

APPENDIX E

City of Redding Grading Ordinance

Chapter 16.12 CLEARING, GRADING, FILLS AND EXCAVATION

16.12.010 Purpose.

1. The purpose of this chapter is to safeguard life, health, property, the environment, and the public welfare by establishing minimum requirements for grading, clearing, and erosion control. (Ord. 2246 § 2 (part), 1999)

1. 16.12.020 Scope.

2. A. This chapter sets forth rules and regulations to control clearing and grading, the prevention of erosion and other environmental damage, establishes administrative procedures for issuance and enforcement of permits, and provides for the approval of plans and inspection of grading and erosion-control operations.

B. The provisions of this chapter shall not be construed as waiving any requirements imposed by state, federal, or other local statutes or regulations or other provisions of this code.

(Ord. 2246 § 2 (part), 1999)

16.12.030 Exemptions.

1. The provisions of this chapter shall not apply to:

A. Work accomplished upon land owned and controlled by the United States of America or by the state and which is performed pursuant to a public program of some agency thereof;

B. Any excavation, removal, fill, or deposit of any earth or other materials within a property which is dedicated or used or to be used for cemetery purposes; provided that such work is performed for burying the dead and does not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property not owned by the cemetery authority;

C. Any grading operation which is conducted during a period of civil emergency or natural disaster and which is directly connected with or related to relief of conditions caused by such emergency or disaster;

D. The depositing of rubbish or other material at any reclamation or rubbish disposal site operated by the city and grading work performed as part of such operation;

E. Any work done in city streets, sidewalks, alleys, parkways or easements by the city or pursuant to an encroachment permit issued under provisions of this code; or

F. Excavations for utilities installed pursuant to permits issued by the building division;

G. Reconstruction of paved parking lots that do not alter the existing drainage pattern;

H. Grading, clearing, and the placement of topsoil for landscape purposes on a developed single-family residential parcel which is less than one acre, except as otherwise regulated by Chapter 13.40, Trees and Shrubs.

(Ord. 2246 § 2 (part), 1999)

16.12.040 Definitions.

1. As used in this chapter, unless the context otherwise clearly indicates:

"Abandon" means not actively working on the project and unable to be contacted, or is unwilling to return to the project after reasonable notice.

"Architect" means a professional architect licensed by the state pursuant to Chapter 3 of Division 3 of the Business and Professions Code.

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

"Bench" means a relatively level step excavated into earth material on which fill is to be placed.

"Best management practices" is a technique or series of techniques which, when used in an erosion-control plan, is proven to be effective in controlling construction-related runoff, erosion, and sedimentation.

"Board" means the State Board of Registration for Professional Engineers and Land Surveyors.

"Borrow" is earth material acquired from an off-site location for use in grading on a site.

"Civil engineer" means a professional engineer registered by the state to practice in the field of civil engineering.

"Clearing" means the removal or destruction of vegetation or trees.

"Code" means the Redding Municipal Code.

"Compaction" means the densification of a fill by mechanical means.

"Declaration" means a written statement expressing the professional opinion of the civil engineer, soils engineer or engineering geologist for that portion of the grading work under their control.

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

"Engineering geologist" means a geologist registered by the state as a certified engineering geologist experienced and knowledgeable in engineering geology.

"Erosion" means the wearing away of the ground surface as a result of the movement of wind, water and/or ice.

"Excavation" means any act by which earth material is cut into, dug, removed, displaced or

relocated and shall include the conditions resulting therefrom.

"Existing grade" means the grade prior to the proposed grading.

"Fill" means any act by which earth material is deposited and includes the condition resulting therefrom.

"Final erosion- and sediment-control plan (final plan)" means a set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a particular site after all other planned final structures and permanent improvements have been erected or installed.

"Finish grade" means the final grade of the site which conforms to the approved plan.

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

"Grading" means any excavation or fill or combination thereof and shall include the conditions resulting from any excavation or fill.

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

"Key" means a designed compacted fill placed in a trench excavated in existing earth or previously graded material beneath the toe of a proposed fill slope.

"Property owner" as used in this chapter means the owner of the fee title or leasehold interest in real property who has the present rights to possession and control of the property.

"Reasonable notice" means written, telephone, or verbal and includes attempts to notify by mail or telephone, even if actual contact was not made.

"Rough grade" means the stage at which the grade approximately conforms to the approved plan.

"Site" means one or more contiguous lots or parcels of land under the same ownership, whether or not separated by a street or streets.

"Slope" means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance, i.e., commonly expressed as two to one, one and one-half to one, etc.

"Soil" means the naturally occurring superficial deposits over laying bedrock or hardpan.

"Soils engineer" means a civil engineer registered by the state who has been found qualified as a soils engineer according to the rules and regulations established therefor by the board.

"Terrace" means a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

"Tree" means any plant which has a trunk six inches or greater in diameter at four feet above the ground.

"Vegetation" means all plants less than six inches in diameter at four feet above the ground, underbrush, weeds, grasses, shrubs, plants, etc.

"Watercourse" means any well-defined channel with distinguishable bed and bank showing evidence of having contained flowing water indicated by deposit of rock, sand, gravel, or soil, including, but not limited to, streams as defined in Public Resources Section 4528(f).

"Watercourse" also includes man-made watercourses. (Ord. 2246 § 2 (part), 1999)

16.12.050 Permit--Required.

1. A. Except as otherwise provided in Section 16.40.030 and this section, no person shall commence or perform any clearing or grading and no person shall export or import any earth materials to or from any site unless pursuant to a written permit from the office of the public works director. The permit shall be in the name of the property owner. A separate permit shall be required for each site but may include the entire operation at such site. When grading is to be done within fifty feet of a seasonal watercourse or in the one-hundred-year floodplain of a stream, creek or river, a permit shall be required in all cases.

