

# CHAPTER 5. SITE DEVELOPMENT STANDARDS

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## 5.10 Flood Hazard Area Use Control

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### Sections:

- 5.10.010 - Statutory Authorization, Findings of Fact, Purpose and Methods
- 5.10.020 - Definitions
- 5.10.030 - General Provisions
- 5.10.040 - Administration
- 5.10.050 - Provisions for Flood Hazard Reduction
- 5.10.060 - Variance Procedure

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### 5.10.010 Statutory Authorization, Findings of Fact, Purpose and Methods

- A. **Statutory Authorization.** The Legislature of the State of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Council does hereby adopt the following floodplain management regulations.
- B. **Finding of Fact.**
  - 1. The flood hazard areas of the City are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
  - 2. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contributes to flood losses.
- C. **Statement of Purpose.** It is the purpose of this Section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by legally enforceable regulations applied uniformly throughout the community to all publicly and privately owned land within flood prone, mudslide (i.e. mudflow) or flood related erosion areas. These regulations are designed to:
  - 1. Protect human life and health;
  - 2. Minimize expenditure of public money for costly control projects;
  - 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  - 4. Minimize prolonged business interruptions;

5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
7. Ensure that potential buyers are notified that property is in an area of special flood hazard; and
8. Ensure that those who occupy the area of special flood hazard assume responsibility for their actions.

D. **Methods of Reducing Flood Losses.** In order to accomplish its purpose, this Section includes regulations to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
4. Control filling, grading, dredging, and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

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## 5.10.020 Definitions

Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

**A zone** - see "Special flood hazard area" as defined in this Section.

**Accessory structure, low-cost and small** means a structure that is:

1. Solely for the parking of no more than 2 cars; or limited storage (small, low cost sheds); and
2. Having a gross floor area of 120 square feet or less.

**Accessory use** means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

**Alluvial fan** means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain

slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.

**Apex** means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

**Appeal** means a request for a review of the Floodplain Administrator's interpretation of any provision of this Section.

**Area of shallow flooding** means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard** - See "Special flood hazard area" as defined in this Section.

**Base flood** means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this Section.

**Base flood elevation (BFE)** means the elevation shown on the Flood Insurance Rate Map for Zones AE, AH and VE that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

**Basement** means any area of the building having its floor subgrade - i.e., below ground level - on all sides.

**Breakaway walls** are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

**Building** - see "Structure" as defined in this Section.

**Coastal high hazard area** means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other

area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone VE, or V.

**Development** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

**Encroachment** means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

**Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before July 3, 1989.

**Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood, flooding, or flood water** means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
2. The condition resulting from flood-related erosion.

**Flood Boundary and Floodway Map (FBFM)** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

**Flood Insurance Rate Map (FIRM)** means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study** means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

**Floodplain or flood-prone area** means any land area susceptible to being inundated by water from any source - see "Flooding" as defined in this Section.

**Floodplain Administrator** is the community official designated by title to administer and enforce the floodplain management regulations.

**Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where

possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain management regulations** means this Section and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

**Floodproofing** means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. For guidelines on dry and wet floodproofing, see FEMA Technical Bulletins TB 1-93, TB 3-93, and TB 7-93.

**Floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "Regulatory Floodway."

**Floodway fringe** is that area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

**Fraud and victimization** as related to Subsection 5.10.060.C, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

**Functionally dependent use** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

**Governing body** is the City, which is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

**Hardship** as related to Subsection 5.10.060.C means the exceptional hardship that would result from a failure to grant the requested variance. The Council requires that the variance be exceptional, unusual, and peculiar to the property involved. More economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise



cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**Highest adjacent grade** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure** means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

**Levee** means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

**Levee system** means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

**Lowest floor** means the lowest floor of the lowest enclosed area, including basement (see "Basement" definition).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
  - a. The flood openings standard in Subsection 5.10.050.A.3.c;
  - b. The anchoring standards in Subsection 5.10.050.A.1;
  - c. The construction materials and methods standards in Subsection 5.10.050.A.2; and
  - d. The standards for utilities in Subsection 5.10.050.B.

2. For residential structures, all subgrade enclosed areas are prohibited as they are considered to be basements (see "Basement" definition). This prohibition includes below-grade garages and storage areas.

**Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market value** shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed. The cost of replacement of the structure shall be based on a report prepared by an independent professional appraiser. See Subsection 5.10.040.B.2.a.

**Mean sea level** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**New construction**, for floodplain management purposes, means structures for which the "start of construction" commenced on or after August 1, 1984, and includes any subsequent improvements to such structures.

**New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after August 1, 1984.

**Obstruction** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, trash, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**One-hundred-year flood or 100-year flood** - see "**Base flood**" as defined in this Section.

**Primary frontal dune** means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

**Program deficiency** means a defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

**Public safety and nuisance** as related to Subsection 5.10.060.C, means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational vehicle** means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory floodway** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Remedy a violation** means to bring the structure or other development into compliance with State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the Section or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

**Riverine** means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Sand dunes** mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

**Sheet flow area** - see "Area of shallow flooding" as defined in this Section.

**Special flood hazard area (SFHA)** means an area in the floodplain subject to a one percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as Zone A, AO, AE, AH, VE or V.

**Start of construction** includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing,

grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

**Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

**V zone** - see "Coastal high hazard area" as defined in this Section.

**Variance** means a grant of relief from the requirements of this Section which permits construction in a manner that would otherwise be prohibited by this Section.

**Violation** means the failure of a structure or other development to be fully compliant with this Section. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Section is presumed to be in violation until such time as that documentation is provided.

**Water surface elevation** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Watercourse** means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

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### 5.10.030 General Provisions

- A. **Lands to which this Section applies.** This Section shall apply to all areas of special flood hazards within the jurisdiction of the City.
- B. **Basics for establishing the areas of special flood hazards.** The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in the “Flood Insurance Study (FIS) for San Luis Obispo County, California and Incorporated Areas” dated August 28, 2008, with accompanying Flood Insurance Rate Maps (FIRM’s) and Flood Boundary and Floodway Maps (FBFM’s), dated August 28, 2008, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this Section. This FIS and attendant mapping is the minimum area of applicability of this Section and may be supplemented by studies for other areas which allow implementation of this Section and which are recommended to the Council by the Floodplain Administrator. In addition, the area of special flood hazards shall be expanded to include areas that are expected to be inundated by continued and accelerated sea level rise over the expected life of the development. The area potentially subject to sea level rise shall be based upon up-to-date scientific papers and studies, agency guidance (such as the 2012 National Research Council report *Sea-Level Rise for the Coasts of California, Oregon, and Washington: Past, Present, and Future*) and reports by national and international groups such as the Intergovernmental Panel on climate Change. The study, FIRM’s and FBFM’s are on file at the City of Grover Beach Community Development Department, 154 South Eighth Street, Grover Beach, California. (Am. Ord. 14-04)
- C. **Compliance.** No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Section and other applicable regulations. Violation of the requirements of this Section (including violations of conditions and safeguards) shall constitute a misdemeanor. Nothing herein shall prevent the Council from taking such lawful action as is necessary to prevent or remedy any violation.
- D. **Abrogation and greater restrictions.** This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- E. **Interpretation.** In the interpretation and application of this Section, all provisions shall be:
1. Considered as minimum requirements;
  2. Liberally construed in favor of the governing body; and
  3. Deemed neither to limit nor repeal any other powers granted under state statutes.

- F. **Warning and disclaimer of liability.** The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Section does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Section shall not create liability on the part of the City, any elected or appointed official, officer or employee thereof, the State of California, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.
- G. **Severability.** This Section and the various Subsections thereof are hereby declared to be severable. Should any Subsection of this Section be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Section as a whole, or any portion thereof other than the Subsection so declared to be unconstitutional or invalid.

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#### 5.10.040 Administration

- A. **Designation of the floodplain administrator.** The Community Development Director in cooperation with the City Engineer is hereby appointed to administer, implement, and enforce this Section by granting or denying Development Permits in accord with its provisions.
- B. **Duties and responsibilities of the floodplain administrator.** The duties and responsibilities of the Floodplain Administrator shall include, but not be limited to the following:
1. Permit Review. Review all Development Permits to determine:
    - a. Permit requirements of this Section have been satisfied, including determination of substantial improvement and substantial damage or existing structures;
    - b. All other required state and federal permits have been obtained;
    - c. This site is reasonably safe from flooding;
    - d. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the City; and
    - e. All Letters of Map Revision (LOMR's) for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved

CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "**start of construction**" definition.

2. Development of Substantial Improvement and Substantial Damage Procedures.
  - a. Using FEMA publication FEMA 213, "Answers to Questions About Substantially Damaged Buildings," develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage, to include defining "Market Value."
  - b. Assure procedures are coordinated with other departments/divisions and implemented by community staff.
3. Review, Use and Development of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Subsection 5.10.030.B, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Article V of this Section.

NOTE: A base flood elevation may be obtained using one of two methods from the FEMA publication, FEMA 265, "Managing Floodplain Development in Approximate Zone A Areas – A Guide for Obtaining and Developing Base (100-year) Flood Elevations" dated July 1995.

