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**15.36.200 Time limits.**

A. The permittee shall perform and complete all the work required by the permit within the time limit specified in the permit. If the work cannot be completed within the specified time, a request for an extension of time, setting forth the reasons for the requested extension, shall be presented in writing to the director of public works no later than thirty (30) days prior to the expiration of the permit. The director of public works may grant additional time for the work by amending the permit to extend the expiration date.

B. If all the permit work required is not completed within the time limit specified in Subsection A of this Section 15.36.200, no further grading shall be done without renewing the permit. A written request for renewal shall be submitted to the director of public works who may require a new application and fees depending on the time between the expiration date and the renewal request, revisions in county regulations, or changed circumstances in the immediate area. Any revised plan shall be submitted to the director of public works for review, and any costs thereof shall be at the applicant's expense.

C. In the event that a request for extension as described in Subsection A of this Section 15.36.200 or a request for renewal as described in Subsection B of this Section may result in the performance of grading work in the rainy season where such rainy season work was not previously authorized, the director of public works shall have the authority to require the submittal of detailed erosion and sedimentation control plans as a prerequisite to any such extension or renewal."

**§ Sections 15.36.220 through 15.36.260 are revised to read as follows:**

**"15.36.220 Appeals.**

Any person aggrieved by the decisions described in Sections 15.36.300 or 15.36.760 of this chapter, or other decision made pursuant to this chapter except for the levying of administrative fines, may appeal that decision within ten (10) working days following the effective date of that decision, by requesting a review in a written letter addressed to the Director of Public Works at 399 Elmhurst St., Hayward, CA 94544. Upon the receipt of such a request, the director shall request a staff report and recommendations and shall schedule a hearing on the matter at the earliest practical date. At that hearing, the director may hear additional evidence, and may reject, affirm, or modify the earlier decision. The decision of the director at the hearing may be appealed to the board of supervisors by submitting a written statement, setting forth the grounds for the appeal of the director's decision, addressed to Clerk of the Board of Supervisors at 1221 Oak St., Ste. 536, Oakland, CA 94612. Such appeal to the board must be received by the clerk of the board within ten (10) working days of the date of the final agency decision by the director. Upon receipt of the appeal, the board shall take one of the following actions:

1. Affirm the action of the director without further hearing or review; or
2. Refer the matter back to the director for further review, with or without instructions; or
3. Set the matter for a public hearing before the board, in which case the board shall set a time and place for the said hearing and shall provide notice to the person filing the appeal at least five (5) days prior to the date set for the hearing.

In the event of an appeal to the board, the board shall render its decision without consideration of any argument or evidence of any kind other than the record provided by the director, unless the board is itself conducting a public hearing on the matter. The decision of the board shall be final."

**Article IV  
Plans and Specifications**

**15.36.230 Application– Plans.**

Two or more complete sets of plans, as determined by the director of public works, including but not limited to profiles, cross sections, topographic maps and specifications shall be submitted to the director of public works with each application for a grading permit, or when otherwise required by the director of public works for enforcement of any provisions of this chapter. At the time of application, the applicant may provide preliminary grading plans. Prior to the issuance of a grading permit the applicant must furnish final grading plans. Preliminary grading plans with appropriate changes and additions thereto may be accepted as final grading plans. When the final grading plans and other required documents, including a final pollution prevention plan, have been approved, a grading permit will be issued by the director of public works. The work shall be done in strict compliance with the approved plans and specifications which shall not be changed or altered except in accordance with the provisions of this article.

**“15.36.240 Preliminary grading plans.**

Preliminary grading plans provide for review and determination of grading permit requirements prior to approval of final plans and issuance of a grading permit. Precise design at this stage is not required. The plans shall be clearly and legibly drawn and entitled "preliminary grading plans," shall contain a statement of the purpose of the proposed grading, and shall include the following, unless waived by the director of public works:

- A. On a map of appropriate scale, but not smaller than one inch equals one hundred (100) feet:
  1. A plan entitled "preliminary grading plan" and the name and signature of preparer and date of preparation,
  2. A vicinity sketch (not at map scale) indicating the location of the site relative to the principal roadways, lakes, watercourses, and flood control facilities in the area,
  3. A site plan indicating the site of the work and any proposed divisions of land,
  4. The complete site boundaries and locations of any easements and rights-of-way traversing and adjacent to the property, appropriately labeled and dimensioned,
  5. The location of all existing and proposed roadwayss, buildings, wells, pipelines, watercourses, flood control facilities, bridges, on-site wastewater treatment systems, stormwater treatment and detention facilities, and other structures, facilities, and features of the site, and the location of all improvements on adjacent land within fifty (50) feet of the proposed work,
  6. Location and nature of known or suspected soil or geologic hazard areas, including earthquake fault zone and seismic hazard boundaries as depicted on the maps published by the California Geologic Survey,
  7. Contour lines of the existing terrain and proposed approximate finished grade at intervals not greater than five (5) feet, showing all topographic features and drainage patterns throughout the area where proposed grading is to occur. The contour lines shall be extended to a minimum of fifty (50) feet beyond the affected area, and further if needed to define intercepted drainage, and shall be extended a minimum of one hundred (100) feet outside of any future roadway rights-of-way,
  8. Approximate location of cut and fill lines and the limits of grading for all the proposed grading work including borrow and stockpile areas. A written description of offsite locations of said areas will suffice,
  9. Location, width, direction of flow and approximate location of tops and toes of banks of any watercourses and open-channel flood control facilities, along with any associated riparian habitat zones,
  10. The boundaries of any floodplains, as designated in accordance with the provisions of chapter 15.40 of this title,
  11. Proposed provisions for stormwater drainage control in the vicinity of the grading,
  12. A conceptual plan for erosion and sediment control including both temporary facilities and long-term site stabilization features such as planting or seeding for the area affected by the proposed grading. This requirement may be waived by the director of public works for sites having no slopes

greater than five (5) percent unless the large size of the site, its proximity to sensitive areas or other conditions make an erosion or sediment discharge hazard possible,

