23.05.038.b.

(ii) Drainage plan, pursuant to Section 23.05.040.c, with the addition of the following features:

(a) The anticipated discharge location(s) where the stormwater from the construction site discharges to a municipal separate storm sewer system or other water body.

(b) Drainage patterns across the project site and as far outside the project site as necessary to illustrate the relevant drainage areas.

(2) **Erosion and Sedimentation Control Plan.** A copy of the erosion and sedimentation control plan shall be included with the SWPPP. The erosion and sedimentation control plan shall include the following additional requirements:

(i) **Sediment basin requirements.** If a sediment basin is proposed as part of the erosion and sedimentation control plan, the basin shall be designed and maintained pursuant to this Code, provided that the design efficiency is as protective or more protective than the design standards found in the General Construction Permit.

(ii) **Public or private roads.** The SWPPP shall include a description of the BMPs to reduce the tracking of sediment onto public or private roads at all times. These public and private roads shall be inspected and cleaned as necessary. Road cleaning BMPs shall be discussed in the SWPPP and will not rely on the washing of accumulated sediment or silt into the stormwater conveyance system.

(3) **Pollutant sources and BMP identification.** The SWPPP shall include a description of potential sources of pollutants, including pollutants originating from off-site which may flow across or through areas of construction. Additionally, the SWPPP shall include the following:

(i) **Avoid runoff through construction areas.** Runoff from off-site areas shall be prevented from flowing through areas that have been disturbed by construction, unless appropriate conveyance systems and BMPs are in place. BMPs shall consider stormwater run-on and all calculations for anticipated stormwater run-on shall be shown.

(ii) **Stormwater inlets.** Show the drainage patterns into each on-site stormwater inlet point or receiving water, and describe or show the BMPs that will protect stormwater inlets and/or receiving waters (e.g. concrete rinse water, slurry from sawcutting, etc.).

(iii) **Contaminated soils or toxic materials.** Show or describe the BMPs implemented to minimize the exposure of stormwater to contaminated soil or toxic materials.

(iv) **Staging.** Show areas designated for the following: storage of soil or waste; vehicle storage and service areas; construction material loading, unloading, and access areas; equipment storage, cleaning, and maintenance areas.

(v) **Exposure to construction materials/equipment.** Describe the BMPs designed to minimize or eliminate the exposure of stormwater to construction materials, equipment, vehicles, waste storage areas, or service areas. The BMPs described shall be in compliance with federal, state, and local laws, regulations, and ordinances.

(vi) **Post-construction BMPs.** Describe all post-construction BMPs for the project, and show the location of each BMP on the site plan. Post-construction BMPs consist of permanent features designed to minimize pollutant discharges, including sediment, from the site after construction has been completed. Also, describe the agency or parties to be the responsible party for long-term maintenance of these BMPs.

(vii) **Impaired water bodies.** Show the locations of direct discharge from the construction site into any Clean Water Act Section 303(d) listed water bodies. Show the designated sampling locations in the receiving waters, which represent the prevailing conditions of the water bodies upstream of the construction site discharge and immediately downstream from the last point of discharge.

(viii) **Sampling.** Show the locations designated for sampling the discharge, associated with contaminated discharges other than sediment. Samples shall be taken if visual monitoring indicates that there has been a breach, malfunction, leakage, or spill from a BMP which could result in the discharge of pollutants that would not be visually detectable, or if stormwater comes into contact with soil amendments or other exposed materials or contamination and is allowed to be discharged. Describe the sampling procedure, location, and rationale for obtaining the uncontaminated sample of stormwater.

(4) **Additional sources of pollutants and identification information.**

(i) **Narrative description.** The SWPPP shall include a narrative description of pollutant sources and BMPs that cannot be adequately communicated or identified on the site map. In addition, a narrative description of preconstruction control practices (if any) to reduce sediment and other pollutants in stormwater discharges shall be included.

(ii) **Inventory of materials and activities.** The SWPPP shall include an inventory of all materials used and activities performed during construction that have the potential to contribute to the discharge of pollutants other than sediment in stormwater. Describe the BMPs selected and the basis for their selection to eliminate or reduce these pollutants in the stormwater discharges.

(iii) **Runoff.** The SWPPP shall include the following information regarding the construction site surface area: the size, the runoff coefficient before and after construction, and the percentage that is impervious before and after construction.

(iv) **Construction schedule.** The SWPPP shall include a construction activity schedule which describes all major activities such as mass grading, paving, parcel improvements at the site, and the proposed time frame to conduct those activities.

(v) **Responsible person(s).** The SWPPP shall list the name and telephone number of the qualified person(s) who have been assigned responsibility for pre-storm, post-storm, and storm event BMP inspections. The qualified person(s) that is/are assigned responsibility shall ensure full compliance with the permit and

implementation of all elements of the SWPPP. This shall include the preparation of the annual compliance evaluation and the elimination of all unauthorized discharges.

(5) Non-stormwater management.

(i) Describe all non-stormwater discharges to receiving waters that are proposed for the construction project. Non-stormwater discharges shall be eliminated or reduced to the extent feasible. Include the locations of such discharges and descriptions of all BMPs designed for the control of pollutants in such discharges.

(ii) Discharging sediment-laden water which will cause or contribute to an exceedance of the applicable RWQCB's Basin Plan from a dewatering site or sediment basin into any receiving water or storm drain without filtration or equivalent treatment is prohibited.

(6) Post-construction stormwater management.

(i) The SWPPP shall include descriptions of the BMPs to reduce pollutants in stormwater discharges after all construction phases have been completed at the site (Post- Construction BMPs).

(ii) The permit holder must consider site-specific and seasonal conditions when designing the control practices.

(iii) Operation and maintenance of control practices after construction is completed shall be addressed, including short-and long-term funding sources and the responsible party.

(7) Maintenance, inspection, and repair. The SWPPP shall include a discussion of the program to inspect and maintain all BMPs as identified in the site plan or other narrative documents throughout the entire duration of the project. Inspections are to be completed by the responsible party designated by the permit holder. The program shall include the following provisions:

(i) **Responsible person(s).** The name and contact information for the responsible person(s).

(ii) **Inspection timing.** Inspections shall be performed before and after storm events, and once each 24-hour period during extended storm events, to identify BMP effectiveness and implement repairs and/or design changes.

(iii) **Inspection checklist.** For each required inspection, the permit holder shall complete an inspection checklist, using an inspection checklist provided by the Regional Water Quality Control Board, and/or State Water Resources Control Board, or on a form containing equivalent information.

(iv) **Repairs.** All corrective maintenance to BMPs shall be performed as soon as possible after the conclusion of each storm depending upon worker safety. Repairs or design changes shall be completed as soon as feasible.

(8) Training. Individuals responsible for SWPPP preparation, implementation, and permit compliance shall be appropriately trained, and the SWPPP shall document all training. This includes those personnel responsible for installation, inspection, maintenance, and repair of

BMPs. Those responsible for overseeing, revising, and amending the SWPPP shall also document their training. Training should be both formal and informal, occur on an ongoing basis when it is appropriate and convenient, and should include training/workshops offered by the SWRCB, RWQCB, or other locally recognized agencies or professional organizations.

(9) **Contractors and subcontractors.** The SWPPP shall include a list of names of all contractors (or subcontractors) and individuals responsible for implementation of the SWPPP. This list shall include telephone numbers and addresses. Specific areas of responsibility of each subcontractor and emergency contact numbers shall also be included.

(10) **Incorporation by reference.** This SWPPP may incorporate by reference the appropriate elements of other plans required by local, state, or federal agencies. A copy of any requirements incorporated by reference shall be kept with the SWPPP at the construction site.

(11) **Certification by the preparer.** The SWPPP and each amendment shall be signed by the landowner (permit holder) or his representative and include the date of initial preparation and the date of each amendment.

g. **Monitoring and reporting program.** The SWPPP shall include a monitoring and reporting program meeting the following standards:

(1) **Annual certification.** Each permit holder or qualified assigned personnel listed by name and contact number in the SWPPP must certify annually that construction activities are in compliance with the requirements of the General Construction Permit and the SWPPP. This certification shall be based upon the site inspections required by Subsection f(7). The certification must be completed and submitted to the Department of Planning and Building and to the RWQCB **by September 1 of each year**.

(2) **Noncompliance reporting.** Permit holders who cannot certify compliance, in accordance with Subsection g(1) and/or who have had other instances of noncompliance excluding exceedances of water quality standards as defined in Section 23.05.048.d(2) (Receiving Water Limitations), shall notify the County and the Central Coast RWQCB within 30 days. Corrective measures shall be implemented immediately following discovery that water quality standards were exceeded. The notifications shall identify the noncompliance event, including an initial assessment of any impact caused by the event; describe the actions necessary to achieve compliance; and include a time schedule subject to the modifications by the RWQCB indicating when compliance will be achieved. Noncompliance notifications must be submitted within 30-calendar days of identification of noncompliance.

(3) **Monitoring records.** Records of all inspections, compliance certifications, and noncompliance reporting must be retained for a period of at least three years from the date generated.

(4) **Monitoring program for sedimentation / siltation.** Projects that may discharge stormwater into a threatened or impaired water body are subject to the following standards. A water body is considered threatened or impaired if it appears on the most recent list prepared pursuant to Section 303(d) of the Clean Water Act. Projects which discharge to tributaries that do not appear on the list of threatened or impaired water bodies, or that flow into a municipal separate storm sewer system (MS4) are not subject to these sampling and analysis requirements.

(i) **Sampling and analysis program.** The permit holder shall conduct a sampling and analysis program for the pollutants (i.e. sedimentation/siltation or turbidity) causing the impairment. The permit holder shall monitor for the applicable parameter.

