

ORDINANCE NO. 2022-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE, CALIFORNIA CREATING TITLE 17: IMPACT FEES AND TITLE 7, ARTICLE 6, CHAPTER 7.90: GRADING REGULATIONS TO THE MENIFEE MUNICIPAL CODE AND REPEALING AND REPLACING CHAPTERS 8.02, 8.03, 8.26, AND 8.27 THERETO; AND ADOPTING BY REFERENCE THE 2022 EDITIONS OF THE CALIFORNIA BUILDING CODE AS CHAPTER 8.04, CALIFORNIA RESIDENTIAL CODE AS CHAPTER 8.05, CALIFORNIA GREEN BUILDING CODE AS CHAPTER 8.06, CALIFORNIA ELECTRICAL CODE AS CHAPTER 8.08, CALIFORNIA MECHANICAL CODE AS CHAPTER 8.12, CALIFORNIA PLUMBING CODE AS 8.16, THE CALIFORNIA FIRE CODE AS CHAPTER 8.20 IN THE MENIFEE MUNICIPAL CODE, AND MODEL CODES WITH APPENDICES AND AMENDMENTS RELATED THERETO, ALL OF WHICH COMPRISES THE BUILDINGS AND CONSTRUCTION CODE OF THE CITY OF MENIFEE

WHEREAS, the California Building Standards Commission has adopted and published the 2022 California Building Standards Code ("CBSC"), codified in Title 24 of the California Code of Regulations; and

WHEREAS, the 2022 CBSC contains, among other parts, the California Building Code (Title 24, Part 2), California Residential Code (Title 24, Part 2.5), California Electrical Code (Title 24, Part 3), California Mechanical Code (Title 24, Part 4), California Plumbing Code (Title 24, Part 5), California Fire Code (Title 24, Part 9), and California Green Building Standards Code ["CALGreen Code"] (Title 24, Part 11); and

WHEREAS, the 2022 CBSC becomes effective January 1, 2023; and

WHEREAS, Sections 17922, 17958, 17958.5, 17958.7, and 18941.5 of the California Health & Safety Code provide that the governing body of every city or county shall adopt ordinances or regulations imposing the same requirements as those contained in the most recently adopted version of the CBSC; and

WHEREAS, the City Council of the City of Menifee (the "City") wishes to update the rules and regulations governing building and construction within City limits to reflect the 2022 CBSC, as well as to make modifications to certain building standards and administrative provisions necessary to carry out the application of the CBSC; and

WHEREAS, every three years the State of California adopts a new California Fire Code, as part of the California Building Standards Code; and

WHEREAS, staff has identified sections of Title 8 that do not require amendments, but administratively are being relocated within the Menifee Municipal Code; and

WHEREAS, Chapters 8.02: Development Impact Fees, 8.03: Park and Recreation Mitigation Fees for Residential Development not Requiring a Tentative Map or Parcel Map, and 8.27: Multiple Species Habitat Conservation Plan Fee are repealed from Title 8 and replaced and incorporated within the created Title 17: Impact Fees; and

WHEREAS, Chapter 8.26: Grading Regulations is repealed from Title 8 and replaced and incorporated as Title 7, Article 6, Chapter 7.90: Grading Regulations; and **WHEREAS**, the City seeks to adopt the 2022 California Fire Code, California Code of Regulations, Title 24, Part 9, as

amended, to govern the safeguarding of life and property from fire, explosion hazards, and hazardous conditions and to regulate the issuance of permits and collection of fees; and

WHEREAS, the City Council is not required to make any express findings for administrative amendments necessary to carry out the application of the CBSC and/or that do not otherwise modify a building standard; and

WHEREAS, Sections 17958, 17958.5, 17958.7, and 18941.5 of the California Health & Safety Code provide that a city may make such changes or modifications to the building standards contained within the CBSC which the governing body has expressly found are reasonably necessary to protect the health, safety, and welfare of the public because of local climatic, geological, or topographical conditions.

NOW, THEREFORE, the City Council of the City of Menifee does hereby ordain as follows:

SECTION 1. Recitals. The recitals above are true and correct and are incorporated herein in full.

SECTION 2. Local Climatic, Geological, and Topographical Findings. The City of Menifee hereby finds and determines it is reasonably necessary to adopt local amendments to the 2022 CBSC due to local climatic, geological, or topographical conditions as follows:

I. Climatic Conditions

A. The City of Menifee, Riverside County is located in Southern California and covers a vast and varied geographic area. The base climate in western Riverside County consists of semi-arid Mediterranean weather patterns. Eastern Riverside County is a desert area with Mohave Desert temperatures and weather patterns. Those two primary areas are divided by the San Bernardino Mountain Range. Both areas outside of the mountain terrain annually experience extended periods of high temperatures with little or no precipitation. Hot, dry winds, which may reach speeds of 70 M.P.H. or greater, are common to the area. Examples are: Santa Ana/Foehn winds, afternoon surface-heating generated winds, and prevailing desert winds.

B. These climatic conditions cause extreme drying of vegetation and common building materials. Frequent periods of drought and low humidity add to the fire danger. This predisposes the area to large destructive fires (conflagration) which necessitates rapid identification, location, and extinguishment of all fires in the smallest stage possible. In addition to directly damaging or destroying buildings, these fires are also prone to disrupt utility services throughout Riverside County. Obstacles generated by a strong wind, such as fallen trees, streetlights, and utility poles, will greatly impact the response time to reach an incident scene. During these winds, the inability to use aerial type firefighting apparatuses would place rescue personnel at increased risk of injury and further decrease our ability to stop fires in large buildings.

C. Although Riverside County and the City of Menifee occasionally experience periods of significant drought, the County can also experience periods of substantial rainfall. Annual rainfall varies from three (3) inches in Blythe to over thirty- three (33) inches in Pine Cove. When Riverside County does experience heavy rain, or rain over a period of days or weeks, many areas of the County are subject to flooding. Runoff from rain drains either naturally into rivers, washes, and creeks or into flood control facilities. Flash flooding is also a common problem, especially in the Coachella Valley and the easterly portions of the county. Flash flooding is typically associated with short duration, high intensity precipitation events often associated with

summer thunderstorms. Such events can occur even during a drought.

D. Water demand in densely populated Southern California far exceeds the quantity supplied by natural precipitation; and although the population continues to grow, the already-taxed water supply does not. California is projected to increase in population by nearly 10 million over the next quarter of a century with 50 percent of that growth centered in Southern California. Due to storage capacities and consumption, and a limited amount of rainfall future water allocation is not fully dependable. This necessitates the need for additional and on-site fire protection features. It would also leave tall buildings vulnerable to uncontrolled fires due to a lack of available water and an inability to pump sufficient quantities of available water to floors in a fire.

E. These dry climatic conditions and winds contribute to the rapid spread of even small fires originating in high-density housing or vegetation. These fires spread very quickly and create a need for increased levels of fire protection. The added protection of fire sprinkler systems and other fire protection features such as identification and notification will supplement normal fire department response by providing immediate protection for the building occupants and by containing and controlling the fire spread to the area of origin. Fire sprinkler systems will also reduce the use of water for firefighting by as much as 50 to 75 percent.

II. Topographical Conditions

A. Natural: The topographical conditions of Riverside County varies from three hundred (300) feet below sea-level, flat desert communities, to mountains over ten thousand (10,000) feet in Alpine-like areas of the San Bernardino Mountain Range. In between these areas, developable slopes of 25 percent and greater generally occur throughout the foothills. Riverside County extends from Orange County to the State of Arizona and is mixed with congested urban areas, rural lands, and wild lands. A large number of sensitive habitats for various animal species and vegetation consist within large open space areas between major urban centers that impact building and structure location, which impedes emergency access and response. This variety in regions contributes to an increased emergency response time, which necessitates cooperation between local agencies.

B. Traffic and circulation congestion is an artificially created, obstructive topographical condition, which is common throughout Riverside County.

C. These topographical conditions combine to create a situation, which places fire department response time to fire occurrences at risk and makes it necessary to provide automatic on-site fire-extinguishing systems and other protection measures to protect occupants and property.

III. Geological Conditions

A. Located within Riverside County are several known active and potentially active earthquake faults, including the San Andreas, San Jacinto, and Elsinore Fault. In the event of an earthquake, the location of the epicenter as well as the time of day and season of the year would have a profound effect on the number of deaths and casualties, as well as property damage.

B. The major form of direct damage from most earthquakes is damage to construction. Bridges are particularly vulnerable to collapse, and dam failure may generate major downstream flooding. Buildings vary in susceptibility, dependent upon construction and the types of soils on which they are built. Earthquakes destroy power and telephone lines; gas, sewer, or

water mains; which, in turn, may set off fires and/or hinder firefighting or rescue efforts. The hazard of earthquakes varies from place to place, dependent upon the regional and local geology. Ground shaking may occur in areas 65 miles or more from the epicenter (the point on the ground surface above the focus). Ground shaking can change the mechanical properties of some fine grained, saturated soils, where upon they liquefy and act as a fluid (liquefaction).

C. Previous earthquakes in southern California have been accompanied by disruption of traffic flow and fires. A severe seismic event has the potential to negatively impact any rescue or fire suppression activities because it is likely to create obstacles similar to those indicated under the high wind section above. With the probability of strong aftershocks there exists a need to provide increased protection for anyone on upper floors of buildings.

D. Road circulation features located throughout Riverside County also make amendments reasonably necessary. Located through Riverside County are major roadways, highways and flood control channels that create barriers and slow response times. Hills, slopes, street and storm drain design accompanies with occasional heavy rainfall, causes roadway flooding and landslides and at times may make an emergency access route impassable. There are areas in Riverside County that naturally have extended emergency response times that exceed the 5-minute goal.

California Health and Safety Code Section 17958.7 and 18941.5 requires that the modification or change be expressly marked and identified as to which each finding refers. Therefore, the City Council finds that the following table sets forth the 2022 CBSC Codes and sections that have been modified and the associated local climatic, geological and/or topographical conditions described above supporting the modification.

2022 CODE SECTION	TITLE/SUBJECT	FINDINGS I, II, III
101.4	Severability	Administrative
102.5	Application of the residential Code	I, II & III
104.1.1	Authority of the Fire Chief and Fire Department	Administrative
104.7 and 104.7.1	Liability	Administrative
104.13	Authority of the Fire Chief to close hazardous fire areas	Administrative
107.2	Fees	Administrative
107.7	Cost Recovery	Administrative

111.1	Board of Appeals established	Administrative
113.4	Violation and Penalties	Administrative
202	Fire Chief	Administrative
308.1.6.3	Sky Lanterns	I, II & III
503.2.1	Dimensions	Administrative
503.2.2	Authority	Administrative
503.6.1	Automatic opener	Administrative
503.7	Loading areas and passenger drop-offs	Administrative
507.5.7	Fire hydrant size and outlets	I & III
507.5.8	Fire hydrant street marker	I, II & III
508.1, 508.1.1, 508.1.3, 508.1.6, 508.1.8	Fire command center	I, II & III
509.2.1	Minimum clearances	I & III
608.11.1.2	Manual operation	II & III
903.2	Where required (automatic sprinkler systems)	I, II & III
903.3.5.3	Hydraulically calculated systems	I & II
3204.2.1	Minimum requirements for client leased or occupant	Administrative
4904.2.1	High Fire Hazard Severity Zone Maps	Administrative

App Ch B, Table B105.2	Buildings other than one- or two-family dwellings	I, II & III
App Ch C, C103.1	Fire hydrant location	I, II & III

SECTION 3. Deletions. Chapters 8.02, 8.03, 8.26, and 8.27 of the Menifee Municipal Code (“MMC”) are hereby repealed in their entirety.

SECTION 4. Additions. Title 17: Impact Fees shall be created in the MMC, Title 7, Article 6, Chapter 7.90: Grading shall be created in the MMC, and Chapters 8.04, 8.05, 8.06, 8.08, 8.12, 8.16, and 8.20 are hereby replaced in their entirety. All such additions and replacements shall be as described in **Exhibit A** attached hereto and incorporated herein.

SECTION 5. References to Prior Code. Unless superseded and expressly repealed, references in the City forms, documents, and regulations to the chapters and sections of the former City’s Building and Construction Code, Title 8 of the Menifee Municipal Code, shall be construed to apply to the corresponding provisions contained in this Ordinance of the City of Menifee and all other ordinances or parts or ordinances in conflict herewith are hereby superseded and expressly repealed.

SECTION 6. Severability and Validity. If any section, subsection, paragraph, or sentence of this Ordinance, or any part thereof, is for any reason found to be unconstitutional, invalid, or beyond the authority of the City of Menifee by a court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

SECTION 7. Effective Date. In accordance with California Government Code Section 36937, this Ordinance shall take effect on January 1, 2023.

This Ordinance was introduced on the 2nd day of November 2022 and **APPROVED AND ADOPTED** on the 16th day of November, 2022.

Bill Zimmerman, Mayor

ATTEST:

Stephanie Roseen, Acting City Clerk

APPROVED AS TO FORM:

Jeffrey T. Melching, City Attorney

EXHIBIT A

TITLE 17: IMPACT FEES

CHAPTER 17.01: DEVELOPMENT IMPACT FEES

Section

- 17.01.010 Purpose and intent
- 17.01.020 Definitions
- 17.01.030 Applicability
- 17.01.040 Resolution establishing the amount of development impact fees
- 17.01.050 Calculation of development impact fees
- 17.01.060 Payment of fees for nonresidential development
- 17.01.070 Payment of development impact fees on residential development
- 17.01.080 Administration of development impact fees
- 17.01.090 Credits and reimbursements
- 17.01.110 Development impact fee nonexclusive
- 17.01.120 Protests, appeals and audits

§17.01.010 PURPOSE AND INTENT.

This chapter establishes the program for the adoption and administration of development impact fees. It is the intent of the city to require every person who develops land to mitigate the impacts of that development on the city's public facilities. The city will therefore require developers to pay a development impact fee that will assist in meeting the demand for public facilities caused by development. The public facilities will be constructed in accordance with a capital improvement plan adopted by resolution of the City Council. The amount of the development impact fees collected pursuant to this chapter shall be limited to the cost of public facilities attributable to new development. The amount of the development impact fees collected shall not include the cost of public facilities that serve existing development.

§17.01.020 DEFINITIONS.

Unless the context shall require otherwise, the definitions set forth in this section shall apply to the following terms as used in this chapter:

ACCESSORY STRUCTURE. Private garages, children's playhouses, antennas, windmills, silos, tank houses, workshops, barns, coops and other buildings that are accessory to a one-family or two-family dwelling.

BUILDING PERMIT. The permit required for new construction and additions pursuant to this title. The term BUILDING PERMIT, as used herein, shall not be deemed to include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, provided there is no increase in gross floor area of commercial or industrial development or in the number of dwelling units in residential developments resulting therefrom.

CAPITAL IMPROVEMENTS. Any and/or all of the public facilities and infrastructure improvements, including acquisition of land, design and construction, equipping and installing, and related capital costs which are to be financed in whole or in part by the imposition of development impact fees.

CAPITAL IMPROVEMENTS PROGRAM. The city's annually updated program indicating the approximate location, size, time schedule and estimates of cost for public facilities and improvements.

DEVELOPMENT or DEVELOPMENT PROJECT. Any manmade change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires issuance of a building permit.

DEVELOPMENT IMPACT FEES. Any monetary exaction, other than a tax or special assessment, which is charged to an applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of capital improvements and operational services related to the development project, subject to the exceptions set forth in Cal. Gov't Code §§ 66000 et seq.

NONRESIDENTIAL DEVELOPMENT. Any development project except for those projects or OWNER. The legal owner(s) of real property upon which a development project is proposed, or RESIDENTIAL DEVELOPMENT. Any development consisting of one or more dwelling units.

§17.01.030 APPLICABILITY.

(A) In order to implement the goals, objectives, policies and specific actions of the General Plan of the city, capital improvement plan, and the city's annually adopted budget; to protect the health, safety and general welfare of the city's population; to mitigate impacts of new development on the level of service capacity in existing facilities; and to ensure that the burdens of financing public facilities are borne by the development projects benefitted thereby, every person constructing any new residential, commercial or industrial development shall pay to the city, the development impact fee established by resolution of the City Council.