B. Exceptions. Permits shall not be required in the following instances:

1. An excavation which:

a. Does not exceed one hundred cubic yards of earth material on parcels less than twenty thousand square feet or two hundred fifty cubic yards of earth material on parcels twenty thousand square feet or larger; and

b. Does not exceed two feet in vertical depth at its deepest point measured from the original ground surface; and

c. Does not create a cut slope greater than four feet in height and steeper than two horizontal to one vertical; and

d. Does not change the existing drainage pattern.

2. A fill that does not:

a. Exceed fifty cubic yards of earth material; and

b. Is not intended to support structures; and

c. Is less than three feet in vertical depth and is placed on natural terrain with a slope flatter than five horizontal to one vertical; and

d. Does not change the existing drainage pattern.

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

4. Clearing at a single site, provided that the total area cleared does not exceed one acre and is not in violation of any other applicable ordinance.

5. Clearing for agricultural purposes on land within a special agricultural combining district as set forth in this code.

6. Clearing of vegetation as required by the fire marshal for abatement of a nuisance, to provide safety around structures, or to suppress a fire.

7. Clearing or grading for any project by or under contract with the city or county.

(Ord. 2246 § 2 (part), 1999)

16.12.060 Permit--Applications.

1. Applications for permits required by this chapter shall be made in writing and filed with the public works director. Such applications shall include or be accompanied by the following:

A. Plans, Specifications, Soils Reports, and Interim and Final Erosion and Sediment Control Plans.

1. Two sets of grading plans and specifications prepared and designed by a civil engineer, or a licensed architect, when prepared in conjunction with building design and an application for a building permit, shall be submitted, together with such supporting data as may be necessary to comply with the provisions of this section. The scale of the grading plans shall not be more than one inch equaling fifty feet, nor less than one inch equaling twenty feet. The scale of details or sections shall not be less than one inch equaling one foot.

2. The public works director may waive the requirements for scale plans or drawings if it is found that the information on the application is sufficient to show that the work will conform to the provisions of this chapter.

3. The public works director may waive the requirement that plans and specifications be prepared by a civil engineer or licensed architect when the total quantity of excavation or fill does not exceed five thousand cubic yards and the site is not to be used to support a structure and the property owner on whose land the work is to be done will be in charge of the work and the public works director finds that the work to be performed does not affect the health or safety of the public or the employees of the property owner.

4. For any project which disturbs more than five acres, or where the public works director determines that a project may adversely impact a watercourse, the interim and final plans shall be prepared by a registered civil engineer experienced in erosion control, a certified professional soil erosion- and sediment-control specialist, or a soil scientist certified by the American

Registry of Certified Professionals in Agronomy Crops and Soils.

5. Engineering Geological Report. The public works director, after a visual site investigation, may require an engineering geological report based upon the grading plans. The engineering geological report shall be prepared and signed by an engineering geologist and shall include a description of the geology of the site, conclusions and recommendations regarding the effect of geological conditions on the proposed development, and a geologic map of sufficient detail as to portray the existing field condition. Recommendations included in the report and approved by the public works director shall be incorporated into the grading plans.

6. Soil Engineering Report. Unless it is found to be necessary after a visual site investigation by the public works director, a soils engineering report shall be submitted based upon the grading plans. Such report shall be prepared by a civil engineer or a soils engineer and shall include data regarding the nature, distribution, and strength of existing soils, conclusions, and recommendations for grading procedures, design criteria for corrective measures, or other criteria as may be necessary. Recommendations included in the report and approved by the public works director shall be incorporated into the grading plans or specifications.

B. Plans and Specifications--Clearing.

1. If the ground to be cleared will also be graded, filled, or excavated, then the plans and specifications provided pursuant to subsection A of this section shall be sufficient for clearing.

2. If the ground is to be cleared only, then plans and specifications equivalent to the requirements of subsection A1 of this section shall be submitted, unless after visual site inspection the public works director finds that the work to be performed will not endanger health or safety of the public or endanger property through erosion, siltation, or drainage.

C. Interim Erosion and Sediment Control Plan (Interim Plan). All the following information shall be provided with respect to conditions existing on the site during land-disturbing or filling activities or soil storage:

1. Maximum surface runoff from the site shall be calculated using a method approved by the public works director.

2. The interim plan shall also contain the following information, when applicable:

a. A delineation and brief description of the measures to be undertaken to retain sediment on the site, including, but not limited to, the designs and specifications for sediment detention basins and traps, and a schedule for their maintenance and upkeep;

b. A delineation and brief description of the surface runoff and erosion-control measures to be implemented, including, but not limited to, types and method of applying mulches, and designs and specifications for diverters, dikes and drains, and a schedule for their installation, maintenance, and upkeep;

c. A delineation and brief description of the vegetative measures to be used, including, but not limited to, types of seeds and fertilizer and their application rates, the type, location, and extent of pre-existing and undisturbed vegetation types, and a schedule for installation, maintenance,

and upkeep.

3. The location and detail of all the measures listed by the applicant under subsection C2 of this section shall be depicted on the grading plan or on a separate plan at the discretion of the public works director.

4. An estimate of the cost of implementing and maintaining all interim erosion- and sediment-control measures must be submitted in a form acceptable to the public works director.

5. The applicant may propose the use of any erosion- and sediment-control techniques in the interim plan, provided such techniques are proven to be as or more effective than the equivalent best management practices contained in the Public Works Construction Standards.

D. Final Erosion and Sediment Control Plan (Final Plan). All the following information shall be provided with respect to conditions existing on the site after final structures and improvements (except those required under this section) have been completed and where these final structures have not been covered by an interim plan.

1. Maximum runoff from the site shall be calculated using a method approved by the public works director.

2. The final plan shall also contain the following information, when applicable:

a. A description of and specifications for sediment retention devices;

b. A description of and specifications for surface runoff and erosion-control devices;

c. A description of vegetative measures;

d. A graphic representation and detail of the location of all items in subsections D2 a, b, and c of this section;

e. A schedule of maintenance and upkeep of the final plan.