4. Notification of Other Agencies.
  - a. Alteration or relocation of a watercourse:
    - (1) Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
    - (2) Submit evidence of such notification to the Federal Emergency Management Agency; and
    - (3) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
  - b. Base Flood Elevation changes due to physical alterations:
    - (1) Within 6 months of information becoming available or project completion, whichever comes first, the floodplain administrator shall submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
    - (2) All LOMR's for flood control projects are approved prior to the issuance of building permits. Building Permits must not be issued based on Conditional Letters of Map Revision (CLOMR's). Approved CLOMR's allow construction of the proposed flood control project and land preparation as specified in the "start of construction" definition.

Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

- c. Changes in corporate boundaries: Notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.
  5. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:
    - a. Certification required by Subsection 5.10.050.A.3.a and Subsection 5.10.050.D (lowest floor elevations);
    - b. Certification required by Subsection 5.10.050.A.3.b (elevation or floodproofing of nonresidential structures);
    - c. Certification required by Subsection 5.10.050.A.3.c (wet floodproofing standard);
    - d. Certification of elevation requires by Subsection 5.10.050.C.1.c (subdivisions and other proposed development standards);
    - e. Certification required by Subsection 5.10.050.F.2 (floodway encroachments);
    - f. Information required by Subsection 5.10.050.G.6 (coastal construction standards); and
    - g. Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.
  6. Map Determination. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Subsection 5.10.040.D.
  7. Remedial Action. Take action to remedy violations of this Section as specified in Subsection 5.10.030.C.
  8. Biennial Report. Complete and submit Biennial Report to FEMA.
  9. Planning. Assume the City's General Plan is consistent with floodplain management objectives herein.
- C. **Development Permit.** A Development Permit shall be obtained before any construction or other development, including manufactured homes, within any area of special flood hazard established in Subsection 5.10.030.B. Application for a Development Permit shall be made on forms furnished by the Community Development Department of the City. The applicant shall provide the following minimum information:
1. Plans in duplicate, drawn to scale, showing:
    - a. Location, dimensions, and elevation of the area in question, existing or proposed structures, storage of materials and equipment and their locations;



- b. Proposed locations of water supply, sanitary sewer, and other utilities;
  - c. Grading information showing existing and proposed contours, any proposed fill, and drainage facilities;
  - d. Location of the regulatory floodway when applicable;
  - e. Base flood elevation information as specified in Subsection 5.10.030.B or Subsection 5.10.040.B.3;
  - f. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; and
  - g. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in Subsection 5.10.050.A.3.b of this Section and detailed in FEMA Technical Bulletin TB 3-93.
2. Certification from a registered civil engineer or architect that the nonresidential floodproofed building meets the floodproofing criteria in Subsection 5.10.050.A.3.b.
  3. For a crawl-space foundation, location and total net area of foundation openings as required in Subsection 5.10.050.A.3.c of this Section and detailed in FEMA Technical Bulletins 1-93 and 7-93.
  4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
  5. All appropriate certifications listed in Subsection 5.10.040.B.5 of this Section.

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### 5.10.050 Provisions for Flood Hazard Reduction

- A. **Standards of Construction.** In all areas of special flood hazards the following standards are required. In the Coastal Zone, development shall be prohibited in areas of special flood hazards, including areas subject to future flooding due to sea level rise, to the maximum extent feasible. If development cannot be built outside such hazard areas, the following standards shall be applied (Am. Ord. 14-04):
1. **Anchoring.** All new construction and substantial improvements of structures, including manufactured homes, shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  2. **Construction Materials and Methods.** All new construction and substantial improvements of structures, including manufactured homes, shall be constructed:
    - a. With flood resistant materials, and utility equipment resistant to flood damage for areas below the base flood elevation;
    - b. Using methods and practices that minimize flood damage;
    - c. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent

water from entering or accumulating within the components during conditions of flooding; and

- d. Within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

3. Elevation and Floodproofing.

- a. Residential construction. All new construction or substantial improvements of residential structures shall have the lowest floor, including basement:

- (1) In AE, AH, A Zones, elevated to one foot above the base flood elevation.

- (2) In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest adjacent grade if no depth number is specified.

- (3) In an A zone, without BFE's specified on the FIRM, elevated to or above the base flood elevation; as determined under Subsection 5.10.040.B.3.

Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

- b. Nonresidential construction. All new construction or substantial improvements of nonresidential structures shall either be elevated to conform with Subsection 5.10.050.A.3.a or:

- (1) Be floodproofed, together with attendant utility and sanitary facilities, below the elevation recommended under Subsection 5.10.050.A.3.a, so that the structure is watertight with walls substantially impermeable to the passage of water;

- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

- (3) Be certified by a registered civil engineer or architect that the standards of Subsection 5.10.050.A.3.b.(1) & (2) are satisfied. Such certification shall be provided to the Floodplain Administrator.

- c. Flood openings. All new construction and substantial improvements of structures with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must meet the following minimum criteria:

- (1) For non-engineered opening:

- (a) Have a minimum of two openings on different sides having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
  - (b) The bottom of all openings shall be no higher than one foot above grade;
  - (c) Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
  - (d) Buildings with more than one enclosed area must have openings on exterior walls for each area to allow flood water to directly enter and exit; or
- (2) Be certified by a registered civil engineer or architect.
- d. Manufactured homes. See Subsection 5.10.050.D.
- e. Garage and low cost accessory structures.
- (1) Attached garages.
- (a) A garage attached to a residential structure, constructed with the garage floor slab below the BFE, must be designed to allow for the automatic entry of flood waters. See Subsection 5.10.050.A.3.c. Areas of the garage below the BFE must be constructed with flood resistant materials. See Subsection 5.10.050.A.2.
  - (b) A garage attached to a nonresidential structure must meet the above requirements or be dry floodproofed. For guidance on below grade parking areas, see FEMA Technical Bulletin TB-6.
- (2) Detached garages and accessory structures.
- (a) "Accessory structures" used solely for parking (2 car detached garages or smaller) or limited storage (small, low-cost sheds), as defined in Article II, may be constructed such that its floor is below the base flood elevation (BFE), provided the structure is designed and constructed in accordance with the following requirements:
    - i. Use of the accessory structure must be limited to parking or limited storage;
    - ii. The portions of the accessory structure located below the BFE must be built using flood-resistant materials;
    - iii. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
    - iv. Any mechanical and utility equipment in the accessory structure must be elevated or floodproofed to or above the BFE;
    - v. The accessory structure must comply with floodplain encroachment provisions in Subsection 5.10.050.F; and

- vi. The accessory structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Subsection 5.10.050.A.3.c.
- (b) Detached garages and accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Subsection 5.10.050.A.
- f. Crawlspace construction. This Subsection applies to buildings with crawl spaces up to two feet below grade. Below-grade crawl space construction in accordance with the requirements listed below will not be considered basements.
  - (1) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Crawl space construction is not allowed in areas with flood velocities greater than five feet per second unless the design is reviewed by a qualified design professional, such as a registered architect or professional engineer;
  - (2) The crawl space is an enclosed area below the BFE and, as such, must have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. For guidance on flood openings, see FEMA Technical Bulletin 1-93;
  - (3) Crawl space construction is not permitted in V zones. Open pile or column foundations that withstand storm surge and wave forces are required in V zones;
  - (4) Portions of the building below the BFE must be constructed with materials resistant to flood damage. This includes not only the foundation walls of the crawl space used to elevate the building, but also any joists, insulation, or other materials that extend below the BFE; and
  - (5) Any building utility systems within the crawl space must be elevated above BFE or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions.
  - (6) Requirements for all below-grade crawl space construction, in addition to the above requirements, to include the following:
    - (a) The interior grade of a crawl space below the BFE must not be more than two feet below the lowest adjacent exterior grade (LAG), shown as D in figure 3 of FEMA Technical Bulletin 11-01;
    - (b) The height of the below-grade crawl space, measured from the interior grade of the crawl space to the top of the crawl space foundation wall must not exceed four feet (shown as L in figure 3 of FEMA Technical Bulletin 11-01) at any point;

- (c) There must be an adequate drainage system that removes floodwaters from the interior area of the crawl space within a reasonable period of time after a flood event, not to exceed 72 hours; and
- (d) The velocity of floodwaters at the site should not exceed five feet per second for any crawl space. For velocities in excess of five feet per second, other foundation types should be used.

**B. Standards for Utilities.**

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
  - a. Infiltration of flood waters into the systems; and
  - b. Discharge from the systems into flood waters.
2. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

**C. Standards for Subdivisions and Other Proposed Development.**

1. All new subdivisions proposals and other proposed development, including proposals for manufactured home parks and subdivisions, greater than 50 lots or 5 acres, whichever is the lesser, shall:
  - a. Identify the Special Flood Hazard Areas (SFHA) and Base Flood Elevations (BFE).
  - b. Identify the elevations of lowest floors of all proposed structures and pads on the final plans.
  - c. If the site is filled above the base flood elevation, the following as-built information for each structure shall be certified by a registered civil engineer or licensed land surveyor and provided as part of an application for a Letter of Map Revision based on Fill (LOMR-F) to the Floodplain Administrator:
    - (1) Lowest floor elevation.
    - (2) Pad elevation.
    - (3) Lowest adjacent grade.
2. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
3. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
4. All subdivisions and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

5. In the coastal zone, land divisions shall be prohibited if the resulting lots would provide for development within areas of special flood hazards, including areas subject to future flooding due to sea level rise. (Am. Ord. 14-04)

**D. Standards for Manufactured Homes.**

1. All manufactured homes that are placed or substantially improved, on sites located: (1) outside of a manufactured home park or subdivision; (2) in a new manufactured home park or subdivision; (3) in an expansion to an existing manufactured home park or subdivision; or (4) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall:
  - a. Within Zones A, AH, AO, and AE on the community's Flood Insurance Rate Map, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - b. Within Zones V, and VE on the community's Flood Insurance Rate Map, meet the requirements of Subsection 5.10.050.G.
2. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A, AH, AE, AO, V, and VE on the community's Flood Insurance Rate Map that are not subject to the provisions of Subsection 5.10.050.D.1 will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
  - a. Lowest floor of the manufactured home is one foot above the base flood elevation; or
  - b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered civil engineer or licensed land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the Floodplain Administrator.