(ii) **Sedimentation or siltation.** If the water body is listed for sedimentation or siltation, samples shall be analyzed for Settleable Solids (ml/l) and Total Suspended Solids (mg/l). Alternatively or in addition, samples may be analyzed for suspended sediment concentration according to ASTM D3977-97.

(iii) **Turbidity.** If the water body is listed for turbidity, samples shall be analyzed for turbidity, in terms of Nephelometric Turbidity Units (NTUs).

(iv) **Relationship to BMPs.** The sampling and analysis parameters and procedures must be designed to determine whether the BMPs installed and maintained prevent discharges of sediment from contributing to impairment in receiving waters.

(v) **Collection of samples.** Samples shall be collected during the first two hours of discharge from rain events which result in a direct discharge to any threatened or impaired water body. Samples shall be collected during daylight hours (sunrise to sunset). Permit holders need not collect more than four (4) samples per month. All samples shall be taken in the receiving waters and shall be representative of the prevailing conditions of the water bodies. Samples shall be collected from safely accessible locations upstream of the construction site discharge and immediately downstream from the last point of discharge.

(vi) **Laboratory analysis.** For laboratory analysis, all sampling, sample preservation, and analyses must be conducted according to test procedures under Title 40 of the Code of Federal Regulations, Part 136. Field samples shall be collected and analyzed according to the specifications of the manufacturer of the sampling devices employed. Portable meters shall be calibrated according to manufacturer's specification. All field and/or laboratory analytical data shall be kept in the SWPPP document, which is to remain at the construction site at all times until a Notice of Termination has been submitted and approved.

(5) **Monitoring program for pollutants not visually detectable in stormwater.** A sampling and analysis program shall be developed and conducted for pollutants which are not visually detectable in stormwater discharges, which are or should be known to occur on the construction site, and which could cause or contribute to an exceedance of water quality objectives in the receiving water. The program shall comply with the following provisions:

(i) **Construction sites.** Examples of construction sites that may require sampling and analysis include:

(a) sites that are known to have contaminants spilled or spread on the ground; or

(b) sites where construction practices include the application of soil amendments, such as gypsum, which can increase the pH of the runoff; or

(c) sites having uncovered stockpiles of material exposed to stormwater.

(ii) **Pollutants.** Pollutants that should be considered for inclusion in this sampling and analysis program are those identified as required by Subsections f(3) and f(4).

(iii) **Materials.** Construction materials and compounds that are not stored in water-tight containers under a water-tight roof or inside a building are examples of materials for which the permit holder may have to implement sampling and analysis procedures.

(iv) **Collection of samples.** Visual observations before, during, and after storm events may trigger the requirement to collect samples. Any breach, malfunction, leakage, or spill observed which could result in the discharge of pollutants to surface waters that would not be visually detectable in stormwater shall trigger the collection of a sample of discharge. Samples shall be collected at all discharge locations which drain the areas identified by the visual observations and which can be safely accessed. A sufficiently large sample of stormwater that has not come in contact with the disturbed soil or the materials stored or used on-site (uncontaminated sample) shall be collected for comparison with the discharge sample. Samples shall be collected during the first two hours of discharge from rain events that occur during daylight hours and which generate runoff.

(v) **Qualified personnel.** For sites where sampling and analysis is required, personnel trained in water quality sampling procedures shall collect stormwater samples.

(vi) **Comparison to uncontaminated sample.** The uncontaminated sample shall be compared to the samples of discharge using field analysis or through laboratory analysis. Analyses may include, but are not limited to, indicator parameters such as: pH, specific conductance, dissolved oxygen, conductivity, salinity, and totally dissolved solids (TDS).

(vii) **Laboratory analysis.** For laboratory analysis, procedures shall comply with Subsection g(4)(vi).

(6) **Additional requirements.** The County and/or RWQCB may require the permit holder to conduct additional site inspections, to submit reports and certifications, or perform sampling and analysis.

h. **Implementation.**

(1) The SWPPP shall be developed prior to the start of soil disturbing activities and shall be implemented concurrently with the commencement of soil disturbing activities.

(2) The site shall be maintained consistent with the stormwater pollution prevention standards of Section 23.05.048.d.

(3) For ongoing construction activity involving a change of ownership of property, the new owner shall review the existing SWPPP and amend if necessary, or develop a new SWPPP within 45-calendar days.

i. **Availability.** The SWPPP shall remain on the construction site while the site is under construction during working hours, commencing with the initial construction activity and ending with termination of coverage under the General Construction Permit (Notice of Termination).

j. **Changes.** Whenever there is a change in construction or operations which may affect the discharge of pollutants, the SWPPP shall be amended with the County and RWQCB.

(1) The SWPPP shall be amended if the permit holder violates any standard in this Section or a condition of the General Construction Permit or has not achieved the general objective of reducing or eliminating pollutants in stormwater discharges. If the County and/or RWQCB determines that the permit holder is in violation of this ordinance or the General Construction Permit, the SWPPP shall be amended and implemented in a timely manner, but in no case more than 14 calendar days after notification by the County and/or RWQCB. All amendments shall be dated and directly attached to the SWPPP.

(2) The County and/or RWQCB may require the permit holder to amend the SWPPP.

23.05.046 - Groundwater Recharge

a. **Requirements.** Groundwater recharge elements must be included in the project design to mitigate the impacts on recharge caused by the reduction in the permeability of soil areas on the site, except when any of the following site characteristics exist:

(1) High groundwater in the area limits the effectiveness of recharge efforts or enhancing groundwater recharge would create additional problems related to high groundwater.

(2) The entire site being developed is shown to contain impervious soils that would not benefit from recharge efforts.

(3) There is a known geologic instability that would be negatively impacted by increased groundwater recharge.

(4) It can be demonstrated that no additional runoff will occur from the development.

(5) Federal or state regulations prohibit recharge.

b. **Groundwater recharge.** All areas on the project site that will become impervious or will have their soil permeability impaired (such as compaction of soil under an all weather driveway) must be mitigated to the maximum extent practicable with recharge enhancement elsewhere on the parcel. Offsite mitigation is a secondary alternative.

23.05.048 - Standards

a. **Grading standards.**

(1) **Excavation standards.** All excavations are to be conducted in compliance with the provisions of Sections 3304 through 3318 of the 1997 Uniform Building Code Appendix 33 and the following standards:

(i) No excavation shall be made with a cut face steeper in slope than two horizontal to one vertical, except under one or more of the following conditions.

(a) The Director may permit an excavation to be made with a cut face steeper than two horizontal to one vertical if the applicant provides a slope stability

analysis prepared by a geotechnical engineer or engineering geologist that the material making up the slope of the excavation and the underlying earth material is capable of standing on a steeper slope, and a certified soil and erosion control specialist or other qualified professional indicates, in writing, that either it is feasible to mitigate erosion and sedimentation impacts and that successful revegetation of the site can be accomplished or that due to the nature or composition of the cut slope, erosion and sedimentation measures and revegetation are unnecessary.

(b) A retaining wall or other approved support which also mitigates visual impacts of the device is provided to support the face of the excavation.

(ii) The Director may require an excavation to be made with cut face flatter in slope than two horizontal to one vertical if a slope stability analysis or other appropriate method of review indicates that the material in which the excavation is to be made is such that the flatter cut slope is necessary for stability, safety, or to prevent erosion and sedimentation and stormwater impacts.

(iii) No cut slope shall exceed a height of 25 feet without intervening terraces having a minimum width of six feet. These terraces shall be vertically spaced at intervals of 25 feet except that for slopes less than 40 feet in vertical height the terrace shall be approximately at mid-height. Suitable access shall be provided to permit cleaning and maintenance. The Director may modify this requirement because of geologic or other special conditions.

(iv) The border of all cut slopes shall be rounded off to a minimum radius of five feet to blend with the natural terrain.

(v) All cut slopes shall be within parcels under common ownership unless written permission is granted by the adjacent owner.

(2) **Fill standards.** All fills are to be conducted in compliance with the provisions of Section 3313 of the 1997 Uniform Building Code Appendix 33 and the following standards:

(i) No fill shall be made which creates any exposed surface steeper in slope than two horizontal to one vertical, except under one or more of the following conditions:

(a) A retaining wall or other approved support is provided to support the face of the fill which also mitigates visual impacts of the device.

(b) The Director may permit a fill to be made which creates an exposed surface steeper in slope than two horizontal to one vertical (2:1) if a geotechnical engineering report demonstrates that slope stability will be ensured. The geotechnical engineer shall certify that the strength characteristics of the material to be used in the fill are such as to produce a safe and stable slope and that the areas on which the fill is to be placed are suitable to support the fill. Additionally, a certified soil and erosion control specialist or other qualified professional shall indicate in writing that it is feasible to prevent erosion and sedimentation impacts, and successful revegetation of the site can be accomplished. All such reports are subject to the approval of the Director.

(ii) The Director may require that fill be constructed with an exposed surface flatter than two horizontal to one vertical (2:1) if a slope stability analysis or other appropriate method of review indicates that such flatter surface is necessary for stability, safety, or to prevent erosion and sedimentation impacts.

(iii) Unless specified as a non-structural land reclamation, erosion control, or agricultural fill, all fills shall be placed, compacted, inspected, and tested in compliance with the following provisions:

(a) The natural ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, topsoil and other unsuitable materials. The surface shall be scarified to provide a bond with the new fill and where slopes are steeper than five horizontal to one vertical (5:1) and the height is greater than five feet, by benching into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than five horizontal to one vertical (5:1) shall be at least 10 feet wide. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. When fill is to be placed over a cut, the bench under the toe of fill shall be at least 10 feet wide, but the cut shall be made before placing the fill. The soils engineer, engineering geologist, or both, shall certify that the bench is a suitable foundation for the proposed fill.

