

ORDINANCE NO. 3005

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
TITLE 15, CHAPTER 15.04 OF THE CHULA VISTA
MUNICIPAL CODE RELATING TO EXCAVATION,
GRADING AND FILLS AS IT RELATES TO
IMPLEMENTATION OF THE MSCP SUBAREA PLAN

WHEREAS, the Multiple Species Conservation Program (MSCP) Subregional Plan was developed as a comprehensive, long-term habitat conservation plan which addressed multiple species and the preservation of natural habitat within a 900 square-mile study area in south San Diego County; and

WHEREAS, MSCP Subregional Plan contemplated that local jurisdictions, including the City of Chula Vista (City), would participate in the MSCP Subregional Plan and seek federal and state take authorization by adopting a subarea plan consistent with the conservation strategies contained in the MSCP Subregional Plan; and

WHEREAS, the City prepared and submitted a Draft MSCP Subarea Plan to the U.S. Fish and Wildlife Service and the City of San Diego in August, 1996, for inclusion in the Draft MSCP Subregional Plan and for consideration by the lead agencies in their environmental review of the Draft MSCP Subregional Plan; and

WHEREAS, as lead agencies for the Multiple Species Conservation Program (MSCP) Subregional Plan, the U.S. Fish and Wildlife Service and the City of San Diego prepared and certified a Final Environmental Impact Report/Environmental Impact Statement for the Issuance of Take Authorizations for Threatened and Endangered Species due to urban growth within the Multiple Species Conservation Program (MSCP) planning area (Final EIR/EIS) in January, 1997 and adopted the Final MSCP Subregional Plan in August, 1998; and

WHEREAS, as a responsible agency, the City of Chula Vista (City) participated in the preparation of the Final EIR/EIS through consultation and comment; and

WHEREAS, after the adoption of the MSCP Subregional Plan, the City, and the U.S. Fish and Wildlife Service and the California Department of Fish and Game (hereinafter referred to as the Wildlife Agencies) further negotiated a number of aspects of the 1996 Draft Subarea Plan, including but not limited to, the refinement of the conditions of coverage for covered projects, the type and extent of protection for narrow endemic species, the amount and type of public facilities and infrastructure to be allowed in the Preserve, and an acceptable configuration for the university site adjacent to the Preserve; and

WHEREAS, following a review by the Wildlife Agencies and public comment period, the City issued a draft MSCP Subarea Plan dated September 11, 2000, and a Draft Implementing Agreement dated September 20, 2000, to the Wildlife Agencies and the general public; and

WHEREAS, on September 22, 2000, the City submitted to the U.S. Fish and Wildlife Service an application for a Section 10(a)(1)(B) permit for incidental take pursuant to the U.S. Endangered Species Act of 1973, as amended, and submitted to the California Department of Fish and Game an application for a take authorization permit pursuant to Section 2835 of the California Endangered Species Act, with both applications including the Draft MSCP Subarea Plan dated September 11, 2000, and a Draft Implementing Agreement dated September 20, 2000; and

WHEREAS, the Planning Commission and the City Council set the time and place for a joint hearing on said project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City at least 10 days prior to the hearing; and

WHEREAS, the hearing was held at the time and place as advertised on October 17, 2000, in the Council Chambers, 276 Fourth Avenue, before the Planning Commission and City Council; and

WHEREAS, approval of the MSCP Subregional Plan and adoption of the Chula Vista MSCP Subarea Plan dated September 11, 2000 were discretionary actions covered by the Final EIR/EIS, and therefore, as a responsible agency, the City had a more limited role than does a lead agency under the California Environmental Quality Act (CEQA); and

WHEREAS, the City prepared an Addendum dated September 11, 2000, pursuant to CEQA Guidelines section 15164 to fulfill the City's obligations as a responsible agency; and

WHEREAS, the City issued Findings of Fact for each of the significant environmental effects of implementing the Chula Vista MSCP Subarea Plan, dated September 11, 2000, in conformance with the CEQA and the CEQA Guidelines, which enabled the City to make full use of the Final EIR/EIS and the Addendum [CEQA Guidelines, sections 15101, 15093 and 15096, subd. (h)]; and

WHEREAS, the City considered the Final EIR/EIS prepared by the lead agency together with the Chula Vista MSCP Subarea Plan dated September 11, 2000 and the Draft Implementing Agreement dated September 20, 2000, and reached its own conclusion about whether and how to approve the MSCP Subregional Plan and the Chula Vista MSCP Subarea Plan dated September 11, 2000; and

WHEREAS, the City also prepared an MSCP Mitigation and Implementing Agreement Monitoring Program For Biological Resources dated October 12, 2000, in compliance with Public Resources Code section 21081.6, subd. (a)(1); and

WHEREAS, the City Council reviewed and considered the Final EIR/EIS prepared and certified by the U.S. Fish and Wildlife Service and the City of San Diego in January, 1997, the Addendum to the Final EIR/EIS (October 2000), the Findings of Fact and Statement of Overriding Considerations, and the MSCP Mitigation and Implementing Agreement Monitoring Program for Biological Resources (October 2000) and found that the documents were prepared in accordance with the requirements of CEQA, the CEQA Guidelines, and the Environmental Review Procedures of the City of Chula Vista, and also found that the Final EIR/EIS (January 1997) and Addendum to the Final EIR/EIS adequately addressed the environmental impacts of the MSCP Subregional Plan and the Draft Chula Vista MSCP Subarea Plan, dated September 11, 2000; and

WHEREAS, on October 17, 2000, the City Council approved the MSCP Subregional Plan dated August, 1998, as the framework plan for the Chula Vista MSCP Subarea Plan; conditionally adopted the MSCP Subarea Plan, dated September 11, 2000, and the Mitigation and Implementing Agreement Monitoring Program for Biological Resources dated October, 2000; and

WHEREAS, subsequent to the City Council conditional approval on October 17, 2000, the City decided to make further changes to the Draft MSCP Subarea Plan, dated September 11, 2000, including but not limited to additional information not previously available about the Quino checkerspot butterfly, a federally listed endangered species. The City believed it was prudent to add coverage for the Quino checkerspot butterfly into the draft MSCP Subarea Plan prior to the Subarea Plan and associated implementing documents being published in the Federal Register; and

WHEREAS, since October 2000, changes to the Draft MSCP Subarea Plan have been made as necessary to complete a final Draft MSCP Subarea Plan, including: 1) measures to provide coverage for the Quino checkerspot butterfly, 2) the preparation of three implementing ordinances, 3) final revisions to the Implementing Agreement, 4) conservation of additional lands not previously anticipated to be preserved, and 5) other revisions to address unresolved issues including, but not limited to, changed circumstances, wetlands, and funding for long term management; and

WHEREAS, the City determined that as part of the implementation of the MSCP Subarea Plan, the City of Chula Vista General Plan would be amended to incorporate the MSCP Subarea Plan as a separate element of the General Plan; and

WHEREAS, the City has prepared a Supplemental Environmental Impact Report and Environmental Assessment No. 03-01 to address all of the changes to the revised final Draft MSCP Subarea Plan; and

WHEREAS, on October 8, 2002, the City submitted a revised application to the Wildlife Agencies for a Section 10(a)(1)(B) permit for incidental take pursuant to the U.S. Endangered Species Act of 1973, as amended, and submitted to the California Department of Fish and Game an application for a take authorization permit pursuant to Section 2835 of the California Endangered Species Act, with all of the required application materials including the Draft Supplemental EIR and EA, the revised Draft MSCP Subarea Plan, the revised Draft Implementing Agreement, and Draft Implementing Ordinances (referred to herein collectively as implementing documents); and

WHEREAS, on October 10, 2002 a Federal Register notice was published commencing a 60-day public comment period on the Incidental Take Applications, Public Review Draft MSCP Subarea Plan, dated October 2002, implementing documents and associated environmental documents. A public notice was also published on October 11, 2002 announcing the availability of the Draft SEIR and EA to meet the requirements of the California Environmental Quality Act; and