**E. Standards for Recreational Vehicles.**

1. All recreational vehicles placed in Zones A, AH, AO, AE, V and VE will either:
  - a. Be on the site for fewer than 180 consecutive days; or
  - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

- c. Meet the permit requirements of Subsection 5.10.040.C of this Section and the elevation and anchoring requirements for manufactured homes in Subsection 5.10.050.D.
  2. Recreational vehicles placed on sites within Zones V, and VE on the community's Flood Insurance Rate Map will meet the requirements of Subsection 5.10.050.E.1 and Subsection 5.10.050.G.
  3. Owners of recreational vehicle parks and owners of manufactured home parks that allow placement of recreational vehicles must notify the Floodplain Administrator prior to placing any new recreational vehicle, altering any existing recreational vehicle, allowing the placement or alteration of, or allowing any recreational vehicle to remain on site for more than 180 consecutive days, such that the recreational vehicle fails to meet the requirements of Subsections 5.10.050.E.1. a and b. The owner of a recreational vehicle that fails to meet the requirements of Subsections 5.10.050.E.1. a and b must apply for a city recreational vehicle permit and provide certification from an approved special inspector that the recreational vehicle complies with the requirements of Subsection 5.10.050.E.1.c and 5.10.050.E.2.
  4. The owner of the recreational vehicle subject to the permit requirements of Subsection 5.10.050.E.3 shall at the time of application for the permit, pay to the City a processing fee in an amount established by resolution of the Council.
- F. **Floodways.** Since floodways are an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
1. Until a regulatory floodway is adopted, no new construction, substantial development, or other development (including fill) shall be permitted within Zones A1-30 and AE, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other development, will not increase the water surface elevation of the base flood more than 1 foot at any point within the City.
  2. Within an adopted regulatory floodway, the City shall prohibit encroachments, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  3. If Subsections 5.10.050.F.1 & 2 are satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Article V.
- G. **Coastal High Hazard Areas.** Within coastal high hazard areas, Zones V, and VE, as established under Subsection 5.10.030.B, the following standards shall apply:
1. All new residential and non-residential construction, including substantial improvement/damage, shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the bottom of

the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or city building standards.

2. All new construction and other development shall be located on the landward side of the reach of mean high tide.
3. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Article II of this Section. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.
4. Fill shall not be used for structural support of buildings.
5. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.
6. The Floodplain Administrator shall obtain and maintain the following records:
  - a. Certification by a registered engineer or architect that a proposed structure complies with Subsection 5.10.050.G.1; and
  - b. The elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

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## 5.10.060 Variance Procedure

### A. Nature of variances.

1. The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance.
2. The variance criteria set forth in this Subsection of this Section are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this Section would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.



3. The city should help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance must be quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this Section are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

**B. Conditions for variances.**

1. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 5.10.040 and 5.10.050 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of "historic structures" (as defined in Section 5.10.020) upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
4. Variance shall only be issued upon a determination that the variance is the "minimum necessary" considering the flood hazard, to afford relief. "Minimum necessary" means to afford relief with a minimum of deviation from the requirements of this Section. For example, in the case of variances to an elevation requirement, this means the Commission need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the Commission believes will both provide relief and preserve the integrity of the local ordinance.
5. Any applicant to whom a variance is granted shall be given written notice over the signature of the Floodplain Administrator that:
  - a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
  - b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the County of San Luis Obispo Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

6. The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Emergency Management Agency.

**C. Appeal board.**

1. In passing upon requests for variances, the Commission shall consider all technical evaluations, all relevant factors, standards specified in this Section, and the:
  - a. Danger that materials may be swept onto other lands to the injury of others;
  - b. Danger of life and property due to flooding or erosion damage;
  - c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
  - d. Importance of the services provided by the proposed facility to the community;
  - e. Necessity to the facility of a waterfront location, where applicable;
  - f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - g. Compatibility of the proposed use with existing and anticipated development;
  - h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. Safety of access to the property in time of flood for ordinary and emergency vehicles;
  - j. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
  - k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.
2. Variances shall only be issued upon a:
  - a. Showing of good and sufficient cause;
  - b. Determine that failure to grant the variance would result in exceptional "hardship" to the applicant; and
  - c. Determine that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (see "Public safety and nuisance"), cause "fraud and victimization" of the public, or conflict with existing local laws or ordinances.
3. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of Subsections 5.10.060.C.1 through

5.10.060.C.4 are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

4. Upon consideration of the factors of Subsection 5.10.060.B.1 and the purposes of this Section, the Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Section.

## **5.20 Street Improvements**

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### Sections:

- 5.20.010 - Purpose
- 5.20.020 - Permit Requirements
- 5.20.030 - Development Standards
- 5.20.040 - Completion of Street Improvements
- 5.20.050 - Council Waiver of Street Improvements

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### **5.20.010 Purpose**

This Section provides standards for the construction of public street improvements for new construction, additions, and remodels when a building permit or discretionary permit is required. All public street improvements shall be constructed consistent with this Section and the City's Standards and Specifications.

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### **5.20.020 Permit Requirements**

All public street improvement plans shall be approved by the City Engineer and an Encroachment Permit issued prior to start of construction.

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### **5.20.030 Development Standards**

The following standards shall apply for construction of public street improvements when a building permit or discretionary permit is required unless exempt consistent with Subsections G and H.

- A. All development requiring curb, gutter, and sidewalk shall replace existing curb, gutter, and sidewalk that is damaged or does not comply with City Standards and Specifications, as determined by the City Engineer.
- B. Single-unit residences shall install curb, gutter, sidewalk and a street conform of up to four feet except when a larger conform is needed to correct existing grade deficiencies, as determined by the City Engineer.
- C. Residential additions shall install curb, gutter, sidewalk and a street conform of up to four feet except when a larger conform is needed to correct existing grade deficiencies, as determined by the City Engineer. This shall apply when the aggregate square footage of the addition is an amount equal to 40 percent or greater of the existing habitable square footage or 500 square feet whichever is greater, as calculated in Subsection I.
- D. Residential remodels where alterations remove more than 50 percent of the exterior walls or remove more than 50 percent of the roof framing shall install curb, gutter,

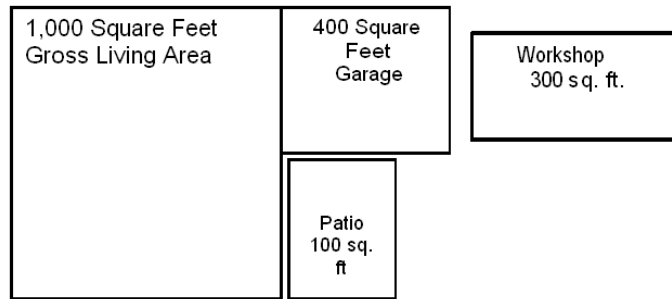
sidewalk and a street conform of up to four feet except when a larger conform is needed to correct existing grade deficiencies, as determined by the City Engineer.

- E. Commercial, industrial or multi-unit residential buildings shall install curb, gutter, sidewalk and street conform as necessary to connect to the existing edge of pavement, or to the centerline of the street as needed to correct existing grade deficiencies, as determined by the City Engineer.
- F. Commercial and industrial building alterations that require approval of a discretionary permit shall install curb, gutter, sidewalk and street conform as necessary to connect to the existing edge of pavement, or to the centerline of the street as needed to correct existing grade deficiencies, as determined by the City Engineer, except for the following:
  - 1. The project does not require a building permit; or
  - 2. A building permit is required for maintenance or repair; or
  - 3. The area of the tenant improvements is less than 1,000 square feet; or
  - 4. The Review Authority determines that the cost of the street improvements exceed 10% of the tenant improvement costs.
- G. Accessory Dwelling Units Exempt from Public Street Improvements. Accessory dwelling units are exempted from constructing public street improvements consistent with Government Code Section 65852.2 as amended.
- H. Projects Exempt from Street Conform. Projects required to construct a street conform located on a street included in a Measure K-14 Capital Improvement Project scheduled to be constructed within one year of building permit issuance may provide a temporary patch in-lieu of the street conform as approved by the City Engineer.
- I. Residential additions shall calculate the aggregate square footage based on the multipliers as follows:
 

1. Gross living area	1.00
2. Garages and other accessory structures that require a building permit	0.25
3. Covered porches, patios, and similar structures as determined by the Director	0.15

The calculations are applicable to the combined square footage of all building permits issued for the address or site within the last ten years. Examples of calculations for single-unit residences are shown in Figures 5.1 and 5.2.