(b) Except as otherwise permitted by the Director, no rock or similar irreducible material with a maximum dimension greater than six inches shall be buried or placed in fills. No organic material shall be permitted in structural fills. The Director may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement, and approves the fill stability. The following conditions shall also apply:

1. Prior to issuance of the grading permit, potential rock disposal areas shall be identified on the grading plan.

2. Rock sizes greater than six inches in maximum dimension shall be 10 feet or more below grade, measured vertically.

3. Rocks shall be placed so as to assure filling of all voids with well-graded soil.

(c) A fill shall be spread in a series of horizontal lifts as specified by the geotechnical engineer or other approved professional approved by the Director. The distribution of material throughout each layer shall be free of lenses, pockets or layers of material differing substantially in texture or gradation from the surrounding material. All material shall be compacted into a fill of uniform moisture and density as specified in Subsection a(2)(iii)(d).

(d) All fills shall be compacted to a minimum of 90 percent of maximum density as determined by ASTM D 1557-(latest edition) or other approved testing method giving equivalent test results. Field density shall be determined by ASTM D 1556-(latest edition) or other equivalent methods approved by the Director.

(e) A field density test, as herein provided, shall be taken for each 24 inches of fill, or portion thereof, measured vertically from the lowest point of the area to be filled, and for each 200 cubic yards of fill placed unless a variation is recommended by the Soils Engineer and approved by the Director. In addition, in the case of a subdivision, field density tests shall be taken on lots which receive fill based upon the recommendations of a soils engineer.

(f) All fills regulated by the Grading Ordinance shall be tested for relative compaction by a qualified geotechnical testing agency. Final reports, including a letter certifying compliance with the terms of the Grading Ordinance, and the grading permit, setting forth densities, relative compaction and other fill characteristics shall be prepared and signed by a geotechnical engineer or soils engineer. This report shall be submitted to and approved by the Director before any final approval of the fill is given and before any foundation construction begins except for the digging of trenches and placing of reinforcing steel.

(iv) Fills toeing out on natural slopes which are steeper than two horizontal to one vertical shall not be permitted unless evaluated and approved by a geotechnical engineer or engineering geologist.

(v) The border of fill slopes shall be rounded off to a minimum radius of five feet to blend with the natural terrain.

(3) **Grading setback standards.** Cut and fill slopes shall be set back from site boundaries in compliance with the provisions of Appendix Chapter 33 of the 1997 Uniform Building Code and the following standards:

(i) **General.** Setback dimensions shall be horizontal distances measured perpendicular to the site boundary. Setback dimensions shall be as shown in Figure 5-A.

(ii) **Top of cut slope.** The top of the cut slopes shall not be closer to a site boundary line than one fifth of the vertical height of cut with a minimum of two feet and a maximum of 10 feet. The setback may need to be increased for any required interceptor drains or maintenance easements. The Director may approve adjustments as a condition of the permit, as required by individual site conditions.

(iii) **Toe of fill slope.** The toe of fill slopes shall not be closer to the site boundary line than one-half the height of the slope with a minimum of two feet and a maximum of 20 feet. Where a fill slope is to be located near the site boundary and the adjacent off-site property is developed, or site conditions warrant, special precautions shall be incorporated in the work as the Director deems necessary to protect the adjoining property from damage as a result of such grading. These precautions shall include, but

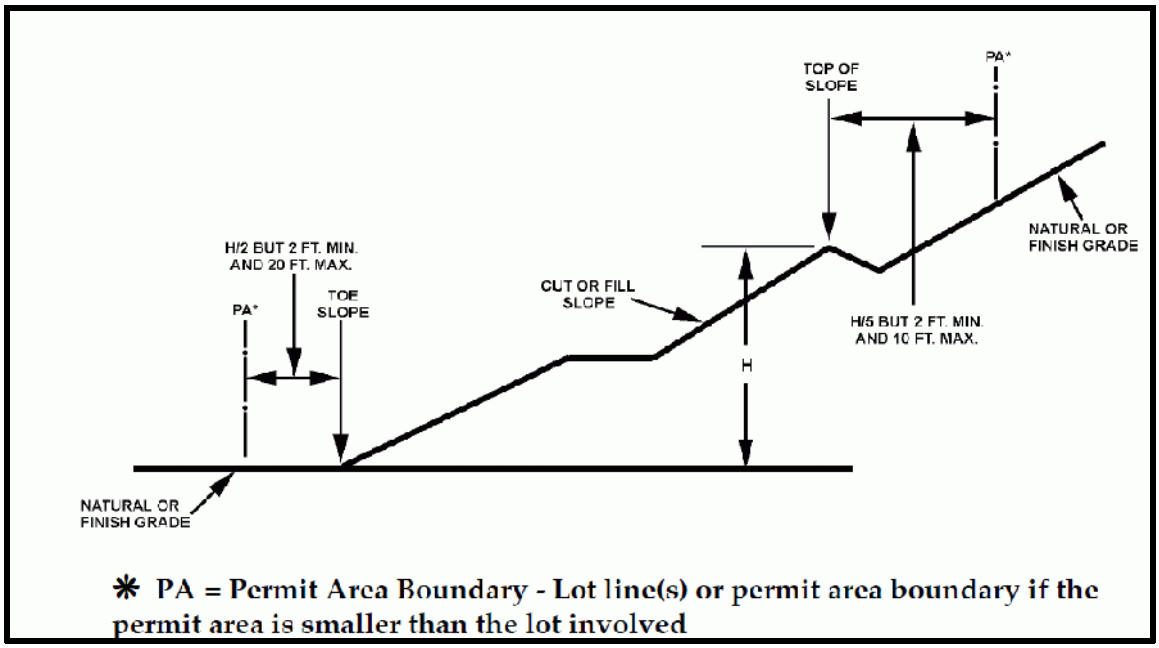

Figure 5-A

are not limited to the following:

(a) Additional setbacks.

(b) Provisions for retaining or slough walls.

(c) Mechanical or vegetative treatment of the fill slope to minimize erosion.

(d) Provisions for the control of surface waters.

(e) Provisions for maintenance access.

(iv) **Modification of slope location.** The Director may approve alternate setbacks. The Director may require an investigation and recommendation by a qualified engineer, engineering geologist, or erosion control specialist to demonstrate that the intent of this Section has been satisfied.

(v) **Distance from property line.** No cut or fill shall be made which is sufficiently close to the property line to endanger any adjoining public or private property or structures without supporting and protecting such property or structures from any settling, cracking, or other damage which might result.

(4) **Landform alterations within public view corridors.** Grading, vegetation removal, and other landform alterations shall be minimized on sites located within areas determined by the Planning Director to be a public view corridor from collector or arterial roads. Where feasible, contours of finished grading are to blend with adjacent natural terrain to achieve a consistent grade and appearance.

(5) **Grading near watercourses.** Grading, dredging or diking shall not alter any intermittent or perennial stream, or natural body of water shown on any USGS 7-1/2 minute map, except as permitted through approval of a County drainage plan and a streambed alteration permit from the California Department of Fish and Game issued under Sections 1601 or 1602 of the Fish and Game Code. Watercourses shall be protected as follows:

(i) Watercourses shall not be obstructed unless an alternate drainage facility is approved.

(ii) Fills placed within watercourses shall have suitable protection against erosion during flooding.

(iii) Grading equipment shall not cross or disturb channels containing live streams without siltation control measures approved by the Public Works Director in place.

(iv) Excavated materials shall not be deposited or stored in or alongside a watercourse where the materials can be washed away by high water or stormwater runoff.

b. **Drainage standards.** Designs for site area drainage and terraces shall be consistent with the Low Impact Development (LID) Handbook and the following minimum standards:

(1) **Design and construction.** Drainage systems and facilities subject to drainage plan review and approval that are to be located in existing or future public rights-of-way are to be designed and constructed as set forth in the latest edition of the Public Works Department's Public Improvement Standards, or as per the project's conditions of approval. Applicants may request an adjustment pursuant to the Public Improvement Standards in order to allow for a design that is more compliant with LID practices. Other systems and facilities subject to drainage plan review and approval are to be designed in accordance with good engineering practices. The design of drainage facilities in new land divisions and other new development subject to Minor Use Permit or Development Plan approval shall maximize groundwater recharge through on-site or communitywide stormwater infiltration measures. Examples of such measures include constructed wetlands, vegetated swales or filter strips, small percolation ponds, subsurface infiltration basins, infiltration wells, and recharge basins. Where possible, recharge basins shall be designed to be available for recreational use.

(2) **Natural channels and runoff.** Proposed projects are to include design provisions to retain natural drainage patterns and, when required, limit peak runoff to pre-development levels. To the maximum extent feasible, all drainage courses shall be retained in, or enhanced to appear in, a natural condition, without channelization for flood control. On downhill sites, encourage drainage easements on lower properties so that drainage can be released on the street or other appropriate land area below.

(3) **Best Management Practices (BMPs).** All new development subject to drainage plan review shall use BMPs to address polluted runoff. BMPs shall be consistent with the guidance found in documents such as the LID Handbook. Such measures shall include, but not be limited to: minimizing the use of impervious surfaces (e.g., installing pervious driveways and walkways); directing runoff from roofs and drives to vegetative strips before it leaves the site; and/or managing runoff on the site (e.g., percolation basins); and other Low Impact Design (LID) techniques. The installation of vegetated roadside drainage swales shall be encouraged and, if used, calculated into BMP requirements. The combined set of BMPs shall be designed to treat and infiltrate stormwater runoff up to and including the 85th percentile storm event. The BMPs shall include measures to minimize post-development loadings of total suspended solids.