13. North arrow and scale,

14. General location and character of vegetation covering the site and the locations of trees with a trunk diameter of twelve (12) inches or more, measured at a point three (3) feet above average ground level, within the area to be disturbed by the proposed grading. The plans shall indicate which trees are proposed to remain and how they are to be protected;

B. Typical cross sections (not less than two) of all existing and proposed graded areas taken at intervals not exceeding two hundred (200) feet and at locations of maximum cuts and fills;

C. An estimate of the quantities of excavation and fill, including quantities to be moved both on- and off-site;

D. The estimated starting and completion dates of grading;

E. Such supplemental information as required for processing and approval of the design concept and the application as required by the director of public works.

#### **15.36.250 Final grading plans– Engineer required.**

Final grading plans and specifications shall be prepared and signed by a civil engineer, except as otherwise provided herein, on sheets at least twenty-four (24) inches by thirty-six (36) inches. The plans shall include the following, in addition to all requirements for preliminary grading plans, unless waived by the director of public works:

A. A title block. Plans shall be entitled "grading plan" and state the purpose of the proposed grading and the name of the engineer or firm by whom this plan is prepared;

B. Accurate contour lines at intervals not greater than five (5) feet, showing topographic features and drainage patterns and the configuration of the ground before and after grading, relative to a bench mark established on-site;

C. Location, extent and finished surface slopes of all proposed grading and final cut and fill lines;

D. Cross sections, profiles, elevations, dimensions and construction details based on accurate field data;

E. Construction details for roadways, driveways, watercourses, culverts, and drainage devices, retaining walls, cribbing, dams, and other improvements to be constructed as part of the permit, together with supporting calculations and maps as required;

F. Complete construction specifications;

G. A detailed erosion and sediment control plan including specific locations, construction details, and supporting calculations for temporary and permanent sediment control structures and facilities, when required by the director of public works;

H. A landscaping plan, when required by the director of public works, including temporary erosion control plantings, permanent slope plantings, replacement of temporary groundcover, and irrigation facilities;

I. An estimate of the quantities of excavation and fill, adjusted for anticipated swell or shrinkage;

J. The locations of any borrow site and any site intended for disposal of surplus material;

K. A projected schedule of operations, including, as a minimum, the dates of:

1. Commencement of work,

2. Start and finish of rough grading,

3. Completion of drainage facilities,

4. Completion of work in any watercourse or flood control facility,

5. Completion of erosion and sediment control facilities,

6. Completion of hydromulching and other landscaping.

If rough grading is proposed between October 1st and April 15th, a more detailed schedule of grading activities and use of erosion and sediment control facilities may be required;

L. Itemized cost estimate of the proposed grading and related work;

M. Reference callouts, as necessary, for other proposed improvements, including buildings, structures, walls, bridges, on-site wastewater treatment facilities, stormwater treatment and detention facilities, fire hydrants, landscaping, pavement, etc.

N. Other information as may be required by the director of public works.

**15.36.260 Final grading plans– Engineer not required.**

All plans and specifications shall be prepared and signed by a civil engineer except that the director of public works may waive this requirement if the grading is minor in nature; would not endanger the public health, safety or welfare as determined by the director of public works; and would not involve or require any of the following:

- A. Cuts and fills with a combined total of one thousand five hundred (1,500) cubic yards or more;
- B. An access road serving three (3) or more existing or potential residences;
- C. A cut or fill that is intended to support structures;
- D. A cut or fill that is located so as to cause unduly increased pressure upon or reduced support of any adjacent structure or property;
- E. The construction of any extensive drainage or sediment control structures, culverts, or facilities or alteration of any existing drainage course;
- F. The creation or aggravation of an unstable slope condition.
- G. The construction of significant improvements, such as large retaining walls or major landscaped-based stormwater treatment facilities, that are authorized by other permits but that could affect the final grading design."

**§ Sections 15.36.310 through 15.36.400 are revised to read as follows:**

**"15.36.310 Permit Fees.**

A. The schedule of permit fees and costs shall be those established and adopted by the board from time to time by resolution. Before a permit is issued, the applicant shall deposit with the director of public works cash or equivalent, in a sufficient sum to cover the fee for issuance of the permit, charges for review of plans, specifications and reports, other engineering services, field investigations, necessary inspection or other work and routine laboratory tests of materials and compaction, all in accordance with the said schedule.

B. No application fee shall be required of public agencies or public utilities.

C. Public or private utilities may, at the option of the director of public works, make payment for the above charges as billed by the director of public works instead of by advance deposit as required above.