(B) Exceptions. The following types of development projects are not subject to development impact fees:

- (1) Reconstruction of a structure damaged or destroyed by fire or other natural causes, provided the structure contains the same number of dwelling units and/or the same or less gross floor area as the damaged or destroyed structure.
- (2) Rehabilitation or remodeling of an existing residential structure provided no new dwelling units are added to the structure.
- (3) Rehabilitation or remodeling of an existing nonresidential structure provided no

additional gross floor area is added to the structure and there is no change in use that would generate more traffic.

(4) Accessory structures, as defined herein.

§17.01.040 RESOLUTION ESTABLISHING THE AMOUNT OF DEVELOPMENT IMPACT FEES.

The City Council shall by resolution establish the amount of the development impact fees specified in this chapter, which resolution(s) shall be consistent with the requirements of Assembly Bill 1600 (Chapter 927 Statutes 1989) as set forth in Cal. Gov't Code §§ 66000 et seq. and shall include the following:

- (A) Identify the purpose of the fee;
- (B) Identify the use to which the fee will be put;
- (C) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed;
- (D) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed; and
- (E) Determine how there is a reasonable relationship between the specific amount of the fee imposed on a development project and the cost of the needed public facilities attributable to that development project.

§17.01.050 CALCULATION OF DEVELOPMENT IMPACT FEES.

A developer subject to the development impact fee required by this chapter shall pay the amount of the fee in effect at the time that the fee becomes due. Furthermore, any fee imposed on a development which is protected by vested rights acquired through a vesting tentative subdivision map shall pay the amount of the fee in effect at the time the rights became vested.

§17.01.060 PAYMENT OF DEVELOPMENT IMPACT FEES FOR NONRESIDENTIAL DEVELOPMENT.

(A) A developer shall pay the development impact fee for each building in a nonresidential development or new square footage of a building in a nonresidential development, in an amount established by resolution of the City Council, prior to issuance of a building permit for that building. Construction which does not result in new square footage shall not be subject to a public facilities development impact fee.

(B) A building permit may be issued to a developer prior to payment of the development impact fee, if the developer qualifies as a nonprofit organization that is exempted from taxes by § 501(c)(3) of the Internal Revenue Code of 1986. If, pursuant to this section, the required fee is not fully paid prior to issuance of a building permit for construction of any portion of the nonresidential development encumbered thereby, the Community Development Director may require the property owner, or lessee if the lessee's interest appears of record, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, upon transfer of the nonresidential development, or the applicable portion thereof,

to a purchaser that does not qualify as a nonprofit organization that is exempted from taxes by § 501(c)(3) of the Internal Revenue Code of 1986. The contract shall be recorded with the Riverside County recorder and shall constitute a lien for the payment of the fee.

(C) However, this section shall not be construed to prevent payment of the fees prior to issuance of certificate of occupancy.

§17.01.070 PAYMENT OF DEVELOPMENT IMPACT FEES ON RESIDENTIAL DEVELOPMENT.

(A) A developer shall pay a development impact fee for each building which is part of a residential development, in an amount established by resolution of the City Council, upon the issuance of a certificate of occupancy for that building.

(B) In the case of mobilehome parks, the fee for all potential units within the entire park shall be paid prior to the first mobilehome being placed within the park.

(C) For purposes of this section, CERTIFICATE OF OCCUPANCY, shall be defined as that term is defined in Cal. Gov't Code § 66007, as amended.

(D) However, this section shall not be construed to prevent payment of the fees prior to issuance of certificate of occupancy.

§17.01.080 ADMINISTRATION OF DEVELOPMENT IMPACT FEES.

All of the fees collected pursuant to this chapter shall be deposited into separate specific accounts for public facilities of the city. These funds and any interest earnings thereon shall be used solely for the purposes specified for funds of such account and solely for the financing of such public facilities or to reimburse the city for public facilities funded or constructed in whole or in part by the city.

§17.01.090 CREDITS AND REIMBURSEMENTS.

(A) If a developer constructs a capital improvement they may receive a credit against the corresponding development impact fee for the development project. The developer and the city must enter into a credit agreement prior to the issuance of a building permit for the development project for the developer to receive a credit against the applicable development impact fees. The agreement must estimate the cost of constructing the capital improvement, the schedule for the completion of the capital improvement, a requirement that the capital improvement be constructed to city standards, and such other terms and conditions as deemed necessary by the city.

(B) Reimbursements. If a developer constructs a capital improvement the city may reimburse the developer for the costs of the capital improvement in excess of what is needed to provide services to or mitigate the impacts of the development project. The developer and the city must enter into a reimbursement agreement for the owner to receive a reimbursement. The reimbursement agreement shall require the city, for a period of up to ten years, to reimburse the developer from the development impact fees collected to fund capital improvements of the same type as the capital improvement constructed by the developer. The city shall not reimburse a developer out of the city's general fund or any other city funds.

(C) Maximum credit and reimbursement. In no event shall a developer receive a credit and/or

reimbursement in excess of the city's most recent estimated cost of constructing the capital improvement, or the portion of the capital improvement actually completed, by contract or by the city's own forces.

(D) Credit and reimbursement policy. The City Council may, from time to time, adopt by resolution a development impact fee credit and reimbursement policy implementing the provisions of this section.

(E) Execution of agreements. The City Manager may approve and sign any agreements authorized by division (A) or (B) of this section, provided the agreement is consistent with this section and any policy adopted by the City Council pursuant to division (D) of this section.

§17.01.110 DEVELOPMENT IMPACT FEE NONEXCLUSIVE.

The development impact fees established herein are additional and supplemental to, and not in substitution of, any other requirements imposed by the city on the development of land or the issuance of building permits.

§17.01.120 PROTESTS, APPEALS AND AUDITS.

All protests, appeals, and audits shall be conducted in accordance with the procedures contained in the Mitigation Fee Act (Cal. Gov't Code § 66020 et seq.).

CHAPTER 17.02: PARK AND RECREATION MITIGATION FEES FOR RESIDENTIAL DEVELOPMENT NOT REQUIRING A TENTATIVE MAP OR PARCEL MAP

Section

17.02.010 Purpose and findings

17.02.020 Authority

17.02.030 Definitions

17.02.040 Limited use of fees

17.02.050 Park and recreation mitigation fees

17.02.060 Procedure for imposition and payment of park and recreation mitigation fees

17.02.070 Creation of Park and Recreation Impact Fund

17.02.080 Government Code compliance

17.02.090 Developments annexed to the city

17.02.100 Exception for commercial and industrial developments

§17.02.010 PURPOSE AND FINDINGS.

(A) Authorizing legislation. This chapter is adopted to implement the provisions of § 66000 et seq. of the Cal. Gov't Code (sometimes referred to hereinafter as the "Mitigation Fee Act"), which authorizes a city to impose mitigation fees as a condition of approval on a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project.

(B) Purpose. Additional park facilities are needed to accommodate future growth and maintain an acceptable level of the existing park and recreation facilities for all areas of the City of Menifee. New development within the City of Menifee results in increased usage of the existing park and recreation facilities throughout the city, which thereby increases the service requirements and the capital equipment requirements of the city's parks and recreation facilities. Such increased usage is not limited to new residential subdivisions.

(C) Use. Park and recreation mitigation fees are hereby established on new residential development within the City of Menifee to pay a proportionate share of public facilities related to parks and recreation. The mitigation fees authorized by this section will be used only for defraying costs associated with providing parks and recreation facilities resulting from new development projects and shall not exceed the estimated cost associated with providing those facilities. The mitigation fees are for the purpose of developing new or rehabilitating existing park or recreational facilities, although no such fees will be used to overcome any current deficiency in park and recreation facilities. A reasonable relationship exists between the mitigation fees' use, amount, and need and the residential development project upon which the mitigation fees are imposed.

(D) Findings. The amount of existing park area in the city exceeds three acres of park area per 1,000 city residents. The enactment of this chapter shall prevent new residential development from reducing the quality and availability of public services provided to residents of the city by requiring new residential development to contribute to the cost of expanding the availability of park and recreational facilities and amenities in the city.

§17.02.020 AUTHORITY.

This chapter is enacted pursuant to the authority granted by the Mitigation Fee Act.

§17.02.030 DEFINITIONS.

For the purposes of this chapter, the terms and words shall have the meaning as defined in Chapter 9.305 "Universal Definitions," except that the following words shall have the meanings set forth below:

AVERAGE NUMBER OF PERSONS PER DWELLING UNIT. Average number of persons per household, based on the most recent data available in the form of the federal census and study on the population density in the city. The most recent average number of persons per dwelling unit may be reflected in a City Council resolution.

CITY. The City of Menifee.

DEVELOPER. Any person who is the owner or authorized agent of an owner of any new development within the city.

DEVELOPMENT PROJECT. Any project undertaken for the purpose of development and includes a project involving the issuance of a permit for construction or reconstruction, but not a **DWELLING UNIT**. Includes each single family dwelling, second units allowed on single family lots as defined in Chapter 9.300.020 "Second Dwelling Units," each unit of an apartment, duplex dwelling group or multiple dwelling structure or condominium or planned residential development as a separate habitat for one or more persons or each mobile home space designed to contain a mobile home trailer on a semi-permanent or permanent basis. Single-family residential units, multifamily residential units, and mobile home units shall be defined according to the latest decennial U.S. or state Department of Finance census. Dwelling unit, for this chapter, does not include a guest dwelling that does not have cooking facilities.

LAND ACQUISITION COST PER ACRE. The estimated per acre value of vacant residential land costs in the city as determined by the City Council based upon receipt sale records or appraisal. The most recent land acquisition cost per acre may be reflected in a City Council resolution. If the developer objects to such a valuation, the developer, at its own expense, may obtain an appraisal of the property by a qualified appraiser approved by the city, whose appraisal may be accepted by the city if found reasonable.

MITIGATION FEE ACT. Section 66000 et seq. of the Cal. Gov't Code, as amended from time to time, or any successor statute.

NUMBER OF DWELLING UNITS. The number of dwelling units as determined by the city based upon the number of units allowed pursuant to the standards of the city's Zoning Code or as otherwise specified by the city on the property included in the proposed residential development project.

PARK AND RECREATION MITIGATION FEES. Fees paid as a condition to the approval of a residential development project pursuant to this chapter and the Mitigation Fee Act for the purpose of defraying all or a portion of the cost of public park and recreational facilities related to the development project.

RESIDENTIAL DEVELOPMENT. Any development that creates new or increases the number of existing dwelling units on a property.

§17.02.040 LIMITED USE OF FEES.

The revenues raised by payment of these park and recreation mitigation fees shall be placed in separate and special impact fund account, in accordance with § 17.02.070, and such revenues, along with any interest earnings on such separate account, shall be used solely to pay for the city's future acquisition and construction of parkland and improvements at least partially allocable to new development, as identified in the Open Space and Conservation Element of the city's General Plan and any policy, standard, principle or guideline adopted in accordance therewith.

§17.02.050 PARK AND RECREATION MITIGATION FEES.

(A) Calculation. As a condition of approval for any residential development project, the city shall require the payment of park and recreation mitigation fees, which shall be calculated in the same manner as fees required by Chapter 7.75 of this code.

(B) Amount of fee. The amount of the park and recreation mitigation fees per dwelling unit may be adopted by resolution of the City Council. The Council may adopt and/or revise the fee

amount as often as on an annual basis. The Council may adopt and/or revise the fee amount as often as on an annual basis, and in accordance with Cal. Gov't Code § 66000 et seq.

(C) Exemptions. The park and recreation mitigation fees established by this chapter shall not apply to residential development that is subject to the dedication of parkland or the imposition of in-lieu fees, or a combination of both, for park and recreational purposes, as a condition of approval of a tentative map or parcel map pursuant to Chapter 7.75 of this code, adopted in accordance with Cal. Gov't Code § 66477, sometimes referred to as the Quimby Act.

§17.02.060 PROCEDURE FOR IMPOSITION AND PAYMENT OF PARK AND RECREATION MITIGATION FEES.

Park and recreation mitigation fees shall be imposed on new residential development project as a condition of building permit issuance. Prior to the issuance of a building permit, the City Manager or his or her designee shall determine the amount of park and recreation mitigation fees to be paid by the developer. Any fee required under this chapter shall be paid directly to the city prior to the date of the final inspection of the first dwelling unit, or the date the first certificate of occupancy is issued, whichever occurs first, unless payment at a different time is mandated or authorized by Cal. Gov't Code § 66007.

§17.02.070 CREATION OF PARK AND RECREATION IMPACT FUND.

There is hereby established and created a fund of the city entitled "Parks and Recreation Impact Fund" and all revenues derived from and all monies collected as a park and recreation mitigation fee, including accrued interest thereon, shall be deposited in such fund. The Parks and Recreation Impact Fund is established for the sole purpose of providing monies for the acquisition, construction, and reconstruction of parkland, playgrounds, community facilities, recreation facilities and equipment, and other capital purposes needed for providing parks and recreation services. The Parks and Recreation Impact Fund shall be administered in accordance with Cal. Gov't Code §§ 66000 et seq., including specifically §§ 66001(c) through (e).

§17.02.080 GOVERNMENT CODE COMPLIANCE.

Any resolution adopted under Chapter 17.02 of this code shall be in accordance with the provisions of Chapter 5 of Division 1 of Title 7 of the Cal. Gov't Code (commencing with § 66000).

§17.02.090 DEVELOPMENTS ANNEXED TO THE CITY.

Where a proposed residential development lies within an area not currently within the city's corporate boundaries but intended to be annexed into the city by the developer, the developer shall pay park and recreation mitigation fees in accordance with the city's General Plan and in accordance with the provisions of this chapter, and the General Plan shall be amended within 180 days following approval of the annexation.

§17.02.100 EXCEPTION FOR COMMERCIAL AND INDUSTRIAL DEVELOPMENTS.

The provisions of this chapter shall not apply to any industrial or commercial development.

CHAPTER 17.03: MULTIPLE SPECIES HABITAT CONSERVATION PLAN FEE

Section

- 17.03.010 Findings
- 17.03.020 Administrative responsibility
- 17.03.030 Definitions
- 17.03.040 Local Development Mitigation and Local Infrastructure Fee
- 17.03.050 Imposition of the Local Development Mitigation Fee
- 17.03.060 Payment of the Local Development Mitigation Fee
- 17.03.070 Refunds
- 17.03.080 Accounting and disbursement of collected Local Development Mitigation Fees
- 17.03.090 Exemptions
- 17.03.100 Fee credits

§17.03.010 FINDINGS.

The City Council finds and determines as follows:

(A) The preservation of vegetation communities and natural areas within the city and western Riverside County which support species covered by the Multiple Species Habitat Conservation Plan (MSHCP) is necessary to protect and promote the health, safety, and welfare of all the citizens of the city by reducing the adverse direct, indirect, and cumulative effects of urbanization and development and providing for permanent conservation of habitat for species covered by the MSHCP.

(B) It is necessary to update certain development impact fees to ensure that all new developments within the city pay their fair share of the costs of acquiring and preserving vegetation communities and natural areas within the city and the region known to support plant and wildlife species covered by the MSHCP.

(C) A proper funding source to pay the costs associated with mitigating the direct, indirect, and cumulative impacts of development to the natural ecosystems within the city and the region, as identified in the MSHCP, is a development impact fee for residential, commercial, and industrial development. The amount of the fee is determined by the nature and extent of the impacts from the development to the identified natural ecosystems and/or the relative cost of mitigating such impacts.

(D) The MSHCP and the 2020 Nexus Study, a copy of which is on file in the City Clerk's Office, provides a basis for the imposition of development impact fees on new construction.

(E) The use of the development impact fees to mitigate the impacts to the city's and the

region's natural ecosystems is reasonably related to the type and extent of impacts caused by development within the city.

(F) The costs of funding the proper mitigation of natural ecosystems and biological resources impacted by development within the city and the region are apportioned relative to the type and extent of impacts caused by the development.

(G) The facts and evidence provided to the city establish that there is a reasonable relationship between the need for preserving the natural ecosystems in the city and the region, as defined in the MSHCP, and the direct, indirect, and cumulative impacts to such natural ecosystems and biological resources created by the types of development on which the fee will be imposed, and that there is a reasonable relationship between the fee's use and the types of development for which the fee is charged. This reasonable relationship is described in more detail in the MSHCP and the 2020 Nexus Study.