3. An estimate of the costs of implementing all final erosion- and sediment-control measures must be submitted in a form acceptable to the public works director.

4. The applicant may propose the use of any erosion- and sediment-control techniques in the final plan, provided such techniques are proven to be as or more effective than the equivalent best management practices contained in the Public Works Construction Standards.

E. Other Information. The application and/or plans shall also include the following:

1. A vicinity sketch or other data adequately indicating the site location;

2. The legal description and street address of the property on which the work is to be performed and the name and address of the owner;

3. The estimated cost of the work;

4. Property lines and dimensions and bearings of the property on which the work is to be

performed;

5. Limits of cuts and fills;

6. Location of any buildings, structures, easements, utilities, and drainage channels on the property where the work is to be performed and the location of any building or structure on land of adjacent property owners which are within twenty-five feet of the property boundary;

7. Contours showing the topography of the existing ground. Contour intervals shall be consistent with the existing terrain and shall be accurate to accepted mapping standards for the map scale. Contours shall extend past the boundary lines of any project where unusual topography exists adjacent to a site, i.e., natural watercourses, etc.; the contours shall be extended to include the same;

8. Elevations, dimensions, location, extent, and the slopes of all proposed grading shown by contours and other means;

9. The quantity of excavation and fill involved and estimated starting and completion dates;

10. Source of material to be used for fill or location to which excavated material will be removed or both;

11. Proposed routes for hauling material, hours of work, and method of controlling dust;

12. Detailed plans of all drainage devices, walls, cribbing, dams, or other protective devices to be constructed in connection with or as a part of the proposed work, together with a map showing the drainage area and calculated runoff of the area served by the drains, subdrain location, and approximate length;

13. Any additional plans, drawings, calculations, or title reports the public works director may require because of special characteristics found to exist upon the grading site;

14. Contour maps submitted pursuant to this subsection shall bear the name of the person responsible therefor and the date they were made;

15. For an application for clearing only, any of the above-numbered items may be omitted if the public works director finds that the information on the application is sufficient to show that the work will conform to the provisions of this chapter;

16. The quantity of acreage of land to be cleared;

17. A description of the vegetation to be cleared;

18. The application shall be signed by the property owner;

19. The name and address of the contractor who will be in charge or control of the work.

F. Revised Plans and Specifications. If the soil, vegetation, or other conditions are not as stated in the application for a permit, the public works director may require the submission of revised plans and specifications.

(Ord. 2246 § 2 (part), 1999)

16.12.070 Permit--Fees.

1. Each application for a clearing or grading permit or appeal of any action or decision of the public works director or hearing body shall be accompanied by a processing fee. The amount of the processing fee shall be as established by the city council by resolution. (Ord. 2246 § 2 (part), 1999)

16.12.080 Permit--Environmental consideration.

1. The public works director shall refer each application for a grading permit to the development services director. If the development services director determines that the grading is not categorically exempt from the provisions of CEQA, then an initial study shall be prepared. After preparation of an initial study, the environmental review process shall be conducted as required in Chapter 18.64 of this code. The board of administrative review shall conduct any necessary public meetings or hearings unless referred to the planning commission by the board of administrative review. When a permit is categorically exempt, the development services director shall report in writing to the public works director on any aspect of the proposed grading that reflects to or affects the General Plan or any elements thereof, or any zoning regulation of the city. (Ord. 2246 § 2 (part), 1999)

16.12.090 Permit--Hearing.

1. A. Notice of Hearing. The development services director shall set a date for a hearing to be held in accordance with state laws applicable to local legislative bodies and commissions in relation to notice of public meetings when the grading or clearing is to be done on a site which:

1. Is intended to be subdivided, or a parcel map or tentative subdivision map has been approved; or

2. Involves five thousand cubic yards or more of excavation or fill; or

3. Involves clearing of five acres or more; or

4. An EIR has been prepared pursuant to the requirements of this chapter.

Unless a tentative grading or clearing plan has been approved as part of a discretionary action which required a hearing. When it has been determined by the public works director that substantial changes in a previously approved grading or clearing plan for a tentative map or other discretionary action has occurred, a rehearing may be required. Whenever the grading involves less than five thousand cubic yards of excavation or fill, or involves less than five acres of clearing, and the public works director determines that the work may affect the property, surrounding property, or the public welfare in a significant way, he may, at his discretion, require the development services director to set a date for a hearing thereon.

B. Hearing. The hearing shall be conducted by the board of administrative review as set forth in

this code. The hearing may be continued from time to time as circumstances may require. Notice of the hearing shall be given in the same manner as for a use permit under Section 18.70.040B of this code.

C. Action of the Board or Planning Commission. After consideration, the board of administrative review may approve, conditionally approve, or deny the application for a grading permit but may, in lieu thereof, forward the matter to the planning commission for decision.

D. Substantial Compliance. No clearing or grading permit issued under the provisions of this chapter shall be held invalid for failure to strictly comply with the provisions of this section if there has been substantial compliance therewith.

E. City Projects. This section shall not apply to any department of the city unless an environmental impact report was required under the provisions of this code.

(Ord. 2246 § 2 (part), 1999)

16.12.100 Permit--Denial grounds.

1. A. Geological or Flood Hazard. If the publicworks director determines by inspection or by soil or geological reports or other means that the land area for which clearing or grading is proposed is subject to geological or flood hazard to the extent that corrective work cannot eliminate or sufficiently reduce the hazard to persons or property, the grading permit and building permits for habitable structures shall be denied.