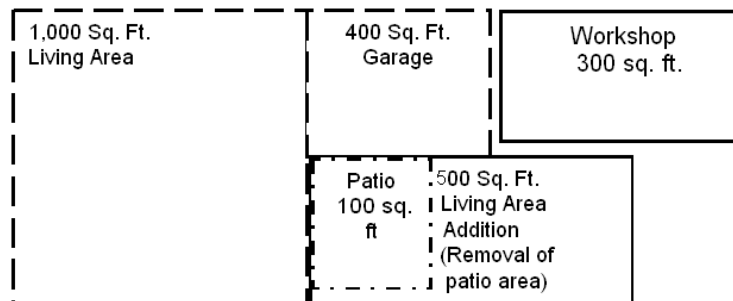
**Figure 5.1 – Existing Improvements**



Living Area	1,000 Sq. Ft. X 1.00 = 1,000 Sq. Ft.
Garage	400 Sq. Ft. X 0.25 = 100 Sq. Ft.
Patio	100 Sq. Ft. X 0.15 = 15 Sq. Ft.
Workshop	300 Sq. Ft. X 0.25 = 75 Sq. Ft.

*Total Existing* 1,190 Sq. Ft.

**Proposed Improvements**

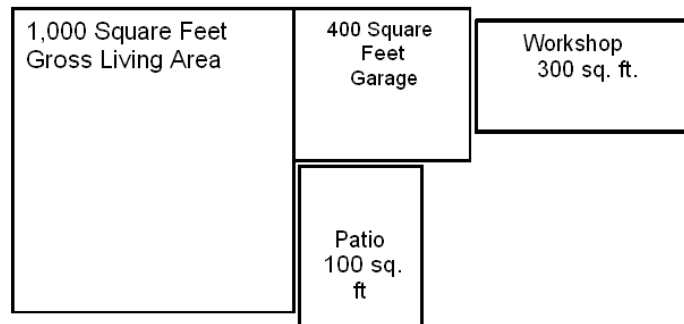


Addition:	500 Sq. Ft. X 1.00 = 500 Sq. Ft.
Minus: Patio Removal	(100 Sq. Ft. X 0.15 = 15 Sq. Ft.)

*Adjusted Addition* 485 Sq. Ft.

*Percentage Calculation: 485 Sq. Ft. Addition / 1,190 Sq. Ft. Existing = 40.8%*

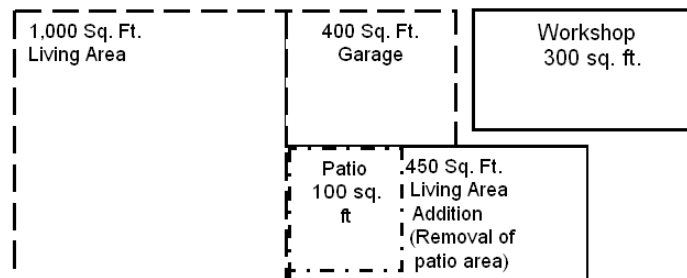
**Figure 5.2 – Existing Improvements**



Living Area	1,000 Sq. Ft. X 1.00 = 1,000 Sq. Ft.
Garage	400 Sq. Ft. X 0.25 = 100 Sq. Ft.
Patio	100 Sq. Ft. X 0.15 = 15 Sq. Ft.
Workshop	300 Sq. Ft. X 0.25 = 75 Sq. Ft.

*Total* *1,190 Sq. Ft.*

**Proposed Improvements**



Addition:	450 Sq. Ft. X 1.00 = 450 Sq. Ft.
Minus: Patio Removal	(100 Sq. Ft. X 0.15 = 15 Sq. Ft.)

*Adjusted Addition* *435 Sq. Ft.*

*Percentage Calculation: 435 Sq. Ft. Addition / 1,190 Sq. Ft. Existing = 36.6%*

**5.20.040 Completion of Street Improvements**

Construction of the requirements in Subsection 5.20.010 shall be completed prior to the issuance of a Certificate of Occupancy.

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**5.20.050 Council Waiver of Street Improvements**

- A. The Council may waive all or part of the requirements of this Section upon application for such waiver in cases where in the sole discretion of the Council the strict application of this Section would create substantial hardship, would be impractical, or would not be in the best interests of the City or the public.
- B. The Council may extend the time for compliance with the provisions of this Section and may require such cash or other bond as it deems suitable to guarantee compliance with this Section within such time limit as it may specify.
- C. No filing fee shall be required for the waiver application to the Council under this Section.
- D. Each request for waiver of the requirements of this Section shall be acted upon independently by the Council based upon the particular facts involved.



## 5.30 Street Tree Regulations

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### Sections:

- 5.30.010 - Street Tree Policy Purpose and Intent
- 5.30.020 - Definitions
- 5.30.030 - Enforcing Authority
- 5.30.040 - Master Tree List
- 5.30.050 - Street Tree Planting Plan Standards
- 5.30.060 - Street Tree Maintenance and Inspection
- 5.30.070 - Removal of Trees
- 5.30.080 - Removal of Trees Prohibited Without a Permit
- 5.30.090 - Subdivision Street Tree Planting
- 5.30.100 - Control of Trees on Easements
- 5.30.110 - Property Owner Requests
- 5.30.120 - Protection of Street Trees Prohibitions
- 5.30.130 - Public Utilities
- 5.30.140 - Sidewalk, Curb and Gutter Determinations
- 5.30.150 - Appeals
- 5.30.160 - Non-liability of City

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### 5.30.010 Street Tree Policy Purpose and Intent

It is hereby declared that the public interest and welfare requires that the City establish, adopt and maintain a comprehensive program for the installation, maintenance and preservation of trees within the City.

This Section provides policies, regulations and specifications necessary to govern installation, maintenance and preservation of trees to beautify the City, purify its air, provide shade, wind protection and preserve trees with historic and unusual value for the inhabitants of this City, subject to the availability of City funds for such purposes.

It is hereby declared to be the policy of the City to line its streets with trees and to provide a consistent and adequate program for maintenance and preservation of such trees. This policy provides for the planting of trees in all areas of the City, and for the selection of appropriate species to achieve as much uniformity as possible for beauty and economy.

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### 5.30.020 Definitions

The following words and phrases used in this Section, unless a different meaning is clearly required by the context, shall have the following meanings:

**Planting Strip** shall mean the area available for planting between the street curb, or place where the curb should be, and the property line.

**Planting** shall mean planting and replacement of planting strips.

**Maintain or Maintenance** shall mean the entire care of trees in planting strips, as well as the preparation of ground, fertilizing, mulching, watering, unless specifically so stated.

**Tree** shall be defined as any woody plant characterized by having a single trunk of at least three inches in diameter at breast height (4-1/2 feet), or a multi-stemmed trunk system with a more or less definitely formed crown. This shall also include any tree that has been placed by the City that has not yet obtained the stated size.

**Public Streets or Streets** shall include all roads, streets, avenues, boulevards, alleys and parkways, or portion thereof, of the city.

**Park Director** shall mean the Parks and Recreation Director of the City.

**Undeveloped Parcel** as used in this Section shall be any lot, or portion of lot, which can be further subdivided or intensively developed in accordance with this Section.

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### **5.30.030 Enforcing Authority**

The Park Director, or his duly authorized representative, shall be charged with the enforcement of this Section.

The Parks and Recreation Commission shall be responsible for reviewing all required fee schedules for the planting of street trees. The Parks, Recreation and Beautification Commission shall advise the Park Director and made recommendations to the Council concerning required street trees.

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### **5.30.040 Master Tree List**

The Parks and Recreation Commission is hereby charged with the duty of promptly determining the types and species of trees suitable and desirable for planting and the areas in which, and conditions under which, such trees shall be planted in or which may overhang the public streets within the City. The Parks, Recreation and Beautification Commission shall also recommend a Tree Planting Plan setting forth the types of trees to be planted in different portions of the City and a recommended program of tree planting by the City. When such determination has been made, the Parks, Recreation and Beautification Commission shall report its findings in writing to the Council. When approved by the Council said reports shall be known as the Master Tree List and Master Plan. The List and Plan shall be placed on file with the City Clerk. Revisions or changes in said List or Plan may be amended from time to time by the Parks, Recreation and Beautification Commission in the matter described hereinabove.

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### **5.30.050 Street Tree Planting Plan Standards**

- A. The planting of trees in or within five feet of the public street right-of-way of the City shall be governed by the general and specific tree plan.

- B. The Parks and Recreation Commission shall be guided by and apply the following standards in formulating and approving a street tree plan.
1. The prime purpose of beauty, shade, and/or wind protection shall always be observed.
  2. The location of specific trees shall be at specified intervals with consideration given to avoiding or minimizing interference by the trees with existing or planned utilities, driveway approaches, street intersections and building exposures.
  3. No tree shall be planted within 35 feet of any corner of any intersection unless approved by the City Engineer.
  4. Selection and spacing of a particular species of tree for a specific block, a street, or section of the City shall be based upon the nature of the species and the width of the planting strip, soil conditions, zoning regulations, street patterns, building setbacks, utilities, and the availability of the particular species.
  5. All trees hereafter planted in or within five feet of the public street right-of-way of the City must be on the Master List, unless a written permit from the Park Director shall have first been obtained to plant a tree not on said list. Such permit shall set forth the type of tree, method of planting and maintenance, and any other conditions deemed proper by the Director for planting of such tree, and the person obtaining such permit shall comply with all the terms and conditions thereof.
- C. The Public Works Department shall assume the responsibility of furnishing and planting all new City street trees. Subdivisions shall be assessed a fee per lineal foot of street frontage per lot for this planting service. Said fee shall be established by the Parks and Recreation Commission and approved by the Council.