D. If, upon completion of any work under a permit there remains any excess of deposit or of fees or charges, the director of public works shall certify the same to the auditor for refund to the permittee or refund the same from any trust fund established under his jurisdiction for such purposes.

E. If, upon completion of any work under a permit there is an insufficient deposit to cover the cost of the work, the director of public works may require the permittee to reimburse the amount equal to the cost deficit.

F. If grading work is done in violation of this chapter or such work is not done in accordance with an approved permit, the director of public works shall have the authority to charge remedial fees in accordance with the provisions of Section 15.36.674 of this chapter.

**15.36.320 Geotechnical/geologic investigation required.**

A geotechnical (soil) or geologic investigation report shall accompany the permit application in any of the following circumstances:

A. When the proposed grading includes a cut or fill exceeding five (5) feet in depth at any point and the slope of the natural ground within thirty (30) feet of the cut or fill exceeds ten (10) percent; however, for vehicular ways, a geotechnical/geologic investigation shall not be required unless the grading includes a proposed cut or fill that exceeds ten (10) feet in depth;

B. When the shrink-swell rating of the soil in the area of the proposed grading work is greater than .5, as shown in the "Building Site Development" ratings in the "Web Soil Survey Soil Data Explorer" interactive maps published by the United States Department of Agriculture Natural Resources Conservation Service at <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>, or when there are other reasons to suspect that highly expansive soils are present;

C. When the property is located within an earthquake fault zone or a seismic hazard zone, as delineated on the official maps published for that purpose by the California Geologic Survey, or when such hazards are otherwise known or suspected on the site.

The director may require additional or supplemental geotechnical/geologic investigations and reports in conjunction with the design and construction of other structures and facilities subject to separate permits, such as foundations, on-site wastewater treatment systems, stormwater infiltration devices, etc.

#### **15.36.330 Geotechnical/geologic investigations.**

Those portions of the geotechnical/geologic investigation, as described in Section 15.36.320 of this chapter, that constitute "civil engineering" as defined by Section 6731 of the Business and Professions Code of the state shall be conducted by a geotechnical engineer. Those portions of the investigation that involve the practice of "geology" as defined by Section 7802 of the Business and Professions Code of the state shall be conducted by an engineering geologist or geologist.

The investigations shall be based on observation and tests of the material exposed by exploratory borings or excavations, and other inspections made at appropriate locations. Additional studies may be necessary to evaluate soil and rock strength, the effect of moisture variation on soil, bearing capacity, compressibility, expansiveness, stability, percolation rates, groundwater levels, and other factors.

#### **15.36.340 Geotechnical/geologic reports— General.**

Any geotechnical/geologic investigation report shall be subject to the approval of, and supplemental reports and data may be required by, the director of public works. Recommendations included in the reports and approved by the director of public works shall be incorporated in the final plans and specifications.

#### **15.36.350 Geotechnical/geologic investigation report.**

The geotechnical/geologic investigation report shall contain all of the following as they may be applicable to the subject site:

- A. An index map showing the regional setting of the site;
- B. A site map showing the topographic features of the site and locations of all soil borings and test excavations;
- C. A classification of the soil types (unified soil classification); pertinent laboratory test data; and consequent evaluation regarding the nature, distribution and strength of existing soils;
- D. A description of the geology of the site and the geology of the adjacent areas when pertinent to the site;
- E. A suitably scaled map and cross sections showing all identified areas of land slippage;
- F. A description of any encountered groundwater or excessive moisture conditions;
- G. A description of the soil and geological investigative techniques employed;
- H. A log for each soil boring and test excavation showing elevation at ground level and depth of each soil or rock strata;
- I. An evaluation of the stability of pertinent natural slopes and any proposed cut and fill slopes;

- J. An evaluation of settlement associated with the placement of any fill;
- K. Recommendations for grading procedures and specifications, including methods for excavation and subsequent placement of fill;
- L. Recommendations regarding drainage and erosion control;
- M. Recommendations for mitigation of geologic hazards.
- N. Recommendations for the design of any associated stormwater treatment/detention systems, particularly those systems that are intended to provide treatment by means of infiltration.

**15.36.360 Final report.**

Upon completion of rough grading work, the director of public works may require a final geotechnical/geologic report that includes, but is not necessarily limited to the following:

- A. A complete record of all field and laboratory tests including location and elevation of all field tests;
- B. A professional opinion regarding slope stability, soil bearing capacity, and any other pertinent information;
- C. Recommendations regarding foundation design, including soil bearing potential, and building restrictions or setbacks from the top or toe of slopes;
- D. A declaration by the geotechnical engineer, engineering geologist, or geologist in the format required by the director of public works that all work was done in substantial accordance with the recommendations contained in the geotechnical geologic investigation reports as approved and in accordance with the approved plans and specifications.

**15.36.370 Changed conditions.**

Where geotechnical or geologic conditions encountered in the grading operation deviate from that anticipated in the geotechnical/geologic investigation reports or where such conditions warrant changes to the recommendations contained in the original investigation, a revised geotechnical/geologic report shall be submitted for the approval of the director of public works.