(H) The cost estimates for mitigating the impact of development on the city's and the region's natural ecosystem and biological resources, as set forth in the MSHCP, are reasonable and will not exceed the reasonably estimated total of these costs.

(I) The fee set forth herein does not reflect the entire cost of the lands which need to be acquired in order to implement the MSHCP and mitigate the impact caused by new development. Additional revenues will be required from other sources. The City Council finds that the benefit to each development project is greater than the amount of the fee to be paid by the project.

(J) The fees collected pursuant to this chapter shall be used to finance the acquisition and perpetual conservation of the natural ecosystems and certain improvements necessary to implement the goals and objectives of the MSHCP.

§17.03.020 ADMINISTRATIVE RESPONSIBILITY.

The Western Riverside County Regional Conservation Authority (RCA) is hereby reaffirmed as the Administrator of this chapter. The RCA is hereby authorized to receive all fees generated from the Local Development Mitigation Fee within the city and to invest, account for, and expend such fees in accordance with the provisions of the Multiple Species Habitat Conservation Plan (MSHCP), the MSHCP implementing ordinance, this chapter, and the MSHCP Mitigation Fee Implementation Manual. The detailed administrative procedures concerning the implementation of this chapter shall be contained in the MSHCP Mitigation Fee Implementation Manual adopted December 7, 2020, and as may be amended from time to time. The RCA Board of Directors may adopt a policy that will allow the city to authorize the RCA to calculate the fees due and collect those amounts directly from property owners. If such a policy is adopted, it will be included in the MSHCP Mitigation Fee Implementation Manual.

§17.03.030 DEFINITIONS.

(A) As used in this chapter, the following terms shall have the following meanings:

ACCESSORY DWELLING UNIT. As defined by Cal. Gov't Code § 65852.2(j)(1), or as defined in any successor statute.

BOARD OF SUPERVISORS. The Board of Supervisors of the County of Riverside, California.

CITY. The City of Menifee, County of Riverside, California.

CITY COUNCIL. The City Council of the City of Menifee, California.

CREDIT. A credit allowed pursuant to § 8.27.100, which may be applied against the development impact fee paid.

DEVELOPMENT. A human-created change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filing, grading, paving, excavating, and drilling.

DEVELOPMENT PROJECT or PROJECT. Any project undertaken for the purpose of development pursuant to the issuance of a building permit by the city pursuant to all applicable ordinances, regulations, and rules of the city and state law.

JUNIOR ACCESSORY DWELLING UNIT. As defined by Cal. Gov't Code § 65852.22(h)(1), or as defined in any successor statute.

LOCAL DEVELOPMENT MITIGATION FEE (LDMF) or FEE. The development impact fee imposed pursuant to the provisions of this chapter.

MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP). The Western Riverside County Multiple Species Habitat Conservation Plan, adopted by the City Council on January 6, 2009.

MSHCP CONSERVATION AREA. This term has the same meaning and intent as such term is defined and utilized in the MSHCP.

PROJECT AREA. The area, measured in acres, within the development project, including, without limitation, any areas to be developed as a condition of the development project. Except as otherwise provided herein, the PROJECT AREA is the area upon which the project will be assessed the Local Development Mitigation Fee. See the MSHCP Mitigation Fee Implementation Manual for additional guidance for calculating the PROJECT AREA.

REVENUE or REVENUES. Any funds received by the city pursuant to the provisions of this chapter for the purpose of defraying all or a portion of the cost of acquiring and preserving vegetation communities and natural areas within the city and the region which are known to support threatened, endangered, or key sensitive populations of plant and wildlife species.

WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY (RCA). The governing body established pursuant to the MSHCP that is delegated the authority to oversee and implement the provisions of the MSHCP.

(B) Any capitalized term not otherwise defined herein shall carry the same meaning and definition as that term is used and defined in the MSHCP.

§17.03.040 LOCAL DEVELOPMENT MITIGATION AND LOCAL INFRASTRUCTURE FEE.

(A) Adoption of Local Development Mitigation Fee schedule. The City Council shall adopt an applicable Local Development Mitigation Fee schedule provided by the RCA through a separate resolution, which may be amended from time to time.

(B) Public projects. The city is required to mitigate the impacts of public projects pursuant to the MSHCP and the MSHCP implementing agreement. The definition of public project and the method for mitigating public projects will be set forth in the MSHCP Mitigation Fee Implementation Manual.

(C) Periodic fee adjustment. The Local Development Mitigation Fee schedule set forth in the fee resolution referenced above may be periodically reviewed and the amounts adjusted as set forth in the MSHCP Mitigation Fee Implementation Manual.

(D) Automatic annual fee adjustment. In addition to the periodic fee adjustment mentioned above, the RCA shall provide the city with an automatic annual fee adjustment for the Local Development Mitigation Fee established by this chapter as set forth in the MSHCP Mitigation Fee Implementation Manual.

§17.03.050 IMPOSITION OF THE LOCAL DEVELOPMENT MITIGATION FEE.

(A) The Local Development Mitigation Fee will be paid no later than at the issuance of a building permit. Notwithstanding any other provision of the City's Municipal Code, no building permit shall be issued for any development project unless the Local Development Mitigation Fee applicable to such development project has been paid. The amount of the fee shall be calculated in accordance with the MSHCP Mitigation Fee Implementation Manual.

(B) In lieu of the payment of the Local Development Mitigation Fee as provided above, the fee for a development may be paid through a Community Facilities District, provided that such arrangement is approved by the RCA in writing.

§17.03.060 PAYMENT OF THE LOCAL DEVELOPMENT MITIGATION FEE.

(A) The Local Development Mitigation Fee shall be paid in full in accordance with applicable law.

(B) The Local Development Mitigation Fee required to be paid under this chapter shall be the fee in effect at the time the permit is issued for which the Local Development Mitigation Fee is assessed; provided, however, that housing development projects as defined by Cal. Gov't Code § 65589.5(h)(2) may be entitled to pay the fee in effect at the time the preliminary application was submitted.

(C) Notwithstanding anything in the City's Municipal Code or any other written documentation to the contrary, the Local Development Mitigation Fee shall be paid whether or not the development project is subject to conditions of approval by the city imposing the requirement to pay the fee.

(D) If all or part of the development project is sold prior to payment of the Local Development Mitigation Fee, the project shall continue to be subject to the requirement to pay the fee as provided herein.

(E) The fee title owner(s) of the property is responsible for the payment of the Local Development Mitigation Fee.

§17.03.070 REFUNDS.

Under certain circumstances, such as double payment, expiration of a building permit, or fee miscalculation due to clerical error, an applicant may be entitled to a refund. Refunds will be reimbursed by the end of the fiscal year on a first come, first served basis, depending upon the net revenue stream. Refunds will only be considered reimbursable if requested within three years of the original LDMF payment. In all cases, the applicant must promptly submit a refund request with proof of LDMF payment to the RCA if the RCA collected the LDMF, or if collected by a local jurisdiction, the refund request shall be submitted to that local jurisdiction, which will subsequently forward the request to RCA for verification, review, and possible action.

(A) Expiration of building permits. If a building permit should expire, is revoked, or is voluntarily surrendered and is therefore voided and no construction or improvement of land has commenced, then the applicant may be entitled to a refund of the LDMF collected which was paid as a condition of approval, less administrative costs. Any refund must be requested within three years of the original payment. The applicant shall pay the current LDMF in effect at the time in full if they reapply for the permit.

(B) Double payments. On occasion due to a clerical error, a developer has paid all or a portion of the required LDMF for a project twice. In such cases, a refund of the double payment may be required.

(C) Balance due. When LDMF is incorrectly calculated due to city clerical error, it is the city's responsibility to remit the balance due to the RCA. The error must be discovered within three years of the original payment for the city to be held accountable. The amount due can be remitted through alternate methods agreed to by the RCA Executive Committee. If first approved through RCA staff in writing, the calculation is not subject to additional review.

§17.03.080 ACCOUNTING AND DISBURSEMENT OF COLLECTED LOCAL DEVELOPMENT MITIGATION FEES.

(A) All fees paid pursuant to this chapter shall be deposited, invested, accounted for, and expended in accordance with Cal. Gov't Code § 66006 and all other applicable provisions of law.

(B) Subject to the provisions of this section, all fees collected pursuant to this chapter shall be remitted to the Western Riverside County Regional Conservation Authority at least quarterly.

(C) In the resolution mentioned in § 17.03.040, the city may also add an additional cost to the Local Development Mitigation Fee schedule to cover the costs of collecting the fees from project proponents. Any amounts collected by the city shall not reduce the amount collected and remitted to the RCA under this chapter.

§17.03.090 EXEMPTIONS.

The following types of construction shall be exempt from the provisions of this chapter:

(A) Reconstruction or improvements that were damaged or destroyed by fire or other natural causes, provided that the reconstruction or improvements do not result in additional usable square footage;

(B) Rehabilitation or remodeling to an existing development project, provided that the rehabilitation or remodeling does not result in additional usable square footage;

- (C) Accessory dwelling units, but only to the extent such fee is exempted under state law;
- (D) Junior accessory dwelling units, but only to the extent such fee is exempted under state law;
- (E) Existing structures where the use is changed from an existing permitted use to a different permitted use, provided that no additional improvements are constructed and does not result in additional usable square footage;
- (F) Certain agricultural operations as allowed by the MSHCP, as amended;
- (G) Vesting tentative tract maps entered into pursuant to Cal. Gov't Code § 66452 et seq. (also Cal. Gov't Code § 66498.1 et seq.) and development projects which are the subject of a development agreement entered into pursuant to Cal. Gov't Code § 65864 et seq., prior to the effective date of County Ordinance No. 810.2, wherein the imposition of new fees are expressly prohibited; provided that if the term of such a vesting map or development agreement is extended by amendment or by any other manner after the effective date of County Ordinance No. 810.2, the MSHCP fee shall be imposed.
- (H) Except as exempted above, all projects are required to make a mitigation payment/contribution and where no mitigation payment process is specified, the project will pay the updated per acre mitigation fee.

§17.03.100 FEE CREDITS.

Any Local Development Mitigation Fee credit that may be applicable to a development project shall be determined by the city and approved by the RCA. All fee credits shall comply with the resolutions, ordinances, implementing agreement, and policies of the Western Riverside County Regional Conservation Authority, including, without limitation, the MSHCP Mitigation Fee Implementation Manual.

TITLE 7, ARTICLE 6: GRADING

CHAPTER 7.90: GRADING REGULATIONS

Section

- 7.90.010 General provisions and enforcement
- 7.90.020 Definitions
- 7.90.030 Grading permits
- 7.90.040 Grading permit application
- 7.90.050 Grading plans
- 7.90.060 Erosion control plan
- 7.90.070 Geotechnical reports

7.90.080 Fees

7.90.090 Issuance of grading permit

7.90.100 Denial of grading permit

7.90.110 Permit expiration, renewal and suspension

7.90.120 Security

7.90.130 Time of grading work

7.90.140 Import and export of earth material

7.90.150 Haul routes for earth material

7.90.160 Earth materials on public streets

7.90.170 Dust control

7.90.180 Cuts

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7.90.200 Hazardous conditions

7.90.210 Setbacks

7.90.220 Drainage and terracing

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7.90.240 Retaining walls

7.90.250 Expansive soils

7.90.260 Asphalt paving

7.90.270 Erosion control systems

7.90.280 National pollution discharge elimination system (NPDES)

7.90.290 Grading inspection

7.90.300 Change in professional of record

7.90.310 Issuance of building permits

7.90.320 Completion of work

§7.90.010 GENERAL PROVISIONS AND ENFORCEMENT.

- (A) Name. This chapter shall be known as the "Grading Regulations."
- (B) Purpose. The purpose of this chapter is:
- (1) To establish standards regulating the design and construction of building sites and the development of property by grading.
 - (2) To regulate the alteration of the ground surface to protect and preserve the public health, safety and general welfare.
 - (3) To minimize differential settlement and the slipping or sliding of earth.
 - (4) To protect adjacent properties from damage caused by blockage or diversion of natural runoff waters.
 - (5) To require engineering analysis of expansive soil conditions, erosion control and drainage.
 - (6) To establish criteria for the design of footings and floor slabs for structures proposed to be erected on parcels of land whose natural topography has been altered.
 - (7) To establish administrative procedures for the issuance of grading permits, the approval of plans and the inspection of grading construction.
 - (8) To provide for the enforcement of the requirements contained in this chapter.
- (C) Intent. It is the intent of this chapter and the erosion control procedures contained herein to regulate grading work to protect against potential slope and wall failure, prevent adverse impacts on the proper use and enjoyment of property, environmentally sensitive areas, and biological and wildlife resources within and surrounding the City of Menifee, and promote the health, safety, and welfare of public. The procedures established by this chapter and the conditions of approval imposed hereunder through discretionary approvals and permits are intended to accomplish these purposes. Notwithstanding the above, in the event the city encounters situations that endanger any environmentally sensitive area or biological and wildlife resource, the City Engineer/Public Works Director is authorized to take all necessary action to protect the environment pursuant to this chapter and other applicable ordinances and laws.
- (D) Scope. This chapter sets forth rules and regulations to control excavation, grading, and earthwork construction, including, but not limited to, fills and embankments, and to establish administrative requirements for the issuance of grading permits, the approval of plans and the inspection of grading construction in accordance with the requirements for grading and excavation as contained in California Building Code with deletions, modifications, or amendments to meet local conditions.
- (E) Applicability. The requirements of this chapter are applicable to all excavation, fill, clearing, brushing, grubbing, grading activities, and earthwork construction located within the City of Menifee.
- (F) Administration and enforcement responsibility. The City Engineer/Public Works Director

shall be responsible for the administration and enforcement of this chapter. The City Engineer/Public Works Director is authorized to issue notices and orders that are necessary to ensure compliance with this chapter.

(G) Safety precautions; stop work order.

(1) If at any stage of a project the City Engineer/Public Works Director determines by inspection that further grading as authorized by a grading permit is likely to endanger any public or private property or result in the deposition of debris on any public way or interfere with any existing drainage course, the City Engineer/Public Works Director may order the work stopped by notice in writing that is personally served to any persons engaged in doing or causing such work to be done, and any such person shall immediately stop such work. If the persons conducting the grading operations are not present at the site, the City Engineer/Public Works Director may post the stop work order to the property. It is unlawful for any person to violate a stop work order. The City Engineer/Public Works Director may authorize the work to proceed in writing if he or she finds adequate safety precautions have been taken or corrective measures have been incorporated in the work to avoid the likelihood of such danger, deposition, or interference recurring.

(2) A stop work order that is issued pursuant to this section is appealable; however, a timely appeal under § 7.90.010(K) (Appeals) shall not stay the order. Provided there is a timely appeal, all work shall remain suspended until the Building Board of Appeals has rendered its decision.

(H) Unpermitted work; stop work order.

(1) Whenever the City Engineer/Public Works Director determines unpermitted work is occurring without all required approvals and permits, he or she may order the work stopped by notice in writing that is personally served on any persons engaged in doing or causing such work to be done, and any such persons shall immediately stop such work. If the persons conducting the unpermitted work are not present at the site, the City Engineer/Public Works Director may post the stop work order to the property. It is unlawful for any person to violate a stop work order. The City Engineer/Public Works Director shall also serve a copy of the notice on the property owner(s) by first class mail in the manner set forth in § 7.90.010(J) (Service of Notices).

(2) A stop work order that is issued pursuant to this section is appealable; however, a timely appeal under § 7.90.010(K) (Appeals) shall not stay the order. Provided there is a timely appeal, all work shall remain suspended until the Building Board of Appeals has rendered its decision.

(I) Protection of adjacent property.

(1) Permittees and owners of real property on which the grading is performed shall be responsible for the prevention of damage to adjacent property (whether private or public). No person shall excavate on land sufficiently close to the property line to endanger any adjoining public street, sidewalk, alley, or other public or private property without taking adequate measures to support and protect such property from settling, cracking, or other damage that might result from the proposed work. Any person performing any grading that involves imported or exported materials shall take special precautions, as approved by the City Engineer/Public Works Director in writing, to prevent such materials from being

deposited on adjacent properties, any public way and/or any drainage course.

(J) (J)Service of notices.

(1) Unless otherwise set forth in this chapter, any notice that is issued under this chapter may be served by personal delivery or by first class mail. The date of service shall be the date it is personally delivered or placed in a U.S. Postal Service receptacle, whichever is earlier.