WHEREAS, public review of the Draft MSCP Subarea Plan and implementing documents closed on December 9, 2002. The City received 12 letters of comment from the public and has prepared responses to the comments and made changes to the Public Review Draft MSCP Subarea Plan, dated October 2002 and implementing documents, and has prepared a final City of Chula Vista MSCP Subarea Plan, dated February 2003, Draft Implementing Agreement, dated February 2003; and final draft implementing ordinances; and

WHEREAS, the Planning Commission set the time and place for a public hearing on said project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City at least 10 days prior to the hearing; and

WHEREAS, the hearing was held at the time and place as advertised on April 23, 2003 in the Council Chambers, 276 Fourth Avenue, before the Planning Commission; and

WHEREAS, the Planning Commission recommended to the City Council the approval of the MSCP Subarea Plan and associated implementing documents; and

WHEREAS, the City Council set the time and place for a public hearing on said project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City at least 10 days prior to the hearing; and

WHEREAS, the hearing was held at the time and place as advertised on May 13, 2003 in the Council Chambers, 276 Fourth Avenue, before the City Council; and

WHEREAS, the conditional adoption of the Chula Vista MSCP Subarea Plan, dated February 2003 and associated implementing ordinances will not constitute a binding set of obligations on any public or private entity within the City of Chula Vista unless and until: 1) the U.S. Fish and Wildlife Service issues a biological opinion which affirms and is consistent with the conservation strategies in the Chula Vista MSCP Subarea Plan, dated February 2003 and the Draft Implementing Agreement, dated February 2003, 2) take permits and its conditions are issued by both Wildlife Agencies that are consistent with the Chula Vista MSCP Subarea Plan, dated February 2003, and Draft Implementing Agreement, dated February 2003, and 3) the City and Wildlife Agencies approves and executes the Implementing Agreement substantially in the form of the Implementing Agreement, dated February 2003; and

WHEREAS, the City Council considered the Supplemental EIR and EA at its hearing of May 13, 2003 and adopted the Chula Vista MSCP Subarea Plan (dated February 2003) with said conditions; and

WHEREAS, implementation of the MSCP Subarea Plan adoption of three MSCP Implementing Ordinances, including the Habitat Loss and Incidental Take Ordinance, the Otay Ranch Grazing Ordinance and revisions to the Excavation, Grading and Fills Ordinance. These ordinances will only take effect after issuance of the take permits and the necessary timelines for ordinances pursuant to the City Charter have passed.

NOW, THEREFORE, the City Council of the City of Chula Vista does ordain as follows:

Section I. That Chapter 15.04 of the Chula Vista Municipal Code is hereby amended to read as follows:

EXCAVATION, GRADING, CLEARING, GRUBBING AND FILLS

Sections:

- 15.04.005 Purpose and intent of provisions.
- 15.04.010 Definitions.
- 15.04.015 Permit required for all land development work and soil investigations.
- 15.04.017 Other Required Permits.
- 15.04.020 Compliance with conditions and specifications required-Deviations from standards permitted when.
- 15.04.025 Provisions not to affect other code requirements.
- 15.04.030 Facilities within public rights-of-way - Assignment of costs.
- 15.04.035 Commencement and completion of work - Extension of time.
- 15.04.040 Slopes - Design requirements generally.
- 15.04.045 Building pads - Design requirements.
- 15.04.050 Embankment requirements - Soil engineer may be required.
- 15.04.055 Expansive soil grading requirements.
- 15.04.060 Landscaping and irrigation system.
- 15.04.065 Slopes - Tops and toes to be rounded.
- 15.04.070 Slopes - Blending into existing terrain.
- 15.04.075 Slopes - Horizontal slope rounding.
- 15.04.080 Preservation of existing monuments.
- 15.04.085 Work in conjunction with subdivision of property - Requirements generally.
- 15.04.090 Work in conjunction with subdivision of property - Standard land development permit - Requirements.
- 15.04.095 Work in conjunction with subdivision of property - Contract for completion of improvements - Requirements-Bonds.
- 15.04.100 Building construction - Land development permit required - Prerequisite to building permit.
- 15.04.105 Damaged or disused public improvements – Notification - Corrective action required.
- 15.04.110 Public to be protected from hazards during construction - Fences and barricades required when.
- 15.04.115 Safety precautions.
- 15.04.120 Fence specifications - Modification permitted when.
- 15.04.125 Noncompliance.
- 15.04.130 Modification of approved plans.
- 15.04.135 Responsibility of permittee - Compliance with plans and requirements.
- 15.04.140 Completion of work - Final reports.
- 15.04.145 Notification of completion.
- 15.04.150 Exemptions from applicability designated.
- 15.04.155 Contractor-Qualifications required.
- 15.04.160 Work to be performed by licensed contractor.

- 15.04.165 Inspection of land development work -Responsibility therefore.
 - 15.04.170 Transfer of responsibility for approval.
 - 15.04.175 Plans and reports to be prepared by engineers.
 - 15.04.180 Private contract performance bond - Required when-Issuance conditions generally.
 - 15.04.185 Private contract performance bond – Conditions - Notice of default - Contents-Effect.
 - 15.04.190 Private contract performance bond-Principal or surety liable for cost of completing work when.
 - 15.04.195 Private contract performance bond - Liability of City for performance of certain work.
 - 15.04.200 Private contract performance bond - Cash deposit accepted in lieu when - Default correction procedure.
 - 15.04.205 Private contract performance bond - Not required when.
 - 15.04.210 Private contract performance bond-Required from certain contractors when - Exception.
 - 15.04.215 Private contract performance bond – Conditions - Compliance with certain terms and provisions required.
 - 15.04.220 Private contract performance bond - Method of estimating amount - Schedule.
 - 15.04.225 Release of bonds/security.
 - 15.04.230 City Engineer - Enforcement responsibility and permit issuance authority.
 - 15.04.235 City Engineer - Powers and duties generally.
 - 15.04.240 City Engineer - Authority to determine applicable fees.
 - 15.04.245 City Engineer - Duty to consider certain recommendations and deny certain applications.
 - 15.04.250 City Engineer - Grounds for canceling permit or amending plans.
 - 15.04.255 Appeals - Authorized when - Determination authority.
 - 15.04.260 Appeals - Time limit for filing-Form.
 - 15.04.265 Permits - Application-Procedure generally - Detail plan required.
 - 15.04.270 Permits - Application-Detail plans and specifications required.
 - 15.04.275 Permits – Issuance - Prerequisites and contents.
 - 15.04.280 Investigations authorized and required when - Fee.
 - 15.04.285 Agreement required for uncontrolled embankments - Additional specifications.
 - 15.04.290 Fees – Collection - Method of estimation – Verification - Payment required - exemptions.
 - 15.04.295 Fees-Schedule for computation.
 - 15.04.305 Fees - To be doubled in certain cases - Effect of imposition.
 - 15.04 310 Violations - Declared unlawful and public nuisance - Abatement authority.
 - 15.04.315 Abatement of dangerous conditions.
 - 15.04.320 Emergency abatement by City - Liability for costs.
 - 15.04.325 Costs of abatement - Special assessment procedure - Statutory authority.
 - 15.04.326 Conflicts.
- 15.04.005 Purpose and intent of provisions.