**15.36.380 Special inspection.**

A. The director of public works may require the permittee to provide a private geotechnical engineer, geologist, or engineering geologist, as appropriate, to perform continuous inspection work, and upon completion of the work to provide a written statement acknowledging that he/she has inspected the work and that in his professional judgment the work was performed in accordance with the approved plans and specifications. The permittee shall make his/her own contractual arrangements for such services and be responsible for payment of all costs. Continuous inspection by a geotechnical engineer, geologist, or engineering geologist shall include but not be limited to the following situations:

1. During the preparation of a site for the placement of fills which exceed five(5) feet in depth on slopes which exceed ten (10) percent and during the placing of such fills; however, for vehicular accessways, fill placement shall be continuously inspected when fills exceed ten (10) feet in height;
2. During the preparation of a site for the placement of any fill and during the placement of such fill which is intended to support any building or structure;
3. During the installation of subsurface drainage facilities;
4. Such other inspections as may be required by the director of public works.

B. Reports filed by the private geotechnical engineer, geologist, or engineering geologist regarding special inspection shall state in writing that from his/her personal knowledge the work performed during the period covered by the report has been performed in substantial accordance with the approved plans and specifications.

C. The use of a private geotechnical engineer, geologist, or engineering geologist for inspections shall not preclude the director of public works from conducting inspections using his or other authorized inspectors as may be necessary.

**15.36.390 Noncompliance notification by private geotechnical engineer, geologist, or engineering geologist.**

The permittee shall cause the work to be done in accordance with the approved plans. If during the course of construction the private geotechnical engineer, geologist, or engineering geologist finds that the work is not being done substantially in accordance with the approved plans and specifications, he/she shall immediately notify the person in charge of the work and the director of public works of the nonconformity and the corrective measures to be taken. When changes in the plans are required, he/she shall prepare such proposed changes and submit them to the director of public works for approval.

**15.36.400 Period progress reports by private geotechnical engineer, geologist, or engineering geologist.**

Periodic progress reports shall be rendered by the private geotechnical engineer, geologist, or engineering geologist as required by the director of public works including, but not limited to laboratory tests, slope stability, placement of materials, retaining walls, drainage, utilities and any special permit or plan requirements."

**§ Sections 15.36.430 through 15.36.440 are revised to read as follows:**

**"15.36.430 Performance of work— Inspection.**

The director of public works may inspect any work done pursuant to a permit under this chapter. In addition, inspections by a private geotechnical engineer, geologist, or engineering geologist may be required in accordance with the provisions of Section 15.36.380 of this chapter.

The director of public works will determine the scope of the necessary inspections on a case-by-case basis, but the following inspection points are typical:

- A. Preconstruction meeting with permittee and all project consultants, including the special inspector if applicable.
- B. Pre-fill. The site has been cleared and grubbed, undocumented fill has been removed, and any required benches or keyways are cut and ready for fill.
- C. Rough grading. Roadway subgrades, drainage swales, and slope terraces are constructed; approximate final elevations are established; and drainage systems sufficient to protect the building sites are installed.
- D. Final. Grading is complete. Drainage systems, including any required stormwater protection facilities, are installed.

The director of public works may require reinspections at any point if he/she determines that the grading work is either not ready for inspection or is being performed in violation of this chapter; see Section 15.36.674 of this chapter for possible penalties associated with failed inspections. The director of public works shall also have the authority to inspect grading work that has been or is being performed without a permit in order to determine the extent of possible remediation, including the imposition of penalties per Section 15.36.674.

The director of public works shall have the authority to oversee, inspect, and require compliance with the pollution prevention plan throughout the period of any permit.

No permittee shall be deemed to have complied with this chapter until the final inspection of the work has been made by the director of public works and he/she has certified in writing that the work has been completed in accordance with all requirements and conditions of the permit, and when required, a final geotechnical/geologic report and as-built plans have been filed with the director of public works.

The permittee shall provide adequate access to the site for inspection by the director of public works during the performance of all work and for a minimum period of one year after acceptance by the director of public works of all improvements pursuant to Section 15.36.660B and C of this chapter.

**15.36.440 Other responsibilities of permittee.**

The permittee shall also be responsible for the following:

A. Protection of Utilities. The permittee shall be responsible for the prevention of damage to any public or private utilities or services.

B. Protection of Adjacent Property. The person doing or causing the grading is responsible for the prevention of damage to adjacent property. No person shall excavate on land sufficiently close to the property line to endanger any adjoining public roadway right-of-way, district property, or other public or private property, without supporting and protecting such property from damage that might result.

C. Advance Notice. The permittee shall notify the director of public works at least twenty-four (24) hours prior to the start of work.

D. Construction Site Control. It shall be the responsibility of the permittee to implement seasonally appropriate best management practices for the control of erosion, the control of stormwater run-on and runoff, the control of sediment, good site management, the control of non-stormwater discharges from the site, and where necessary, active treatment of discharges, all in accordance with a pollution prevention plan and with an erosion and sediment control plan approved by the director of public works."