B. No clearing or grading permit shall be granted in any case in which:

1. The proposed grading will result in removing the lateral and subjacent support of the adjacent land, or otherwise endanger or constitute a hazard to other real property at a higher or lower elevation not necessarily adjacent or contiguous thereto, or to public sewers, drains, watercourses, streets, street improvements or other public property or result in seepage or slides, except upon condition that such damage or hazard shall be eliminated by the erection of necessary walls, cribs or other devices approved by the public works director; or

2. The proposed clearing or grading is inconsistent with the General Plan or in violation of a zoning ordinance; or

3. The proposed clearing or grading will result in a significant adverse environmental impact for which there are no overriding considerations pursuant to CEQA; or

4. Will occur within a one-hundred-year floodplain identified by the Federal Emergency Management Agency and a use permit has not been obtained under Section 18.47.110; or

5. A hearing is required, unless the hearing body has approved the application after conducting the hearing and no appeal is taken.

(Ord. 2246 § 2 (part), 1999)

16.12.110 Permit--Appeal.

1. A. Any person aggrieved by any action or decision of the public works director or the hearing body may appeal that action or decision. Appeals of any actions or decisions of the public works director or the board of administrative review shall be made to the planning commission. Appeals of any actions or decisions of the planning commission shall be made to the city council.

B. An appeal of an action or decision of the public works director or the board of administrative review may be taken by filing a written notice of appeal with the development services department. An appeal of the action or decision of the planning commission may be taken by filing a written notice of appeal with the city clerk. The notice of appeal shall state the name and address of the appellant and the basis of the appeal. Appeals of a decision of the public works director shall be filed within three calendar days of the decision on the permit application. Appeals of a decision of the board of administrative review or planning commission shall be filed within ten calendar days of the decision on the permit application.

(Ord. 2246 § 2 (part), 1999)

16.12.120 Permit--Issuance--Conditions-- Revocation.

1. A. Issuance.

1. A permit may be approved but shall not be issued until the appeal period set out in Section 16.40.110 has expired.

2. The permit shall be issued by the public works director except when a hearing on the permit or environmental determination is required, in which case the permit shall be issued by the hearing body.

3. The permit shall be issued in the name of the property owner as permittee, and shall be signed by said permittee in acknowledgment of the responsibilities set forth in subsection B of this section.

4. The issuance of a grading permit shall constitute an authorization to do only that work which is described or illustrated on the application or on the grading plans and specifications approved by the public works director or the hearing body at the time of issuance.

B. Responsibility of Permittee. The permittee shall carry out the proposed grading in accordance with the Standard Specifications for Public Works Construction (Green Book) approved grading and erosion-control plans and specifications, the conditions of the grading permit and the requirements of this chapter, and all other applicable laws and regulations. The permittee shall maintain all required protective devices and temporary drainage devices during the progress of the grading work and shall be responsible for observance of hours of work, dust controls, and methods of hauling. The permittee shall guarantee maintenance of the site for one year after final inspection of the final plan. The permittee shall become subject to the penalties set forth in this chapter in the event of failure to comply with this chapter and other applicable provisions of this

code. No approval shall exonerate the permittee from the responsibility of complying with the provisions and intent of this chapter.

C. Jurisdiction of Other Departments and Agencies. Grading and clearing permits issued under the provisions of this chapter shall not relieve the permittee of responsibility for securing required permits for work to be accomplished which is regulated by any other provision of this code or falls within the jurisdiction of other local, state or federal agencies.

D. Tract Map Requirements. No grading permit or clearing permit for slopes in excess of ten percent shall be issued on any parcel of acreage larger than five acres, unless a tentative subdivision map or parcel map has been approved or an affidavit is filed declaring the grading/clearing is not for subdivision purposes.

E. Access Routes. The public works director or approving body shall approve all access routes and may impose such regulations with respect to access routes to and from grading sites as he shall determine are required in the interest of public safety. Such regulations may include but need not be limited to the following:

1. The size or type of hauling equipment shall be limited in accordance with the width and conditions of the street;
2. Traffic-control devices, including flagmen, signs, and markers, shall be utilized at appropriate places along the designated routes of access to such sites; and
3. Temporary no-parking restrictions shall be imposed as provided along such routes when determined necessary by the public works director; and
4. Condition of access route (dust control).

F. Conduct of Grading Operations. No person shall excavate or fill so as to cause rocks, soil, sediment, or debris in any form to fall, slide, or flow onto adjoining properties or public property. Any debris deposited on adjoining properties or public property shall be removed by the permittee.

G. Conditions. In granting a permit under this chapter, the public works director or the granting body may attach such conditions as may be necessary to prevent unnecessary environmental damage or to protect the health, safety, and welfare of persons or property.

H. Hours of Work. Grading operations shall not begin before seven a.m. or continue later than seven p.m. No work will be allowed on Sunday. Exceptions from these limitations may be granted by the public works director or the approving body.

I. Conformance with Zoning Regulations Required. No permit shall be issued for any clearing or grading or any export or import of earth or materials to or from any grading site except in compliance with the zoning and division of land regulations contained in Titles 17 and 18 of this code, the State Subdivision Map Act, and the General Plan of the city.

J. Order of Work.

1. All erosion-control facilities shall be fifty percent complete by September 1st, eighty percent

complete by October 1st, and one hundred percent complete and fully operational by October 15th of any year. In addition, all facilities should be maintained fully operational until May 15th of the following year. The erosion-control devices should be inspected during and between rainfall events and repaired as necessary. Identified sites experiencing erosion shall be scheduled for corrective action no later than the next day.

2. Between the period May 15th to October 15th of each year, erosion-control measures shall be installed at the construction site at the end of the day or prior to weekend shutdown periods if the U.S. Weather Service forecasts a thirty percent or greater chance of precipitation. All materials necessary to implement the interim plan shall be on site prior to commencement of work.