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### **5.30.060 Street Tree Maintenance and Inspection**

The Park Director shall have supervision, direction and control of the care, trimming, removal, relocation and replacement of trees in the streets or public property owned or under the control of the City. It shall be unlawful for any person to cut, trim, prune, spray, brace, or in any other manner to destroy or seriously damage any tree in the public street area or upon property owner or controlled by the City.

- A. Upon discovering that any such trees are infected or infested with insects, pests, or disease, the Park Director shall cause such conditions to be treated, or if any trees are so infected or infested to such a degree that such conditions cannot be eradicated by treatment, the Director may order the removal and replacement of any such trees.
- B. Street trees shall be maintained as follows: Surface roots of young trees in process of development shall be removed to prevent future sidewalk, curb and gutter damage. Overhead limbs shall be pruned proportionately to compensate for root loss. Upon reaching maturity, trees shall be pruned or trimmed to not less than seven feet above

ground in residential areas, and to not less than ten feet above the ground in commercial areas. Small trees and young trees during the process of development shall be properly shaped and trimmed to provide adequate sidewalk and street clearance.

- C. In the event any tree, shrub, or plant in any street in the City or any tree, shrub or plant standing on any private property, overhanging or projecting into any street or public place appears to be dead, liable to fall, dangerous, an obstruction to public travel or is not pruned or trimmed to not less than seven feet above a sidewalk in residential areas or ten feet in commercial areas, the Park Director may cause the same or such part or parts thereof as dead, liable to fall, dangerous, or an obstruction to such public travel, or is not so trimmed, to be cut down, and if in the street, to be removed there from; provided that, except in case of manifest public danger and immediate necessity, no such trees or shrubs standing on any private property shall be completely cut down or removed unless ten days' notice in writing be given by the Park Director to the owner or occupant of such property.

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### **5.30.070 Removal of Trees**

- A. Private Property: Any tree growing on private property which is endangering or, in the opinion of the Park Director, constitutes danger to public streets or public places, or which in any way endangers the usefulness of a public sewer or public utility, shall be removed or trimmed by the owner of the property within 14 days after receipt of such notice from the Park Director. In the event the property owner fails to remove or trim such trees within said time, the Park Director may then remove or trim said tree, and assess the cost thereof against the property owner, ten days prior notice of the hearing before the Council, subject to the right of the property owner to appeal the amount of said assessment to the Council within two days after notice thereof to the property owner. Such cost shall become a lien on the property and the resolution assessing such costs shall be recorded with the County Recorder's Office, or may be collected by court action.
- B. It shall be unlawful for any person, firm, partnership, corporation or other legal entity whatever, to remove, or cause to be removed, any tree from any undeveloped parcel of property without a permit, as provided herein.
- C. Streets and Public Places: No tree shall be removed from any public street or property owned or under the control of the City without the prior written consent of the Park Director. Such consent shall only be granted if the tree constitutes a hazard to property or persons using the adjoining streets, if its roots are causing excessive damage to the curb, gutters or sidewalks, or if it unduly interferes with the sewer system and public utilities. Any tree being removed for the benefit of the property owner shall be removed and replaced with an approved tree at the owner's expense.
- D. Any tree planted by the City in the City right-of-way or required by the City in the public right-of-way after the effective date of this ordinance, that must be removed because of type, growth habits or disease that do not meet future City standards,

shall be removed at City expense and replaced at the Park Director's discretion, subject to the availability of City funds.

- E. Acceptable reasons for City removal on streets and public places:
1. Dead trees;
  2. Dying, decayed or hazardous trees;
  3. Trees that must be removed for sidewalks or curb repair;
  4. Trees diseased beyond reclamation;
  5. Thinning to approved spacing.
  6. Acceptable reasons for property owner removal:
  7. Trees directly in the way of new sidewalks, curbs, or driveway approaches;
  8. Trees in way of house moving (undesirable species only).

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### **5.30.080 Removal of Trees Prohibited Without a Permit**

It shall be unlawful for any person, firm, partnership, corporation or other legal entity whatever, to remove, or cause to be removed, any tree from any undeveloped parcel of property without a permit as provided herein.

**A. Permits.**

1. Any person, firm, partnership, corporation or other legal entity, or agent of any such person desiring to remove one or more trees on any undeveloped parcel in the City shall apply in writing to the Parks and Recreation Director for a permit. Said application shall contain the number and a plot plan showing the location of the trees to be cut or removed and a brief statement of the reason for removal, as well as any other pertinent information the Parks and Recreation Director may require. On receipt of such application, the Parks and Recreation Director will inspect the premises and determine which trees may be removed.
2. The determination of the Parks and Recreation Director shall be based upon the following criteria:
  - a. The condition of the trees with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility service;
  - b. Necessity to remove trees in order to construct proposed improvements to allow economic enjoyment of the property;
  - c. Topography of the land and the effect of tree removal on erosion, soil retention, and the diversion or increased flow of surface waters;
  - d. Number of trees existing in the neighborhood on improved property. The Parks and Recreation Director shall be guided by the standards established in the neighborhood;

- e. Good horticultural practices, i.e., the number of healthy trees that a given parcel of land will support.

The Parks and Recreation Director shall give priority of inspection to those requests based on hazard, danger or disease. The Parks and Recreation Director may also refer any request to another Department, Board, Commission, Council, or Committee for report or recommendation.

In case of emergency caused by the tree being in a hazardous or dangerous condition, such tree may be removed by order (direction) of the Public Works Department.

**B. Subdivisions.**

- 1. All subdivision maps for five or more lots filed for tentative approval shall designate clearly any trees upon the property. Any trees upon the property which are to be removed shall be clearly designated upon the tentative subdivision map. Tentative approval of the map by the Parks and Recreation Commission shall constitute a recommendation to the Council to permit removal of any trees so designated.

**C. Historic or heritage tree.**

- 1. Historic or heritage tree shall mean any tree existing within the City which has been found by the Parks and Recreation Commission to be a tree of notable historic interest or high value type, size or historic associations and has been designated by resolution of the Council, on advice of the Parks, Recreation and Beautification Commission, as an historic or heritage tree.

All persons owning property upon which trees so designated exist shall be informed as to the status of these trees and the restrictions related to their care and removal. No tree designated as an historical or heritage tree shall be removed from the site without the prior approval of the Parks and Recreation Commission. This shall include the site of a proposed subdivision or any undeveloped parcel.

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**5.30.090 Subdivision Street Tree Planting**

The cost for planting and maintenance of street trees for one year in new subdivisions shall be borne by the subdivider as established in Subsection 5.30.050.C.

This cost shall be determined from the official fee schedule of the City. This fee shall be reviewed as necessary in order to adjust to planting and maintenance cost.

The Parks and Recreation Commission shall, as soon as the basic subdivision improvements are approved, determine the species of tree, the specific locations and any other pertinent information that may be required before the trees are planted. The trees shall be planted after these determinations are made.

The subdivider shall be held responsible for any damage that occurs to any tree on the site where his construction is taking place during the period of time between planting of the street tree and final acceptance of the structure by the Community Development Department. Any damage to the trees shall be charged to the subdivider. Any tree that is destroyed in the process of construction shall be replaced with a tree of the same species and of the same size at the time the tree was destroyed. The subdivider shall be responsible for all costs.

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**5.30.100 Control of Trees on Easements**

All existing trees located within public easements shall be so maintained by the owner of the property so as to prevent the roots from interfering with public pipelines and the limbs and branches from interfering with utility lines.

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**5.30.110 Property Owner Requests**

- A. A majority of the abutting property owners in a given block, street, or area of the City where tree planting is required may petition for the uniform planting of a tree variety of their own choice. Such petition shall be approved by the Parks and Recreation Director, provided the tree selection is made from the Official Street Tree List and the selection does not conflict with the standards above.
- B. A petition bearing the signatures of not less than all of the property owners of any one block may be filed with the Parks and Recreation Director, requesting a change in the variety of trees in the planting strip adjacent to their properties. Such petition shall be approved by the Parks and Recreation Director providing the selection does not conflict with the standards above. The work may be done upon City force account or a City contract upon public bids, provided that the estimated cost thereof has been previously paid by the property owners. The work may also be done upon a private contract made by the property owners, the terms of which have been previously approved by the Parks and Recreation Director. All work is to be under the supervision of the Parks and Recreation Director.