**§ Sections 15.36.490 through 15.36.500 are revised to read as follows:**

**"15.36.490 Fill compaction.**

All fills shall be compacted throughout their full extent to a minimum of ninety (90) percent of maximum density as determined by appropriate ASTM standard method or other alternate methods approved by the director of public works. Tests to determine the density of compacted fills shall be made on the basis of not less than one test for each two (2) foot vertical lift of the fill but not less than one test for each one thousand (1,000) cubic yards of material placed. Additional density tests at a point approximately one (1) foot below the fill slope surface shall be made on the basis of not less than one test for each one thousand (1,000) square feet in slope surface but not less than one test for each ten (10) foot vertical increase of slope height. Additional tests may be required throughout the fill as determined by the inspector for the director of public works. All tests shall be reasonably uniformly distributed within the fill or fill slope surface. Results of such testing and location of tests shall be presented in the periodic and final reports. Compaction may be less than ninety (90) percent of maximum density, as determined by the above test, within six (6) inches of the slope surface when such surface material is placed and compacted by a method acceptable to the director of public works for the planting of the slopes. Compaction of temporary storage fills, to be used for a period of not greater than six (6) months, shall not be required, except where the director of public works determines that compaction is necessary as a safety measure to aid in preventing saturation, sliding, or erosion of the fill. Where compaction is required, it shall be done as specified by the director of public works.

**15.36.500 Ground preparation for fill placement.**

The natural ground surface shall be prepared to receive fill by removing vegetation, noncomplying or undocumented fill, top soil, and other unsuitable material, and where slopes are five (5) horizontal units to one (1) vertical unit or steeper, by benching into competent material in a manner recommended by a geotechnical engineer or an engineering geologist and approved by the director of public works. If a bench or keyway is required under the toe of a fill slope, the said bench or keyway shall be at least ten (10) feet wide, unless otherwise recommended by the geotechnical engineer or engineering geologist."

**§ Section 15.36.530 is revised to read as follows:**

**“15.36.530 Setbacks– General.**

Unless otherwise recommended in a geotechnical/geological investigation report, or as otherwise specified by the director of public works, the required setbacks of constructed slopes shall be as follows:

A. The setback of an ascending slope from the face of any building or structure, and the setback of a descending slope from the face of any footing or foundation, shall be in accordance with the requirements of Section 1805.3 of the California Building Code.

B. The setback of an ascending slope from a property line shall be equal to at least one-half (1/2) the vertical height of the slope, but need not be more than fifteen (15) feet.

C. The setback of a descending slope from a property line shall be equal to at least one-fifth (1/5) the vertical height of the slope, but need not be more than forty (40) feet.”

**§ Sections 15.36.550 and 15.36.560 are revised to read as follows:**

**“15.36.550 Drainage– Disposal requirements.**

All drainage facilities shall be designed to carry surface and subsurface waters to the county stormdrain system or other juncture, subject to the approval of the director of public works and in accordance with the approved pollution prevention plan. Drainage areas shall conform to patterns established by the director of public works.

**15.36.560 Drainage– Water accumulation.**

Unless otherwise specified by the director of public works, all areas shall be graded and drained so that water will not pond or accumulate. Drainage shall be effected in such a manner that it will not cause erosion or endanger the stability of any cut or fill slope or any building or structure.”

**§ Section 15.36.580 is revised to read as follows:**

**“15.36.580 Slope Protection.**

Terraces at least eight (8) feet in width shall be established at not more than twenty-five (25) feet in height intervals for all cut and fill slopes exceeding thirty (30) feet in height. Where only one (1) terrace is required, it shall be at approximately mid-height. Suitable access shall be provided to permit proper cleaning and maintenance of terraces and terrace drains. Swales or ditches on terraces must be connected by means of down-drains to drainage outlets or other discharge points.

Berms, interceptor drains, swales, or other protective devices shall be installed at the top of cut and fill slopes to protect the face of the slope from erosion caused by surface runoff.

The design of all such terrace drains, swales, ditches, down-drains, outlets, discharge points, berms, and other protective devices shall be subject to approval by the director of public works. ”

**§ Sections 15.36.600 through 15.36.690 are revised to read as follows:**

**“15.36.600 Erosion and sediment control.**

The following shall apply to the control of erosion and sediment from grading operations:

A. Grading plans shall be designed with long-term erosion and sediment control as a primary consideration.

B. No grading operations shall be conducted during the rainy season except upon a clear demonstration, to the satisfaction of the director of public works, that at no stage of the work will there be any substantial risk of increased sediment discharge from the site. In the event that rainy season grading is planned, the director shall have the authority to require the submittal of detailed erosion and sediment control plans covering each stage of the work.

C. Should grading be permitted during the rainy season, the smallest practicable area of erodible land shall be exposed at any one time during grading operations and the time of exposure shall be minimized.

D. Natural features, including vegetation, terrain, watercourses and similar resources shall be preserved wherever possible. Limits of grading shall be clearly defined and marked to prevent damage by construction equipment.

E. Permanent vegetation and structures for erosion and sediment control shall be installed as soon as possible after the completion of grading or construction activities.

F. Adequate provision shall be made for long-term maintenance of permanent erosion and sediment control structures and vegetation.

G. No topsoil shall be removed from the site unless otherwise directed or approved by the director of public works. Topsoil overburden shall be stockpiled and redistributed within the graded area after rough grading to provide a suitable base for seeding and planting. Runoff from the stockpiled area shall be controlled to prevent erosion and resultant sedimentation of receiving water.

H. Long-term post-grading stormwater runoff from the site may be subject to formal erosion and sedimentation control or other discharge controls in accordance with the provisions of chapter 13.08 of the general ordinance code. In any case, post construction runoff shall not be discharged from the site in quantities or at velocities greater than the pre-grading volume or flow rate except into drainage facilities that are designed and constructed to receive such increased runoff, as approved by the director of public works.