K. Completion of Work and Extensions of Time. The permittee shall fully perform and complete all the work contemplated to be accomplished pursuant to the grading permit within the time limit specified in the permit. If the permittee is unable to complete the work within the specified time, he may, prior to the expiration of the permit, submit a written request for an extension of time within which to complete the work. The time specified on the grading permit may be extended by the public works director for a period of not more than forty-five days, but no such extension shall release any surety upon a security required pursuant to Section 16.40.130. If the extension of time would carry performance of the work into the rainy season as defined in subsection M of this section, then the extension of the permit shall be subject to the additional provisions of subsection M of this section, including the requirement for cash deposit security, and the permit may be further conditioned in accordance with subsection G of this section by the public works director.

L. Entry upon Premises. In the event of default in the performance of any term or condition of the grading permit, the surety, or any person employed or engaged on behalf of the surety shall have the right to go upon the premises to complete the required work. No application for a permit shall be filed unless such consent is included therein. It is unlawful for the owner or any other person to interfere with the ingress to or egress from such premises of any authorized representative or agent of any surety company or the city engaged in work ordered by the public works director.

M. Consent of Adjacent Property Owner. Whenever any excavation or fill requires entry onto adjacent property for any reason, the applicant shall obtain the written consent of the adjacent property owner or his authorized representative and shall file a signed and notarized copy of such consent with the public works director. No permit for such grading work may be issued unless and until all necessary consent documents are so filed.

N. Restrictions During Rainy Season.

1. That period between the fifteenth day of October and the following fifteenth day of April is found and determined to be the period in which heavy rainfall normally occurs in the city. During this period no clearing or grading in excess of two hundred fifty cubic yards may be commenced on any single site if the public works director determines by visual inspection that such work will endanger the public health and safety or is otherwise prohibited by state or federal regulations.

2. Grading and clearing operations shall be conducted in conformance with the applicable permit

requirements of the State Department of Fish and Game, the Regional Water Quality Control Board, and all other state and federal agencies having jurisdiction.

O. Compliance. No person shall fail, refuse, or neglect to comply with the following provisions:

1. All conditions imposed on permits pursuant to the provisions of this chapter;
2. All of the provisions of this chapter with respect to clearing and grading which were in effect at the time the permit was issued.

P. Notice of Hazard or Nonperformance. Whenever any construction or work is being done contrary to the provisions of this chapter or not in accordance with the plans and specifications submitted and approved as the basis for the issuance of the clearing or grading permit or with any condition imposed in connection with such permit, or if public or private property is or may be endangered, the public works director shall issue a reasonable notice to the permittee or his agent or other responsible employee requiring cessation of work upon that portion of the site where noncompliance, hazard, or other violation has occurred or exists. The notice shall state the nature of the condition and shall contain sufficient information to apprise the permittee of the nature and extent of the correction required. No work shall be performed on said portion of the site unless and until the noticed condition is rectified and approved upon inspection of the public works director or unless, as a condition of continuing the work, special precautions agreeable to the public works director are taken by the permittee. Failure of the permittee to take such precautions or rectify such condition, hazard, nonperformance, noncompliance, or violation shall be grounds for revocation of the permit.

Q. Revocation of Permit. Any permit granted in accordance with the terms of this chapter may be revoked by the public works director if any of the conditions or terms of the permit are violated or if any law or ordinance is violated in connection therewith.

R. Appeal of Revocation of Permit. Any person aggrieved by the decision of the public works director may submit a written appeal to the planning commission within the time and in the manner provided in Section 16.40.110.

S. Retention of Permit at Job Site. The permittee shall keep the grading permit and plans on the job site at all times work is in progress.

(Ord. 2246 § 2 (part), 1999)

16.12.130 Security.

1. A. Security Requirements.

1. Whenever an application for a grading permit is filed for the excavation or fill of five hundred cubic yards or more in volume and the nature of the work is such that if left incomplete it may create a hazard to human life or endanger adjoining property or property at a higher or lower level, or to any street or street improvement or any other public property, the public works director shall, before issuing the grading permit, require the applicant to guarantee faithful performance and payment of labor and material in an amount determined by the public works

director which shall be not less than one hundred percent of the total estimated cost of the work, including corrective work necessary to remove or eliminate geological hazards.

2. Notwithstanding the above, all work depicted on the interim and final plans and all grading performed during the rainy season shall be secured by a security. Additional security may be required by the public works director sufficient to cover the cost of site cleanup and debris removal. Where grading is required on property adjacent to the grading site to complete a project satisfactorily, the owner of the adjacent property need not provide additional security if the original guarantee is of sufficient amount to include such additional grading. Securities shall remain in effect until the work authorized by the grading permit is completed and any debris deposited on adjoining properties or public ways has been removed and such has been approved by the public works director.

B. Type of Security. A guarantee of faithful performance and payment of labor and material, when required under the provisions of this section, shall be provided by one of the following methods:

1. Bonds executed by the applicant as principal and a corporate surety authorized to do business in the state of California as surety, and in a form furnished by the public works director and approved by the city attorney;

2. A cash deposit with the city; or in lieu thereof a certificate of deposit from a federally insured lending institution in the name of the city with interest payable to the permittee;

3. An instrument or instruments of credit from one or more financial institutions subject to regulation by the state or federal government pledging that the funds necessary to meet the performance are on deposit and guaranteed for payment, and an agreement that the funds designated by the instrument(s) shall become trust funds for the purpose of securing faithful performance and payment of labor and material. The instrument(s) of credit and the agreement shall first be approved by the city attorney.

C. Action Against the Security. The public works director may, after reasonable notice, act against the appropriate security if any of the conditions listed in subdivisions 1 through 4 of this subsection exists. The public works director may use funds from the appropriate security to finance remedial work undertaken by the city or a private contractor under contract to the city and to reimburse the city for all direct costs incurred in the process of the remedial work.