The purpose of this chapter is to establish minimum requirements for land development work to provide for the issuance of permits and for the enforcement of the requirements. These provisions are supplementary and additional to the subdivision and zoning regulations of this code and shall be read and construed as an integral part of said regulations and the land development patterns and controls established thereby. It is the intent of the City Council to protect life and property and promote the general welfare; enhance and improve the physical environment of the community; and preserve, subject to economic feasibility, the natural scenic character of the city. In administering these provisions, the following goals should be respected:

- A. Ensuring that future development of lands, particularly in the hilly areas of the city, occurs in the manner most compatible with surrounding areas and so as to have the least adverse effect upon other persons or lands, or upon the general public;
- B. Ensuring that soil will not be stripped und removed from lands in the more scenic parts of the city, leaving the same barren, unsightly, unproductive, and subject to erosion and the hazards of subsidence and faulty drainage;
- C. Encouraging the planning, design and development of building sites in such fashion as to provide the maximum in safety and human enjoyment, while adapting development to and taking advantage of the best use of the natural terrain;
- D. Encouraging and directing special attention toward the retaining, insofar as practical, the natural planting and a maximum number of existing trees;
- E. Ensuring any impact to sensitive biological resources, as defined by Section 17.35.030 of the Chula Vista Municipal Code, is consistent with the goals and policies of the Chun Vista MSCP Subarea Plan.

15.04.010 Definitions.

The following words and phrases, when used in this chapter, shall be construed as defined in this section:

“Appurtenant structures” means man-made structures related to and necessitated by the proposed grading and includes paved drainage ditches, inlet structures, lined channels, culverts, outlet structures and retaining walls.

“Building pad” means that portion of an embankment and/or excavation contained within an area bounded by a line five feet outside the foundation footing.

“Building site” means that portion of an embankment and/or excavation containing the building pad(s) and lying within an area bounded by the top of slopes and/or toe of slopes within the lot or parcel.

“Certify” or “certification” means a signed written statement that the specific inspection and tests, which were required, have been performed and that the works comply with the applicable requirements of this chapter, the plans, and the permit.

“Clearing” means the cutting of natural vegetation by any means, without disturbance to the soil and root system.

“Clearing and Grubbing Permit” means a permit issued pursuant to this chapter that allows clearing and grubbing that is not in association with other Land Development Work.

“Compaction” means densification of a soil or rock fill by mechanical or other acceptable procedures.

“Contractor” means a contractor licensed by the state to do work covered by this chapter. A contractor may be authorized to act for a property owner in doing such work.

“Contract, private” means an agreement between a property owner and a qualified contractor to do land development work.

“Embankment” or “fill” means any act by which earth, sand, gravel, rock or any other material is deposited, placed, pushed, dumped, pulled, transported or moved to a new location and the condition resulting there from.

“Embankment, uncontrolled” means any embankment constructed as land development on which no soil testing was performed or no compaction reports or other soil reports were prepared or submitted.

“Engineer, private” means a civil engineer registered by the state. A private engineer may be authorized to act for a property owner in doing work covered by this chapter.

“Engineering Geologist” means a certified engineering geologist, registered by the state, who is engaged in the practice of applying geological principles and data to engineering problems dealing with naturally occurring rock and soils for the purpose of assuring that geological factors are recognized and adequately interpreted in engineering practice.

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

“Excavation or cut” means any earth, sand, gravel, rock or any similar material which is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed by man, and the conditions resulting there from.

“Grade” means the elevation and cross-sections established for the finished surface. All grades shall be based upon the official datum of the city.

“Grading” means any excavating or filling or combination thereof and shall include the land in its excavated or filled conditions.

“Grubbing” means the removal of natural vegetation by any means including removal of the root system.

“Land development permit” means a permit, issued pursuant to this chapter, to conduct Land Development Work. “Land Development Work” means making of excavations and embankments on private property and the construction of slopes, drainage structures, fences and other facilities incidental thereto, where it is necessary to safeguard life, limb, health, property and public welfare by regulating and controlling the design, construction and quality of materials. Land development work also includes other associated grading, and clearing and/or grubbing conducted in preparation for such development.

“Landscape architect” means a landscape architect, registered by the state, who performs professional work in physical land planning and integrated land development, including the design of landscape planting programs.

“Landscape manual” means the current “City of Chula Vista Landscape Manual” approved by resolution of the City Council.

“Minor slope” means a slope four feet or less in vertical dimension in either cut or fill, between single-family lots and not parallel to any roadway.

“Natural terrain” means the original contour of a site prior to any grading.

“Permittee” means any person to whom a permit is issued pursuant to this chapter.

“Property owner” means the owner, subdivider or developer of real property, which will be benefited by the proposed land development work.

“Property, public” means property owned in fee by the City, or dedicated for public use.

“Public improvement” means publicly owned construction, structures or facilities in the public right-of-way designed for the public use, safety or general welfare.

“Public rights-of-way” means public easements or dedications for streets, alleys and/or other use.

“Rough grading” is the condition where the ground surface approximately conforms to the design grade, generally within 0.5 feet.

“Slope” means the inclined exposed surface of a fill, excavation or natural terrain.

“Slope, natural” means the predominant slope or slopes of land in its original condition prior to any grading.

“Soil engineer” means a civil engineer registered by the state who submits evidence to the satisfaction of the City Engineer that:

1. He is engaged in the practice of civil engineering and spends a majority of his time in the field of applied soil mechanics and foundations engineering;
2. He has at least four years of responsible practical experience in the field of applied soil mechanics;
3. He is qualified to make the investigations and determinations, render the reports and opinions and perform the duties of a soil engineer as required by this chapter.

All persons meeting the qualifications set forth above shall be recognized by the City Engineer as qualified to perform soil engineering under the provisions of this chapter.

“Soil, expansive” means any soil, which swells more than three percent when prepared and tested by a method approved by the City Engineer.

“Subdivider” means a person, firm, corporation, partnership or association who causes land to be divided into one or more subdivisions for himself or others as defined by those sections of the Government Code known as the Subdivision Map Act.

15.04.015 Permit required for all land development work and soil investigations.

No person, either as property owner, contractor, private engineer or otherwise, shall do or shall cause to be done any land development work without first having obtained either a land development permit or clearing and grubbing permit to do such work and having held a pre-grading or pre-clearing meeting if required by the City Engineer, except as provided in Section 15.04.150 of this Chapter.

Soil investigations by a soils engineer or engineering geologist, which involves trenching or scarifying of the natural terrain, shall require a permit. A special investigation fee shall be paid prior to issuance of such permit.

15.04.017 Other Required Permits

Prior to the City's issuance of a land development permit or clearing and grubbing permit, the applicant shall show compliance with a Habitat Loss and Incidental Take (HLIT) Permit issued pursuant to Chapter 17.35 of the Chula Vista Municipal Code, for areas that contain sensitive biological resources, as defined by Section 17.35.030 of the Chula Vista Municipal Code, and are within:

- 1) development areas outside of Covered Projects, as defined by Section 17.35.030 of the Chula Vista Municipal Code;
- 2) 75%-100% Conservation Areas, as defined by Section 17.35.030 of the Chula Vista Municipal Code; or
- 3) 100% Conservation Areas, as defined by Section 17.35.030 of the Chula Vista Municipal Code.

Prior to the City's issuance of a land development permit or clearing and grubbing permit for areas that contain sensitive biological resources, as defined by Section 17.35.030 of the Chula Vista Municipal Code, and are within the development areas of Covered Projects, as defined by Section 17.35.030 of the Chula Vista Municipal Code, the applicant shall show compliance with all applicable provisions of previous project entitlements issued by the City and with any applicable conditions of coverage listed in the Chula Vista MSCP Subarea Plan, as determined by the Director of Planning and Building or designee.

Prior to the City's issuance of a land development permit or clearing and grubbing permit for areas that will result in impacts to wetlands or to listed non-covered species, as defined by Section 17.35.030 of the Chula Vista Municipal Code, the applicant shall obtain, and show compliance with, all applicable federal and or state permits.

15.04.020 Compliance with conditions and specifications required - Deviations from standards permitted when.

Except as herein provided, all land development work shall be done in accordance with the conditions of the required permit, and shall conform to the approved plans, standard drawings, specifications, landscape manual, subdivision manual, and general conditions as may be determined by the City Engineer to be applicable to the work. Such documents are on file in the office of the City Engineer and shall be kept for public distribution in accordance with fee schedules in said office. In connection with land development work, deviations from the requirements of these standards may be permitted by the City Engineer based upon written reports and recommendations by qualified and recognized authorities subject to review by the City.