I. Permittee shall take reasonable precautions to ensure that vehicles do not track or spill earth materials into public roadways and shall immediately remove such materials if this occurs.

J. The permittee shall ensure that erosion and sediment control best management practices (BMPs) as specified in the pollution prevention plan are applied throughout the project in order to control contamination of stormwater runoff and to capture any soil that is eroded.

#### **15.36.610 Emergency conditions.**

Should increased sediment discharge occur or become imminent, permittee shall take all necessary steps to control such illicit discharge. Such steps may include construction of additional facilities or removal or alteration of facilities required by approved erosion and sediment control plans. Facilities removed or altered shall be restored as soon as possible afterward or appropriate changes in the plan shall be immediately requested pursuant to this chapter. Permittee shall take prompt action to resolve emergency problems; in the event that the permittee fails to respond, or the response is deemed inadequate, the director of public works shall have the authority to institute abatement proceedings or to take other enforcement actions in accordance with the provisions of Section 15.36.680 of this chapter.

#### **15.36.620 Erosion and sediment control plans.**

Erosion and sediment control plans prepared pursuant to this chapter shall comply with all of the following:

A. The erosion and sediment control plan need not be a separate sheet if all facilities and measures can be shown on the grading sheets or included in the pollution prevention plan without obscuring the clarity of any of the plans.

B. An erosion and sediment control plan shall be required whenever:

1. The graded portion of the site includes more than ten thousand (10,000) square feet of area having a slope greater than five (5) percent; or

2. There is a significant risk that more than two thousand five hundred (2,500) square feet will be unprotected or inadequately protected from erosion during any portion of the rainy season; or

3. Grading will occur within the watercourse setback, as defined in Section 13.12.320 of chapter 13.12 of the general ordinance code; or

4. Grading will occur in proximity to the property line(s) in a location where there is a potential erosion or sediment discharge hazard to the adjacent property; or

5. The applicant is required to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) in accordance with the provisions of the State Construction General Permit.

6. The director of public works determines that the grading will or may pose a significant erosion or sediment discharge hazard because of the erosion potential of the particular soil type, the sensitivity of the receiving waterbody, the proximity of the receiving waterbody, the slope of the site, or for any other relevant reason.

C. The applicant shall submit, with his erosion and sediment control plans, a detailed cost estimate covering this work.

D. Erosion and sediment control plans shall include an effective revegetation program to stabilize all disturbed areas that will not be otherwise protected. All such areas where grading has been completed between May 1st and September 15th shall be planted by October 1st. Graded areas completed at other times of the year shall be planted within fifteen (15) days. If revegetation is infeasible or cannot be expected to stabilize an erodible area with assurance during any part of the rainy season and the unstable area exceeds two thousand five hundred (2,500) square feet, additional erosion and sediment control measures or irrigation of planted slopes may be required as appropriate to prevent increased sediment discharge.

E. Erosion and sediment control plans shall be designed to prevent increased discharge of sediment at all stages of grading and development from initial disturbance of the ground to project completion. Permanent post-grading control of erosion and sedimentation may also be required in accordance with the provisions of chapter 13.08 of the general ordinance code. If grading occurs in distinct phases, or if the site will remain unstable through more than one rainy season, the plan must specifically cover each stage of the development. Plans shall indicate the implementation period and the corresponding state of construction where applicable.

F. Erosion and sediment control plans shall comply with the recommendations of any civil engineer, geotechnical engineer, geologist, engineering geologist, or landscape architect involved in preparation of the grading plans.

G. The structural and hydraulic adequacy of all stormwater containment or conveyance facilities shown on the erosion and sediment control plans shall be verified by a civil engineer, and he shall so attest on the plans. Sufficient calculations and supporting material to demonstrate such adequacy shall accompany the plans when submitted.

H. Erosion and sediment control plans shall be designed with sufficient flexibility to meet unanticipated field conditions.

I. Erosion and sediment control plans shall provide for inspection and repair of all erosion and sediment control facilities at the close of each working day during the rainy season and for specific sediment cleanout and vegetation maintenance criteria.

J. Erosion and sediment control plans shall comply with any and all standards and specifications adopted by the director of public works for the control of erosion and sedimentation on grading sites.

K. Erosion and sediment control plans prepared in conjunction with a formal stormwater pollution prevention plan (SWPPP) shall include detailed cross-reference to each element of the SWPPP, including the planned best management practices (BMP's) and descriptions of the required monitoring programs.

The director of public works may waive the requirement for a formal erosion and sediment control plan if, in his/her opinion, no significant erosion or sediment discharge hazard exists; however, all grading projects shall be required as a minimum to provide site and seasonally relevant erosion and sediment control best management practices (BMPs) as part of the pollution prevention plan required by the provisions of Section 15.36.230 of this chapter 15.36.

#### **15.36.630 Vehicular ways– General.**

A. Except as otherwise allowed under the provisions of Section 15.36.640 of this chapter, the grading of vehicular ways shall conform to the general grading requirements of this chapter.

B. All vehicular ways shall be graded in conformance with the slope, width, and turn radii limitations imposed by the county fire department or by the applicable fire district.