1. The permittee ceases land-disturbing activities and/or filling and abandons the work site prior to completion of the grading plan;

2. The permittee fails to conform to the interim plan or final plan as approved or as modified under Section 16.40.200 and/or has had his/her permit revoked under Section 16.40.120;

3. The techniques utilized under the interim or final plan fail within one year of installation or before a final plan is implemented for the site or portions of the site, whichever is later;

4. The public works director determines that action by the city is necessary to prevent excessive erosion from occurring on the site.

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

1. Securities held against the successful completion of the grading plan and the interim plan, except for interim plans described in Section 16.40.240C, shall be released to the permittee at the termination of the permit provided no action against such security is filed prior to that date.
2. Securities held against the successful completion of the final plan and an interim plan described in Section 16.40.240C shall be released to the permittee either one year after termination of the permit or when a final plan is submitted for the unimproved site, whichever is later, provided no action against such security has been filed prior to that date.

(Ord. 2246 § 2 (part), 1999)

16.12.140 Design standards--Cuts, fills, drainage, and erosion control.

1. Cuts, fills, drainage, and erosion control shall be designed and constructed per the Standard Specifications for Public Works Construction (Green Book), latest edition, and the city of Redding Construction Standards and, if the grading is proposed to support structures, the Uniform Building Code. (Ord. 2246 § 2 (part), 1999)

16.12.170 Excavations.

1. Excavations shall not undercut any natural slope if the stability of a footing or foundation of any building or structure would be adversely affected, unless such footing or foundation is first properly underpinned or protected against failure. (Ord. 2246 § 2 (part), 1999)

16.12.190 Inspection and supervision.

1. A. General. All construction or work for which a permit is required shall be subject to inspection by the city. Certain types of work determined by the public works director to be likely to endanger or create a hazard to other property shall have either continuous or constant inspection and supervision during all critical periods by a civil engineer, soils engineer or engineering geologist as required by the public works director as a condition of issuance of the grading permit. Failure by the permittee to provide required inspections and supervision shall be grounds for revocation of the permit. Prior to closing the clearing or grading permit, a final inspection shall be made of all construction or work for which the permit has been issued.

B. Exposure of Work. Whenever any work on which called inspections are required as specified in this section is covered or concealed by additional work without having first been inspected, such work shall be exposed at the permittee's sole expense for examination.

C. Notice. The permittee or his agent shall notify the public works director twenty-four hours in advance of the time when the grading operation is ready for each of the following inspections:

1. Preconstruction Inspection. When the permittee is ready to begin work but before any grading or brushing is started.

2. Clearing and Grubbing Inspection. After the natural ground is exposed and prepared to receive fill but prior to the placement of any fill.

3. Final Inspection. When all work, including installation of all drainage structures, other protective devices, planting, and slope stabilization, has been completed and the as-graded plan and required reports have been submitted.

4. Other Inspection. In addition to the called inspections above, the public works director may make periodic inspections of the grading operations to ascertain compliance with the provisions of this chapter.

D. Responsibility of Permittee. The permittee shall provide sufficient professional supervisory control during the grading operation to insure compliance with the approved plans and specifications and the provisions of this code. When required by the public works director, the permittee shall avail himself of geological and soils engineering services to implement the supervisory control of the permittee's registered civil engineer.

E. Special Inspections. Where determined from the grading plans and site investigation that conditions warrant professional supervisory control, the permittee or his agent shall employ:

1. A registered civil engineer or geotechnical engineer to supervise all grading;

2. An engineering geologist to provide geological inspections. These inspections shall include, but not be limited to, the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters and placement of subdrains or other groundwater drainage devices. He shall report his findings to the soils engineer and the civil engineer and they shall be submitted to the public works director.

F. Inspections Required. The employment of specialists to supervise the grading operation shall not be deemed to render unnecessary inspections described in this section.

(Ord. 2246 § 2 (part), 1999)

16.12.200 Modifications.

1. A. The permittee and his agents shall not deviate from the grading plans and specifications without the written approval of the official or body which granted final approval to the original permit.

B. The public works director may require permittee to modify the grading plan, interim or final plans, and maintenance methods and schedules. The public works director shall notify the permittee in writing of the requirement and specify a reasonable period of time within which permittee must comply.

(Ord. 2246 § 2 (part), 1999)

16.12.210 Inspecting officials.

1. A. Notification of Noncompliance. If, in the course of fulfilling their responsibilities, the civil engineer, the soils engineer, the engineering geologist, or the testing agency finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the public works director. Recommendations for corrective measures, if necessary, shall be submitted.

B. On Termination of Services. The civil engineer supervising the grading work shall immediately notify the public works director in writing upon the termination of his services and he shall not be held responsible for work taking place after that time. All work shall immediately stop upon the termination of the services of the civil engineer, soils engineer, or engineering geologist whose name appears on the grading permit as having been approved to supervise the grading work, and it shall not commence again until the new approved civil engineer, soils engineer or engineering geologist certifies in writing to the public works director that he has reviewed all phases of the project and is thoroughly familiar with it. Upon receipt of this notice, the public works director shall immediately give written notice that work may proceed.

C. Transfer of Responsibility. If the civil engineer, the soils engineer, the engineering geologist or the testing agency of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of his or its technical competence for submitting a written declaration upon completion of the work.

(Ord. 2246 § 2 (part), 1999)

16.12.220 Safety.

1. If at any stage of work on an excavation or fill the public works director determines that the work is or is likely to become dangerous or is likely to endanger any property, public or private, it shall be his duty to require safety precautions to be immediately taken as a condition to continuing such permit work or to require cessation thereof forthwith unless and until it is made safe and to amend the plans for such work. After receiving such notice, oral or written, it shall be unlawful for the permittee or any person to proceed with such work contrary to said order. As soon as possible the public works director shall make a report outlining the conditions observed and the pertinent soil, geological and engineering information and shall mail or deliver a copy thereof to the permittee, but such order shall not be contingent upon the preparation or delivery of a report in those cases where hazard requires prompt action. (Ord. 2246 § 2 (part), 1999)

16.12.230 Completion of work.

1. A. Letter of Completion. When it is found that the work authorized by the grading permit, including the installation of all drainage structures, planting, and recommendations by the soils engineer and engineering geologist and removal of debris deposited on adjoining properties or

public ways has been satisfactorily completed in accordance with the requirements of this chapter, a letter of completion covering such work shall be sent to the permittee by the public works director. A copy shall be sent to the building official.