(4) **Runoff volume.** Runoff conveyance systems shall be capable of carrying the computed runoff volume from a 25-year frequency storm or greater if deemed necessary by the Public Works Director. This may be reduced to a 10-year storm for small watersheds.

(5) **Interceptors.** Concrete ditches, bio-swales or other approved methods capable of intercepting surface runoff waters shall be installed along the top of all cut slopes where the tributary drainage area has a slope 10 percent or greater and a horizontal projection greater than 40 feet.

(6) **Berms.** Berms or drainage divides at least one foot high and three feet wide at the base shall be constructed at the top of all fill slopes where runoff would be directed towards the top of fill.

(7) **Over side drains.** Over side drains shall be of concrete or corrugated metal pipe having a diameter required by runoff calculations, but not less than eight inches, and shall be aligned so as to minimize velocity at discharge points. Alternate designs, such as LID methods, approved by the Public Works Director may be permitted.

(8) **Inlets.** Inlets shall be constructed of galvanized iron, or approved equivalent, and shall be provided with overflow structures.

(9) **Outlets.** Outlet structures shall be provided with approved velocity reducers, diversion walls, rip-rap, concrete aprons or similar energy dissipaters where necessary and aligned to minimize downstream erosion and reasonably maximize recharge at discharge points, and shall be approved by the Public Works Director.

(10) **Dispersal structures.** An approved drainage dispersal structure shall be constructed wherever it is necessary to convert channel flow to sheet flow.

(11) **Sensitive habitat and groundwater protection.** Runoff from roads and development shall not adversely affect sensitive habitat, groundwater resources and downstream areas, and shall be treated to remove floatable trash, heavy metals and chemical pollutants as necessary prior to discharge into surface or groundwater.

(12) **Groundwater recharge methods.** New development shall identify all methods to enhance groundwater recharge.

(13) **Impervious surfaces.** New development shall be designed to minimize the amount of impervious surfaces in order to maximize the amount of on-site infiltration.

(14) **Rain gutters.** Approved rain gutters shall be provided to receive all roof water and dispose of the water in a groundwater enhancing and non-eroding manner where the Director determines it to be necessary because of steepness of slope or presence of erodible materials. Direct connection of rain gutter outlets to impervious surfaces shall be minimized.

(15) **Building site drainage.** All graded building pads shall slope a minimum of five percent for ten feet to an approved drainage device, or as approved by the Director. The drainage device shall be an approved system which conducts the water to a street, recharge area or drainage way. The top of footing stems or finish floor, if a concrete slab, shall extend above the top of street curb or inlet to the drainage device by a minimum of six inches plus two per cent of the distance from the footing to the drainage device or curb. The Director may allow two percent to be used, if, because of terrain or soils, five percent is not reasonably attainable or necessary.

(16) **Capacity of drainage devices.** On graded sites, the Director may require that drainage devices calculated to convey runoff from a 25-year frequency storm or greater be installed, if deemed necessary to prevent erosion, to conduct stormwater around buildings or structures and to the nearest recharge area, drainage way, or as approved by the Public Works Director.

(17) **Appearance of drainage or recharge devices.** Where drainage devices are highly visible from the street or located in the public viewshed, they shall be shielded from view, if practical. Where visible, drainage devices shall be compatible with the character of the area and the existing topography. Exposed concrete overside drains are prohibited within these situations unless a visual analysis indicates the prohibition to be unnecessary. If they are visible, the size shall be the minimum necessary to handle drainage and ensure ability to maintain all drainage devices which collect from the slopes, and shall convey drainage by means of underground pipes or rock-lined ditches or other approved materials to blend with the natural topography in character, color and design. Transitions from natural drainage courses to developed areas shall be accomplished with comparable landscaping and grading to blend with existing topography. Detention, retention, or recharge basins shall be designed as a visual and/or recreational amenity within a project whenever practical.

(18) **Areas subject to flooding.** Buildings or structures are not permitted in an area determined by the Public Works Director to be subject to flood hazard by inundation, overflow, high velocity flows or erosion, except where the buildings or structures comply with the standards in Sections 23.07.060 et seq., and provisions are made to eliminate identified hazards to the satisfaction of the Public Works Director. These provisions may include providing adequate drainage facilities, protective walls, suitable fill, raising the floor level of the building or structure, or other means. The building and other structures (including walls and fences) shall be placed on the site so that water or mud flow will not be a hazard to on- or off-site structures or adjacent property. In the application of this standard, the Public Works Director shall enforce as a minimum the current federal flood plain management regulations as defined in the National Flood Insurance Program authorized by United States Code Title 42, Section 4001-4128 and contained in Title 44 of the Code of Federal Regulations, Part 59 et seq., which are hereby adopted and incorporated into this Title by reference as though they were fully set forth here.

(19) **Design of flood proofing measures.** Flood proofing measures required by the Public Works Director shall be designed by a licensed architect or registered civil engineer.

(20) **Sub-drains.** The Director may require the installation of approved sub-drains in areas where underground water is anticipated.

(21) **Runoff computations.** Runoff computations may be made by the "rational method" except where specific methods for calculating individual residential retention basins have been adopted or with the approval of the Public Works Director.

(22) **Alternate designs.** Alternate designs which provide equivalent safety and are approved by the Public Works Director may be used in lieu of those contained in this Section.

(23) **Hydromodification control.** If the Director or Public Works Director has determined that the project could cause off-site erosion or adverse impacts to beneficial uses as a result of an increase in runoff rates and/or duration, the project shall incorporate hydromodification control measures in compliance with Low Impact Development (LID) Handbook requirements.

(24) **Development adjacent to coastal bluffs.** Stormwater outfalls that discharge to the bluff, beach, intertidal area, or marine environment are prohibited unless it has been demonstrated that it is not feasible to detain the stormwater on-site, or direct the stormwater to pervious land areas or the street, without causing flooding or erosion. In such instances, stormwater outfalls shall include filtration and treatment systems necessary to protect coastal water quality, be screened from public view using underground pipes and/or native vegetation screening of local stock, and receive all applicable agency approvals. Consolidation of existing outfalls shall be pursued where feasible. The drainage plan shall incorporate all reasonable measures to minimize increased erosion to the coastal bluff as a result of development.

c. **Erosion and sedimentation control standards.** When required by Section 23.05.042 or elsewhere in this Title, erosion and sedimentation control plans, and implementation thereof, shall comply with the following standards:

(1) Exposed man-made slopes shall be planted in permanent vegetation to prevent erosion unless determined by the Director to be unnecessary.

(2) Grading limits shall be staked out as shown on the approved plans before site disturbance begins. All land disturbance shall be restricted to this area.

(3) All cuts, fills, and disturbed areas shall be planted, mulched and maintained, or otherwise protected from the effects of stormwater runoff and wind erosion. Permanent or temporary soil stabilization must be applied to denuded areas within 15 days after final grade is reached on any portion of the site. Denuded areas which may not be at final grade but which will remain undisturbed for longer than 60 days shall also be stabilized within 15 days. All mulching shall provide the same protection as that resulting from the application of two tons of straw mulch per one acre of surface area. All disturbed or denuded area created during the period between October 15 and April 15 of the following year shall be mulched or equally protected before quitting time each day.

(4) All permanent slopes over three feet high shall be permanently revegetated to achieve a minimum of 70 percent coverage at 24 months. All slopes shall be maintained to assure the success of the plant material and the maintenance of the slope.

(5) A minimum of one (1) one-gallon shrub shall be planted per 100 square feet of slope area where shrubs are appropriate to the area unless equivalent alternate measures are approved by the Director. Plant material must be selected to achieve 100 percent coverage of slope at maturity.

(6) One (1) one-gallon tree shall be planted for every 500 square feet of slope area where appropriate to the area unless equivalent alternative measures are approved by the Director.

(7) Temporary or permanent irrigation shall be provided to assure the successful establishment of the plant material.

(8) Grading for agricultural practices to prepare a field or crop or range improvement practices shall be protected by recognized agricultural erosion and sedimentation control methods, such as those found in the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG).

(9) Grading permits may be conditioned to provide landscape and maintenance security.

(10) Sediment basins shall be designed to trap and store all sediment particles larger than those passing a #200 testing sieve, from the peak discharge of a 25-year frequency storm.

(11) Runoff shall enter and exit a basin through protected inlets and outlets as approved by the Director.

(12) Sediment removal scheduling and sediment dispersal shall be included with the erosion and sedimentation control plan, subject to approval by the Director.

(13) Temporary drainage control measures during construction shall avoid concentration of flow which may cause or exacerbate erosion and sedimentation.

(14) Topsoil removed from the surface in preparation for grading and construction is to be stored on or near the site and protected from erosion while grading operations are underway, provided that such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved or near a watercourse where sedimentation may occur. After completion of such grading, topsoil is to be restored to exposed cut and fill embankments or building pads to provide a suitable base for seeding and planting.

(15) Native plant materials are encouraged to reduce irrigation demands. Where riparian vegetation has been removed, riparian plant species shall be used for revegetation.

d. **Stormwater pollution prevention standards.** Projects requiring a SWPPP pursuant to Section 23.05.044 shall comply with the standards outlined in SWRCB General Construction Permit Number CAS000002, or any subsequent General Construction Permits that amend or replace Permit CAS000002. These standards include, but are not limited to, the following:

(1) **Discharge prohibitions.**

(i) Approval of a grading plan, stormwater pollution prevention plan, erosion and sedimentation control plan, or drainage plan does not constitute an exemption to applicable discharge prohibitions prescribed in the Central Coast Basin Plan.

(ii) Discharges of material other than stormwater (which are not otherwise authorized by an NPDES permit) to a separate storm sewer system (MS4) or waters of the nation are prohibited, except as allowed in Subsection 23.05.044.f(v).

(iii) Stormwater discharges shall not cause or threaten to cause pollution, contamination, or nuisance.