**15.36.640 Vehicular ways– Cut slopes.**

The director of public works may approve grading for a vehicular way where an adjacent cut slope is steeper than two (2) horizontal units to one (1) vertical units (50% slope) if all of the following are met:

A. The daylight line of a plane sloping at two (2) horizontal units to one (1) vertical unit from the toe of the said slope is more than twenty (20) feet from any property line and from the face of any building or structure; and

B. The steeper slope is necessary to avoid excessive grading; and

C. The proposed vehicular way and adjacent cut slopes are located outside of any designated landslide hazard zone, or they are deemed safe following a geotechnical/geologic investigation by a geotechnical engineer or an engineering geologist; and

D. If required by the director of public works, the property owner executes and records a hold harmless agreement, in a form approved by the director, relieving the county from any liability for this exception.

**15.36.650 Vehicular ways– Drainage.**

Vehicular ways shall be graded and drained in such a manner that the stormwater runoff from the finished construction will not cause erosion, endanger the stability of any adjacent slope, or damage any buildings, structures, or adjacent property. Moreover, the discharge of runoff from a vehicular way may be subject to the stormwater quality and flow/volume limitations imposed by chapter 13.08 of the general ordinance code.

**Article VII  
Improvement Security**

**15.36.660 Security required.**

A. As a condition for the issuance of a permit, the director of public works shall have the authority to require the deposit of an improvement security in an amount deemed necessary by him/her to assure faithful performance of the work or the cost of removing the work or otherwise reconstructing or restoring a site to conditions existing prior to such work, in the event of default by the permittee or, in the case of a subdivision, where the permittee does not proceed with preparation and obtaining the approval of a final map. The said security shall be in the form of cash, a certified or cashier's check, a letter of credit, or a faithful performance bond executed by the permittee and a corporate surety authorized to do business in this state.

B. In the case of subdivisions authorized by a final map, unless otherwise authorized by the director of public works, the improvement security shall remain in effect until final inspections have been made, all grading work and subdivision improvements have been accepted by the director of public works, and all other requirements of the subdivision contract have been satisfied. For subdivisions authorized by a parcel map, the required effectivity period of the improvement security shall be determined on a case-by-case basis by the director of public works.

C. For projects other than subdivisions, the improvement security shall remain in effect until final inspections have been made and all grading work has been accepted by the director of public works.

D. In addition to the improvement security, the director of public works may also require the deposit of a maintenance security in an amount deemed necessary by him/her to guarantee and maintain the grading work, to assure the proper functioning of the drainage systems, and to support the implementation of adequate erosion and sedimentation control. The said maintenance security shall be in the form of cash or a certified or cashier's check. If the director elects to require the said

security, he/she shall have the further authority to require that this security remain in effect through the end of the rainy season following the completion of the grading work.

E. Upon satisfaction of the applicable provisions of this chapter, any improvement and maintenance security deposits or bonds submitted in support of the permit will be released or refunded to the permittee by the director of public works. However, upon failure to complete the work, failure to comply with all of the terms of the permit, or failure of the completed site to function properly to provide proper drainage or erosion and sedimentation control, the director shall determine the scope of work necessary to mitigate any hazardous or unsafe conditions, including illicit discharges from the site, and shall have the authority to cause that work to be done and to collect from the permittee or the surety all costs incurred thereto, including administrative and inspection costs. In the event of such collection, any unused portion of a deposit or bond shall be refunded to the permittee or surety after deduction by the county of the cost of the work.

## **Article VIII Enforcement**

### **15.36.670 Suspension and revocation of permit.**

The director of public works may suspend or revoke a permit for good cause, subject to appeal in accordance with the provisions of Section 15.36.220 of this chapter. In the event of such appeal, no work shall be performed pending the resolution of the said appeal except as authorized or directed by the director of public works.

### **15.36.680 Violations deemed a public nuisance.**

A. In addition to the penalties described in Section 15.36.674 of this chapter, any condition caused or allowed to exist in violation of any of the provisions of this chapter, including any violation of the orders or notices issued pursuant to Section 15.36.684 of this chapter, may be determined by the director of public works to be a threat to the public health, safety, and welfare, and as such, may be declared and deemed by him/her to be a public nuisance, and may be summarily abated and/or restored by any authorized enforcement officer pursuant to the provisions of Chapter 15.28 of this title, including the exception provided by Section 15.28.050E of that chapter wherein the normal notice and hearing requirements for abatements may be waived when the said conditions are determined, by the director, to constitute an immediate hazard to health or property.

B. If any violation of this chapter is determined by the director of public works to constitute a recurrent public nuisance, the director shall so declare. Following any appropriate required notice and hearing pursuant to chapter 15.28 of this title, thereafter such declared recurrent public nuisance shall be abated in accordance with chapter 15.28 without the necessity of any further hearing.

C. The county may recover any and all costs and expenses associated with any actions taken pursuant to the provisions of subsections 15.36.680A and 15.36.680B of this chapter, in accordance with the provisions of chapter 15.28 of this title.

D. In addition to any action taken by the authorized enforcement officer pursuant to subsection 15.36.680A of this chapter, county counsel may initiate an action to abate, enjoin, or otherwise compel the cessation of any condition declared to be a public nuisance by the director of public works. In any civil proceeding under this Section 15.36.680 in which the county prevails, the county shall be awarded all costs of investigation, inspection, monitoring, and/or survey that led to the establishment of the violation, administrative overhead, out-of-pocket expenses, costs of administrative hearings, costs of suit, and reasonable attorney fees.