15.04.025 Provisions not to affect other code requirements.

This chapter shall not affect the requirements of any other chapter of this code requiring permits, fees or other charges, including those for sewer and services, or affect any provisions concerning the granting of franchises.

15.04.030 Facilities within public rights-of-way - Assignment of costs.

The following provisions of this section shall apply unless provision is made by an agreement pursuant to Sections 15.04.085 through 15.04.095 of this chapter:

- A. The property owner shall pay the City for all the cost of placing, repairing, replacing or maintaining a city-owned facility within a public right-of-way when the City's facility has been damaged or has failed as a result of the construction or existence of the owner's land development work during the process of such work.
- B. The costs of placing, replacing or maintaining the city-owned facility shall include the cost of obtaining a necessary alternate easement

15.04.035 Commencement and completion of work - Extension of time.

All land development work shall be executed in accordance with the provisions of this chapter and the terms of the permit issued by the City Engineer. Once commenced, work shall be carried out diligently until completed. Unless otherwise specified upon the permit, all work shall be completed within one hundred eighty days from the date of issuance of the permit. The City Engineer may grant one extension of time for the completion of the work. Such extension shall not exceed the original length of time designated on the permit.

15.04.040 Slopes - Design requirements generally.

The inclination of each cut or fill surface resulting in a slope shall not be steeper than two horizontal to one vertical except for minor slopes as herein defined.

All constructed minor slopes shall be designed for proper stability considering both geological and soil properties. A minor slope may be constructed no steeper than one and one-half horizontal to one vertical (1.5:1) contingent upon:

- A. Submission of reports by both a soils engineer and a certified engineering geologist containing the results of surface and subsurface exploration and analysis. These results should be sufficient for the soils engineer and engineering geologist to certify that in their professional opinion the underlying bedrock and soil supporting the slope have strength characteristics sufficient to provide a stable slope and will not pose a danger to persons or property, and
- B. The installation of an approved special slope planting program and irrigation system.

15.04.045 Building pads - Design requirements.

All building pads and building sites shall drain to an approved drainage facility unless otherwise approved by the City Engineer.

15.04.050 Embankment requirements - Soil engineer may be required.

- A. Unless otherwise specified on the permit, all embankments for land development work shall be compacted in conformance with the provisions of the standard specifications. The permit may require that an engineering geologist and/or soils engineer, as appropriate, be responsible for the inspection and testing of the embankment work and inspection of excavations. The soils engineer and engineering geologist, if one or both are required by the permit, shall file with the City Engineer reports as required by Sections 15.04.140 and 15.04.270B.
- B. Where, in the opinion of the City Engineer, the construction of an uncontrolled embankment would not be contrary to the public interest or welfare; a permit for such land development work may be issued in accordance with Section 15.04.285. Plans for uncontrolled embankment shall be complete in all respects except for soil analysis and compaction requirements. Uncontrolled embankment slopes shall not be steeper than three horizontal to one vertical.

15.04.055 Expansive soil grading requirements.

If, during the land development work, expansive soil is found within two feet in cut or three feet in fill of the finished grade of any area intended or designed as the location for a building, the permittee shall cause such expansive soil to be removed from such building area to a minimum depth of two feet in cut or three feet in fill and replaced with non-expansive soil properly compacted; provided, however, the City Engineer may, upon receipt of a report by a soils engineer certifying that he has investigated the property and recommending a design or footings or floor slab or other procedure that in his opinion will alleviate any problem created by such expansive soil, waive the requirement that such expansive soil be removed and replaced with non-expansive soil.

15.04.060 Landscaping and irrigation system.

All cut and fill slopes shall be planted and irrigated in accordance with an approved plan. Said plan shall be prepared in accordance with the city landscape manual and shall be approved by the City Landscape Architect, and the Director of Planning and Building or designee, as necessary.

15.04.065 Slopes - Tops and toes to be rounded.

The tops and toes of all major slopes in public view shall be rounded in accordance with the city standard drawings.

15.04.070 Slopes - Blending into existing terrain.

All man-made slopes shall be blended into existing terrain to produce a natural-appearing transition from the face of man-made slopes into natural ground. This blending shall be accomplished in accordance with City of Chula Vista Standard Drawings. Undulating top and toe of slopes and variable slope ratios should be used to achieve natural-appearing slopes.

15.04.075 Slopes-Horizontal slope rounding.

Rounding shall be accomplished in accordance with the City of Chula Vista Standard Drawings.

15.04.080 Preservation of existing monuments.

All existing survey monuments shall be shown on the grading plan. Evidence indicating that arrangements have been made for the preservation and/or relocation of existing monuments shall be submitted to the City Engineer prior to issuance of a land development permit.

15.04.085 Work in conjunction with subdivision of property - Requirements generally.

A subdivider of land required to do land development work as the result or condition of the approval of the tentative map shall perform such work under one of the following procedures, as set forth in Sections 15.04.090 and 15.04.095.

15.04.090 Work in conjunction with subdivision of property - Standard land development permit - Requirements.

Should the subdivider desire to do certain land development work prior to entering into contract with the City to install and complete all subdivision and land development work, he may make application to do so under a standard land development permit or clearing and grubbing permit, if the land development work is limited to clearing and grubbing only. This application shall be accompanied by detailed plans and specifications based upon the approved tentative map and in conformity with the provisions of Sections 15.04.017 and 15.04.040 through 15.04.075 of this chapter. A schedule and estimate based upon such plans and specifications shall accompany the application.

15.04.095 Work in conjunction with subdivision of property - Contract for completion of improvements - Requirements-Bonds.

A. Should the subdivider desire to do certain land development work in conjunction and concurrently with installation and construction of required public improvements, he may enter into a contract with the City to make, install and complete all improvements and land developments in accordance with approved plans and specifications.

B. Prior to any construction of improvements and/or land development work, the subdivider shall have complied with and performed the following requirements:

1. Subdivider shall file with the City Clerk detailed plans and specifications (or statement that work will be accomplished in accordance with standards and specifications of the city) approved by the City Engineer for all public improvements and land development together with a detailed cost estimate approved by the City Engineer and an estimate of time reasonably necessary to complete the same.

2. Subdivider shall enter into a contract with the City to make, install and complete within the time fixed by the City Engineer but in no case more than two years from the date of execution of said contract, all improvements and land development in accordance with the approved plans, and shall cause to be filed with the City Clerk a faithful performance bond payable to the City which shall insure the performance of the contract and the completion of the improvements and land development work. The subdivider shall additionally file with the City Clerk a labor and material bond to inure to the benefit of those persons entitled to the protection of Part III, Title IV, and Chapter 11 of the Code of Civil Procedure. A cash deposit or letter of credit may be submitted in lieu of bonds herein before described. Bonds and other forms of guarantee shall be in full conformity with the requirements for subdivision guarantees as set forth in the subdivision ordinance codified at Title 18 of this code.

3. The bond or other guarantee shall be based on the City Engineer's estimate of the cost of the work and in accordance with the following schedule:

- | | | |
|----|----------------------------|-----------------------|
| a. | Faithful performance bond: | |
| | Public improvements | 50% of cost estimate, |
| | Land development | 50% of cost estimate; |

- | | | |
|----|--------------------------|-----------------------|
| b. | Labor and material bond: | |
| | Public improvements | 50% of cost estimate, |
| | Land development | 50% of cost estimate. |

15.04.100 Building construction - Land development permit required - Prerequisite to building permit.

- A. An owner of land desiring to do land development work incidental to and in connection with the construction of a building or structure shall present an application and obtain a land development permit or clearing and grubbing permit. The City Engineer may require an on-site field inspection of the rough grading phase of the work between representatives of the City's Engineering, Planning and Building Departments and the permittee, civil engineer, soils engineer, biologist, as defined by Section 17.35.030 of the Chula Vista Municipal Code, and engineering geologist, as appropriate, before the issuance of a building permit. The permittee shall request a field inspection of the rough grading phase, if required, five working days prior to the inspection. The rough grading phase of the land development work described on form PW-E-106B shall be completed prior to the issuance of a building permit except as provided below. The City may suspend any building permit where it is found that land development work is being done or has been done without a land development permit or clearing and grubbing permit until a land development permit or clearing and grubbing permit is issued. The city may not certify to the completion of the building where land development work has been done until a land development permit is obtained and certified as complete.
- B. Notwithstanding any provisions to the contrary in Subsection A, walls which are designed and constructed to retain earth and are also integral portions of buildings may be constructed under building permits concurrently with land development work within the project site.