Unless the City Engineer/Public Works Director has specific information to the contrary concerning a property owner's current address, notices to property owners shall be sent to the mailing address that is shown on the last equalized assessment roll of the Riverside County Assessor's Office. Failure of any property owner to receive a properly addressed notice by mail shall not extend any appeal period, nor shall it invalidate any actions or proceedings that are initiated in connection with this chapter.

(K) Appeals.

(1) Right of appeal. Except as hereafter stated, permit applicants or owners (if not the applicant) who object to decisions (including the imposition of conditions or the suspension/revocation of a permit) or determinations made by the City Engineer/Public Works Director pursuant to this chapter may file an appeal on a city-approved form in the City Clerk's Office at City Hall within ten days of the issuance of the City Engineer/Public Works Director's order, decision, or determination. The person appealing shall concurrently tender the required fee as established by resolution of the City Council. An untimely appeal or the absence of the required fee shall constitute a waiver of the right to appeal and the condition(s), order(s), decision(s), or determination(s) shall be deemed final.

(a) Except as otherwise provided in this chapter, permit applicants or owners (if not the applicant) do not have a right to appeal determinations of the City Engineer/Public Works Director that they are violating, or failing to comply with, this chapter.

(b) The City Clerk's office must receive an appeal and the required fee in the required period in order for the appeal to be timely.

(2) Limitations on authority. An appeal shall be based on a claim that the true intent of this chapter has been incorrectly interpreted with regard to permit conditions or other provisions of this chapter, or that this chapter's provisions do not fully apply to a project or that an equally good or better form of work or installation is proposed. The Board does not have the authority to interpret the administrative provisions of this chapter, nor shall the Board have any authority to waive requirements of this chapter. The Board does not have any authority to consider alleged violations of this chapter, except when they are the basis of a stop work order or permit suspension or revocation.

(3) Reviewing authority. Appeals shall be heard by the Planning Commission, which is established by the California Building Code as adopted by § 8.04.030(A) of the Menifee Municipal Code. The Board shall adopt rules of procedure for conducting its business. In the event the City Council fails to appoint such a Board, the Planning Commission shall function as such. Decisions of the Board are final and non-appealable to the City Council.

(L) Penalties for violation.

(1) Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof in a court of law, shall be punished accordingly. Each person shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this chapter, including any physical condition created in violation of this chapter, is continued or permitted to continue and shall be punished as provided for in this chapter.

(2) Violations of this chapter constitute a public nuisance that may be abated by the City Attorney or City Prosecutor in a civil judicial action. The city's election of any remedy shall not preclude the exercise of the city's other remedies as provided by law, such as administrative action, criminal enforcement, or citation.

§7.90.020 DEFINITIONS.

For purposes of this chapter, the words and phrases in this section shall have the following meanings, except where the context clearly indicates a different meaning.

APPROVAL. A written professional engineering or geological opinion by the civil engineer of record, the engineering geologist of record, or the soil engineer of record, whichever is applicable, concerning the satisfactory progress and completion of the work, unless the code is referring to approval by the City Engineer/Public Works Director.

APPROVED PLANS. The current plans and specifications for all grading or clearing, brushing and grubbing, or other related work, which contains the City Engineer/Public Works Director's signature of approval. The term "approved plans" includes, but is not limited to, any mass grading plan, rough grading plan, precise grading plan, WQMP, street improvement plan, erosion control plan, and/or temporary stockpile plan as such plans are set forth and described in this chapter.

AS-GRADED. The surface configuration upon completion of grading.

BEDROCK. The relatively solid, undisturbed rock in place either at the ground surface or beneath superficial deposits of loose rock, soil, sand, and/or gravel.

BENCH. A relatively level step excavated into stable earth material on which fill is to be placed.

BEST MANAGEMENT PRACTICES (BMP). BEST MANAGEMENT PRACTICES (BMP) means a practice, or combination of practices, or physical structural facility or measure that is determined to be an effective and practicable (including technological, economic, and institutional considerations) means of preventing or reducing an anticipated impact, such as water pollution.

BORROW. Earth material acquired from an off-site location for use in grading on a site.

CALIFORNIA BUILDING CODE (CBC). The Cal. Code of Regulations Title 24 as adopted by ordinance by the City Council of the City of Menifee.

CEQA. The California Environmental Quality Act.

CITY ENGINEER/PUBLIC WORKS DIRECTOR. The City Engineer/Public Works Director for the City of Menifee. All references in the California Building Code to "Building Official" shall mean the City Engineer/Public Works Director for the purposes of this chapter.

CIVIL ENGINEER. A trained and licensed professional engineer registered in the State of California who is authorized to practice in the field of civil engineering.

CIVIL ENGINEERING. CIVIL ENGINEERING is the application of the knowledge of the forces of nature, principles of mechanics, and the properties of materials to the evaluation, design, and construction of civil works for the beneficial uses of mankind. For a complete definition, see Rules of the State Board of Registration for Professional Engineers and Land Surveyors Section 404.

CLEARING, BRUSHING AND GRUBBING. The removal of vegetation (grass, brush, trees, and similar plant types) by mechanical means.

COMPACTION. The densification of a fill by mechanical means.

CONSTRUCTION GENERAL PERMIT (CGP). The general permit for discharges of storm water associated with construction and land disturbance activities, State Water Resources Control Board (SWRCB) Order 2009-0009-DWQ or any amendment, update, or more recent construction general permit.

CUT OR CUTTING. The removal of earth material by artificial means.

EARTH MATERIAL. Any rock, natural soil, fill, and/or any combination thereof.

ENGINEERED FILL. Soil or crushed stone that is compacted and used as replacement ground material during construction activities when the quality and type of existing material is not suitable for conditions of the proposed project.

ENGINEERING GEOLOGIST. A geologist certified in the State of California to practice engineering geology, who is listed on the grading permit as the engineering geologist of record and who is responsible for preparing, signing, stamping, or approving all or a portion of the approved plans and the reports required by this chapter.

ENGINEERING GEOLOGY. ENGINEERING GEOLOGY is the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works. For a complete definition, see Rules of the State Board of Registration for Professional Engineers and Land Surveyors Section 404.

ENVIRONMENTALLY SENSITIVE AREA (ESA). Any land in a natural condition subject to an open space easement; any natural lake, stream, creek, or riparian area; any wildlife habitat area identified in an environmental impact report, initial study, or other environmental assessment; or any land determined by the city to be environmentally sensitive with respect to any particular grading activity based on an environmental assessment, initial study, CEQA guidelines, or other information in connection with the proposed grading activity.

EROSION. The wearing away of the ground surface and resulting transport of sediment or dust as a result of the movement of wind, water, ice, and/or other natural agents.

EROSION CONTROL SYSTEM. A combination of desilting facilities and erosion protection, including effective planting and the maintenance thereof, to protect adjacent property, watercourses, public facilities, and receiving waters from deposits of sediment, silt, or dust.

EXCAVATION. The mechanical removal of earth material.

FAULT. A fracture in the earth's crust along which movement has occurred. A fault is considered active if movement has occurred within the last 11,000 years.

FILL OR FILLING. The deposit of earth material placed by artificial means.

GRADE. The vertical elevation or slope of the ground surface. The following types of grade have the following specific meanings:

EXISTING GRADE. The ground surface prior to grading.

FINISH GRADE. The final grade of the site, which conforms to the approved plans.

NATURAL GRADE. The ground surface unaltered by artificial means.

ROUGH GRADE. The stage at which the grade approximately conforms to the approved plans.

GRADING. Any excavation or filling or combination thereof.

MASS GRADING. Grading that is completed on a large scale over a large area prior to rough grading and which, when completed, is within two vertical feet of the final grade elevations of the site.

GRADING CONTRACTOR. A contractor licensed and regulated by the State of California who specializes in grading or is otherwise licensed to do grading, and who is listed on the grading permit as the grading contractor of record.

GRADING PERMIT. The official document or certificate issued by the City Engineer/Public Works Director authorizing grading or clearing, brushing and grubbing, or other related work as specified on the approved plans. The term "Grading Permit" includes any mass grading permit, precise grading permit, or rough grading permit issued for the work described in the approved plans.

GRADING PERMIT, MASS. A grading permit issued to complete mass grading work.

GRADING PERMIT, PRECISE. A grading permit issued on the basis of approved plans that show the precise location of structures, finish elevations, and all on-site improvements.

GRADING PERMIT, ROUGH. A grading permit issued on the basis of approved plans that need not show the location of structures but must show interim building pad drainage to the degree required by the City Engineer/Public Works Director.

GRADING PLANS. A grading plan is a document that illustrates existing and proposed site topography, and the limits of grading and disturbance.

KEY. A designed compacted fill placed in a trench excavated in earth material beneath

the toe of a proposed fill slope.

KEYWAY. An excavated trench into competent earth material beneath the toe of a proposed fill slope.

PERMITTEE. Any property owner to whom a grading permit has been issued.

PROPERTY OWNER. Any person, partnership, corporation or other legal entity having a legal or equitable interest in a given real property.

QSD. Qualified Stormwater Pollution Prevention Plan Developer, as defined by the most recent California stormwater construction general permit.

QSP. Qualified Stormwater Pollution Prevention Plan Practitioner, as defined by the most recent California stormwater construction general permit.

REGIONAL WATER QUALITY CONTROL BOARD (RWQCB). The Santa Ana/Region 8 California Regional Water Quality Control Board.

RETAINING WALL. A wall designed to resist the lateral displacement of soil or other materials.

SITE. Any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

SLOPE. Any inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance or as a percentage ratio of the vertical distance divided by the horizontal distance times 100.

SLOPE STABILITY - GROSS STABILITY. The factor of safety against failure of the slope material below the surface, approximately three to four feet deep measured from and perpendicular to the slope face.

SLOPE STABILITY - SURFICIAL STABILITY. The factor of safety against failure of the outer three to four feet of slope material measured from and perpendicular to the slope face.

SOIL. Naturally occurring surficial deposits overlaying bedrock.

SOILS ENGINEER. A civil engineer registered in the State of California experienced and knowledgeable in the area of soil engineering, who is listed on the grading permit as the soil engineer of record and who is responsible for preparing, signing, stamping or approving all or a portion of the approved plans and the reports required by this chapter.

SOILS ENGINEERING. The investigation and engineering evaluation of earth materials including soil, rock, groundwater, and man-made materials and their interaction with earth retention systems, structural foundations, and other civil engineering works. The practice involves application of the principles of soil mechanics and the earth sciences and requires a knowledge of engineering laws, formulas, construction techniques, and performance evaluation of civil engineering works influenced by earth materials. For a complete definition, see Rules of the State Board of Registration for Professional Engineers and Land Surveyors Section 404.

SWPPP. Stormwater Pollution Prevention Plan, as defined by the most recent California stormwater construction general permit.

TERRACE. A relatively level step constructed into the face of a graded sloped surface for drainage and maintenance purposes.

TESTING AGENCY. A facility whose testing operations are controlled and monitored by a registered civil engineer and which is equipped to perform and certify the tests required by this chapter and is approved by the City Engineer/Public Works Director.

WORK. Any grading, clearing, brushing, or grubbing or any other activity permitted under any approved plan.

WATER QUALITY MANAGEMENT PLAN (WQMP). A Project WQMP describes the Best Management Practices (BMPs) that will be implemented and maintained throughout the life of a project to prevent and minimize water pollution that can be caused by stormwater or urban runoff.

§7.90.030 GRADING PERMITS.

(A) Grading permit required.

(1) Generally. No person shall conduct any grading or clearing, brushing, and grubbing on natural or existing grade that is preparatory to grading or land development without first obtaining a grading permit. No person shall maintain land upon which grading without a permit has occurred. A separate grading permit shall be obtained for each site. One permit may cover both an excavation and any fill made with the excavated materials on the same site. A grading permit does not include the construction of retaining walls or other structures. These additional structures shall require separate permits. No person shall conduct any grading or clearing, brushing, and grubbing in the following areas without first obtaining a grading permit:

(a) Previously undisturbed land.

(b) Land covered by native vegetation.

(c) Land which has not been used for agricultural purposes for three years immediately prior to the initiation of grading for agricultural purposes. This section shall not prohibit routine landscape maintenance, the removal of dead or diseased trees or shrubs or the removal of vegetation to eliminate a potential fire hazard upon order of the Fire Marshal.

(2) Responsibility of landowners. No person shall stockpile, deposit, or allow the placement or removal of earth material on or from any real property in excess of 50 cubic yards without first obtaining a grading permit.

(a) Borrow site permit. A grading permit which authorizes removal of soil from a site for use elsewhere is subject to conditions which may include, but are not limited to, the following items: a plan prepared by a registered civil engineer, an erosion control plan prepared by a registered civil engineer, and a maintenance requirement plan that outlines project features such as fencing and restoration activities. Other conditions may be established, even after the borrow site permit

has been issued, in the interest of public health, safety, or welfare, as determined by the City Engineer/Public Works Director.

(b) Stockpile permit. A grading permit authorizing temporary storage of soil that is to be used for the future development of the stockpile site where there is no current project for storage of soil, for current or future sale, or for some other purpose as stated by the property owner. Each stockpile permit shall be valid for a maximum of 12 months after issuance. If after 12 months, there has not been sufficient movement toward the development of the site, the City Engineer/Public Works Director may require the removal of the stockpile, unless an extension has been granted by the City Engineer/Public Works Director to allow the stockpile to remain for an extended period. If after 12 months, there has been sufficient movement toward development of the site and more time is requested by the property owner, the City Engineer/Public Works Director may grant an extension to allow the stockpile to remain for an extended period. Requests for stockpile permits and time extensions shall be reviewed on a project basis. Initial permit requests may be considered to be the establishment of a business and may require review by other City Departments. A stockpile permit is subject to all of the same requirements as a borrow site permit.

(c) BMPs required. In cases where a grading permit is not required, sediment and erosion control BMPs are still required to ensure the disturbed area will not discharge any sediment, soil, or other material off-site.

(3) Pavement surfacing. No person shall construct pavement surfacing in excess of 5,000 square feet, on natural or existing grade, for the purpose of a private road or driveway or a commercial, industrial, or multi-residential parking lot or travel-way without first obtaining a grading permit, unless the need for a grading permit is waived by the City Engineer/Public Works Director or a separate improvement plan for the pavement surfacing has been approved and signed by the City Engineer/Public Works Director. Resurfacing or maintenance of paved surfaces is exempt from this requirement.

(B) Exemptions. The following types of work are exempt from the grading permit requirements in this section, except that the City Engineer/Public Works may require a grading permit where deemed necessary to prevent the potential for adverse impacts upon drainage, sensitive environmental features, or to protect property, health, safety, and welfare. Any project that is exempt from grading permit requirements may still be required by the City Engineer/Public Works Director to submit a grading plan subject to the requirements of § 7.90.050(A), Grading Plan Requirements, for review and approval by the City Engineer/Public Works Director as a part of the building permit application.

(1) An excavation below finish grade for basements and footings of a building, mobile home, retaining wall, swimming pool, or other structure authorized by a valid building permit or construction permit. This exemption shall not include any fill made with the material from such excavation, any excavation having an unsupported height greater than five feet after the completion of such structure, or any unsupported excavation with vertical banks more than two feet high. This exemption shall not prohibit collection of applicable fee for issuing a grading permit or soil or geologic report from being required for foundation design and inspection purposes when, in the opinion of the City Engineer/Public Works Director, stability considerations warrant such inspection.

(2) An excavation not exceeding 50 cubic yards on a single site that is less than two feet in vertical depth or that does not create a cut slope greater than five feet in vertical height and steeper than a two to one (2:1) horizontal to vertical ratio.

(3) A fill not exceeding 50 cubic yards on a single site that is less than one foot in depth, that does not obstruct a drainage course and that is placed on natural grade with a slope flatter than a five to one (5:1) horizontal to vertical ratio.

(4) A fill less than three feet in depth, not intended to support structures or mobile homes, that does not exceed 50 cubic yards on a single site and does not obstruct a drainage course.

(5) Cemetery graves.

(6) Refuse disposal sites controlled by other regulatory agencies and regulations.