### **15.36.690 Civil actions.**

In addition to any other remedies provided in this chapter, any violation of this chapter may be enforced by civil action brought by the county. In any such action, the county may seek, and the court may grant, as appropriate, any or all of the following remedies:

A. A temporary and/or permanent injunction requiring any person not complying with this chapter to comply forthwith;

B. Assessment of the violator for the costs of any investigation, inspection, monitoring and/or survey that led to the establishment of the violation, including administrative overhead and out-of-pocket expenses, and for the reasonable costs of preparing and bringing legal action under this section, including attorney fees;

C. Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation; and/or

D. Compensatory damages for loss to or destruction of wildlife habitat, including watercourse riparian corridors."

**§ Sections 15.36.710 through 15.36.760 are revised to read as follows:**

**"15.36.710 Enforcement officer.**

The director of public works shall enforce the provisions of this chapter. In accordance with prescribed procedures, the director of public works may appoint such number of technical officers, inspectors, and other employees as required to perform the tasks described in this chapter. The director shall have the authority to designate such officers, inspectors, or employees as may be necessary to enforce the regulations, requirements, and other provisions of this chapter; officers, inspectors, or employees so designated shall have the authority to impose administrative fines and/or fees in accordance with the provisions of Section 15.36.674B of this chapter.

**15.36.720 Right of entry.**

A. Whenever necessary to make an inspection in conjunction with the enforcement of the provisions of this chapter, or when an authorized enforcement officer has reasonable cause to believe that there exists on the premises any condition that could constitute a violation of this chapter, the officer may enter the premises at all reasonable times to perform the said inspection or any other duty imposed by this chapter, provided that the following conditions are met:

1. If such premises be occupied, the authorized enforcement officer shall first present proper credentials and request entry; and

2. If such premises be unoccupied, the authorized enforcement officer shall first make a reasonable effort to locate the owner or other persons having charge or control of the premises and request entry.

B. Any such request for entry shall state that the property owner or occupant has the right to refuse entry and that in the event such entry is refused, inspection may only be made upon issuance of a search warrant by a duly authorized magistrate. In the event that the owner or occupant refuses entry after such request has been made, the authorized enforcement officer is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

**15.36.730 Stop work orders.**

A. Whenever any grading work is being done contrary to the provisions of this chapter, an authorized enforcement officer shall have the authority to order the work stopped by serving written notice to that effect on any persons engaged in, doing, or causing such work to be done. If there are no such persons on the premises, the enforcement officer shall post the stop work notice in a conspicuous place thereupon.

B. Any person responsible for the performance of grading work having received a stop work notice from an authorized enforcement officer shall forthwith stop that work and immediately proceed to secure the work site, pending further direction from the enforcement officer. Under no

circumstance shall the work be resumed except under the express direction of the enforcement officer.

**15.36.740 Liability and indemnification.**

Neither issuance of a permit under the provisions of this chapter nor compliance with the provisions hereof or with any conditions imposed or administrative decisions made by the director of public works in conjunction with a permit issued hereunder shall relieve any person from responsibility for damage to any person or property or impose any liability upon the county for damage to any person or property.

To the fullest extent permitted by law, any permittee shall indemnify, defend, and hold harmless the county, the district, and their boards, officers, employees, and agents (collectively "indemnitees") from and against all claims, losses, damages, liabilities, or expenses, including reasonable attorney fees incurred in the defense thereof, for the death of or injury to any person or persons (including the permittee's or the county's or district's employees) or damage to any property and/or business loss or economic harm that arises out of or is in any way connected with the issuance of the permit or with grading work performed by permittee or permittee's contractors, consultants, or agents under this permit (collectively "liabilities"). The only exceptions to this duty to indemnify, defend, and hold harmless is for those liabilities caused solely by the negligence or willful misconduct of any indemnitees.

**15.36.750 Denial of other permits.**

No building, electrical, mechanical, plumbing, stormwater, on-site wastewater treatment permit, or any other permit shall be issued by the county to any person for any premises or portion thereof where there is a current violation of this chapter and which violation is not corrected or approved for correction by the director of public works.

**15.36.760 Notification of pending grading.**

A. Upon the filing of an application for a permit where the proposed scope of grading work involves the movement of fifteen hundred (1500) cubic yards or more of material and the associated project has not been previously subject to notification in accordance with the provisions of chapter 17.54 of the general ordinance code, the director of public works shall notify by mail the owners of property abutting the site, as shown on the latest equalized assessment roll, that an application for a grading permit has been submitted pursuant to this chapter. A similar notice shall be posted by the director of public works on every public roadway within three hundred (300) feet of the affected property.

B. The notice of pending grading work shall indicate that any person may comment to the director of public works at any stage of the permitting procedure, and that any decision made by the director of public works in conjunction with the review and approval of the application may be appealed by any person in accordance with the provisions of Section 15.36.220 of this chapter. "

## **SECTION II**

**This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.**

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, by the following called vote:

AYES:  
NOES:  
EXCUSED:

\_\_\_\_\_  
, President of the Board of Supervisors  
of the County of Alameda,  
State of California

\_\_\_\_\_  
, Clerk of the Board of Supervisors  
of the County of Alameda,  
State of California

Approved as to Form:

RICHARD E. WINNIE, County Counsel

By: \_\_\_\_\_