15.04.105 Damaged or disused public improvements - Notification-Corrective action required.

The City Engineer shall notify the property owner of such damage or failure as set forth in Section 15.04.030. The City may withhold certification of the completion of a building or other permitted work where a notice has been issued.

15.01.110 Public to be protected from hazards during construction - Fences and barricades required when.

During the land development work, the contractor and owner shall take all necessary measures to eliminate any hazard resulting from the work to the public in its normal use of public property or right-of-way. Any fences or barricades installed shall be substantially constructed and shall be properly maintained as long as the hazard resulting from the work exists.

15.04.115 Safety precautions.

If at any stage of the work the City Engineer determines that further land development work as authorized is likely to endanger any public or private property or result in the deposition of debris on any public way or interfere with any existing drainage course, the City Engineer may require, as a condition to allowing the work to be continued, that such reasonable safety precautions be taken as he considers advisable to avoid such likelihood of danger. The permittee will be responsible for removing any silt and debris, deposited upon adjacent and downstream public or private property, resulting from his grading operations. Silt and debris shall be removed and damage to adjacent and downstream property repaired, as directed by the City Engineer. Erosion and siltation control may require temporary or permanent siltation basins, energy dissipaters, or other measures as field conditions warrant, whether or such measures are a part of approved plans.

15.04.120 Fence specifications - Modification permitted when.

- A. Where a slope is created adjacent to a public right-of-way or other publicly used property, and the top of slope is within ten feet of the property line and the height of the slope is three feet or greater and steeper than 4:1, a forty-eight inch high fence shall be erected between property line and the top of slope. The design of said fence shall be approved by the City Engineer. Publicly used property is that property used frequently by persons other than the residents.
- B. The City Engineer may modify or delete the above requirements where it is evident that the land development work will present no hazard to the adjacent property or public right-of-way.

15.04.125 Noncompliance.

- A. If, in the course of fulfilling his responsibility under this chapter, the private engineer, soils engineer or biologist, as defined in Section 17.35.030 of the Chula Vista Municipal Code, finds that the work is not being done in substantial conformance with this chapter or the plans approved by the City Engineer or in accordance with accepted practices, he shall immediately notify the permittee, the person in charge of the land development work, and the City Engineer, in writing, on the nonconformity and of the corrective measures which should be taken.
- B. In the event the work does not conform to the permit or the plans or specifications or any instructions of the City Engineer, notice to comply shall be given in writing by the City Engineer to the permittee. As soon as practical after a notice to comply is given, the permittee or his contractor shall begin to make the corrections.
- C. If the City Engineer finds any existing conditions not as stated in the application, land development permit, clearing and grubbing permit, or approved plans, he may refuse to approve work until approval is obtained for a revised grading or clearing and grubbing plan which will conform to the existing conditions.

15.04.130 Modification of approved plans.

- A. Modifications of the approved grading or clearing and grubbing plan must be in writing and be approved by the City Engineer and/or his designated representative. All necessary soils and geological reports shall be submitted with any substantial proposal to modify the approved grading plan.
- B. No land development work in connection with any proposed modifications shall be permitted without the approval of the City Engineer and/or his designated representative.

15.04.135 Responsibility of permittee - Compliance with plans and requirements.

All permits issued hereunder shall be presumed to include the provision that the permittee, his agent, contractors and employees, shall carry out the proposed work in accordance with the approved plans and specifications and in compliance with all the requirements of the permit and this chapter. The civil engineer shall file a report as specified in Section 15.04.140.

15.04.140 Completion of work - Final reports.

Upon completion of the work the following reports shall be filed with the City Engineer unless waived by him:

- A. A written statement by the private engineer that all land development work and/or associated drainage facilities have been completed in conformance with Sections 15.04.165 and 15.04.225.
- B. An as-built plan of the completed work prepared by a civil engineer.
- C. A final as-built soil engineer's report which shall include a written statement that inspections and tests were made during the grading, and that in his opinion all embankments and excavations are in accordance with the provisions of this chapter and the permit and are acceptable for their intended use. Soil bearing capacity (except where the City Engineer determines such is inapplicable), summaries of field and laboratory tests and locations of tests if not previously submitted, and the limits of compacted fill on an "as-built" plan shall be included in the report. The report shall include reference to the presence of any expansive soils or other soil problems, which, if not corrected, would lead to structural defects in buildings constructed on the site. If such report discloses the presence of such expansive soils or such other soil problems, it shall include recommended corrective action designed to prevent structural damage to each building proposed to be constructed upon the site. The final "as-built" report shall also contain a seepage statement or study as appropriate.
- D. A final "as-built" engineering geology report by an engineering geologist based on the "as-built" plan including specific approval of the grading as affected by geological factors. Where required by the City Engineer, the report shall include a revised geologic map and cross-sections and recommendations regarding building restrictions or foundation setbacks.
- E. A final biology report, if determined necessary by the Director of Planning and Building or designee, which includes an assessment of the impacts on sensitive biological resources affected by the land development work.

15.04.145 Notification of completion.

The permittee shall notify the City Engineer when the land development work is ready for final inspection. He shall also notify the City Landscape Architect and the Director of Planning and Building, or designee, when planting and irrigation are completed. Final approval shall not be given until all work, including installation of all drainage structures and facilities, sprinkler irrigation systems, planting and all protective devices have been completed and any required planting established and all as-built plans and reports have been submitted. The City Engineer may accept in writing the completion of all work, or any portion of the work, required by the permit issued in accordance with this chapter and thereupon accept said work or portion thereof.

15.04.150 Exemptions from applicability designated.

No person shall do any land development work without first having obtained a Land Development Permit or Clearing and Grubbing Permit except for the following:

- A. The depositing of materials in any disposal area operated or licensed by the City;
- B. The making of excavation on any site or contiguous sites held under one ownership, in which all of the following are characteristic of the work:
 - 1. A cut slope having a maximum steepness of three horizontal to one vertical.
 - 2. A cut having a maximum vertical depth of three feet at any point and a maximum average depth of eighteen inches.
 - 3. No adverse effect upon an existing drainage pattern.
 - 4. A top of slope no closer than one foot from an exterior boundary line, and
 - 5. The movement of less than two hundred fifty cubic yards of material;
- C. The making of embankment on any site or contiguous sites held under one ownership, in which all of the following are characteristic of the work:
 - 1. None of the embankment exceeds three feet in vertical depth or has an average maximum depth in excess of eighteen inches,
 - 2. None of the embankment is placed on existing ground having a slope steeper than five horizontal to one vertical,
 - 3. Proposed fill slopes are no steeper than three horizontal to one vertical,
 - 4. The embankment does not change or adversely affect the existing drainage pattern,