(7) Earthwork construction regulated by federal, state, county or city governments or by a local agency as defined by Cal. Gov't Code §§ 53090 through 53095 (special districts). Pipeline or conduit excavation and backfill conducted by local agencies or public utilities. Earthwork construction performed by railway companies. This exemption applies only if the earthwork takes place on property under the control of, or dedicated rights-of-way or easements owned by, the aforementioned public agencies.

(8) Mining, quarrying, excavating, processing, or stockpiling of rock, sand, gravel, aggregate, or clay authorized and conducted in accordance with applicable state and local laws, provided such operations do not affect the lateral support or increase the stresses in or pressures upon any adjacent or contiguous property or alter the orientation of natural water courses which may result in adverse changes on adjoining property.

(9) Exploratory excavations under the direction of a soil engineer, engineering geologist, archaeologist or paleontologist, provided all excavations are properly backfilled and compacted or otherwise restored.

(10) Clearing, brushing, fuel modification activities, and minor grading for agricultural purposes, provided such operations do not affect the lateral support or increase stresses in or pressures on any contiguous property, nor alter the orientation of natural water courses which may result in adverse changes on nearby or adjoining property or result in the dumping of organic or hazardous waste not regulated by law. This exemption includes, but is not limited to, contour grading to provide for orchard planting, minor leveling not exceeding three vertical feet of either excavation or fill for row crops, installation of irrigation systems, and temporary stockpiling of fertilizer or other agricultural materials.

(C) Additional regulations. Unless otherwise exempt, all excavations and trenches are subject to the applicable sections of the State of California, Division of Safety or Cal-OSHA.

§7.90.040 GRADING PERMIT APPLICATION.

(A) Contents. The application for a grading permit shall be made in a form and manner prescribed by the City Engineer/Public Works Director. A grading permit application shall consist of the following items completed and signed by the applicant or an authorized representative, unless otherwise specified by the City Engineer/Public Works Director:

(1) Completed city application form.

(2) Number of copies of all required plans, reports, and supporting materials as specified within the city application form.

(B) Environmental review. Any application for a grading permit shall demonstrate by providing sufficient information that either (1) the proposed grading will not cause a significant effect to the environment or (2) the environmental mitigation measures imposed through a prior and applicable CEQA review have been or will be completed as conditions to the grading permit, if applicable.

§7.90.050 GRADING PLANS.

(A) General requirements. Unless waived by the City Engineer/Public Works Director, all grading plans, including modifications to approved plans, accompanying an application for a grading permit shall conform with the following minimum requirements:

(1) Grading plans shall be approved and signed by the civil engineer, and, if determined necessary by the City Engineer/Public Works Director, approved and signed by the soil engineer and the engineering geologist, and other professional engineers as determined by the City Engineer/Public Works Director.

(2) Grading plans shall include a statement by the Engineer of Record (civil engineer) declaring the engineer's responsibilities with regards to the preparation and execution of the grading plans.

(3) Grading plans shall be prepared on 24-inch by 36-inch paper with a standard City of Menifee title block.

(4) Grading plans shall be accompanied by supporting data and reports as required by the City Engineer/Public Works Director.

(5) Grading plans shall be accompanied by a final WQMP, if applicable, reviewed and approved by the City Engineer/Public Works Director.

(6) Grading plans shall depict, but not be limited to, the original and designed finish contours, spot elevations, building pads, public improvements, slope ratios, proposed drainage facilities, protective fencing, retaining walls, and any structures or buildings on adjacent properties within 100 feet of the common property lines.

(7) Grading plans shall be drawn to engineering scales as approved by the City Engineer/Public Works Director.

(8) The title sheet of the grading plans set shall contain the names, addresses, and phone numbers of the property owner, the civil engineer responsible for preparation of the grading plans, the soil engineer and the engineering geologist, and other professional engineers determined by the City Engineer/Public Works Director, including registration numbers. The title sheet shall also contain a location map for the project site.

(9) Grading plans shall include grading notes determined by the City Engineer/Public Works Director.

(10) A statement of quantities shall be furnished, giving the estimated cubic yards of excavation and fill, as well as types of ditches and down drains, lineal feet and sizes of various types of pipe, the amount of rock to be used for rip-rap or slope protection, the lineal feet of fencing, and any other pertinent information useful in determining the extent of the proposed work, as may be required by the City Engineer/Public Works Director.

(11) Grading plans shall show, if applicable, scaled sections of all stabilization fills, buttress fills, keyways, and benching for fill placement recommended by the soil engineer. In addition, the soil engineer shall review and approve this portion of the plan.

(12) Grading plans shall show a current and valid Waste Discharge Identification Number (WDID#), if applicable, and total disturbed acreage.

(B) Mass grading plan and rough grading plan. In addition to the information required by §7.90.050(A) (General Requirements), an application for a mass grading permit or rough grading permit shall include, but is not limited to, the following information:

(1) Vicinity map of the site.

(2) Property limits clearly labeled or otherwise identified, accurate contours of existing ground and details of terrain and area of drainage a minimum of 100 feet beyond the property limits (spot elevations may be used on flatland sites).

(3) Prominent existing or natural terrain features.

(4) Location of all easements within the grading limits.

(5) Limiting dimensions, elevations of finish contours to be achieved by the grading, proposed drainage devices and related construction.

(6) Details (plan and section) of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with or as part of the proposed work.

(7) Location of any buildings or structures on the property where the work is to be performed and the location of any buildings or structures on land of adjacent property owners which may be affected by the proposed grading work.

(8) If the grading project includes the movement of earth material for grading to or from the site, the permittee shall submit a haul route for review and approval by the Engineering Department. The haul route may be submitted at the pre-construction for the grading permit meeting; however, hauling on public streets shall not commence until approval of the haul route by the Engineering Department. The Engineering Department may prescribe, as a condition of the grading permit and submitted haul route, alternate routes or special requirements in consideration of the possible impact on the adjacent community or the environment or the effect on the public right-of-way itself.

(9) Additional plans, drawings, calculations, environmental impact information or other reports and information required by the City Engineer/Public Works Director.

(C) Precise grading plan. In addition to the information required by sections 7.90.050(A),

General Requirements and 7.90.050(B), Mass Grading Plan and Rough Grading Plan, an application for a precise grading permit shall include, but is not limited to, the following information: the footprint or allowable building area of all proposed structures (including appurtenances), setback distances between structures and top or toe of slopes, setback distances between structures and property lines, detailed finish grade and finish floor elevations, flow lines for lot drainage, including spot elevations for the drainage swales, details for building footings and side yard swale relationship (including extra height of or deepened footings), and all proposed Portland cement concrete flatwork and Portland cement concrete/asphalt concrete driveways.

(D) Grading plan check and approval. Prior to approval, all grading plans, submitted to the city, shall be reviewed for full conformance with the following: the city's General Plan, this chapter, applicable provisions of the California Building Code, any applicable conditions of approval or specific plans, other rules and regulations of the city, all applicable federal and state requirements, Title 24 of the California Code of Regulations accessibility requirements, the CGP, city technical requirements and grading plans requirements, and any other requirements applicable to the development project.

§7.90.060 EROSION CONTROL PLAN.

(A) Plan required.

(1) Unless waived by the City Engineer/Public Works Director, all work requiring a grading permit or a grading plan shall be required to have an approved erosion control plan. If the requirement for an erosion control plan has been waived, the City Engineer/Public Works Director may still require the installation of an erosion control system to control erosion and provide safety during grading.

(2) As determined by the City Engineer/Public Works Director, an erosion control plan can be a part of the grading plan or a separate plan by itself reviewed and approved by the City Engineer/Public Works Director.

(3) No activity authorized under a grading permit shall be conducted unless an erosion control plan has been approved or the City Engineer/Public Works Director has waived the requirement for an erosion control plan.

(4) The City Engineer/Public Works Director may waive or vary the required contents of an erosion control plan for grading on single residential lot projects.

(5) An erosion control plan is required for a project if the City Engineer/Public Works Director determines that erosion or sediment discharge from the project could adversely affect adjacent properties.

(6) An approved erosion control plan from the previous year shall be updated and submitted for approval, if necessary, prior to the start of the rainy season, as determined by the City Engineer/Public Works Director, to reflect any changed conditions where the grading or other land disturbance activity is continuing. Updating of the erosion control plan may also be required at any time during construction if deemed necessary by the City Engineer/Public Works Director or his or her designee. Updating of the erosion control plan will also be required for phases of construction not covered by any previously approved erosion control plan.

(7) All erosion control plans must be approved, and erosion control devices installed and certified and inspected as being properly constructed by the civil engineer or a certified QSD or QSP. Sediment control must be continuously maintained throughout the construction process.

(B) Contents of erosion control plans. An erosion control plan shall include, but is not limited to, the following information:

(1) Details of all BMPs necessary to implement and satisfy the applicable requirements and standards set forth in § 8.26.270 (Erosion Control Systems) and necessary to protect the quality of receiving waters as defined in the Clean Water Act and adjoining public or private property from damage by erosion, flooding, or mud and/or debris deposits which may originate from the site or result from the grading work.

(2) A 24-hour telephone number of the person responsible for performing emergency erosion control work.

(3) The stamp and signature of the civil engineer who prepared the erosion control plan.

(4) The erosion control general notes (copies available from the Engineering Department).

(5) Identification of all desilting and erosion protection facilities necessary to protect adjacent property from sediment deposition.

(6) Identification of the streets and drainage devices that will be completed and paved prior to the start of the rainy season, as determined by the City Engineer/Public Works Director.

(7) Provision for the placement of gravel bags, slope planting or other measures to control erosion from all slopes above and adjacent to roads open to the public.

(8) Provision for maintaining access to desilting facilities during wet weather.

(9) A schedule for the construction and ongoing maintenance of all required erosion and sediment control facilities.

(10) Identification of discharge points where concentrated runoff occurs.

(C) Review and approval.

(1) Erosion control plans shall be submitted for review to the City Engineer/Public Works Director concurrent with the grading permit application or with submittal of the grading plans, unless otherwise waived by the City Engineer/Public Works Director.

(2) All erosion control plans submitted for review shall be accompanied by the following: payment of the plan-checking fees, the required number of copies of the erosion control plan and required copies of the bond estimate for security.

(3) No erosion control plan shall be approved unless the erosion control plan complies and implements all applicable standards and requirements set forth in this section and §§

8.26.270 (Erosion Control Systems) and 8.26.280 (NPDES).

§7.90.070 GEOTECHNICAL REPORTS.

(A) Generally. A geotechnical report shall be prepared for every grading permit application or grading plan review unless waived by the City Engineer/Public Works Director. Each geotechnical report shall be prepared in accordance with this section and generally accepted soil engineering practices. Each report shall include infiltration rate test results pursuant to the latest guidelines for infiltration testing, outlined in the Riverside County Flood Control and Water Conservation District Handbook for Low Impact Development Best Management Practices. Each geotechnical report shall be approved by the City Engineer/Public Works Director. The Building Official may also require a soil engineering report or additional information related to the building structure in accordance with the California Code of Regulations Title 24 (CBC). Recommendations contained in the approved reports shall be incorporated into the grading plans and shall become conditions of the grading permit.

(B) Soil engineering report. Unless waived by the City Engineer/Public Works Director, a soil engineering report shall be prepared and submitted for any grading permit application or grading plan review associated with any residential, commercial, industrial, or similar development project. The soil engineering report shall include information and data regarding the nature, distribution, and physical and chemical properties of existing and imported soils; conclusions as to the adequacy of the site for the proposed grading; recommendations for general and corrective grading procedures; detailed information for the location of recommended stabilization fills or buttress fills; foundation and pavement design criteria; and shall provide other recommendations as determined necessary by the City Engineer/Public Works Director.

(C) Engineering geology report. An engineering geology report shall be prepared and submitted for any grading permit application associated with any development on a hillside site where geologic conditions are determined by the City Engineer/Public Works Director to have a substantial effect on existing and/or future site stability. This requirement may be extended to other sites as required by the City Engineer/Public Works Director. The engineering geology report shall include a comprehensive description of the site topography and geology including, where necessary: a geologic map; an opinion as to the adequacy of the proposed development from an engineering geologic standpoint; an opinion as to the extent known or as reasonably should be known how instability on adjacent properties may adversely affect the project; a description of the field investigation and findings; conclusions regarding the effect of geologic conditions on the proposed project; and specific recommendations for modifications to the grading plans, corrective grading, and/or special techniques and systems to facilitate a safe and stable development. The engineering geology report shall also provide other recommendations as necessary for the project grading and development. The engineering geology report may be combined with the soil engineering report.

(D) Imported earth material. A geotechnical report must be provided for all imported earth materials to be used for grading operations, unless waived by the City Engineer/Public Works Director. The Geotechnical Engineer, Soils Engineer, or Engineering Geologist must certify the source of the material, including the previous land uses from where the fill was obtained. The City Engineer/Public Works Director may require Phase I and/or Phase II Environmental Assessments to be conducted for the imported earth material to verify that contaminants are not present in the material. The City Engineer/Public Works Director may make determinations on the requirements and scope of the Environmental Assessment.

(1) Contaminants. Imported material may not contain levels of contaminants exceeding the California Office of Environmental Health Hazard Assessment's Toxicology Criteria in California Code of Regulations, Title 22, Division 4.5, Chapter 51, Article 2, § 69021, Appendix I.

(E) Seismicity report.

(1) Applicability. Grading permit applications for sites containing earthquake-sensitive earth materials and/or sites that are located on or near potentially active or active faults are required to submit a seismicity report, including earthquake fault and liquefaction hazard studies, in accordance with the requirements of the Alquist-Priolo Earthquake Fault Zoning Act and the Seismic Hazard Mapping Act. The City Engineer/Public Works Director may require a seismicity report for any grading permit application associated with any residential, commercial, industrial, or similar development project. A seismicity report shall be required as a condition of development for all essential facilities, as defined in the California Building Code, or as determined by the City Engineer/Public Works Director, Building Official, or Community Development Director. Where required, the report shall be reviewed and approved prior to issuance of a grading permit.

(2) Content. The report shall be prepared by an engineering geologist, a geophysicist or a civil engineer with expertise in earthquake technology and its application to buildings or other civil engineering works. The scope of the report shall be commensurate with the proposed development and shall reflect the latest available and accepted technological recommendations related to seismicity. The minimum acceptable pseudo-static slope stability factor of safety shall be 1.1 and the minimum acceptable surficial stability factor of safety shall be 1.5. The seismicity report may be combined with the soil and engineering geology reports.

(3) Submit approved report. A copy of each approved geotechnical report including the mitigation measures is required to be submitted to the Seismic Hazard Mapping Program of the California Department of Conservation, California Geological Survey within 30 days of approval of the report pursuant to the Seismic Hazard Mapping Act and Alquist-Priolo Act.

§7.90.080 FEES.

(A) Plan-checking fee. Before accepting any grading plans, erosion control plan or geotechnical reports for review and approval, the City Engineer/Public Works Director shall collect a plan-checking fee for each type of review and approval. As applicable, separate grading permits shall be issued, and separate fees shall apply to retaining walls or major drainage structures. The amount and application of the plan-checking fee shall be established by ordinance or resolution of the City Council.

(B) Grading permit fee. Before issuing a grading permit, the City Engineer/Public Works Director shall collect a grading permit fee. The amount of the grading permit fee shall be established by ordinance or resolution of the City Council.

(C) Grading inspection fee. Before commencing grading work, the City Engineer/Public Works Director shall collect a grading inspection fee. The amount of inspection fee shall be established by ordinance or resolution of the City Council.

§7.90.090 ISSUANCE OF GRADING PERMIT.

(A) Other approvals required before issuance. No grading permit for any development project requiring the approval of the Planning Commission, City Council, or city staff shall be issued until the development project has been approved, and such approval includes approval of a grading concept. All discretionary approvals required by the code for the development project with which the grading permit application is associated must be obtained prior to issuance of the grading permit. All approvals required for the development project or the grading work by other city departments or outside agencies shall be the responsibility of and obtained by the applicant prior to issuance of the grading permit. Any code enforcement or other applicable fines must be paid prior to issuance of the grading permit.

(B) Environmentally sensitive areas. No grading permit for any work within close proximity, as determined by the City Engineer/Public Works Director, of an environmentally sensitive area shall be issued unless approved by the City Engineer/Public Works Director in conformance with the project-approved environmental permit.

(C) Grading security. No grading permit shall be issued unless and until the applicant posts the applicable security required under § 7.90.120 (Security).