(iv) Stormwater discharges regulated by the General Construction Permit shall not contain a hazardous substance equal to or in excess of a reportable quantity listed in Title 40 of the Code of Federal Regulations, Part 117 and/or Title 40 of the Code of Federal Regulations, Part 302.

(2) Receiving water limitations.

(i) Stormwater discharges and authorized non-stormwater discharges to any surface or ground water shall not adversely impact human health or the environment.

(ii) The SWPPP developed for the construction activity shall be designed and implemented such that stormwater discharges and authorized non-stormwater discharges shall not cause or contribute to an exceedance of any applicable water quality standards contained in a Statewide Water Quality Control Plan and/or the Central Coast Regional Water Quality Control Board's Basin Plan.

(iii) Should it be determined by the permit holder, County, State Water Resources Control Board (SWRCB), or Regional Water Quality Control Board (RWQCB) that stormwater discharges and/or authorized non-stormwater discharges are causing or contributing to an exceedance of an applicable water quality standard, the permit holder shall:

(a) Implement corrective measures immediately following discovery that water quality standards were exceeded, followed by notification to the County and RWQCB by telephone as soon as possible but no later than 48 hours after the discharge has been discovered. This notification shall be followed by a report within 14-calendar days to the County and Central Coast Regional Water Quality Control Board, unless otherwise directed by the County and/or RWQCB, describing the following:

1. the nature and cause of the water quality standard exceedance;

2. the BMPs currently being implemented;

3. any additional BMPs which will be implemented to prevent or reduce pollutants that are causing or contributing to the exceedance of water quality standards;

4. any maintenance or repair of BMPs; and

5. an implementation schedule for corrective actions that describes the actions taken to reduce the pollutants causing or contributing to the exceedance.

(b) Revise the SWPPP and monitoring program immediately after the report to the County and RWQCB to incorporate the additional BMPs that have been and will be implemented, the implementation schedule, and any additional monitoring needed.

(c) Nothing in this section shall prevent the County and/or the Central Coast RWQCB from enforcing any stormwater discharge regulations while the permit holder prepares and implements the above report.

(3) **Anticipated noncompliance.** The permit holder shall give advance notice to the County and RWQCB of any planned changes in the construction activity which may result in noncompliance with General Construction Permit or County Code requirements.

e. **Groundwater recharge standards.** Groundwater recharge measures shall be required as part of any land use permit processed pursuant to Chapter 23.02. Plan contents and standards shall be as specified in Section 23.05.038 and as listed below. Stormwater impoundment areas shall:

(1) Be located to use the most permeable soils on the project site, where practical.

(2) Be sufficiently shallow or properly shielded so that they do not pose a safety hazard.

(3) Drain fast enough or be designed so that ponded water does not become a vector habitat (mosquito pond).

f. **Pond, reservoir, and dam standards.**

Note: All surface stream water impoundments require approval of an application to appropriate water from the California State Water Resources Control Board, Division of Water Rights.

(1) **Location.** The proposed site of the pond, reservoir or dam shall not be:

(i) Identified on any U.S. Geological Survey map as a lake, marsh, or solid or broken "blue line" stream unless the project has been reviewed subject to CEQA and determined not to contain significant adverse impacts to the aquatic or riparian resources.

(ii) In a location identified on any published geologic or soils maps on soils prone to slip or slide.

(2) **Required reports.** The Director, in granting a permit for construction, may require supporting geological and geotechnical engineering reports as deemed necessary for the safe design and construction of such facility. A report from a civil engineer certifying that construction of the facility has been completed in conformity with the approved plans and specifications and the Grading Ordinance may be required.

23.05.050 - Construction Procedures

a. **Modifications to approved plans.** No work based upon any modifications to the approved plans shall proceed unless and until such modifications have been approved by the Building Official, and where applicable, the County Public Works Department. The proposed change shall not result in greater environmental impacts than those considered in the approved environmental document.

b. **Grading hours – Limitations.** No grading work (except for agricultural exemptions and emergency operations specified in Section 23.05.032.c and 23.05.036.c(2), respectively), which requires a grading permit under the provisions of the Grading Ordinance shall take place between the hours of 7:00 p.m. and 7:00 a.m. weekdays and between the hours of 5:00 p.m. and 8:00 a.m. on the weekends, unless the Building Official or approved conditions of a land use permit finds that such operation is not likely to cause a significant public nuisance and authorizes expanded or night operations in writing. Hours of operation on the weekends may be further regulated by conditions of the grading permit.

c. Air quality controls.

(1) Fugitive dust control. All surfaces and materials shall be managed to ensure that fugitive dust emissions are adequately controlled to below the 20% opacity limit, identified in the APCD's 401 "Visible Emissions" rule and to ensure that dust is not emitted offsite. This applies to surfaces that will be graded, that are currently being graded, or that have been graded; and to all materials, whether filled, excavated, transported or stockpiled. The following fugitive dust control measures are required, unless alternative measures have been approved by the Air Pollution Control District (APCD):

(i) Primary measures. All projects involving grading or site disturbance shall implement the following mitigation measures to minimize nuisance impacts and to significantly reduce fugitive dust emissions:

(a) Reduce the amount of the disturbed area where possible;

(b) Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency shall be required whenever wind speeds exceed 15 mph. Reclaimed (non-potable) water shall be used whenever possible;

(c) All dirt stock-pile areas shall be sprayed daily as needed; and

(d) All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible, and building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

(ii) Expanded measures. Projects with site disturbance that exceeds four acres or are within 1,000 feet of any sensitive receptor shall implement the following mitigation measures to minimize nuisance impacts and to significantly reduce fugitive dust emissions:

(a) All measures identified in Subsection c(1)(i);

(b) Permanent dust control measures identified in the approved project plans shall be implemented as soon as possible following completion of any soil disturbing activities;

(c) Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading shall be sown with a fast germinating native grass seed and watered until vegetation is established;

(d) All disturbed soil areas not subject to revegetation shall be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the APCD;

(e) Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site;

(f) All trucks hauling dirt, sand, soil, or other loose materials are to be covered or shall maintain at least two feet of freeboard (minimum vertical distance

between top of load and top of trailer) in accordance with California Vehicle Code Section 23114;

(g) Install wheel washers where vehicles enter and exit unpaved roads onto streets, or wash off trucks and equipment leaving the site; and

(h) Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers with reclaimed water shall be used where feasible.

(iii) **Measures to be shown on plans.** All of these fugitive dust mitigation measures shall be shown on grading and building plans.

(iv) **Designated monitor.** The contractor or builder shall designate a person or persons to monitor the fugitive dust emissions and enhance the implementation of the measures as necessary to minimize dust complaints, reduce visible emissions below 20% opacity, and to prevent transport of dust offsite. Their duties shall include holidays and weekend periods when work may not be in progress.

Note: Sensitive receptors include schools, parks and playgrounds, day care centers, nursing homes, hospitals, and residences.

(2) **Exportation and importation of material.** For projects which involve the cumulative importation or exportation of 2,000 cubic yards or more of soil to a non-adjacent site, the Director may impose one or more of the following conditions:

(i) Limiting the distance between the project site and the source/destination site.

(ii) Requiring that export/import be phased over a specified amount of time.

(iii) Scheduling truck trips during non-peak hours to reduce peak hour emissions.

(iv) Limiting the length of the workday.

(v) Applying trucking equipment emission reduction measures as approved by the Air Pollution Control District.

(3) **Naturally Occurring Asbestos (NOA).** Grading work shall comply with California Air Resources Board Asbestos Air Toxics Control Measure (ATCM) for construction and grading. Prior to any grading activities in NOA candidate areas, the project proponent shall ensure that a geologic evaluation is conducted to determine if NOA is present within the area that will be disturbed. If NOA is not present, an exemption request must be filed with the Air Pollution Control District. If NOA is found at the site, the applicant must comply with all requirements outlined in the Asbestos ATCM. This may include development of an Asbestos Dust Mitigation Plan and an Asbestos Health and Safety Program for approval by the APCD.

d. **Off-site effects.** Grading operations shall be conducted to prevent damaging effects of erosion, sediment production and dust on the site and on adjoining properties and roadways.

e. **Hydrocarbon contaminated soil.**

(1) **Encountered during grading activities.** Should hydrocarbon contaminated soil be encountered during construction activities, the Air Pollution Control District (APCD) must be notified as soon as possible and no later than forty-eight (48) hours after affected material is discovered to determine if an APCD Permit will be required. In addition, the following measures shall be implemented immediately after contaminated soil is discovered:

(i) Covers on storage piles shall be maintained in place at all times in areas not actively involved in soil addition or removal;

(ii) Contaminated soil shall be covered with at least six inches of packed uncontaminated soil or other Total Petroleum Hydrocarbon (TPH) non-permeable barrier such as plastic tarp. No headspace shall be allowed where vapors could accumulate;

(iii) Covered piles shall be designed in such a way to eliminate erosion due to wind or water. No openings in the covers are permitted;

(iv) During soil excavation, odors shall not be evident to such a degree as to cause a public nuisance; and

(v) Clean soil must be segregated from contaminated soil.

(2) **Anticipated to be present prior to grading activities.** An APCD permit to address proper management of anticipated hydrocarbon contaminated soil is required prior to the start of any grading activity or earthwork. This permit shall include conditions to minimize emissions from any excavation, disposal or related process. The applicant is responsible to contact APCD within 120 days prior to the start of any grading activity/earthwork to begin the permitting process.

f. **Responsibility of permit holder.**

(1) The permit holder 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. The permit holder shall engage the project consultants, as needed, to provide professional inspections on a timely basis. The permit holder shall act as a coordinator between the project consultants, the contractor, and the Building Official. In the event of changed conditions, the permit holder shall be responsible to inform the Building Official of such changes and shall provide revised plans for approval.