5. Adequate provisions are proposed to protect the embankment from erosion,
 6. The toe of the embankment is no closer than one and one-half feet to an exterior property line, and
 7. The total volume of embankment does not exceed two hundred fifty cubic yards of material;
- D. Excavation for foundations of buildings, structures, basements, cellars, swimming pools or basins, which are authorized by appropriate permits obtained from the Planning and Building Department;
 - E. Excavation or embankment performed by a governmental agency, franchise holder, or their contractor incidental to the construction of roadways, pipelines, or utility lines within their rights of way;
 - F. Foundations, as referred to herein, shall not be construed to include foundations for retaining walls, drainage structures, or other structures appurtenant to the land development;
 - G. Routine maintenance of ornamental landscaping;
 - H. Agricultural operations, as defined pursuant to the Chula Vista Municipal Code Section 17.35.030;
 - I. Maintenance of vegetation in accordance with an approved habitat management plan, or other such similar plan, if consistent with such plan, and prepared pursuant to the Chula Vista MSCP Subarea Plan;
 - J. Maintenance of vegetation in a designated fuel modification zone, consistent with the Chula Vista MSCP Subarea Plan;
 - K. Clearing and grubbing in an area located entirely within a mapped Development Area, as defined by Section 17.35.030 of the Chula Vista Municipal Code, where it has been demonstrated to the satisfaction of the Director of Planning and Building, or designee, that no sensitive biological resources, as defined by Section 17.35.030 of the Chula Vista Municipal Code, exist;
 - L. Clearing and grubbing entirely located in a development area outside of a Covered Project, as defined by Section 17.35.030 of the Chula Vista Municipal Code, in an area that is one acre or less in size, is not part of a larger contiguous clearing and grubbing project, and does not impact sensitive biological resources, wetlands or listed non-covered species, as defined by Section 17.35.030 of the Chula Vista Municipal Code.

15.04.155 Contractor - Qualifications required.

Every person doing land development work shall meet such qualifications as may be determined by the City Engineer and/or Director of Planning and Building to be necessary to protect the public interest. The City Engineer and/or Director of Planning and Building may require an application for qualification which shall contain all information necessary to determine the person's qualifications to do the land development work.

15.04.160 Work to be performed by licensed contractor.

All land development work shall be performed by a contractor licensed by the state.

15.04.165 Inspection of land development work - Responsibility therefore.

- A. City Engineer. The City Engineer shall be responsible for all inspections of work not otherwise delegated to some other person. These inspections include, but are not limited to: drainage facilities, fencing, and compliance with state and city regulations in regard to the health and safety of the general public.
- B. Private Engineer. The private engineer shall be responsible for all surveying work necessary for proper construction of the grading and drainage facilities. He shall inspect the site to insure that the embankment and cut slopes are placed at their proper line and grade. He shall, prior to the release of bonds and surety, provide a written statement that in his professional opinion, all work incorporated in the grading and drainage plans, authorized under the grading permit to include grading, drainage, and construction of appurtenant structures, have been constructed to the lines and grades in substantial conformance with the approved plans, and any approved revisions thereto.
- C. Soil Engineer. The soil engineer shall be responsible for the testing of compaction and determination of stability of the various slopes. He shall, prior to release of the bond and surety, provide a written statement that inspections and tests were made by him, or under his supervision, and that in his professional opinion, all embankments have been compacted to city standards and in accordance with the earthwork specifications for the project.
- D. Landscape Architect. All landscaping work shall be designed under the supervision of a landscape architect; however, a registered civil engineer or registered architect may be responsible for the inspection of all landscaping and irrigation required in accordance with the grading permit and plans if it is in conjunction with a project he has been contracted to do. He shall, prior to the release of the bond and surety, provide a written statement that in his professional opinion all work incorporated in the landscape and irrigation plans authorized under the permit have been constructed in accordance with the approved plans and revisions thereto.
- E. Biologist. A biologist, as defined by Section 17.35.030 of the Chula Vista Municipal Code, shall be required to inspect all land development or clearing and grubbing sites prior to work occurring in areas of sensitive biological resources, as defined by Section 17.35.030 of the Chula Vista Municipal Code, to insure compliance with the permit issued pursuant to this Chapter. The biologist shall identify areas to be protected with appropriate staking and fencing, insure that these sensitive biological resources, as defined by Section 17.35.030 of the Chula Vista Municipal Code, are correctly identified on the grading or clearing and grubbing plan, anti inspect the staking and fencing after installation to insure installation according to plan. In addition, the biologist shall conduct an inspection after the work is completed. Prior to the release of the bond and surety, the biologist shall provide a written statement that in his/her professional opinion all work was conducted as authorized under the permit in accordance with approved plans and revisions thereto.

- F. Prior to the release of building permits for any given lot or lots, the private engineer shall submit a statement (Form PW-E-106B) as evidence that rough grading for land development has been completed within standard tolerance in accordance with the approved plans, and that all embankments and cut slopes and pad sizing are as shown on the approved plans.

The soils engineer will submit a statement that all embankments, under his direction, have been completed to an indicated ninety percent relative compaction of dry density.

15.04.170 Transfer of responsibility for approval.

If the private engineer, soil engineer, landscape architect, or engineering geologist, or biologist, as defined by Section 17.35.030 of the Chula Vista Municipal Code, of record are 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 their technical competence for approval upon completion of the work.

15.04.175 Plans and reports to be prepared by engineers.

- A. Plans for public improvements and land development work authorized under this chapter shall be prepared by a civil engineer. Where soil or geologic reports or soils and geologic investigations are required, the reports and investigations shall be prepared and conducted by an engineering geologist and/or Soils engineer as appropriate.
- B. A seepage statement or study is required as a part of all soils reports. All soils engineering, geologic, and geologic engineering reports shall consist of a preliminary and a final "as-built" report. Whenever blasting is to be performed or bedrock is to be exposed, a seepage study must be performed to determine method of handling excess water infiltration.
- C. Plans prepared for land development work, which includes clearing, and grubbing only, shall be prepared with input from a biologist.

15.04.180 Private contract performance bond - Required when-Issuance conditions generally.

Persons performing private contract work under a permit issued in accordance with this chapter shall furnish a bond/bonds or cash deposit or instrument of credit executed by the owner or his agent, or both, as principal in accordance with the provisions codified in Sections 15.04.180 through 15.04.215.

The performance bond/bonds shall be issued by a surety company authorized to do business in the state and shall be approved as to form by the City Attorney. The bond/bonds shall be in favor of the City and shall be conditioned upon the completion, free of liens, of the work authorized by the permit in accordance with the requirements of this chapter and the conditions prescribed by the permit. Slope planting and irrigation bond will be separate from the performance bond requirements for appurtenant structures and grading. They will be held in the office of the Director of Planning and Building until satisfactory compliance with landscaping and irrigation has been accepted.

15.04.185 Private contract performance bond - Conditions-Notice of default – Contents - Effect.

The bond/bonds shall be conditioned upon the payment to the City of any costs incurred by the City or its agent in completing the required work or performing work necessary to leave the site in a non-hazardous condition and restoring habitat as may be needed. The bond/bonds shall be further conditioned upon the payment to the City or its agents in completing the work required to protect or repair adjacent public or private properties from damage from work performed under the permit. Whenever the City Engineer finds that a default has occurred in the performance of any term or condition of work authorized by a permit, he shall give written notice of such default to the principal and surety of the bond. Such notice shall state the work remaining to be done, the estimated cost of completion and the time estimated by the City Engineer to be necessary for the completion of the work. After the receipt of such notice, the principal or the surety must, within the time specified, either complete the work satisfactorily or deposit with the City an amount equal to the City Engineer's estimate of tile completion cost plus an additional sum equal to twenty-five percent of such cost.

15.04.190 Private contract performance bond - Principal or surety liable for cost of completing work when.

In the event that the principal or surety fails to complete such work within the time specified in the notice, or fails to deposit the estimated cost plus twenty-five percent with the City, the City Engineer may cause the required work to be completed. The principal and the surety shall be liable for the cost of completing such work.

15.04.195 Private contract performance bond - Liability of City for performance of certain work.

If the principal or surety deposits the estimated cost plus twenty-five percent as set forth in the notice, the City Engineer shall cause the required work to be completed. The unexpended money shall be returned to the depositor at the completion of such work, together with an itemized accounting of the cost. The principal and surety shall hold the City blameless from any liability in connection with the work so performed by the City or contractor employed by the City. The City shall not be liable in connection with such work other than for the expenditure of said money.