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**5.30.120 Protection of Street Trees. Prohibitions.**

- A. When determined by the Parks and Recreation Director that private plantings or installations in planting strips are a hazard to the public or conflict with the approved tree planting plan, the Parks and Recreation Director shall have full authority to cause such hazard or detriment to be removed or eliminated.
- B. No person shall, without a written permit from the Parks and Recreation Director, plant, remove, trim, prune, or cut any tree upon the streets, planting easements, or between the property line and the curb. Upon permission being granted to any person for the purpose of planting, trimming, pruning, cutting or removal same shall be done under the general supervision of the Parks and Recreation Director. All

stumps of such trees including underground portions to a depth to be specified by the Parks and Recreation Director shall be removed during such operations.

- C. No person shall interfere, or cause or permit any person to interfere with employees of the City who are engaged in the planting or maintenance, treating, or removing of any tree or plant in the streets or planting easements or in the removing of any stone, cement, or any substance in any such street, sidewalk, planting strip, alley, or other public place.
- D. Willful injury to or disfigurement or destruction of any shade tree or ornamental plant growing within the City, whether situated upon private ground within the front setback or on any street, sidewalk, or public park or place, is a violation of this ordinance.
- E. No person shall:
  - 1. Construct a concrete, asphalt, brick, or gravel sidewalk or otherwise fill up the ground area around any tree so as to shut off air, light, or water from the roots except under written authority from the Public Works Department,
  - 2. Pile building material, equipment or other substance around any tree so as to cause injury thereto,
  - 3. Apply any deleterious matter on or around any tree, or on the ground around it or on any planting strip, lawn or sidewalk,
  - 4. Post any sign on any tree, tree-stake, or guard, or fasten any guy wire, cable, or rope to any tree, tree-stake, or guard.
- F. Tree-stakes or guards may be placed around trees by property owners provided the same are placed near a tree for the purpose of protecting or training such trees under the direction of the Parks and Recreation Director.
- G. No person shall plant any tree on any street of the City, the planting of which is contrary to a street plan established pursuant to this Section or previous ordinances or code Sections.
- H. All damage caused to street trees by house moving shall be paid by the mover in an amount equal to the value of the tree according to tree evaluation standards of the International Shade Tree Conference. Any tree removed shall be replaced at the mover's expense.

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### **5.30.130 Public Utilities.**

Any person doing business as a public utility subject to the jurisdiction of the Public Utilities Commission of the State of California, and any duly constituted public agency authorized to provide and providing utility service, shall be given a permit from the Park Director valid for one year from the date of issuance, permitting such person to trim, brace, remove, or perform such other acts with respect to trees growing adjacent to the public streets of the City or which grow upon private property to the extent that they encroach upon such public streets as may be necessary to comply with the safety



regulations of said commission and as may be necessary to maintain the safe operation of its business.

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**5.30.140 Sidewalk, Curb and Gutter Determinations.**

In all cases where root damage from City planted trees occurs to City sidewalk, curbs or gutters, the City shall remove or root prune the trees and replace the damaged concrete.

It shall be the responsibility of a property owner to remove, at his own expense, trees directly in the way of new sidewalks, curbs, or driveway approaches. Any tree so removed shall be replaced, at the discretion of the Park Director, with an acceptable tree from the Master Tree List at the property owner's expense.

The installation of both integral and detached sidewalks within the same block will be allowed when upon determination by the Park Director and Public Works Director that the change within the block is necessary to preserve a desirable tree that is at least four inches in diameter, a distance of two feet above ground level, provided a minimum sidewalk width of four feet can be constructed.

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**5.30.150 Appeals**

Any person aggrieved by any act or determination of the Park Director in the exercise of the authority herein granted shall have the right to appeal to the Council. An appeal shall be in writing, stating the decision appealed and reasons for the appeal.

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**5.30.160 Non-liability of City**

Nothing in this article shall be deemed to impose any liability upon the City, or upon any of its officers or employees, nor to relieve the owner and occupant of any private property from the duty to keep trees and shrubs upon private property, or under his control, or upon sidewalks and parking strips in front of such private property in safe condition.

## **5.40 Utility Undergrounding**

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### Sections:

- 5.40.010 - Applicability
- 5.40.020 - Permit Requirements
- 5.40.030 - Development Standards
- 5.40.040 - Completion of Utility Undergrounding
- 5.40.050 – Waiver of Utility Undergrounding

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### **5.40.010 Applicability**

This Section provides standards for the undergrounding of public utilities for new construction, additions and remodels when a building permit is required. All undergrounding of public utilities shall be performed consistent with this Section and the City's Standards and Specifications.

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### **5.40.020 Permit Requirements**

All public utility undergrounding shall be approved by the applicable utility companies and the City Engineer. An Encroachment Permit shall be issued prior to start of construction for utilities located within the public right-of-way.

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### **5.40.030 Development Standards**

The following standards shall apply for undergrounding of public utilities when a building permit is required.

- A. Primary Lines. New construction of residential, commercial and industrial buildings shall underground new and existing primary lines as follows:
  - 1. Within existing subdivisions that have no existing overhead primary utilities.
  - 2. New residential subdivisions on lots greater than one gross acre.
  - 3. Areas within existing utility undergrounding districts.
- B. Secondary Lines. New and existing secondary lines shall be placed underground for the following:
  - 1. New commercial and industrial buildings greater than 500 square feet.
  - 2. Additions to commercial and industrial buildings greater than 500 square feet.
  - 3. Commercial and industrial building alterations except for the following:
    - a. A building permit is required for maintenance or repairs; or
    - b. The area of tenant improvements is less than 1,000 square feet; or

- c. The Review Authority determines that the cost of the secondary utility undergrounding exceeds 10% of the tenant improvement costs.
  4. New residences except accessory dwelling units as defined in Chapter 9 (Definitions).
  5. Residential additions that exceed 40 percent of the existing square footage (as calculated by Section 5.20.030.I) or 500 square feet, whichever is greater.
  6. Residential remodels where alterations remove more than 50 percent of the exterior walls or remove more than 50 percent of the roof framing.
- C. Above Ground Equipment. New and existing utility appurtenances and associated equipment, including transformers, pedestal mounted boxes and meter cabinets may be placed above ground.

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#### **5.40.040 Completion of Utility Undergrounding**

Construction of the requirements in Subsection 5.40.030 shall be completed prior to the issuance of a Certificate of Occupancy.

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#### **5.40.050 Waiver of Utility Undergrounding**

- A. The owner may request the City Engineer waive the requirements to underground secondary lines. The written waiver request shall demonstrate why the required undergrounding cannot be completed based on Subsections 1-4. The City Engineer may waive the requirement to underground secondary lines for the following circumstances:
1. The existing utility pole is located on the adjacent lot and the owner is unable to obtain an easement allowing access to the closest utility pole.
  2. The existing pole is located within the public right-of-way but the pole is not located within five feet of the project lot.
  3. There are topographical conditions that would not provide minimum clearances required by the utility companies.
  4. The existing built conditions would require the cost of undergrounding to exceed 10% of the total cost of the construction project based on a written estimate provided by the utility companies.
- B. The owner may request the City Council waive the requirements of this Section. The written waiver request with the fee as established in the Master Fee Schedule shall demonstrate why the required undergrounding cannot be completed based on Subsection 1. The Council may waive the requirement to underground primary and/or secondary lines or extend the time for compliance as follows:

1. Where in the sole discretion of the Council the strict application of this Section would create substantial hardship, would be impractical, or would not be in the best interests of the City or the public.
2. The Council may extend the time for compliance with the standards of this Section and may require such cash or other bond as it deems suitable to guarantee compliance with this Section within such time limit as it may specify.

Each request for waiver of the requirements of this Section shall be acted upon independently by the Council based upon the particular facts involved.

## 5.50 Grading and Drainage

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### Sections:

- 5.50.010 - Purpose
- 5.50.020 - Applicability
- 5.50.030 - Permit Required
- 5.50.040 - Review Authority
- 5.50.050 - Grading Permit Application Requirements
- 5.50.060 - Grading Permit Required
- 5.50.070 - Grading Standards
- 5.50.080 - Drainage Standards
- 5.50.090 - Completion of Grading
- 5.50.100 - Enforcement

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### 5.50.010 Purpose

This Section provides procedures and minimum standards for grading activities and the construction of drainage control facilities. These provisions are intended to promote properly designed projects by preventing unreasonable or unnecessary damage from grading activities and by reducing hazards caused by flooding.

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### 5.50.020 Applicability

The requirements of this Section shall apply to all proposed development, new land uses and any grading, removal of vegetation, construction of flatwork or other land-disturbing activity.

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### 5.50.030 Permit Required

- A. **When required.** A grading permit is required for the following grading activities unless exempted by Subsection B:
1. Any grading, ground-disturbing, or other land-disturbing activity.
  2. As required by California Building Code Appendix J (Grading).
  3. Any grading located in a geologic hazard area shown on the Hazard Area Maps of the General Plan Safety Element. All geologic hazard areas shall be subject to additional requirements including soils and geologic investigation, analysis and reporting. A report prepared by the appropriately licensed professional(s) indicating that the site is suitable for the proposed development and providing specific design guidelines for the proposed development shall be included with any grading permit application. Final soils and geologic grading reports shall also be required for all grading activities in these areas, except that borings and related analyses shall be sufficient in liquefaction hazard areas.