(2) The permit holder and/or agents shall maintain all required protective devices, sedimentation and erosion control devices, stormwater BMPs, and temporary drainage facilities during the progress of the grading work. The permit holder shall also be responsible for observance of working hours, dust controls and methods of hauling. The permit holder and/or agents shall be responsible for maintenance of the site until final inspection. The permit holder and/or agents shall become subject to the penalties set forth herein in the event of failure to comply with the Grading Ordinance and other applicable laws of the County. No approval shall exonerate the permit holder and/or agents from the responsibility of complying with the provisions and intent of the Grading Ordinance.

(3) During grading operations the permit holder shall be responsible for the prevention of damage to any roadways, public improvements, utilities or services. This responsibility applies within the limits of grading and along any equipment travel routes.

(4) Notwithstanding the minimum standards set forth in the Grading Ordinance, Title 19 of the County Code, and 1997 Uniform Building Code Appendix Chapter 33, the permit holder is responsible for the prevention of damage to adjacent property, and no person shall excavate on land so close to the property line as to endanger any adjoining public street, sidewalk, alley, structure, trees, vegetation, or any other public or private property without supporting and protecting such property from settling, cracking, or other damage which might result.

23.05.052 - Inspections

All construction and other work for which a permit is required shall be subject to either periodic or continuous inspections by authorized employees of the Planning and Building Department to assure compliance with the approved plans. Inspectors shall approve that portion of the work completed or shall notify the permit holder where the work fails to comply with the approved plans.

Where the Building Official determines it to be necessary to protect the public safety because of the nature and type of material involved, the type of work proposed or the purpose of the work, the work shall have either continuous or periodic inspections and supervision by one or more of the following as a condition of issuance of the grading permit:

(1) civil engineer;
(2) geotechnical engineer;
(3) engineering geologist; or
(4) responsible designee.

Prior to final approval of grading work under any type of permit, a final inspection shall be made of all construction or work for which a permit has been issued. Final inspection, as required in the Grading Ordinance, shall be made by an employee of the Planning and Building Department.

Approved plans for grading, vegetation removal work, and erosion and sedimentation control (or SWPPP if required) bearing the stamp of the County of San Luis Obispo Department of Planning and Building shall be maintained at the site during the progress of the work.

In the absence of specific work site designation upon which grading is to be performed, the Building Official may require the site be surveyed and staked by a civil engineer or land surveyor licensed by the State of California, so that the proper location of the work on the lot may be determined.

a. **Required Inspections.** Inspections for a grading permit shall be made as provided herein and work shall not continue until approval to proceed has been granted following the requested inspection. The permit holder shall be responsible for requesting inspection by the Planning and Building Department as follows:

(1) **Site check.** Prior to permit approval and plan checking.

(2) **Pre-construction meeting.** At the Building Official's discretion, a pre-construction meeting may be required due to site characteristics, required mitigation measures, or complexity of the proposal. Qualified professionals may need to be in attendance.

(3) **Pre-construction stormwater inspection.** When the permit holder is ready to begin work, but before any grading or vegetation removal has occurred, inspect and review erosion and sedimentation control BMPs with permit holder. Subsequent site inspections may be

conducted at any time during the life of the project to determine compliance with the erosion and sedimentation control plan and/or stormwater pollution prevention plan.

(4) **Toe inspection.** After the natural ground is exposed and prepared to receive fill, but before any fill is placed, review erosion and sedimentation control BMPs with permit holder.

(5) **Excavation inspection.** After the excavation is started, but before the vertical depth of the excavation exceeds ten feet.

(6) **Fill inspection.** After the placement of fill is started, but before the vertical height of the fill exceeds ten feet, and at two foot vertical increments thereafter unless waived by the Building Official. In addition, the fill must be inspected by a qualified lab requiring testing for each two feet of fill, or as defined in the soils report.

(7) **Key and bench inspection.** After keys and benches are excavated, but before fill is placed.

(8) **Rough grade inspection.** When all rough grading has been completed, including terraces, swales, and other drainage devices.

(9) **Drainage and/or groundwater recharge device inspection.** After forms and pipe are in place, but before any gravel or concrete is placed, inspect erosion and sedimentation control BMPs.

(10) **Post-construction stormwater inspection.** When all work has been completed, all disturbed areas of the construction site have been stabilized, and all long-term (permanent) stormwater pollution prevention and erosion and sedimentation control measures have been installed. Consistent with the General Construction Permit Notice of Termination (NOT) requirements (where applicable), in order for the post-construction stormwater inspection to be approved, all soil disturbing activities shall have been completed and one of the following shall have been met:

(i) A uniform vegetative cover of 70 percent coverage has been established. In arid areas where native vegetation covers less than 100 percent of the surface, the 70 percent coverage criterion shall be proportionally adjusted (i.e. where native vegetation covers 50 percent: 0.50 x 0.70 = 0.35 – 35 percent); or

(ii) Equivalent stabilization measures have been employed (e.g. fiber blankets, channel liners, mulch, etc.).

(11) **Final inspection.** When all work, including installation of drainage structures, other protective devices, planting and slope stabilization has been completed and the required reports have been submitted to the Building Official and accepted as complete.

(12) **Other inspections.** In addition to the inspections above, such other inspections of any work to ascertain compliance with the provisions of the Grading Ordinance and other laws and regulations as may be required by the Building Official including requirements of the NPDES permit of the County of San Luis Obispo for its stormwater discharges. A licensed landscape architect, qualified biologist, archeologist, agricultural advisor, or other qualified professional may be required to be present during inspections.

(13) **Rainy season inspection.** During the rainy season (between October 15 and April 15), inspections shall be conducted to verify compliance with required BMPs based on potential for threat to water quality, as determined by the Building Official. Criteria to be considered include area of disturbance, earthwork quantities, and proximity to watercourses. Based on this assessment, a threat priority will be assigned an inspections shall occur as follows:

Construction Site Priority	**Low**	**Medium**	**High**
Frequency of Inspection	Once or twice during the rainy season	Twice or more during the rainy season	Once per week

b. **Exposure of work.** Whenever any work for which inspections are required is covered or concealed by other work without having been inspected, the Building Official may require that such work be exposed for examination.

c. **Post construction and other inspections.**

(1) Best Management Practices (BMPs). Inspectors of the Planning and Building Department may inspect for adequate installation and functionality of BMPs prescribed by the erosion and sedimentation control plan or SWPPP at any time throughout the year. County inspectors may identify maintenance and repair needs on the site with the permit holder, or permit holder's agent, to ensure compliance with the minimum requirements of BMPs.

(2) Corrective action. If the Building Official determines by inspection that grading as authorized is likely to endanger public health, safety or welfare in the deposition of debris on any public street, or interfere with any existing drainage course, the Building Official may require that reasonable safety precautions be taken to remove such likelihood of danger. Written notice to comply shall be provided to the permit holder allowing no more than ten days for corrections to begin unless an imminent hazard to the public health, safety or welfare exists, in which case the corrective work shall begin immediately.

d. **Special Reports.** Periodic reports by a geotechnical engineer, an engineering geologist, or other qualified professional, certifying the compaction or acceptability of all fills may be required. These shall include, but not be limited to, inspection of cleared areas and benches prepared to receive fill and removal of all unsuitable materials, the bearing capacity of the fill to support structures, the placement and compaction of fill materials, and the inspection of buttress fills, subterranean drains, cut slopes and similar devices.

e. **Inspection by Others.**

(1) Where the nature of the project, type of soils, geologic conditions or drainage dictate that special engineering, geotechnical engineering, or geological inspections are necessary to prevent danger to public health, safety or welfare, the Building Official may require the permit holder to retain one or more of the following:

(i) A civil engineer: to supervise and coordinate all field surveys and the setting of grade stakes in conformity with the plans, to check elevation of grades, inclination of slopes, installation of drainage structures and other matters related to the geometric design of the work, including the design of revised or modified plans, if necessary.

(ii) A geotechnical engineer: to provide either periodic or continuous inspection of all soils work, including grading and compaction.

(iii) An engineering geologist: to provide geological inspections.

(iv) Resource Conservation District: to provide inspections related to drainage and soil erosion prevention.

(2) On work requiring the continuous supervision and inspection of a civil engineer or geotechnical engineer, required inspections may be delegated to the civil engineer or geotechnical engineer by the Building Official. At the time of checking the plans, the Building Official shall indicate on each application for a grading permit the types of inspection, if any, to be made by the civil engineer or geotechnical engineer.

(3) If the civil engineer or geotechnical engineer or geologist finds that the work is not being performed in substantial conformity with the Grading Ordinance, or the plans and specifications, the engineer shall issue a notice to the persons in charge of the grading work and to the Building Official.

(4) APCD or state compliance staff may inspect the project site to ensure that grading activities are in compliance with the California Air Resources Board Asbestos Air Toxics Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations and the National Emission Standard for Hazardous Air Pollutants.

f. Inspection process.

(1) Grading shall not be commenced until the permit holder or agent has posted an inspection record card in a conspicuous place on the site to allow the inspector to make the required entries thereon regarding inspection of the work. This card shall be maintained and available on the site by the permit holder until final approval.

(2) The permit holder, agent, or contractor shall have an approved set of grading, drainage and erosion and sedimentation control plans, and stormwater pollution prevention plan (if required), on the site and available at all times while work is in progress until final approval. The plans and specifications shall also include any mitigation measures approved by the Environmental Coordinator.

(3) In the absence of a specific work site designation, the Building Official may require the site to be surveyed and staked by a civil engineer or land surveyor licensed by the State of California so that the proper location of the work on the lot or parcel may be determined.