(D) Terms of grading permit. The grading permit shall contain such terms, conditions, and restrictions as are necessary to implement the applicable provisions of this chapter and the code and state or federal law applicable to the work to ensure the work is performed in accordance with the approved plans and geotechnical reports and to protect the public health, safety, and welfare.

(E) Responsibility of permittee. It shall be the responsibility of the permittee to be knowledgeable of and comply with the conditions and/or restrictions of the grading permit as outlined in applicable provisions of this chapter and as contained on the approved plans and in the approved geotechnical report(s). It shall also be the responsibility of the permittee to be knowledgeable of the obvious and accessible location on the site and maintain an on-site copy of the approved plans bearing the stamp or signature of approval by the City Engineer/Public Works Director.

§7.90.100 DENIAL OF GRADING PERMIT.

(A) Generally. The grading permit shall be denied if the proposed work cannot be designed or performed in accordance with this chapter and any other applicable ordinances, rules, regulations, or conditions.

(B) Creation of hazard. The grading permit shall be denied if the proposed work may constitute a hazard to property, result in debris being deposited on any public street or public way, result in severely impacting the quality of downstream receiving waters of the United States, or interfere with any existing drainage course. If it can be shown to the satisfaction of the City Engineer/Public Works Director that the hazard can be sufficiently mitigated by the construction of retaining structures, buttress fills, drainage devices, water quality controls or devices, or by other means, the City Engineer/Public Works Director may issue a grading permit with the condition that such mitigation measures be performed.

(C) Geologic or flood hazard. The grading permit shall be denied if the land area for which grading is proposed is subject to geological or flood hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce the hazard to human life or property.

§7.90.110 PERMIT EXPIRATION, RENEWAL AND SUSPENSION.

- (A) Issuance and completion of work. Every grading permit shall be valid for a period of one year from the date of issuance. The City Engineer/Public Works Director may extend the one-year time period for up to three successive periods of 180 days each, upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented completion of the grading.
- (B) Suspension of construction or abandonment of work. Every grading permit shall expire by limitation and become null and void if the work authorized by the grading permit is not commenced within 180 days, from the original date of issuance. Every grading permit shall expire if the work authorized by such permit is suspended for a continuous period of 180 days, or if the site is abandoned at any time after work has commenced.
- (C) Renewal. If a grading permit expires, upon written request and justification from the permittee within 30 days of the expiration, the City Engineer/Public Works Director may renew the grading permit provided that the total elapsed time has not exceeded the time limits allowed for a grading permit under §7.90.110(A) (Issuance and Completion of Work).
- (D) Changed conditions. The City Engineer/Public Works Director may order the suspension of any work authorized by a grading permit upon determination that the weather, soil, slope, or general site conditions may cause serious accelerated erosion or sediment damage either on-site or downstream from the site. Any suspension of work ordered by the City Engineer/Public Works Director shall toll the time limits applicable to the grading permit.
- (E) Change of ownership. Grading permits shall automatically be suspended upon a change of ownership, until such time as the new owner obtains a new permit with the revised ownership information or until such time as the applicant provides new ownership information and a letter of consent and security for the grading operations from the new owner. There shall be no additional fee for the grading permit issued to the new owner, provided that no changes to the approved plans are requested that generate additional staff work.

§7.90.120 SECURITY.

- (A) Requirement for security. Prior to issuance of a grading permit, the security required by this section shall be posted with the city. The security shall guarantee, and the city shall have the right to draw upon such security to satisfy, the following:
- (1) Compliance with all applicable provisions of this chapter and the code, state and federal law, and other applicable ordinances, rules, and regulations of the city.
 - (2) Compliance with any and all terms and conditions of the grading permit and all approved plans.
 - (3) Completion of the work authorized under the grading permit and the erosion control system(s) to the satisfaction of the City Engineer/Public Works Director and in accordance with the approved plans.
 - (4) Completion of all emergency and routine maintenance and repair of the erosion control system(s) to ensure the continuous integrity of the system(s) to the satisfaction of the City Engineer/Public Works Director and as may otherwise be required by this chapter.

(5) Restoration and repair of public streets or other public property adversely impacted or damaged or the mitigation of any hazardous condition created by any activity of the permittee or agent of the permittee or any erosion from any site associated with the grading work.

(B) Amount and form of security. The amount of the security shall be equal to 50% of the total estimated cost of the work authorized by the grading permit, plus 100% of the total estimated cost of the erosion control system(s) required by the erosion control plan. The permittee's estimate of the cost shall be based on the established unit costs available from the city and shall be subject to the review and approval by the City Engineer/Public Works Director. At least 25% of the required erosion control security, and not less than \$5,000, shall be in cash and shall be deposited with the City Engineer/Public Works Director. Please see the city's website for more information. The remainder of the erosion control security shall be subject to the approval of the City Engineer/Public Works Director. The form of security can be one or more of the following:

(1) Cash deposit.

(2) Surety bond.

(3) Certificate of deposit.

(4) Letter of credit, in city format, from one or more local financial institution(s) subject to regulation by the state or federal government.

(5) Lien on property.

(C) Failure to maintain security. If a permittee fails to maintain the security required by this section, the City Engineer/Public Works Director may revoke the permittee's grading permit without prior notice to the permittee. Any such revocation shall be in writing.

(D) Replenishment of cash deposit. The City Engineer/Public Works Director shall notify the permittee of any withdrawal from the permittee's cash deposit. If the costs exceed the balance of the permittee's funds on deposit, the City Engineer/Public Works Director shall cause an invoice to be sent to the permittee demanding payment of the amount by which the costs exceed the permittee's deposit. The permittee shall, within ten days of receipt of such invoice, deposit with the City Engineer/Public Works Director that amount of cash necessary to bring the permittee's deposit up to its original balance. If the permittee fails to pay such amount in full within 30 days from the date of the invoice, the permittee's grading permit shall be automatically revoked. Renewal of the grading permit shall not be completed until the invoice is paid in full. No final grading inspection shall be completed until the permittee has fully satisfied all monetary obligations to the city imposed pursuant to this §7.90.120(D) (Replenishment of Cash Deposit). Additionally, no further construction permits, including but not limited to building permits or occupancy permits, shall be issued until such monetary obligations are fully satisfied.

(E) Release of security.

(1) The security posted to guarantee erosion control may be held for one year after the city's notice of completion as a warranty for the post-construction landscaping, stabilization, and erosion control measures, or where applicable, until a notice of termination is issued by the RWQCB. The City Engineer/Public Works Director may release the security for areas of the project that are substantially completed with permanent landscape and where the City

Engineer/Public Works Director has determined that erosion control is not needed.

(2) Security posted to guarantee all work authorized under the grading permit, other than the erosion control system(s), shall be released upon inspection and approval of the work by the City Engineer/Public Works Director.

(3) The City Engineer/Public Works Director shall not release a permittee's security if the permittee has an outstanding monetary obligation to the city or if cleanup or repair of public streets or other public property for which the permittee is responsible has not been completed to the satisfaction of the City Engineer/Public Works Director.

(4) The City Engineer/Public Works Director may require the security posted for permittee's erosion control system(s) to remain on deposit with the city throughout the grading of the project and not be released until completion of the landscaping improvements for the associated development project if the City Engineer/Public Works Director determines that due to the nature, configuration, or location of the development project it is in the best interest of the city to retain the erosion control security until the landscaping improvements are complete.

§7.90.130 TIME OF GRADING WORK.

Grading and equipment operations shall only be conducted between the hours of 6:30 a.m. and 7:00 p.m. Monday through Saturday, excluding nationally recognized holidays, or as specified in §8.01.010. There shall be no construction permitted on Sundays and nationally recognized holidays unless approval is obtained from the City Building Official or City Engineer/Public Works Director. Construction equipment including diesel trucks shall not be running idle before or after this time. Grading work or equipment operations may be permitted before or after the allowable hours of operation only if the City Engineer/Public Works Director determines that such operations are not detrimental to the health, safety, or welfare of residents or the general public. Permitted hours of operations may be shortened if the City Engineer/Public Works Director determines that the grading work or equipment operations have an adverse effect on the health, safety, or welfare of the surrounding community.

§7.90.140 IMPORT AND EXPORT OF EARTH MATERIAL.

Where any earth material for a project site is transported to or from the project site as part of the grading work, all of the following requirements shall apply:

(A) Either water or dust preventative spray material (or both) shall be consistently applied for prevention of dust resulting from the loading or transportation of earth to or from the project site on public roadways. The permittee shall be responsible for maintaining public rights-of-way, used for transporting materials, in a condition free of dust, earth or debris attributed to the grading work.

(B) Loading and transporting of earth materials to or from the site must be accomplished within the times set forth in § 7.90.130 (Time of Grading Work).

(C) Access roads to the site shall be only at points designated on the approved plans.

(D) At a minimum, the first 50 feet of access road adjacent to the intersection with the public roadway shall have a grade not to exceed 5%. There must be a 300-foot clear, unobstructed sight distance to the intersection from both the public roadway and the access road. If the 5% grade or

300-foot sight distance requirements cannot be obtained due to site constraints, then flagmen shall be posted at the access road and shall remain for the entire duration of material transportation operations. Any other design option to address sight distance issues shall require the approval of the City Engineer/Public Works Director.

(E) A stop sign conforming to the requirements of the California Vehicle Code shall be posted at the exit of the access road to the public roadway.

(F) Advanced warning signs along with traffic control and safety devices shall be reviewed and approved by the City Engineer/Public Works Director and shall be posted on the public roadway in the vicinity of the access intersection as required by the current California Manual on Uniform Traffic Control Devices (MUTCD). The size, shape, color, number, spacing, and other details of all such signs and devices shall conform to the standards contained therein and in the current State of California Department of Transportation (Caltrans) "Traffic Manual." The advanced warning signs and other devices shall be covered or removed when the access intersection is not in use.

(G) Site operators must install BMPs at the vehicle access points to prevent dirt and debris track-out onto public right of way. BMPs include, but are not limited to, stabilized construction entrances, tire washes, and rumble plates/shaker racks.

(H) A soil engineering report or geotechnical report shall be provided to the City Engineer/Public Works Director for all imported earth materials to be used as part of the grading operations. The report is subject to requirements of § 8.26.070 (Geotechnical Reports). The Geotechnical Engineer, Soils Engineer, or Engineering Geologist must certify the approximate source of the imported material, including the previous land uses from where the material was obtained.

(I) The City Engineer/Public Works Director may require the submittal of a Phase I and/or Phase II Environmental Assessment for any imported earth material.

(J) Imported earth material may not contain levels of contaminants exceeding the California Office of Environmental Health Hazard Assessment's Toxicology Criteria in California Code of Regulations, Title 22, Division 4.5, Chapter 51, Article 2, § 69021, Appendix I.

§7.90.150 HAUL ROUTES FOR EARTH MATERIAL.

(A) The City Engineer/Public Works Director may specify the route for moving any earth materials over public streets, whether or not the destination site or origination site of the earth materials is subject to a grading permit. The City Engineer/Public Works Director may further specify load limits where, in his or her opinion, the standard load capacity of vehicles used in such hauling would cause excessive damage to streets on the designated route. Any specified route or load limit shall be made in writing and a copy shall be provided to the Engineering Department. Deviation from the designated route or load limits shall constitute a violation of this chapter.

(B) The holder of a haul route permit shall be responsible for maintaining public rights-of-way used for hauling in a condition free of dust, earth material, or debris discharged or released during or attributable to the haul trips to/from the grading operation.

(C) Any person moving earth materials in violation of this chapter shall be financially responsible for any damage to the public streets and shall pay to the city the cost, as determined

by the City Engineer/Public Works Director, of repairing such damage or shall repair the damage to the satisfaction of the City Engineer/Public Works Director.

(D) At least 24 hours before the moving of earth materials is to commence, the applicant shall notify the City of Menifee Engineering Department.

§7.90.160 EARTH MATERIALS ON PUBLIC STREETS.

(A) Cal. Vehicle Code § 23112(b) forbids the placing, dumping or depositing of earth materials on public streets or any portion of the public right-of-way. All vehicles engaged in moving earth materials shall refrain from depositing earth materials on public streets by any means including, but not limited to, spillage from the bed of a truck or other vehicle and debris collected on the wheels of a vehicle. The City Engineer/Public Works Director may require a cash deposit from any person moving earth materials over public streets to insure the cleanup of public streets.

(B) Any person moving earth materials over public streets shall be responsible for the immediate and complete removal of any materials spilled, dumped or deposited on a public street. If the person fails to immediately remove such spillage, dumping or deposited material, and it is necessary for the city to complete the removal, the responsible party, permittee or property owner from where the material was removed from or deposited to shall be liable to the city for the cost of such removal work. A cash deposit may be required to insure the cleanup of public streets prior to approval of the haul route.

§7.90.170 DUST CONTROL.

Any person conducting any grading work or moving any earth material shall be responsible for controlling the dust from such activities at all times. The property owner, grading contractor, and permittee shall all be responsible for implementing any and all BMPs for all grading and earth-moving operations in accordance with all conditions of project approval and the national pollutant discharge elimination system (NPDES) and as required by South Coast Air Quality Management District (SCAQMD).

§7.90.180 CUTS.

(A) Cut slopes shall be no steeper than a two to one (2:1) horizontal to vertical ratio. In special circumstances where no evidence of previous instability exists, and when recommended in the soil engineering report and approved by the City Engineer/Public Works Director, slopes may be constructed to a maximum one and one-half to one (1.5:1) horizontal to vertical ratio. The City Engineer/Public Works Director may require additional slope stability report to support city approval of a steeper slope. In no case shall slopes exceed those specified in any conditions of approval for the development project for which the slope is associated.

(B) A slope stability analysis shall be included in all soil engineering reports for all slopes steeper than a two to one (2:1) horizontal to vertical slope ratio and for all slopes exceeding 20 feet in height regardless of the slope ratio. The soil engineer shall consider slope stability (both gross and surficial stability) and provide a written statement approving the slope stability. In addition, the soil engineer shall recommend alternate methods of construction or compaction requirements necessary for surficial slope stability.

§7.90.190 FILLS.

(A) Fill slopes.

(1) Fill slopes shall not be constructed steeper than a two to one (2:1) horizontal to vertical slope ratio, or where the base (toe) of the fill slope would be within 12 feet horizontally of the top of a cut slope, unless evidence, such as a geotechnical or soils report, is submitted by the soil engineer or the engineering geologist which indicates the stability of the slope is adequate and the proposed slope is approved by the City Engineer/Public Works Director.

(2) In special circumstances where no evidence of previous instability exists, and when recommended in the soil engineering report and approved by the City Engineer/Public Works Director, slopes may be constructed steeper than a two to one (2:1) horizontal to vertical slope ratio.

(3) In no case shall slopes exceed those specified in any conditions of approval for the development project for which the slope is associated.

(4) A slope stability analysis shall be included in all soil engineering reports for all slopes steeper than a two to one (2:1) horizontal to vertical slope ratio and for all slopes exceeding 20 feet in height regardless of the slope ratio. The soil engineer shall consider slope stability (both gross and surficial stability) and provide a written statement approving the slope stability. In addition, the soil engineer shall recommend alternate methods of construction or compaction requirements necessary for surficial slope stability.

(B) Preparation of ground.

(1) No fill shall be placed on existing ground until the ground has been cleared of weeds, debris, topsoil, undocumented fill, and other deleterious material, and such materials have been removed from the site.

(2) The ground surface shall be prepared to receive fill by removing vegetation, non-complying fill, topsoil and other unsuitable materials and by scarifying to provide a bond with the new fill. Where existing slopes exceed five feet in height and/or are steeper than a five to one (5:1) horizontal to vertical slope ratio, the ground shall be prepared by benching into sound bedrock or other competent or formational material, as determined by the soil engineer and approved by the City Engineer/Public Works Director. The lowermost bench beneath the toe of a fill slope shall be a minimum of ten feet in width. The ground surface below the toe of fill shall be prepared for sheet flow runoff or an appropriate drainage system shall be provided. French drains may also be required at the toe of fill slopes if determined necessary by the City Engineer/Public Works Director.

(3) Where fill is to be placed over a cut slope, the bench under the toe of the fill shall meet the approval of the soil engineer or the engineering geologist as suitable foundation for the fill. Unsuitable soil is soil that is not dense, firm or unyielding, that is highly fractured, or that has a high organic content; and in the opinion of the soil engineer or the engineering geologist, is not competent to support other soil or fill, support structures, or satisfactorily perform the other functions for which the soil is intended.