B. Final Reports. Upon completion of the work, the following reports and information, unless otherwise specifically waived by the public works director, shall be required:

1. An as-graded grading plan prepared by the civil engineer, including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities. He shall provide a written declaration that the work was done in accordance with the final approved grading plan and this chapter;
2. A soil grading report prepared by the soils engineer, including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. It shall also provide information as to location and nature of tests, statement related to the expansive nature of soil and rock material, limits of compacted fill shown on the as-graded plan, and adequacy of the site for the intended use;
3. A geologic grading report prepared by the engineering geologist, if an engineering geological report was required by the public works director in accordance with Section 16.40.060A4, including a final description of the geology of the site, including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. He shall provide a written declaration as to the adequacy of the site for the intended use as affected by geologic factors. Where necessary, a revised geologic map and cross sections and any recommendations regarding special building restrictions or foundation setbacks shall be included.

(Ord. 2246 § 2 (part), 1999)

16.12.240 Protective device maintenance.

1. A. The owner of any property on which grading or an excavation or fill has been made pursuant to a grading permit granted under this chapter and any other person or agent in control of such property shall maintain in good condition and repair all retaining walls, cribbing, drainage structures, and other protective devices, including planting, shown in the approved plans and specifications submitted with the application for a grading permit or subsequently required by the public works director.

B. Upon completion of final grading and permanent improvements, where such permanent improvements are planned at the time grading is performed, permittee shall submit executed contract(s) with a qualified contractor for maintenance and upkeep of final plan runoff and erosion-control measures for a one-year period.

C. No Improvements Planned. Where an applicant does not plan to construct permanent improvements on the site or plans to leave portions of the site graded but unimproved, applicant must:

1. Meet all the requirements of this chapter, except that an interim plan designed to control

runoff and erosion on the site for the period of time during which the site, or portions thereof, remain unimproved must be submitted in lieu of a final plan; and

2. Submit executed contract(s) as defined in subsection B of this section after completion of grading.

(Ord. 2246 § 2 (part), 1999)

16.12.250 Hauling.

1. A. Routes. In cases where the public works director designates the haul routes, such designation of routes shall take into consideration the most practical means of transporting the earth materials to and from the grading site consistent with the safety and welfare of residents along the routes.

B. Maintenance of Roadways. All public roadways used by the permittee shall be maintained free from all dust, dirt, and debris caused by the grading operations. The public works director may require a cash deposit from the permittee to cover any costs of roadway maintenance incurred by the city which are directly attributable to the permittee's grading operation. The amount of the cash deposit shall be determined by the public works director. The cash deposit or any unused portion thereof shall be refunded to the permittee after the grading permit has been closed.

C. Spillage. All vehicle loads shall be trimmed and watered or otherwise secured so as to prevent spillage from the equipment.

D. Equipment. In no event shall any export or import of earth materials to and from a grading site over dedicated and improved streets in the area be undertaken or conducted except by use of equipment which complies in all respects with the State Vehicle Code.

(Ord. 2246 § 2 (part), 1999)

16.12.260 Grading violations.

1. The following are expressly declared to be unlawful:

A. Any failure to comply with the provisions of this chapter by any person;

B. Any clearing, grading, excavation, or fill which is done without first having obtained a permit therefor in accordance with the provisions of this chapter;

C. Any failure by the permittee, or his agents, or anyone acting for the permittee, to comply with the terms, conditions, specifications, or limitations contained in a duly issued grading permit;

D. After work has been started by the permittee under a duly issued grading permit, any failure by the permittee to complete the work authorized by the permit;

E. Any quantity of clearing, grading, fill, or excavation upon the property of another without the

property owner's permission;

F. Continuation of a violation described in subsection A, B, C, D, or E of this section, beyond the end of one day, shall be considered a separate violation for each day or portion of the last day on which it is continued.

G. In addition to civil penalties provided for under this chapter, violations of the provisions of this chapter are punishable as misdemeanors.

(Ord. 2246 § 2 (part), 1999)

16.12.270 Nuisance.

1. A. Declaration. The condition of the land which results from any unlawful clearing, grading, excavation, or fill is expressly declared to be a public nuisance. (Government Code Section 38771).

B. Notice. Whenever the public works director is advised that a nuisance exists pursuant to this section, he shall immediately notify the property owner and issue a stop-work order and/or an order providing for abatement of the nuisance and/or may refer the nuisance to the planning commission.

C. Responsibility. The property owner shall be responsible for the control of conduct on the property so as to prevent any unlawful clearing, grading, excavation, or fill. If any unlawful clearing, grading, excavation, or fill takes place on the property, the property owner shall alleviate the nuisance thereby created and (1) restore the land to its preexisting condition to the greatest extent practicable or (2) take such remedial action as may be required by the public works director, the planning commission (after abatement hearing), or city council (after appeal) to remove and abate the nuisance.

D. Relief from Nuisance Abatement Enforcement. The property owner may apply for relief by making a written request to the public works director in conjunction with an application for a clearing or grading permit. If a permit is issued, enforcement remedies to abate the nuisance under Section 16.40.280B shall be stayed pending performance under the permit, provided that (1) the nuisance has not yet been abated by the public works director and (2) any permit issued after an appeal before the planning commission, or city council shall conform to the order of such body without requirement of a further public hearing on the permit, and (3) only one permit may be issued pursuant to this section. Relief from nuisance abatement enforcement remedies shall not stay enforcement or relieve liability for fines under Section 16.40.280A.