(4) Inspections for a grading permit shall be made as provided herein and work shall not continue until approval to proceed has been granted, following inspection. The permit holder shall be responsible for notifying the Department of Planning and Building at least 24 hours prior to the time when an inspection is necessary.

(5) Where the nature of the project, type of soils, geologic condition, drainage, or weather conditions dictate that special engineering, geotechnical engineering, geological, or erosion and sedimentation or asbestos control inspections are necessary to prevent danger to public health, safety or welfare, the Building Official may require the permit holder to retain a licensed professional qualified to perform the following:

(i) Supervise and coordinate all field surveys and the setting of grade stakes in conformity with the plans; to check elevations or grades; inclination of slopes; elevation and grades of drainage structures and other matters related to the geometric design of the work, including the design of revised or modified plans and "as-graded" plans, if necessary.

(ii) Provide either periodic or continuous inspection of soils work, including grading and compaction.

(iii) Provide geological inspections.

(iv) Inspect all erosion and sedimentation runoff control measures and revegetation practices applied to the site.

(6) Where the nature of the project dictates that special environmental monitors be required, the environmental review process and mitigation measures shall establish the manner and timeframe in which this review shall occur. In these instances, the Director may require the permit holder to retain a qualified professional to perform the work identified from these measures.

(7) If the civil engineer, geotechnical engineer, geologist, or sediment and erosion control specialist find that the work is not being performed in substantial conformity with the Grading Ordinance or the approved plans and specifications, notice shall be given to the person in charge of the grading work and to the Building Official. No work shall proceed unless and until the issuance of such written notice from the Building Official that work may proceed.

(8) If the Director or Building Official determines by inspection that grading as authorized is likely to endanger sensitive resources, public health, safety, or welfare in the deposition of debris on any public or private property, or interfere with any existing drainage course, the Director or Building Official shall require that effective precautions be taken to remove such likelihood or danger. Written notice to comply shall be given to the permit holder allowing no more than 10 days for corrections to begin unless an imminent hazard to sensitive resources or the public health, safety or welfare exists, in which case the corrective work shall begin immediately.

(9) Final inspection, as required in the Grading Ordinance, shall be made to the satisfaction of the Building Official.

g. **Testing.** The Director may also require that the applicant pay for testing to be performed by an independent, approved testing laboratory and that the civil engineer issue an opinion to ensure compliance with this ordinance, permit conditions, and/or accordance with the provisions of Title 19 of the County Code and Appendix Chapter 33, 1997 Uniform Building Code. The Building Official shall inspect or provide for adequate inspection of the project by appropriate professionals at the various stages of work and at any more frequent intervals necessary to determine that adequate control is being exercised by the professional consultants.

h. **Reports required.** The registered design professional shall provide a summary of the reports required, including special inspections, as set forth in the California Building Code, observe and testing program, and frequency of progress reports, where applicable.

i. **Transfer of responsibility.** Where the soils or other conditions are not as stated on the permit, or where the services of the engineer approved to supervise or inspect grading work have been terminated, work shall not commence again until a civil engineer, geotechnical engineer or engineering geologist certifies in writing to the Director or the Building Official that:

(1) all phases of the project have been reviewed;
(2) the engineer is thoroughly familiar with the proposed work; and
(3) the work already completed is approved or responsibility for making the necessary improvements thereto will be assigned to the engineer.

Upon receipt of this notice, the Director or Building Official shall immediately give written notice that work may proceed. No work shall proceed unless and until the issuance of such written notice that work may proceed has been issued.

j. **Final Reports.** Upon completion of the work, the Building Official may require the following reports and drawings:

(1) An as-graded plan prepared by the civil engineer of record, including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. Certification by the civil engineer of record shall be provided that all grades, lot drainage, and drainage facilities have been completed in conformity with the approved plans.

(2) A geotechnical engineering report prepared by a geotechnical engineer that includes, but is not limited to, locations and elevations of field density tests and other substantiating data, certification of soil capacity, and compaction summaries of field and laboratory tests, location of tests, and showing limits of compacted fill on a grading plan. This certification shall include specific approval of the grading as affected by soils on the site.

(3) An engineering geology report based on the grading plan prepared by an engineering geologist, that includes, but is not limited to a final description of the geology of the site including any new information disclosed during the grading and specific approval of the grading as affected by geological facts. Where necessary, a revised geologic map and cross-sections and any recommendations necessary shall be included.

(4) An erosion and sedimentation control report prepared by the certified sediment and erosion control specialist or other qualified, approved professional. This report shall include a final description of the erosion, sediment revegetation and runoff control practices applied on the site. Any new information disclosed during site development and the effect of same on recommendations incorporated in the approved grading plan shall also be provided. Any required changes shall be noted. The designated specialist shall provide a statement that, to the best of their knowledge, the work within their area of responsibility is in compliance with the approved erosion and sedimentation control plan and applicable provisions of the Uniform Building Code and the Grading Ordinance.

(5) The grading contractor shall submit in a form prescribed by the Director and a statement of conformance to all as-graded plans and specifications.

23.05.054 - Request for Relief from Ordinance Provisions and Standards

a. A request for relief from the provisions of the Grading Ordinance, grading permit conditions of approval, or plan specifications, may be approved, conditionally approved, or denied by the Director. A request for relief must state in writing the provision that is proposed to be varied, the proposed substitute provision, when it would apply, and its advantages. The following findings shall be required to approve or conditionally approve a request for relief:

(1) There are special individual circumstances or conditions affecting the property that make the strict letter of this ordinance impractical; and

(2) No relief shall be granted unless the relief requested is consistent with the purpose and intent of the Grading Ordinance and does not diminish the health and safety benefits that would be obtained in the absence of a grant of relief.

b. The Director may require additional information from professional engineering, engineering geology or geotechnical engineering or erosion control specialists' opinions which are necessary to evaluate the requested relief.

c. As contemplated in this Section, the Director may grant alternative methods of construction or modifications for projects which could be constructed under the basic standard established in the Grading Ordinance, but which if relief is granted, can be better or equal to and more economically designed and constructed than if relief were not given. Relief shall not be granted if it would have the effect of allowing the construction of a project which would not be possible under the provisions of this Code without the relief.

23.05.056 - Enforcement and Interpretation

a. Stop Work Order.

(1) Whenever any grading, construction or earthwork is being done contrary to the provisions of any approval or of any rule, regulation, law or ordinance, or whenever approval was based upon purposeful misinformation or misrepresentation, or whenever the public health, safety or welfare is endangered, or any work is not in compliance with the plans or permits approved for the project, the Director shall issue a written notice or stop work order on the portion of the work affected. Such notice or order to stop work shall be served upon the property owner and any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Director to proceed with the work in writing. The notice or order shall state the reason for the notice and no work shall be done on that portion until the matter has been corrected and approval obtained from the Director. The order may specify actions necessary to restore the site or provide temporary measures for erosion and sedimentation control until the stop work order has been removed.

(2) It shall be unlawful for any person to commence or continue any work regulated under the provisions of the Grading Ordinance in violation of, or contrary to any stop work notice or stop work order issued in compliance with this Section, except in conformity to the terms of such order or notice of order, or until relief from such order is obtained from the Director or, upon appeal, from the Board of Supervisors.

b. **Appeal.** All decisions, interpretations or acts of the Director or Building Official regarding the implementation of the standards of the Grading Ordinance, shall be subject to appeal to the Board of Supervisors in compliance with Section 23.01.042.

c. **Violations and penalties.**

(1) Any person, firm, contractor, or corporation whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any provision of the Grading Ordinance is subject to civil and/or criminal action. The Board of Supervisors hereby declares that any grading done contrary to the provisions of this Code is unlawful and a public nuisance, subject to abatement as described in Section 23.10.150. The offense may be filed as either an infraction or a misdemeanor at the discretion of the San Luis Obispo County District Attorney.

(2) In addition to any penalties prescribed, the Director shall submit a written report to the appropriate state licensing or professional registration board or society in cases where contractors or professional consultants violate the provisions of this Code.

(3) If filed as an infraction and upon conviction thereof, the crime shall be punishable by a fine not to exceed one hundred dollars ($100) for a first violation; a fine not exceeding two hundred dollars ($200) for a second violation of the same ordinance thereafter; and a fine not exceeding five hundred dollars ($500) for each additional violation of the same ordinance thereafter.

(4) If filed as a misdemeanor, and upon conviction thereof, the punishment shall be a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), or imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment.

(5) Any person violating any of the provisions of the Grading Ordinance shall be guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of the Grading Ordinance is committed, continued, or permitted.

(6) Paying a fine or serving a jail sentence shall not relieve any person from responsibility for correcting any condition which violates any provision of this Title.

(7) Grading without a permit, or using inadequate or improper grading techniques, can have potentially greater environmental effects. These effects include sedimentation and erosion impacts and excessive native vegetation and wildlife impacts. To address this, the applicant shall include additional "cumulative impact" measures above those required for specific on-site remedial work. These measures shall be proportional in size to the areas disturbed and may include:

(i) contribution to an off-site revegetation banking program;

(ii) contribution towards a Resource Conservation District water quality enhancement or other restoration project;

(iii) reestablishment of nearby degraded habitat;

(iv) removal of surrounding undesirable weedy plants within a sensitive habitat;

(v) permanent protection of a proportional amount of comparable land; and/or

(vi) other measures as determined appropriate by the Director.

d. Injunctions, civil remedies, penalties, and costs.

(1) Any person, firm, contractor, or corporation whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or causes the same to be done, contrary to or in violation of any provision of the Grading Ordinance shall be subject to injunction against such activity and shall be liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each day that the violation continues to exist.