15.04.200 Private contract performance bond - Cash deposit accepted in lieu when - Default correction procedure.

In lieu of a bond, the permittee may post cash deposit with the Director of Finance in an amount equal to the required bond. Notice of default as provided above shall be given to the principal, and if the default is not corrected within the time specified, the City Engineer should proceed without delay and without further notice of preceding whatever to use the cash deposit or any portion of such deposit to complete the required work. The balance, if any, of such cash deposit shall, upon the completion of the work, be returned to the depositor or to his successors or assigns after deducting the cost of the work.

15.04.205 Private contract performance bond - Not required when.

No performance bond under the provisions of this chapter shall be required from the state, or any of its political subdivisions or any governmental agency.

15.04.210 Private contract performance bond - Required from certain contractors when - Exception.

A contractor working for the state or any of its political subdivisions or any governmental agency shall present a performance bond unless proof is submitted that the work is covered by a bond inuring to the benefit of the state or agency.

15.04.215 Private contract performance bond – Conditions - Compliance with certain terms and provisions required.

Every bond or other performance guarantee shall include conditions that the permittee shall:

- A. Comply with all provisions of this chapter;
- B. Comply with all terms and conditions of the land development permit or clearing and grubbing permit;
- C. Complete the land development work within the time limit specified in the land development permit or clearing and grubbing permit.

15.04.220 Private contract performance bond - Method of estimating amount - Schedule.

The amount of the bonds or cash deposits covering a specific job shall be based on the amount of the estimate submitted by the person doing the work and approved by the City Engineer and in accordance with the following schedule:

- A. Appurtenant structures...100% of the estimated cost of retaining walls, drainage facilities or other grading appurtenances;
- B. Grading...25% of the estimated cost. This percentage may be varied by the City Engineer to fit conditions which are unusual in his opinion;
- C. Slope planting and irrigation...100% of the estimated cost of required landscaping and irrigation facilities;
- D. Maintenance of landscaping...100% of the estimated cost of maintaining landscaping for the period specified upon the permit;
- E. Habitat restoration...100% of the estimated cost of repairing or replacing sensitive biological resources, as defined by Section 17.35.030 of the Chula Vista Municipal Code, including short-term maintenance and long-term monitoring (typically five-years), as specified by a biologist.

15.04.225 Release of bonds/security.

Bonds and other security shall be released thirty-five days after filing a "Notice of Completion" with the County Recorder (recorded copy to City Engineer) for improvements accepted by this City and upon acceptance of completed Form PW-E-106 (Request for Release of Bonds) submitted by the permittee. This form is available in the office of the City Engineer. Such form may not be accepted until the end of the maintenance period for the required landscaping, unless a separate bond is or has been submitted to guarantee maintenance of landscaping.

15.04.230 City Engineer - Enforcement responsibility and permit issuance authority.

The City Engineer shall enforce the provisions of this chapter. He shall, upon application by qualified persons, issue permits in connection with land development work when all applicable conditions established by this chapter for such permits have been met.

15.04.235 City Engineer - Powers and duties generally.

The City Engineer shall cause land development work being done without a permit to be stopped until a permit has been obtained. He may require that such work done without a permit be removed or corrected, including habitat restoration, at the expense of the responsible person. Where land development work involves an embankment improperly constructed or constructed without adequate testing, he shall cause such embankment to be reconstructed or, in lieu thereof, shall cause a declaration of improper land development to be recorded in the office of the County Recorder. He shall have work done in connection with land development to insure compliance with the provisions of this chapter and shall release the bond when such work is properly completed.

15.04.240 City Engineer - Authority to determine applicable fees.

The City Engineer shall determine the fees applicable under the provisions of this chapter.

15.04.245 City Engineer - Duty to consider certain recommendations and deny certain applications.

When the nature of the work requested is such that it comes within the requirements of, or affects the operation of any other department of the City, the City Engineer shall obtain and consider the recommendations of applicable City departments in determining the disposition of the application. He shall deny applications which are not in the interest of the public health, safety or general welfare, or do not constitute a reasonable use of land as indicated by the existing zoning or an approved land use plan.

15.04.250 City Engineer - Grounds for canceling permit or amending plans.

The City Engineer may cancel a permit or may require the plans to be amended when it is in the interest of public health, safety and welfare and under any of the following:

- A. Upon the request of the permittee;
- B. When the facts are not as presented by the permittee in application;
- C. When work as constructed or as proposed to be constructed creates a hazard to public health, safety and welfare.

15.04.255 Appeals - Authorized when - Determination authority.

An applicant may appeal the City Engineer's denial of, or the conditions of approval of, an application for a land development or clearing and grubbing permit to the City Council.

15.04.260 Appeals - Time limit for filing - Form.

The applicant for a permit issued pursuant to this chapter, or the permittee, may appeal to the City Council from any decision of the City Engineer within ten working days after said decision. Appeals shall be in writing and shall state the specific nature of the appeal. Appeals shall be filed with the City Clerk.

15.04.265 Permits – Application - Procedure generally - Detail plan required.

Applications for permits authorizing land development work shall be made in accordance with procedures established by the City Engineer. Applications shall be accompanied by such detailed plans, specifications and schedules as listed in the subdivision manual, landscape manual, and as otherwise required by the City Engineer. See Sections 15.04.290 and 15.04.295 of this chapter regarding fees.

15.04.270 Permits – Application - Detail plans and specifications required.

- A. Detailed plans and specifications for land development work shall include, but not be limited to:
 - 1. Those requirements listed in the subdivision manual;
 - 2. A vicinity sketch or other data adequately indicating the site location;
 - 3. A plot plan showing the location of the land development boundaries, lot lines, and public and private rights-of-way lines;
 - 4. A contour map showing the present contours of the land and the proposed contours or grid elevations. Contours will extend beyond the limits of grading at least one hundred feet;

5. The location of any buildings or structures within the land development boundaries, and the location of any building or structure on adjacent property which is within fifteen feet of the land development boundary;
 6. Typical sections showing details concerning proposed cut and fill slopes;
 7. Adequate plans of all drainage devices, walk or other protective devices to be constructed in connection with, or as a result of the proposed work, together with a map showing the drainage area of land tributary to the site and the estimated runoff of the area served by any drainage facilities and devices;
 8. An estimate of the quantity of excavation and fill involved, quantities relative to construction of appurtenant structures, estimate of cost and estimated starting and completion dates;
 9. A landscape and irrigation plan indicating the total landscaped square footage, plant quantity, spacing, type and location and the layout of the irrigation system, and an estimate of cost of the landscaping and irrigation facilities.
 10. A map, prepared by a biologist, as defined by Section 17.35.030 of the Chula Vista Municipal Code, illustrating the proposed land development work relative to sensitive biological resources in compliance with the applicable Habitat Loss and Incidental Take Permit issued pursuant to Chapter 17.35 of the Chula Vista Municipal Code.
 11. An erosion control plan as may be required by the City Engineer or the Director of Planning and Building.
- B. A soils investigation may be required to correlate surface and subsurface conditions with the proposed land development plan. The results of the investigation shall be presented in a soils report by a soils engineer which shall include, but not be limited to location of faults; data regarding the nature, distribution, and strength of existing soils and rock on the site; the soils engineer's conclusion; recommendations for grading requirements, including the correction of weak or unstable soil conditions and treatment of any expansive soils that may be present; and his opinion as to the adequacy of building sites to be developed by the proposed land development operations. The soils engineer shall provide an engineering geology report by an engineering geologist when required by the City Engineer. A seepage statement or a study is required as a part of all soil reports. Whenever blasting is to be performed or bedrock is to be exposed, a seepage study must be performed to determine method of handling excess water infiltration.
- C. The City Engineer may require other data or information as he deems necessary. He may eliminate or modify any of these requirements where, in his opinion, they will serve no practical propose.