(C) Fill material. Fill material shall only be placed as determined by a geotechnical or soil

engineer. Only soils material free from tree stumps, organic matter, trash, garbage, sod, peat, and other deleterious materials shall be permitted. Except as outlined below, no rock or similar irreducible material with a maximum dimension greater than 6 inches shall be buried or placed in fills. The City Engineer/Public Works Director may permit the placement of larger rock in fill when the geotechnical or soil engineer properly devises a method of placement, continuously inspects placement, and approves the fill stability and competency.

(D) Compaction. All fills shall be compacted to a minimum of 90% of the maximum density as determined by ASTM D1557, unless otherwise required by the City Engineer/Public Works Director. Sufficient maximum density determinations by test method ASTM D1557 shall be performed during the grading work to verify that the maximum density curves used are representative of the material placed throughout the fill. Field density tests shall be performed in accordance with ASTM D1556, or equivalent, as approved by the City Engineer/Public Works Director. At least 25% of the total tests shall be by ASTM D1557 to verify the accuracy of the equivalent method. All such tests shall be uniformly distributed within the fill area and/or fill slope surface area in order to obtain representative results. The location of the field density tests shall be determined by the soil engineer or the testing agency but shall be sufficient in both horizontal and vertical placement to provide a representative testing of all fill placed. Testing in areas of a critical nature or special emphasis shall be in addition to a network of representative sampling. At least 20% of the field density tests performed during grading shall be located within three feet of the final slope location, and at least one density test shall be taken in the outer 12 inches of the finished slope face for every 5,000 square feet of slope area.

(E) Buttress/stabilization fills. Recommendations for buttress/stabilization fills by the geotechnical or soil engineer shall be included in the soil engineering report and shall set forth the soil or geologic factors necessitating the buttress/stabilization fill; stability calculations based on both static and pseudo-static conditions (analysis of pseudo-static loads are not normally needed when the bedding planes are flatter than 12 degrees from horizontal); laboratory test data upon which the calculations are based; a copy of the approved grading plans showing the location of the buttress/stabilization fill; a scaled section of the buttress/stabilization fill; and recommendations with details of sub-drain requirements.

(F) Utility line backfill.

(1) Backfill for utility line trenches in the public right-of-way, including, but not limited to, water, sewer, gas, electrical, telephone, and cable television utility line trenches shall be compacted to meet current applicable city standards for utility trenches. Backfill for on-site utility line trenches that affect the stability of foundations or other structures and are located in parking lots or areas used by the general public or are in sloping surfaces steeper than a ten to one (10:1) horizontal to vertical ratio and which utilize on-site material as backfill shall be compacted and tested in accordance with this section. Alternate materials and methods for utility line trench backfill may be used provided that the material specification and method of placement are recommended by the soil engineer and approved by the City Engineer/Public Works Director prior to backfilling.

(2) Utility line trench backfill for on-site areas other than those stated above do not need specific placement method or compaction criteria but shall be sufficiently compacted to prevent differential settlement. In no case shall this division be construed to mean utility line trench backfill within any public rights-of-way.

(3) The final utility line trench backfill report from the project soil engineer shall include a

statement of compliance by the soil engineer that the tested backfill is suitable for the intended use and that all tested areas meet the compaction requirements set forth in this section.

§7.90.200 HAZARDOUS CONDITIONS.

(A) Hazardous condition. A hazardous condition exists when any earth material, natural slope, excavation, fill, or drainage device is situated on private property in such a manner that creates a risk of injury to persons or property, creates a danger to public safety, or endangers the safety, usability, or stability of adjacent property, structures, or public facilities. The maintenance of any hazardous condition shall constitute a public nuisance.

(B) Enforcement agent. The City Engineer/Public Works Director, or any official authorized to enforce this code, may examine, or cause to be examined, every reported or alleged hazardous condition.

(C) Notification. Upon determining the existence of a hazardous condition, the City Engineer/Public Works Director or other official authorized to enforce this code shall provide written notification to the property owner describing the hazardous condition and requiring mitigation of the hazardous condition within a reasonable time given the risks created by the hazardous condition. The property owner shall comply with the mitigation requirements set forth in the notice. In the event that the required mitigation is not completed within the period specified in the notice, the city may exercise any available legal remedy to correct the hazardous condition.

§7.90.210 SETBACKS.

(A) General. The setbacks and other restrictions specified by this section are minimums and may be increased by the City Engineer/Public Works Director or Building Official or by the recommendation of the civil engineer, the soil engineer, or the engineering geologist as approved by the City Engineer/Public Works Director, if necessary, for safety and stability, to prevent damage to adjacent properties from deposition or erosion, or to provide access for slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the City Engineer/Public Works Director. All setbacks required by this section shall comply with all applicable zoning requirements. If the zoning setback requirements exceed the setback requirements in this section, the zoning setbacks shall govern.

(B) Design standards for setbacks.

(1) The tops and toes of slopes shall be set back from the outer boundaries of the grading permit area, including easements, in accordance with Figure 7.90.210-1 Minimum Setbacks from Adjacent Slopes of this section.

(2) Setbacks between graded slopes (cut or fill) and structures shall be provided in accordance with Figure 7.90.210-1 Minimum Setbacks from Adjacent Slopes of this section.

(3) A usable side yard of at least five feet from any building wall shall be provided to the top or toe of a slope unless waived by the City Engineer/Public Works Director.

(4) Lot lines shall be located at the top of slopes whenever possible.

Figure 7.90.210-1 Minimum Setbacks from Adjacent Slopes

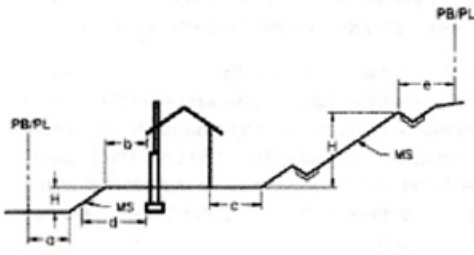
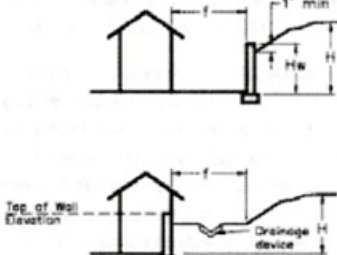
Figure 7.90.210-1 Minimum Setbacks from Adjacent Slopes

Table A-1

Min. Setback from adjacent slope					
H (feet)	a	b	c	d	e
0 < 6	3'	7'	5'	5'	3'
6-14	5'	7'	H/2 5' min	H/2 5' min	3'
14-30	5'	H/2 10' max	H/2	H/2 10' max	5'
+ 30	5'	15'	15'	10'	5'

Table A-2

H (feet)	Max. Hw	Min. Setback f
0 - 6	3'	5' Min
6-12	H/2	H/2 5' Min
12-30	6'	H/2
+ 30	6'	15'

Legend: "PL" means property line. "PB" means permit boundary. "MS" means manufactured surface. "Hw" is the height of the retaining wall measured from the top of the footing to the top of the wall.

Notes:

1. Table A-1 applies to manufactured slopes and 2 to 1 (2:1) horizontal to vertical (or steeper) natural slopes. Setbacks from natural slopes flatter than a 2 to 1 (2:1) horizontal to vertical shall meet the approval of the City Engineer/Public Works Director.
2. "b" may be reduced to a five-foot minimum if an approved drainage device is used; roof gutters and downspouts may also be required.
3. "b" may be reduced to less than 5 feet if no drainage is conveyed on one side and if roof gutters are included.
4. If the slope between "a" and "h" is replaced by a retaining wall, "a" may be reduced to zero and "h" shall remain as shown in Table A-2. The height of the wall shall be governed by zoning regulations.
5. "b" shall be measured from the face of the structure to the top of the slope.
6. "d" is measured from the lower outside edge of the footing, along a horizontal line to the face (daylight) of the slope. Under certain circumstances, "d" may be reduced as recommended in a soils report and approved by the City Engineer/Public Works Engineer.
7. The use of a retaining wall to reduce setbacks must be approved by the City Engineer/Public Works Director.

8. In limited situations, "f" may be reduced to zero feet if allowed by the Planning Director and if the Building Official approves a combination structure/retaining wall after submittal and review of structural calculations from a registered civil engineer or structural engineer and after the City Engineer/Public Works Director approves any necessary drainage devices.

9. The maximum height of retaining walls for developer-initiated projects shall be 4 feet unless otherwise approved by the City Engineer and the Community Development Department. Wall heights greater than 6 feet may also be approved on a case-by-case basis as approved by the City Engineer/Public Works Director.

§7.90.220 DRAINAGE AND TERRACING.

(A) General. Unless otherwise noted on the approved plans, drainage facilities and terracing of graded slopes shall conform to this section.

(B) Terraces.

(1) Mid-slope terraces at least six feet in width shall be established at not more than 30-foot vertical intervals on all cut or fill slopes, except that where only one terrace is required, it shall be at midheight. For cut or fill slopes greater than 60 feet and up to 90 feet in vertical height, one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 90 feet in vertical height shall be designed by a professional engineer and approved by the City Engineer/Public Works Director. Suitable access shall be provided to permit proper cleaning and maintenance.

(2) Terrace drains shall have a minimum gradient of 2% unless waived by the City Engineer/Public Works Director. The City Engineer/Public Works Director may also allow a lesser gradient for terraces made of acceptable concrete materials, but the gradient shall not be less than 1%. Terrace drains shall have a minimum depth at the deepest point of no less than one foot and a minimum paved width of at least three feet and shall be designed to accommodate all runoff created by the cut or fill slope as well as any tributary runoff which enters the terrace drain.

(C) Subsurface drainage. Cut and fill slopes shall be provided with subsurface drainage as necessary for stability and as recommended by the soil engineer or the engineering geologist.

(D) Stormwater discharge. All drainage facilities shall be designed to carry stormwater runoff to the nearest practicable drainage way approved by the City Engineer/Public Works Director and any other appropriate jurisdiction as an acceptable and safe location to deposit such runoff. Erosion of the ground in the area of discharge shall be prevented by installation of non-erosive down drains, energy dissipaters or other devices approved by the City Engineer/Public Works Director.

(E) Interceptor drains. Concrete interceptor drains (brow ditches) shall be installed along the top of all cut slopes where the tributary drainage area above the cut slope drains toward the cut slope, unless waived by the City Engineer/Public Works Director. The slope gradient for the interceptor drain shall be the same as for terrace drains or as approved by the City Engineer/Public Works Director.

(F) Stormwater runoff. Stormwater runoff shall not be allowed to flow over cut or fill slopes

which are steeper than a five to one (5:1) horizontal to vertical slope ratio. Drainage shall be provided by the following methods:

- (1) Wherever practicable, each lot shall be graded so that stormwater will drain from the backyard through the side yard and front yard directly to the abutting street or toward approved drainage facilities at a gradient of not less than 1%. Wherever practicable, drainage shall not be directed across other lots or over cut or fill slopes. Cross lot drainage may be permitted provided approved by the City Engineer/Public Works Director and drainage easements are provided.
 - (2) When the provisions in the above division (F)(2) are not practicable, as determined by the City Engineer/Public Works Director, stormwater shall be collected along the top of slopes or at the rear of graded lots by means of paved gutters and/or French drains and carried to properly sized outfall or area drains, which shall also serve as erosion control devices. Such drainage shall not be allowed to drain across the surface of sidewalks or parkways. Asphalt concrete may not be used for any drainage device. Down drain ditches shall be a minimum of 18 inches deep.
 - (3) Where slopes are terraced at 30-foot intervals, drainage shall be provided in paved ditches a minimum of 36 inches wide and 12 inches deep. Construction of the ditches shall be as described below and shall be located on the terraces with one side of the ditch two feet from the toe of the slope. Where a terrace is constructed to conform to slope requirements, but is intended to be of a temporary nature, the City Engineer/Public Works Director may waive the drainage ditch requirements, if a satisfactory surety bond or other means to guarantee the improvement is posted with the city.
 - (4) Down drains, interceptor drains, and terrace drains shall be connected together to collect and transport all stormwater runoff entering the drains. They shall be of sufficient depth, as verified by hydraulic calculations, to allow for unimpeded flow when terraces are crossed. Down drains, interceptor drains, and terrace drains shall be constructed of Portland cement concrete or air blown mortar. They shall be reinforced with wire mesh and/or other appropriate concrete reinforcement as determined by the project engineer and approved by the City Engineer/Public Works Director. If pipe is used for down drains to transport runoff from terrace ditches, it shall be reinforced concrete pipe (RCP), plastic pipe (PVC) or other pipe material approved by the City Engineer/Public Works Director. Anchor lugs or collars may be required by the City Engineer/Public Works Director if the pipe slope is equal to or greater than a two to one (2:1) horizontal to vertical ratio. Pipe specifications shall be approved by the City Engineer/Public Works Director. Special design features shall be provided for abrupt changes in direction of terrace ditches and down drains.
 - (5) The discharge from any down drain, ditch or pipe shall be controlled so as to prevent erosion of the adjacent grounds. Velocities shall be reduced by means of adequately sized aprons of rock, grouted rip-rap, box-type energy dissipaters or other materials approved by the City Engineer/Public Works Director.
- (G) Maintenance of drainage facilities. Where the continuous functioning of a drainage facility is essential to the protection and use of more than one lot within a development project site, a mutual and reciprocal covenant or deed restriction or easement shall be recorded by the owner(s) of the lots on which the drainage facility is located, imposing on each lot owner the responsibility for maintaining that specific portion of the drainage facility located on each lot owner's respective

lot.

(H) Off-site drainage easements. All easements necessary for the construction of permanent off-site drainage facilities shall be acquired by the permittee. The easements shall be subject to the approval of the City Engineer/Public Works Director and the City Attorney and recorded prior to the issuance of the grading permit.

§7.90.230 [RESERVED].

§7.90.240 RETAINING WALLS.

(A) Retaining walls constructed in connection with grading plans shall be constructed of reinforced concrete, reinforced masonry block, reinforced concrete block, and geo-synthetic fabric or a combination of the aforementioned materials, and shall be approved by the City Engineer/Public Works Director. Retaining walls constructed in connection with grading plans shall be designed to resist all earth pressures acting upon them, including embankment or structure/vehicle surcharge loads. Retaining walls constructed in connection with grading plans shall be designed by a registered civil or structural engineer and submitted to the Engineering Department for review and approval prior to installation. All retaining walls shall be shown on the grading plans, and appropriate structural calculations shall be reviewed and approved by the City Engineer/Public Works Director. Sufficient top of wall and top of footing elevations shall be shown on the grading plans to determine the overall height of the retaining wall at various locations. The City Engineer/Public Works Director may require the preparation of retaining wall profiles as part of the grading plans showing top of wall and top of footing elevations, height of retaining wall at various locations, and existing ground grades. If designed by a structural engineer, the grading plans shall show the information of the structural engineer and shall bear the signature and professional license of the structural engineer.

(B) Retaining walls not constructed in connection with grading plans shall be designed by a registered civil engineer or structural engineer and shall be submitted to the Building Department with appropriate structural calculations for review and approval.

§7.90.250 EXPANSIVE SOILS.

Whenever expansive soils are encountered within four feet of the finish grade of an area intended or designed as a location for a building, the foundations for buildings and structures shall be designed per the current Section 18 and 18A of the California Building Code unless recommendations for soil removal and stabilization are provided by the project geotechnical engineer.

§7.90.260 ASPHALT PAVING.

(A) Requirements. For the purpose of this section, asphalt concrete, aggregate base material, prime coat, tack coat, and seal coat shall meet all current material specification standards, and design standards of the city for public road construction or receive the approval of the City Engineer/Public Works Director.

(B) Subgrade compaction. Compaction of subgrade materials shall be in accordance with the requirements of §7.90.190 (Fills).

(C) Soil sterilization. Unless otherwise approved by the City Engineer/Public Works Director,

subgrade earth materials shall be sterilized to preclude plant growth.

(D) Pavement structural section. The soils engineer or the civil engineer shall determine the pavement structural section(s) for private parking areas, access lanes, driveways and private streets. The structural section(s) shall be based on:

(1) Soils tests of the subgrade soil(s) performed in accordance with the latest revision of California Test Method Number 302 and anticipated traffic and/or loading conditions.