4. Any grading activities that may adversely affect surrounding properties as determined by the Public Works Director. The Public Works Director shall have the discretion to impose any reasonable design requirements or conditions on such work which is determined necessary to prevent or reduce the harmful effects such work might cause to surrounding properties.
- B. **Exemptions.** The following grading activities are exempt from the issuance of a grading permit. However, the Public Works Director shall have the discretion to impose any reasonable design requirements or conditions on such work which is determined necessary to prevent or reduce the harmful effects such work might cause to surrounding properties.
1. Removal of vegetation does not exceed 1,000 square feet in area;
  2. Cultivation of land for agricultural purposes, provided that normal and customary agricultural practices are followed to minimize potential erosion;
  3. Excavations for wells or tunnels or utilities;
  4. An excavation does not exceed four feet in vertical depth at its deepest point, measured from the original surface, and does not exceed 200 square feet in area;
  5. A fill that does not exceed three feet in vertical height at its highest point, measured from the natural ground surface, and does not cover more than 200 square feet;
  6. Exploratory excavations under the direct supervision of geotechnical engineers or engineering geologists which do not exceed an aggregate area of 200 square feet; or
  7. An excavation below finished grade for basements and footings of a building if authorized by a valid building permit. This exception does not affect the requirement of a grading permit for any fill made with the material from the excavation.

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### 5.50.040 Review Authority

- A. The Public Works Director is authorized to issue a grading permit in compliance with this Development Code and the Municipal Code and may require conditions as are necessary to achieve compliance.
- B. **Development Permit.** If the grading permit is associated with an approved Development Permit, the Public Works Director shall determine that the project is in substantial compliance with the approved Development Permit in order to issue the grading permit.

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**5.50.050 Grading Permit Application Requirements**

- A. An application for a grading permit shall include a completed application form, the information and materials described in a Department handout, and the required filing fee. The application shall be filed with the Community Development Department.
- B. Site grading and grading plans shall be prepared by a professional having experience and competence in the design of site grading and who is appropriately licensed by the State of California to perform said design.
- C. A preliminary soils report prepared by a geotechnical engineer shall be provided for the following projects:
  - 1. Construction of new residential and non-residential buildings;
  - 2. Additions above the ground floor level to residential and non-residential buildings;
  - 3. Additions to ground floor level non-residential buildings. The Building Official may waive this requirement if it is determined that, based on the size of the addition and building occupancy type, investigation of the footing excavation by a geotechnical engineer will suffice.
  - 4. Ground level additions to residential buildings. The Building Official may waive this requirement if it is determined that, based on the size of the addition, investigation of the footing excavation by a geotechnical engineer will suffice.

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**5.50.060 Grading Permit Requirements**

- A. **Permit Requirements.** All grading permits shall comply with the following requirements.
  - 1. All grading permit applications shall comply with the current edition of the California Building Code Appendix J (Grading).
  - 2. All stormwater construction and post construction requirements have been met in compliance with Section 5.60 (Stormwater Construction and Post-Construction Management).
  - 3. All standards contained in this Development Code and other sections of the Municipal Code.
  - 4. Residential hillside development standards in Subsection 2.20.050.D (Hillside Development Standards) and Subsection 2.20.050.E (CPR1 Development Standards), when applicable.
  - 5. The applicant for a grading permit may be required to provide performance guarantees in compliance with Development Code Section 6.30.050 (Performance Guarantees) upon recommendation by the Public Works Director.
  - 6. Projects located in the Coastal Zone shall require Coastal Development Permit approval in compliance with Section 6.20.040 (Coastal Development Permit).

7. All grading activities shall comply with the California Environmental Quality Act (CEQA), when applicable.

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**5.50.070 Grading Standards**

- A. **Purpose.** This Section provides standards for grading, slope construction, erosion and sediment control, and protection of watercourses and drainage inlets.
- B. **General standards.**
  1. Wherever practicable, grading should preserve, match, or blend with the natural contours of the land.
  2. Whenever practicable, trees and native vegetation should be retained.
  3. Scars from cuts and fills should be minimized; the amount of cuts and fills should be reduced and sharp angles at the top and sides of all necessary cut and fill slopes shall be rounded off, and/or a retaining wall acceptable to the City shall be constructed. Where a cut or fill slope occurs between two lots, the slope shall be contained entirely within one lot and the slope should normally be made a part of the downhill lot.
  4. Geologic hazards and adverse soil conditions shall be mitigated.
  5. Walls that retain soil constructed within three feet of any property line shall be of masonry or concrete construction. The fill behind the wall shall not be less than six inches below the top of the wall.
  6. Retaining walls with level backfill that retain less than six feet as measured from the top of footing and with no imposed loads other than soil backfill, wind and seismic may be constructed per City standard. All other walls shall be designed by an appropriately licensed professional.
  7. When excavations or retaining walls are proposed near any property line, the Public Works Director may require a shoring installation and removal plan or retaining wall design by a licensed professional if in their opinion the excavation or retaining wall may result in damage to adjacent property.
- C. **Slope construction standards.**
  1. Slopes, both cut and fill, shall not be steeper than three run to one rise (3:1), except as approved by the Public Works Director and a thorough geological and engineering analysis indicates that steeper slopes are safe and permanent erosion and sediment control measures are specified.
  2. Long or steep slopes shall be terraced at regular intervals to slow runoff and provide a place for sediment to settle out.
  3. A five foot wide bench sloped at two percent shall be provided between the top or bottom of all slopes and the public right-of-way except as approved by the Public Works Director.



4. Tops and bottoms of slopes shall not be located closer than two feet to any property line unless retained by an approved retaining wall.
  5. All cleared slopes in cuts and fills and other areas vulnerable to erosion shall be permanently stabilized.
- D. Erosion and sediment control. Approved erosion and sediment control devices shall be required for all grading and stockpiling of materials in compliance with Section 5.60 (Stormwater Construction and Post-Construction Management).
- E. Standards for protection of watercourses and drainage inlets.
1. Grading activities shall not encroach on natural watercourses or constructed channels, except as approved by the Public Works Director and all required permits are obtained from agencies having jurisdiction.
  2. Excavated materials shall not be deposited or stored in the street, gutter or sidewalk without approval of an encroachment permit in compliance with Chapter 5 of the Municipal Code (Encroachment Permits) except as approved by the Public Works Director.
  3. Temporary and permanent sediment controls such as sediment debris basins and sediment traps shall be constructed to prevent sediment from entering existing or newly installed storm drainage structures. Any trapped sediment shall be removed to a disposal site approved by the Public Works Director.
  4. Any storm drain inlet protection measure which completely blocks the drain entrance shall be prohibited. Waddles and straw bales used alone are considered ineffective and shall not be allowed. Gravel bags, filter fabric wraps, commercially available inlet protection devices or other City approved methods shall be used in a manner that does not cause erosion, or flooding into a roadway.

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### **5.50.080 Drainage Standards**

- A. **Purpose.** This Section provides standards for drainage and retention facilities.
- B. **General standards**
1. No construction shall be allowed that alters natural drainage courses or that alters the existing outlet location, volume, peak flow rate or velocity of runoff except as approved by the Public Works Director.
  2. In cases where existing offsite runoff is conveyed onto and/or across the site the completed work shall provide for its continuation.
  3. Site drainage and drainage facilities shall be designed by a professional having experience and competence in the design and specification of drainage facilities and who is appropriately licensed by the State of California to perform said design.

4. All storm drainage structures shall be sized and constructed in compliance with the City of Grover Beach Standards and Specifications. Where no City standard or specification exists, the Public Works Director may require design by a Civil Engineer or compliance with an approved standard of another agency.
5. All subsurface flows and surface runoff shall be contained and dispersed at non-erosive velocities into the natural watercourse of the drainage area, except as required in this Section.
6. Concentration of runoff shall only be permitted in swales or watercourses.
7. Energy dissipating devices shall be required at all drainage outlets.

C. Retention Requirements

1. New construction on a vacant lot or on a lot where the primary structure is being removed, on-site drainage retention shall be required for all existing and new impervious surface areas regardless of the percent change to impervious surface area.
2. New construction that results in an increase to impervious surface area equal to or greater than 40%, on-site drainage retention shall be required for all existing and new impervious surface areas.
3. New Construction on a vacant lot or on a lot where the primary structure is being removed and new construction that results in an increase to impervious surface area equal to or greater than 40%, the property shall meet the requirements of City Standards and Specifications Section 8 (Stormwater Construction and Post-Construction Management), Subsection 8.04 (Long Term Maintenance).
4. New construction that results in an increase to impervious surface area less than 40%, on-site drainage retention is required only for the net increase to existing impervious surface area.
5. Runoff shall be directed to the newly created retention facilities, except as approved by the Public Works Director. Portions of sites not requiring retention per this Section and that previously drained to the street may continue to do so if approved by the Public Works Director.
6. For the purposes of this Section, surfaces including decks shall be considered pervious if they are constructed and installed per approved plans or approved manufacturer's recommendations and can be demonstrated to pass 3.2 inches of water per hour.
7. Drainage retention volume for impervious areas requiring retention shall be calculated using the following formula: impervious area in square-feet multiplied by 0.325 equals cubic feet of required drainage retention volume. When this volume exceeds retention volume required by Section 5.60 (Stormwater Construction and Post-Construction Management), this Section shall prevail except when a reduction in volume is approved by the Public Works Director.
8. Common drainage retention basins may be constructed for developments consisting of more than one lot. Common drainage retention volume shall be

calculated assuming retention of runoff from streets, curb, gutter and sidewalks except when approved by the Public Works Director.