15.04.275 Permits-Issuance-Prerequisites and contents.

The City Engineer shall issue permits for land development work upon approval of applications, plans, receipt of the prescribed fees and bonds and receipt of letters from the private engineer, soils engineer, engineering geologist, landscape architect, biologist, and others as required by the City Engineer, that they have been retained by the permittee to perform the work specified in Section 15.04.165. The permits shall include, or refer to, the conditions, plans and specifications, which shall govern the work authorized.

15.04.280 Investigations authorized and required when - Fee.

The City Engineer may require the payment of the prescribed fees for special investigations when the proposed work or inquiries necessitate that special work be performed by the City. Special investigations shall include all requests for time extensions or variance requests and shall be accompanied by the special investigation fee.

15.04.285 Agreement required for uncontrolled embankments - Additional specifications.

A. Applications for land development permits involving uncontrolled embankment shall be accompanied by an agreement signed by the property owner. The agreement shall be prepared by the City Engineer and shall contain the following provisions and such other provisions as may in the opinion of the City Engineer afford protection to the property owner and City:

1. The land development work shall be designated as uncontrolled embankment and shall be constructed in accordance with plans approved by the City Engineer.
2. The owner acknowledges that as an uncontrolled embankment, the site is not eligible for a building permit unless special soils analysis and foundation design are submitted.
3. The land development work shall be done and maintained in a safe and sanitary manner at the sole cost, risk and responsibility of the owner and his successors in interest, who shall hold the City harmless with respect thereto.

B. The agreement for uncontrolled embankment shall be approved by the City Council and recorded by the City Clerk in the Office of the County Recorder as an obligation upon the land involved. The notice shall remain in effect until release of the agreement is filed by the City Engineer.

15.04.290 Fees – Collection - Method of estimation – Verification - Payment required - Exemptions.

A. Fees required by this chapter shall be collected by the City Engineer and deposited with the Director of Finance. Such fees shall be as presently designated, or as may in the future be amended, in the master fee schedule.

B. No permit shall be issued, and no land development work shall be permitted until the City Engineer has received the fees applicable under this chapter.

C. The state or any of its political subdivisions or any governmental agency shall file applications for permits and shall be issued permits as required by this chapter. No fees shall be required when the work is done by persons working directly for the state or agency.

- D. The City Manager, or Iris designee, may authorize, without advance appropriation, the refund of fees required by this Chapter to be collected, or such portion of the fees deemed appropriate for refund by the City Manager (net of costs incurred by the City in processing the permit application or unless the City has used the fees to construct facilities for a development for which the fees were paid), if the City Manager finds that the permit for which they were collected has been revoked, surrendered or terminated without use by the permittee and the refund is less than \$100,000. All other refunds shall be authorized by the City Council.

15.04.295 Fees - Schedule for computation.

Fees shall be as presently designated, or as may in the future be amended, in the master fee schedule.

15.04.305 Fees - To be doubled in certain cases - Effect of imposition.

In the event that land development work is commenced without a land development or clearing and grubbing permit, the City Engineer shall cause such work to be stopped until a permit is obtained. The permit fee, in such instance, shall then be the normally required permit fee, plus \$500. The payment of the increased permit fees shall not relieve any person from fully complying with the requirements of this chapter in the performance of the work. Such fee shall defray the expense of enforcement of the provisions of this chapter in such cases.

When land development work commences without a permit and results in damage to sensitive biological resources, as defined by Section 17.35.030 of the Chula Vista Municipal Code, restoration requirements (including maintenance and monitoring) shall be imposed at the sole discretion of the Director of Planning and Building and the full cost of the restoration shall be borne by the property owner.

When land development work is inconsistent with a permit issued pursuant to Chapter 17.35 of the Chula Vista Municipal Code and results in damage to sensitive biological resources, as defined by Section 17.35.030 of the Chula Vista Municipal Code, restoration requirements (including maintenance and monitoring) shall be imposed at the sole discretion of the Director of Planning and Building and the full cost of the restoration shall be borne by the property owner. The payment of such fees or penalties as described above shall not prevent the imposition of any penalty prescribed or imposed by this chapter, Chapter 1.41, or other federal or state law.

15.04.310 Violations - Declared unlawful and public nuisance - Abatement authority.

Any land development work commenced, done, maintained or allowed contrary to the provisions of this chapter, shall be, and the same is hereby declared to be, unlawful and a public nuisance. Upon order of the City Council. Or upon the determination of the City Manager or the City Attorney, necessary proceedings for the abatement, removal and/or enjoinder of any such public nuisance shall be commenced in the manner provided by law. Alternatively the procedures to abate under Chapter 1.30 may be used. Any failure, refusal, or neglect by a responsible party to obtain a permit as required by this chapter shall be prima facie evidence of the fact that a public nuisance has been committed in connection with any land development work commenced or done contrary to the provisions of this chapter.

15.04.315 Abatement of dangerous conditions.

Where the City Engineer determines that land development work has created a danger to public or private property or has resulted in the deposition of debris on any public way or interferes with any existing drainage course, the City Engineer shall serve written notice on the property owner, describing the condition and requiring that the property owner abate the dangerous condition within ten days after the notice is received. If the property owner fails to so abate the condition, the City Engineer may do so, in which event the property owner shall be liable for all costs of such abatement, including but not limited to reasonable attorney fees. The expenses of abatement shall be a lien against the property on which it is maintained and a personal obligation against the property owner.

15.04.320 Emergency abatement by City - Liability for costs.

If it appears to the City Engineer that an emergency exists because land development work has resulted in a danger to public or private property, then, without following the procedure established by Section 15.04.315, the City Engineer may order all work necessary to remove, abate or mitigate the condition creating such emergency. The City Engineer may do the work with his own employees or may contract to have the work done; in either event, the City Engineer shall keep a record of the costs of the work and charge the cost of the work to the property owner who shall repay the City for the cost thereof.

15.04.325 Costs of abatement - Special assessment procedure - Statutory authority.

The costs of abating a dangerous condition within the meaning of this chapter shall be imposed as a special assessment against the land on which such abatement was done. Costs and assessment procedures will be in accordance with Chapters 1.40 and 1.41. The property owner may raise and the City Manager shall consider, as a complete or partial defense to the imposition of the assessment, questions as to the necessity of the abatement and the means in which it was accomplished. Pursuant to Government Code 38773.5 abatement costs shall be transmitted to the tax collector for collection. This assessment shall have the same priority as other city taxes.

15.04.330 Conflicts

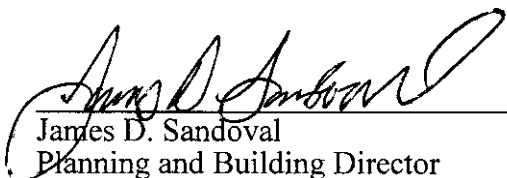
Except for exempt projects, if a conflict occurs between this Chapter and Chapter 17.35 of the Chula Vista Municipal Code, the stricter regulation shall apply.

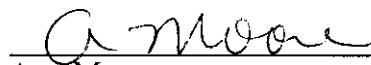
Section II. Adoption of this ordinance (Second Reading) is conditioned upon and shall not occur unless and until the issuance of Take Authorizations from the USFWS and CDFG to the City of Chula Vista has occurred in a form acceptable to the City.

Section III. This ordinance shall take effect and be in force on the thirtieth day from and after the adoption of the ordinance (Second Reading) which shall occur as stated above.

Presented by


Approved as to form by


James D. Sandoval
Planning and Building Director


Ann Moore
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 10th day of May, 2005, by the following vote:

AYES: Councilmembers: Castaneda, McCann, Rindone and Padilla
NAYS: Councilmembers: None
ABSENT: Councilmembers: Davis



Stephen C. Padilla, Mayor

ATTEST:



Susan Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3005 had its first reading at a regular meeting held on the 13th day of May, 2003 and its second reading and adoption at a regular meeting of said City Council held on the 10th day of May, 2005.

Executed this 10th day of May, 2005.



Susan Bigelow, MMC, City Clerk