(2) When the Director determines that any person has engaged or, is engaged, in any act(s) which constitute a violation of provision(s) of the Grading Ordinance, or order issued, the District Attorney or the County Counsel may make application to the Superior Court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing that such person has engaged in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted by a Superior Court having jurisdiction over the cause.

(3) Any person, firm, or corporation whether as principal, agent, employee or otherwise who shall commence, construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or causes the same to be done, contrary to or in violation of any provision of the Grading Ordinance shall be liable for and obliged to pay to the County of San Luis Obispo for all costs incurred by the County in investigating and obtaining abatement or compliance, or which are attributable to or associated with any enforcement or abatement action, whether such action is administrative, injunctive or legal; and for all damages suffered by the County, its agents, officers or employees as a result of such violation or efforts to enforce or abate the violation. (See Section 23.10.050, Recovery of Costs.)

(4) Until all costs, fees and penalties assessed under the Grading Ordinance are paid in full, no final approval, Certificates of Completion, Certificates of Compliance, Certificates of Occupancy, land use permits or subdivision maps shall be issued or approved by the Planning and Building Department, Public Works Department, other County agencies, or the Board of Supervisors.

(5) In determining the amount of civil penalty to impose, the Court shall consider all relevant circumstances, including but not limited to, the extent of the harm caused by the conduct constituting the violation; the nature and persistence of such conduct; the length of time over which the conduct occurred; the assets, liabilities and net worth of the persons responsible, whether corporate or individual; any corrective action taken by the persons responsible; and the cooperation or lack of cooperation in efforts toward abatement or correction.

e. Additional actions and remedies.

(1) Any person who violates any provision of the Grading Ordinance or who violates any stop work order or notice may also be in violation of the Federal Clean Water Act and/or the State Porter-Cologne Act and may be subject to prosecution under those Acts, including civil and criminal penalties. Section 309 of the Clean Water Act provides significant penalties for any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Clean Water Act or any permit condition or limitation implementing any such

section in a permit issued under Section 402. Any person who violates any permit conditions of the General Construction Permit is subject to a civil penalty not to exceed twenty-seven thousand five hundred dollars ($27,500) per calendar day of such violation, as well as any other appropriate sanction provided by the Clean Water Act. The Porter-Cologne Water Quality Control Act also provides for civil and criminal penalties which in some cases are greater than those under the Clean Water Act. Any enforcement actions authorized under the Grading Ordinance may also include notice to the violator of such potential liability.

(2) Any person who knowingly makes any false material statement, representation, or certification in any record or other document submitted or required to be maintained by the Grading Ordinance or the General Construction Permit is subject to civil or criminal action. This may include prosecution for violation of Section 309(c)(4) of the Clean Water Act which provides for a fine of not more than ten thousand dollars ($10,000), or by imprisonment for not more than two years, or both.

(3) Any person who violates any order issued by the County for violation of the provisions of the Grading Ordinance regulating or prohibiting discharge of both stormwater and non-stormwater, and which causes, or threatens to cause, pollutants to enter the County's stormwater conveyance system shall be liable for such amounts that the County may be fined by the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB), or the amount of any civil liability imposed on the County for non-compliance with the SWRCB permits.

(4) Any party found to be in violation of Sections 23.04.450, 23.05.044, or 23.05.048.d in such a manner that poses or threatens to pose a significant danger to the environment or public health and safety, may have its name published in the largest daily newspaper in the San Luis Obispo area.

(5) Violations of San Luis Obispo County Air Pollution Control District (APCD) Rules or fugitive dust mitigation measures, the California Air Resources Board Asbestos Air Toxics Control Measure (ATCM) for Construction, Grading, Quarrying, and Surface Mining Operations, and the National Emission Standard for Hazardous Air Pollutants may result in required mutual settlements and or significant civil and/or criminal penalties as specified in state and federal law.

f. **Denial of subsequent permits.** Violation of any of the provisions of the Grading Ordinance shall be grounds for denying for five years all applications for building permits, grading permits, land use permits, tentative subdivision maps, general plan amendments, and other land development applications proposed for the site on which the violation occurred. The five-year period shall commence from the date of discovery of the violation. The Board of Supervisors may waive or reduce the penalty imposed by this subsection, for good cause. Any such waiver, if granted, shall in no way relieve the owner or applicant for any such subsequent land development application, of their duty to include the effects of the grading or clearing in any environmental analysis performed for the subsequent application, and to restore or rehabilitate the site, provide substitute or compensating resources, or perform other appropriate measures to mitigate the adverse effects of the illegal grading or clearing.

g. **Remedies not exclusive.** The remedies identified in the Grading Ordinance are in addition to and do not supercede or limit any other remedies, including administrative, civil and/or criminal remedies pursuant to federal, state, and local law. The remedies provided in the Grading Ordinance shall be cumulative and not exclusive.

23.05.057 - Education and Outreach

a. **Outreach and Public Education.** A formal outreach and public education program shall be implemented to reach the broadest possible audience, including grading contractors, heavy equipment operators, farmers and ranchers, and other professionals involved in grading and/or earthwork. This program shall include, but shall not be limited to, informational handouts, webpage information, and notification of requirements distributed with construction and land use permits.

b. **Professional Education Program.** In the event that the County adopts a certification Program for grading contractors, where state law requires that earthwork, grading, excavation or fill be performed by a licensed contractor, that licensed contractor shall also be certified by the County. Certification requirements shall be as established by the Board, and may include, but not necessarily be limited to, satisfactory knowledge and understanding of the County Grading, Drainage and Erosion and Sedimentation Control Ordinance, and/or familiarity with and continuing education in accepted grading, drainage, erosion and sedimentation control methods.

23.05.058 - Fees

Fees for grading permits and grading, drainage, and erosion and sedimentation control plan checking shall be as set forth in the fee ordinance adopted by the Board. In compliance with the adopted fee schedule, the Director may require payment of actual recorded costs, plus overhead, for those applications which will exceed County fees for processing, plan checking, administration, and/or inspection.

SECTION 6: Section 23.11.030 of the Coastal Zone Land Use Ordinance, Title 23 of the San Luis Obispo County Code, is hereby amended to incorporate the following new definitions:

23.11.030 - Coastal Zone Land Use Ordinance Definitions:

Best Management Practices (BMPs). Best management practices means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce stormwater pollutions. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Excavation. Any activity by which earth, sand, gravel, rock or any other similar material is dug into, cut quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting thereof. Excavation excludes activities associated with crop production, such as cultivation, disking, harrowing, raking or chiseling, planting, plowing, seeding, or other tilling.

Impervious. A surface that is incapable of being penetrated or passed through.

Low Impact Development (LID) Handbook. The County of San Luis Obispo Low Impact Development Handbook, which has been adopted by resolution of the Board of Supervisors after a duly noticed public hearing. Until such a time as the LID Handbook is adopted, the reference manual(s) identified by the Director of Planning and Building may be used to guide Low Impact Development design.

Municipal Separate Storm Sewer System (MS4). See "stormwater conveyance system."

Native Vegetation. Plants such as trees, shrubs, herbs, and grasses that grew naturally in San Luis Obispo County before European arrival; plants from other parts of the United States or from other countries are not considered native.

Permit, General. The National Pollutant Discharge Elimination System (NPDES) General Permit (No. CAS000004) issued by the State Water Resources Control Board, including subsequent amendments or modifications.

Permit, General Construction. The National Pollutant Discharge Elimination System (NPDES) General Permit (No. CAS000002) issued by the State Water Resources Control Board, including subsequent amendments or modifications.

Permit Holder. The landowner and/or responsible party acting on behalf of the landowner.

Rangeland Management. Any modifications to the land designed to improve forage for domesticated livestock.

Redevelopment. The creation or addition of at least 5,000 square feet of impervious area on an already developed site. This includes, but is not limited to: the expansion of a building footprint or addition of a structure; structural development including an increase in gross floor area and/ or exterior construction or remodeling; and land disturbing activities related with structural or impervious surfaces.

Regulated Development. Any development on private land that is not heavy industrial, crop production/grazing, or single-family residential. The category includes, but is not limited to: hospitals, laboratories and other medical facilities, educational institutions, recreational facilities, plant nurseries, multi-apartment buildings, car wash facilities, mini-malls and other business complexes, shopping malls, hotels, office buildings, public warehouses and other light industrial complexes.

Residence, Single-Family Hillside. Any single family residence that involves development on slopes steeper than 10 percent.

Site Disturbance. Any activity that involves clearing, grubbing, grading, or disturbances to the ground such as stockpiling or excavation

Stormwater Conveyance System. A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that are:

1. Owned and operated by the County of San Luis Obispo;
2. Designed or used for collecting or conveying storm water;
3. Not a combined sewer; and
4. Not part of a Publicly Owned Treatment Works (POTW) as defined by 40 Code of Federal Regulations §122.2.

Storm Event. A rainfall event that produces more than 0.1 inch of precipitation and which is separated from the previous storm event by at least 72 hours of dry weather.

SECTION 7: The Board of Supervisors hereby certifies that the FEIR has been prepared and completed in compliance with the California Environmental Quality Act, California Public Resources Code Section 21000 et seq. and the Board of Supervisors reviewed and considered the information contained in the FEIR prior to approving the amendments and that the FEIR reflects the lead agency's independent judgement and analysis. Further, the Board of Supervisors hereby adopts the recommended findings of the County Environmental Coordinator which are attached hereto and incorporated herein as though fully set forth.

SECTION 8: If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall

not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 9: This ordinance shall become operative only upon approval by the California Coastal Commission and upon acknowledgment by the San Luis Obispo County Board of Supervisors of receipt of the Commission's resolution of certification.

SECTION 10: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the _____ day of _____, 20_____, by the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

_____
Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

_____
County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

WARREN R. JENSEN
County Counsel

By:_____
Deputy County Counsel

Dated:_____