9. **Exemptions.** Lots developed or redeveloped within a multi-lot development that includes a common drainage retention basin sized in compliance with this Section shall not be required to construct additional drainage retention facilities.

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### 5.50.090 Completion of Grading

- A. Upon completion of the rough grading work and at the final completion of the work, the Building Official or Public Works Director may require the following reports:
  1. An as-built plan prepared by an appropriately licensed professional including a certification that the work was completed in compliance with the final approved plan.
  2. A final soils report prepared by the geotechnical engineer and/or geologist including a certification as to the adequacy of the site for the intended use and as affected by geological features.
  3. A certification by an appropriately licensed professional that the drainage facilities constructed were installed and operate in compliance with the final approved plans.
  4. The engineer for a project may be required to inspect work and certify compliance with the approved grading plan, erosion and sediment control plan, and the provisions of this Section.

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### 5.50.100 Enforcement

- A. The provisions of this Section shall be enforced by the Building Official and Public Works Director. If it is determined that the work does not comply with the provisions of this Section, a Stop Work Order may be issued stopping all work until such time as compliance is ensured.
- B. **Violations.** Any person who causes, conducts, allows, or furnishes equipment or any labor for any grading activities without first obtaining a grading permit required by this Section is in violation of this Section. Any person who fails to comply with any term or condition of an approved grading permit is in violation of this Section. Violations shall be enforced in compliance with Municipal Code Article 1, Chapter 4 (Administrative Citations for Violation of the Code). Violations may also be subject to stop work orders, corrective action orders, and/or the suspension of occupancy permits.
- C. **Hazards.** Whenever the Public Works Director determines that any excavation, embankment, or fill on private property constitutes a hazard to public safety, endangers property, or adversely affects the safety, use or stability of adjacent property, an overhead or underground utility, or a public way, watercourse, or

drainage channel, or could adversely affect the water quality of any water bodies or watercourses, the owner or other person in control of the subject property shall be contacted and advised of the problem. Upon receipt of written notice from the Public Works Director, the property owner shall repair or eliminate the excavation, embankment or fill so as to eliminate the hazard and conform to the requirements of this Section. (Ord. 13-04)

## **5.60 Stormwater Construction and Post-Construction Management**

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### Sections:

- 5.60.010 - Authority
- 5.60.020 - Purpose
- 5.60.030 - Applicability
- 5.60.040 - Review Authority
- 5.60.050 - Owner Responsibilities
- 5.60.060 - Minimum Standards
- 5.60.070 - Construction Site Stormwater Runoff Control Provisions
- 5.60.080 - Post-Construction Stormwater Management Provisions
- 5.60.090 - Violations

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### **5.60.010 Authority**

- A. The Federal Clean Water Act, the implementing regulations for the National Pollutant Discharge Elimination System (NPDES), and the California Porter-Cologne Water Quality Control Act provide for the regulation and reduction of pollutants discharged to waters of the State and United States by extending NPDES requirements to stormwater and urban runoff discharges to and from the storm drain system.
- B. The City is required to enroll as a permittee under the State of California's Waste Discharge Requirements for Small Municipal Separate Storm Sewer Systems (Order No. 2013-0001-DWQ) and the NPDES General Permit No. CAS000004 (General Permit). Under the provisions of the General Permit, the City is required to possess the necessary legal authority and implement appropriate procedures to regulate the entry of pollutants and non-stormwater discharges into the storm drain system and implement mandatory site design measures to minimize the adverse effects of urbanization and development on watershed processes and beneficial uses resulting from changes in stormwater runoff conditions, and where possible, maintain and/or restore receiving water beneficial uses.

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### **5.60.020 Purpose**

- A. This Section provides standards to protect and enhance water quality by reducing pollutants in stormwater discharges to the maximum extent practicable. The objectives of this Section are to:
  - 1. Regulate the contribution of pollutants in stormwater discharges;
  - 2. Reduce pollutants in stormwater discharges by guiding, regulating, and controlling the design, construction, use, and maintenance of construction activities with the potential to degrade water resources;
  - 3. Require the construction of permanent stormwater runoff controls to protect water quality and maintain non-erosive hydrologic conditions downstream of construction activity ;

4. Require responsibility for and long-term maintenance of structural stormwater control facilities and nonstructural stormwater management; and
5. Enable legal authority to carry out inspection, surveillance, monitoring and enforcement procedures necessary to ensure compliance with this uses.

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**5.60.030 Applicability**

This Section shall apply to all construction activities including but not limited to, projects that require building and/or grading permits.

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**5.60.040 Review Authority**

- A. This Public Works Director is authorized to administer, implement, and enforce the provisions of this Section and establish any rules and regulations necessary for the enforcement of this Section.
- B. For the purpose of verifying compliance with this Section, the Public Works Director may enter onto private property for the purpose of inspecting, at reasonable times, any facility, equipment, practices, or operations, including:
  1. Prior to commencing land disturbance during the rainy season, to ensure all necessary sediment controls are in place;
  2. During active construction, to ensure, at a minimum, that BMPs implemented are effective and being maintained, and that pollutants of concern are not being discharged from the construction site;
  3. Following construction, to ensure that all temporary BMPS have been removed and disturbed areas have been stabilized;
  4. Prior to occupancy, to ensure all Structural Water Quality Treatment, Runoff Retention, and/or Peak Management Controls are constructed in accordance with approved plans;
  5. Annually, to ensure that all Structural Water Quality Treatment, Runoff Retention, and/or Peak Management Controls are being implemented and maintained in accordance with approved plans; and
  6. Any time there is a reasonable cause to believe a violation of this Section exists.

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**5.60.050 Owner Responsibilities**

Each property owner has the responsibility before, during, and after construction, to ensure compliance with this Section. The property owner also has a responsibility to ensure compliance with local, State, and Federal permitting requirements. No approval shall exonerate the property owner or his agent(s) from the responsibility of complying with the requirements of this Section and other local, State or Federal requirements.

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**5.60.060 Minimum Standards**

The standards in this Section are minimum standards; therefore this Section does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into receiving waters caused by said person. This Section shall not create liability on the part of the City, or any agent or employee thereof for any damages that result from any discharger's reliance on this Section or any administrative decision lawfully made hereunder.

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**5.60.070 Construction Site Stormwater Runoff Control Provisions**

- A. **Purpose.** The standards in this Section are intended to prevent construction site discharges of pollutants and adverse impacts on beneficial uses of receiving waters. It establishes standards and specifications to manage non-point source pollution, soil erosion and sedimentation associated with construction activities.
- B. **Permit requirements.** No land shall be disturbed until a program for preventing construction site discharges of pollutant and impacts on beneficial uses of receiving waters has been approved by the Public Works Director.
1. Projects subject to the Construction General Permit shall submit and implement a site specific Stormwater Pollution Prevention Plan (SWPPP). Construction shall not begin until the WDID Number, issued from the State Water Resources Control Board has been provided to the City.
  2. Projects exempt from the Construction General Permit but which may pose a threat to water quality shall develop and implement a Water Pollution Control Plan in compliance with the City's Standards and Specifications. Projects that may pose a threat to water quality are those projects that:
    - a. disturb one acre or less; or
    - b. disturb 5 acres or less and are granted an erosivity waiver and have one or more of the following water quality concerns:
      - i. potential to discharge directly or indirectly into Meadow Creek or the ocean;
      - ii. direct contact with groundwater;
      - iii. have cuts/fills in excess of six feet;
      - iv. have slopes steeper than 3:1; or
      - v. implementation by a contractor with a history of non-compliance.
  3. Projects exempt from the Construction General Permit but which may pose a negligible threat to water quality shall develop and implement a Water Pollution Control Plan in compliance with the City's Standards and Specifications. Projects that pose a negligible threat to water quality have none of the water quality concerns identified in Subsection 2 and may include, but are not limited to, remodeling projects and other interior improvements.
- C. During construction, construction activities shall be designed and conducted to minimize runoff of sediment and all other pollutants.
- D. Final approval and/or occupancy of a project shall not be granted until all temporary Best Management Practices have been removed from the site.

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**5.60.080 Post-Construction Stormwater Management Provisions**

A. Purpose. This Section provides standards to reduce pollutant discharges to the maximum extent practicable and to prevent stormwater discharges from causing or contributing to a violation of receiving water quality standards, also known as post-construction stormwater management. These standards emphasize protecting and, where degraded, restoring key watershed processes to create and sustain linkages between hydrology, channel geomorphology, and biological health necessary for healthy watersheds. Maintenance and restoration of watershed processes impacted by stormwater management is necessary to protect water quality and the beneficial uses of surface and groundwater.

B. Permit requirements. The applicant shall submit a Stormwater Control Plan in compliance with the City's Standards and Specifications.

Prior to final approval and/or occupancy, the applicant shall submit a Long Term Operation and Maintenance Plan in compliance with the City's Standards and Specification.

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**5.60.090 Violations**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Section. A violation shall be subject to the enforcement actions contained in Municipal Code Article V, Chapter 6 (Illegal Discharges and Illicit Connections), Section 5607 or may be restrained by injunction or otherwise abated in a manner provided by law. (Ord. 13-04)