(Ord. 2246 § 2 (part), 1999)

16.12.280 Penalties and remedies.

1. The following penalties and remedies are accumulative and not exclusive of any other penalties or remedies allowed by law.

A. Fines.

1. Any persons who are found to have violated the provisions of this chapter with respect to grading, excavation, or fill may be held jointly and severally liable for payment of a fine in accordance with the amount of material or fill which was unlawfully graded, excavated, or filled. The amount of the fine shall be two hundred fifty dollars for the first fifty cubic yards or any fraction thereof, and two hundred fifty dollars for each additional fifty cubic yards or fraction thereof, provided that the total fine imposed for a single violation shall not exceed five thousand dollars.

2. Any persons who are found to have violated the provisions of this chapter with respect to clearing may be held jointly and severally liable for payment of a fine in accordance with the amount of acreage of land which was unlawfully cleared. The amount of the penalty shall be two hundred fifty dollars for the first one-half of an acre or portion thereof, and two hundred fifty dollars for each additional one-half acre or portion thereof, provided that the total fine imposed for a single violation shall not exceed five thousand dollars.

3. Any persons who are found to have violated the conditions of a duly issued permit for grading, excavation, fill, or clearing, such that the magnitude of the violation cannot be measured by the quantities of material moved or land cleared, may be held jointly and severally liable for payment of a fine of five thousand dollars.

B. Denial of Other Permits. No building permit, water, sewer, electrical permit, or any other permit shall be issued by the city to any person for any premises or portion thereof which is in violation of this chapter and which violation is not corrected or approved for correction by the public works director.

C. Nuisance Abatement/Enforcement.

1. Appeal to the Planning Commission. Within ten days following a finding of a nuisance and issuance of an order by the public works director pursuant to Section 16.40.270C and D, an aggrieved property owner may appeal the decision by filing a written request to the clerk of the planning commission. Said appeal does not release the property owner of complying with any stop-work order or order of abatement.

2. Appeal to City Council. Within ten days following a finding of a nuisance and issuance of an order by the planning commission, an aggrieved property owner may appeal the decision by filing a written request with the city clerk detailing the objections to the finding and order, together with a nonrefundable fee of two hundred dollars for processing the appeal. On appeal, the city council shall receive a report from the planning commission setting forth the basis for the finding and order, together with such relevant evidence as may be allowed on the issues raised by the appeal. Following hearing on the appeal, the city council may uphold or reverse the decision of the planning commission, or modify the remedial action necessary to abate the nuisance; and the city council shall authorize the mayor to immediately issue an order in accordance therewith. The order of the city council shall be final.

3. Resolution Ordering Abatement--Service. If the planning commission or city council orders abatement of the nuisance, a copy of the order directing the public works director to abate the

nuisance after thirty days shall be served upon the owner of the property in accordance with the provisions of this subdivision. Any property owner shall have the right to comply with the order by (1) restoring the property to its preexisting condition to the greatest extent practicable, or (2) taking such remedial action specified in the order to remove or abate the nuisance, at his own expense, provided it is done in conformance with Section 16.40.270C prior to the expiration of the thirty days.

4. Abatement Costs--Accounting. The public works director shall keep an account of the costs, including incidental expenses, of abating the nuisance on each separate lot or parcel of land where the work has been done, and shall render an itemized report in writing to the city council showing the cost of the work on each separate lot or parcel of land; provided that before the report is submitted to the city council, a copy of the report and notice shall be served upon the owner of the property in accordance with the provisions of subsection C3 of this section at least five days prior to submitting the report to the city council. Proof of service shall be made by affidavit or declaration and filed with the city clerk. The term "incidental expenses" shall include, but not be limited to, the expenses and costs of the city in the preparation of notices, service of notices, specifications and contracts, inspecting the work, and the costs of printing and mailing required by this chapter.

5. Abatement Costs--Final Determination. At the date and time fixed for receiving and considering the report referred to in subsection C7 of this section, the city council shall hear and pass upon the report of the public works director, together with any objections or protests which may be raised by any persons potentially liable or property owners liable to be assessed for the work of abating the nuisance and any other interested persons. Thereupon, the city council may make such revision, correction, or modification in the report as it may deem just, after which by resolution the report, as submitted or as revised, corrected or modified, shall be confirmed, provided that a hearing or consideration may be continued from time to time. The decision of the city council on all protests and objections which may be made shall be final and conclusive.

6. Abatement Costs--Assessment. The amount of the cost for abating the nuisance upon the various lots or parcels of land, as confirmed by the city council, shall constitute special assessments against the respective lots or parcels of land, and as thus made and confirmed shall constitute a lien on the property for the amount of the assessments, respectively. After the confirmation of the report, a copy shall be turned over to the county tax assessor and tax collector, acting for city, whereupon it shall be the duty of the assessor and tax collector to add the amounts of the respective assessments to the next regular bills of taxes levied against the respective lots and parcels of land for municipal purposes, and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes.

7. Emergency Abatement. When it comes to the attention of the public works director that a nuisance exists which is determined to be of imminent danger of causing rocks, soil, sediment, or debris in any form to fall, slide, or flow onto adjoining properties, watercourses, public property, or floodplain (as defined in Chapter 18.47), the department may immediately perform corrective work, either with city crews or by contract, notwithstanding the other provisions of this subsection.

8. Right of Entry. Whenever necessary to enforce the provisions of the chapter, the public works director may enter the premises at all reasonable times in the manner provided by law to perform any duty imposed by this chapter. If such entry is refused, the public works director shall have recourse to every remedy provided by law to secure entry.

(Ord. 2246 § 2 (part), 1999)