(2) The design shall be determined by R-value testing in accordance with Caltrans Testing Methods with recommended safety factors.

(E) Alternative design method. In lieu of the recommended structural section from the soil engineer or the civil engineer, the following standards may be used for private parking areas, access lanes, driveways, and private streets:

INDUSTRIAL AND COMMERCIAL DEVELOPMENTS	MINIMUM STRUCTURAL SECTION
Parking areas	.25' AC/.33' AB
Driveways and perimeter drives for industrial development	.25' AC/.83' AB
Driveways and perimeter drives for commercial development	.33' AC/.65' AB
HIGH DENSITY RESIDENTIAL	
Parking areas and access lanes	.25' AC/.33' AB
Drives and areas subject to heavy truck use	.33' AC/.67' AB
PRIVATE STREETS	
Structural roadway section for private streets	.33' AC/.50' AB
Notes:1. AC means asphalt concrete pavement. AB means class II aggregate base material.	

(F) Dedicated streets. Minimum structural sections for dedicated city streets shall conform with current city standards and design guidelines.

(G) Exceptions. The provisions of this section shall not apply to private asphalt concrete driveway(s) providing access to not more than two single-family residences, proposed in conjunction with a project for which a grading permit has been issued or to commercial, industrial or high-density residential developments where all pavement areas are constructed of Portland cement concrete pavement.

§7.90.270 EROSION CONTROL SYSTEMS.

(A) Design and development standards. All erosion control systems required by the erosion control plan shall be designed and developed in accordance with the following standards:

(1) Erosion control systems shall be designed and developed in conformance with the erosion control plan unless otherwise approved by the City Engineer/Public Works Director.

(2) All sediment shall be contained on-site. Runoff from disturbed areas shall be detained or filtered by berms, swales, ditches, filter strips or other means as necessary to prevent the escape of sediment from the site. Sediment control devices shall be installed prior to or concurrent with the initial grading work and shall be maintained throughout the development process.

(3) Erosion shall be prevented at locations where runoff is concentrated. Where runoff will be discharged to natural ground or channels, appropriate energy dissipaters shall be installed to prevent erosion at the point of discharge.

(4) Desilting facilities shall be provided at drainage outlets from the graded site.

(5) Desilting basins shall be designed to provide a desilting capacity capable of containing the anticipated runoff for a period of time adequate to allow settling of suspended solids.

(6) Desilting basins shall generally be located at the perimeter of development projects. Basins should be located where maintenance access is provided from paved roads during wet weather.

(7) Desilting basins constructed from compacted earth shall be compacted to a relative compaction of 90% of maximum density. A soil engineering report including the type of field-testing performed and the location and results of testing shall be submitted to the City Engineer/Public Works Director for approval upon completing the desilting basin(s).

(8) Equipment and workers for emergency work shall be available at all times. Necessary materials shall be available on-site and stockpiled at convenient locations to facilitate rapid construction of temporary erosion control devices if needed.

(9) Unless otherwise approved by the City Engineer/Public Works Director, erosion control systems shall include effective stabilization on all slopes in excess of three feet in height. Slopes exceeding 15 feet in height may require an adequate sprinkler system, as determined by the City Engineer/Public Works Director.

(10) All slopes greater than five feet in height shall be permanently stabilized with landscaping. If the permanent landscaping is not installed or cannot be sufficiently established within a reasonable time period as determined by the City Engineer/Public Works Director, the slope(s) shall be stabilized with BMPs approved by the City Engineer/Public Works Director.

(11) All disturbed slopes shall be planted and protected within seven days of the completion of each stage of grading. Suitable measures to prevent slope erosion,

including but not limited to rapid growth vegetation sufficient to stabilize the soil, shall be installed on all disturbed areas until the permanent vegetative cover sufficiently matures to provide permanent stability.

(12) Erosion control systems shall include and complement drainage patterns during the current and future phases of grading.

(13) Graded areas around the perimeter of the development project must drain away from the face of slopes at the conclusion of each working day.

(14) If a development project includes grading or construction within close proximity (as determined by the City Engineer/Public Works Director) of any environmentally sensitive area, additional erosion control systems may be required within all disturbed areas in order to minimize the impacts to the environment. The erosion control systems shall be completed, inspected and operational within a reasonable time period, as determined by the City Engineer/Public Works Director. The additional erosion control measures may include, but are not limited to, installing protective materials and stabilizers along banks and within waterways and over all disturbed areas. The additional erosion control systems may also require a 24-hour on-site guard during storms and when there is a 50% or greater chance that the precipitation amount is expected to exceed one-half inch in any 24-hour period. The precipitation forecast shall be as established by the National Weather Service.

(15) If construction of an erosion control system outside of the boundaries of the development project is necessary, permission to construct such system from the affected property owner(s) shall be obtained. Erosion control plans for off-site erosion control systems shall be included with the on-site erosion control plans submitted to the City Engineer/Public Works Director. The erosion control plan for the off-site erosion control systems shall include permission to grade and maintain the erosion control systems from all affected property owners and letters of clearance and/or permits from all appropriate governmental entities.

(16) The faces of cut and fill slopes and the project site shall be prepared and maintained to control erosion. Slope protection may be waived by the City Engineer/Public Works Director for cut slopes, which are not subject to erosion because of the erosion-resistant character of the materials.

(17) Water quality and erosion control devices and improvements designed for the post development WQMP that are constructed in accordance with the grading plans shall be protected and maintained for post development phases of the project.

(B) Construction and installation of erosion control systems. All erosion control systems required by the erosion control plan shall be constructed and installed in accordance with the following:

(1) Erosion control systems shall be constructed and installed in conformance with the erosion control plan unless otherwise approved by the City Engineer/Public Works Director.

(2) The construction and installation of all erosion control systems shall be approved by the City Engineer/Public Works Director and approved and certified by the civil engineer or QSD/QSP. All erosion control system(s) shall be constructed, installed, approved, and

certified as complete and functional by the City Engineer/Public Works Director within a reasonably sufficient time period, as determined by the City Engineer/Public Works Director.

(3) All erosion control systems shall remain in place at all times for all areas in when construction is not occurring.

(4) All erosion control systems shall remain in place until the site is fully stabilized.

(5) All erosion control systems required to retain sediment on-site and to safely discharge any accelerated runoff generated by the associated development project shall be installed during the initial construction phase of the development project.

(6) All removable protective devices shall be in place at the end of each working day.

(C) Maintenance of erosion control systems. All erosion control systems required by the erosion control plan shall be maintained in accordance with the following:

(1) Erosion control systems shall be maintained in conformance with the erosion control plan unless otherwise revised by the City Engineer/Public Works Director. The project site's SWPPPs shall be constantly updated to reflect the current erosion control plans and/or BMP devices approved for the site.

(2) The performance of all erosion control systems shall be evaluated by the City Engineer/Public Works Director and revised and replaced as ordered.

(3) Erosion control systems shall be serviced and maintained to provide continuous capacity and to adequately function as designed. After precipitation exceeding one-quarter inch in any 12-hour period, or upon direction of the City Engineer/Public Works Director, silt and debris shall be removed from check dams and desilting basins and the basins pumped dry and otherwise restored to the original design condition.

(4) The grading contractor, permittee, and property owner shall be responsible for and shall take all necessary precautions to prevent public trespass into areas where impounded water creates a hazardous condition. Necessary precautions may include, but are not limited to, appropriate perimeter fencing or a 24-hour guard.

(5) Any sprinkler system controlled by timers and used with an erosion control system shall be inspected at least every 30 days to ensure proper functioning of the timer device.

(6) Paved streets, sidewalks, and other improvements shall be maintained in a neat and clean condition, free of loose soil, construction debris, and trash. Street sweeping or other equally effective means shall be used on a regular basis to control erosion that has been deposited on streets or sidewalks. Watering shall not be used to clean streets except for the removal of fine material not otherwise removed by sweeping or other mechanical means.

(D) Failure of erosion control system. The grading contractor, permittee, or property owner shall be responsible for construction, installation, inspection, modification, and proper maintenance of all erosion control systems. If the grading contractor, permittee, or property owner fails or refuses to properly construct, install, or maintain an erosion control system, the City

Engineer/Public Works Director may order emergency maintenance work to be done in order to protect public or private property or to protect the public health, safety, and welfare. The cost of such emergency work, including initial mobilization, performance of the work, and applicable administrative costs, shall be charged to the permittee or the property owner or the cash security for the erosion control shall be utilized pursuant to the procedures set forth in this chapter. The City Engineer/Public Works Director may also suspend or revoke the grading permit as provided in this chapter. The grading permit shall not be reinstated or renewed until all required erosion control system(s) have been properly constructed, installed, and maintained as approved by the City Engineer/Public Works Director.

§7.90.280 NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES).

(A) All development projects requesting a grading permit that disturb one or more acres of soil, or whose projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the general permit for discharges of storm water associated with construction activity Construction State Water Resources Control Board (SWRCB) Order 2009-0009-DWQ or any amendment, update, or more recent construction general permit. The RWQCB may require compliance with individual permits it has issued under the NPDES program. The general permit and individual permits typically require an applicant to file a notice of intention (N01), prepare a storm water pollution prevention plan (SWPPP), and implement a monitoring program.

(B) Prior to issuance of a grading permit, each applicant shall provide evidence of compliance with the appropriate stormwater standards, and, if applicable, a copy of the required NPDES permit to the City Engineer/Public Works Director. Such information shall be maintained on-site during construction and shall be presented upon demand by the SWRCB, the RWQCB, the city, or any member of the public.

§7.90.290 GRADING INSPECTION.

(A) Pre-grading, pre-paving, and pre-construction meeting. Prior to any grading or clearing, brushing, and grubbing there shall be a pre-grading or pre-construction meeting held on the site or at City Hall, unless waived by the City Engineer/Public Works Director. Prior to placing concrete for curb and gutter, sidewalk, pavement base material, or other similar improvements in the public right-of-way, there shall be a pre-paving meeting held on the site, unless waived by the City Engineer/Public Works Director. The permittee shall notify the City Engineer/Public Works Director and request at least five working days (for pre-grading), and at least three working days (for pre-paving), prior to the meeting(s) and shall notify all principals responsible for grading or paving operations.

(B) Pre-work inspection. Prior to the commencement of any work authorized by a grading permit, the City Engineer/Public Works Director may inspect the site of the work to determine that the approved plans are current and reflect existing conditions. If the City Engineer/Public Works Director finds the soil or other conditions do not reflect the conditions shown on the approved plans or stated in the geotechnical reports, the City Engineer/Public Works Director may issue a stop work order until revised grading plans or modified geotechnical reports that reflect the actual site conditions have been submitted and approved by the City Engineer/Public Works Director.

(C) Site inspections. All work authorized under a grading permit shall be subject to the following inspections, where applicable, and the permittee shall provide notice to the City Engineer/Public Works Director at least 24 hours prior to the work being ready for the inspection.

(1) Excavation and fill inspection. All excavation and fill work shall be inspected as follows:

- (a) Canyon clean out. After all brush and unsuitable material is removed and an acceptable base is exposed, but before fill is placed.
- (b) Toe bench and key. After the natural ground or bedrock is exposed and prepared to receive fill, but before fill is placed.
- (c) Over excavation. After the area is excavated but before fill is placed.
- (d) Excavation. After the excavation is started, but before the vertical depth of the excavation exceeds ten feet and every ten-foot interval thereafter.
- (e) Fill. After the fill is started, but before the vertical height of the fill exceeds ten feet and every ten-foot interval thereafter.

(2) Concrete or gunite drainage device inspection. All concrete or gunite drainage devices shall be inspected as follows:

- (a) Alley gutter or concrete drainage device. After the subgrade is prepared and any reinforcement placed, but prior to concrete placement and then again during concrete placement.
- (b) Terrace drains, down drains, brow ditches. After grade is established, but before placement of welded wire mesh or reinforcement and then again during placement of concrete or gunite.

(3) Other drainage devices. Any subdrains, city storm drain or inlets, or any earth swales shall be inspected as follows:

- (a) Subdrains. After excavation but prior to placement of filter materials and pipe. The subdrain pipe and filter material shall be on-site for inspection. Inspection shall also occur after placement of pipe and filter material but before backfilling.
- (b) City storm drains and inlets. After installation of form work and placement of reinforcement, but before concrete placement and then again during placement of concrete and removal of form work, but prior to backfilling. Inspection shall also occur after backfilling and completion of storm drain.
- (c) Earth swales. Prior to rough grading approval and then again prior to final grading approval.

(4) Siltation control facilities. All siltation control facilities shall be inspected as follows:

- (a) After excavation of desilting basins but prior to fill placement. Prefabricated drainage devices shall be available on-site for inspection.
- (b) After fill placement of desiltation basins but prior to placement of concrete or other non erosive materials (if applicable).
- (c) After completion of an erosion control system in accordance with the approved

erosion control plan and any requirements of the City Engineer/Public Works Director.

(5) Rough grade inspection. All rough grading work shall be inspected when all rough grading is complete. Inspection shall occur after the City Engineer/Public Works Director has received, reviewed, and approved the required geotechnical certification(s) and/or compaction reports and the civil engineer has submitted approval of line and grade on a city-approved format. Under normal circumstances, all subdrains and slope drains, if required, shall be in place and approved as a condition of rough grading inspection.

(6) Paving inspection. All paving work shall be inspected as follows:

(a) Subgrade. After subgrade is established, tested, and approved by the soil engineer. The soil engineer may leave a field memo of compaction test results on-site. The civil engineer shall provide approval of line and grade. The subgrade must then pass a yield test performed by a full water truck prior to placing the base.

(b) Base. After base course is in place, tested, and approved by the soils engineer and city inspector, but prior to prime coat and asphalt placement. The soils engineer may leave a field memo of compaction test results on-site. Material invoices or weight tickets shall be required.

(c) Asphalt concrete. During asphalt placement to verify compliance with the approved plans. Material invoices or weight tickets shall be required. Proper equipment shall also be used, in accordance with the contract specifications. Prior to application of seal coat, the paved surface shall be water tested to reveal any irregularities and shall be patched where required.

(7) Special inspections. For special cases involving grading or paving related operations, the City Engineer/Public Works Director may establish special inspection requirements in accordance with the California Building Code, as amended. Special cases may apply to work where, in the opinion of the City Engineer/Public Works Director, it is necessary to supplement the resources or expertise available for inspection.

(8) Special inspections for receiving hauled earth material. In cases where earth material is hauled to the grading site for use as part of the grading activities such as for fill placements, the City Engineer/Public Works Director may establish special inspection requirements to ensure imported earth material meets the requirements set forth in this chapter.

(9) Final inspection. All work shall undergo final inspection when all work, including the installation of all drainage structures and other protective devices, is complete and all written professional approvals and the required reports are submitted.

(D) Enforcement of inspections.

(1) Whenever any work for which inspection is required is covered or concealed by additional work without first being inspected, the work is subject to rejection by the Public Works Inspector and approved by the City Engineer/Public Works Director. The City Engineer/Public Works Director may require that all the work be exposed for examination in the presence of the Public Works Inspector or the City Engineer/Public Works Director's

designee. Any cost for exposing, necessary removal, re-working, and recovering such non-inspected work shall be at the permittee's sole cost and expense.

(2) The provisions of the California Building Code, Section 114, Stop Work Orders, shall apply, whenever the City Engineer/Public Works Director determines that any work does not comply with the terms of the grading permit, the approved plans, any applicable provisions of this chapter or the code, or state or federal law, or that the soil or other conditions are not as stated on the grading permit, approved plans or geotechnical reports. Pursuant to such authority, the City Engineer/Public Works Director may order the work stopped by notice in writing served to any person(s) engaged in doing or causing of such work to be done, and any such person(s) shall immediately stop such work until authorized by the City Engineer/Public Works Director to proceed with the work.

(E) Inspections by professionals of record.

(1) The soil engineer shall be responsible for the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finished slopes, design of buttress fills where required, and incorporating data supplied by the engineering geologist.

(2) The engineering geologist shall be responsible for the professional inspection and approval of the stability of cut slopes with respect to geological matters and the need for subdrains or other groundwater drainage devices. The engineering geologist shall report all findings to the soil engineer for engineering analysis.

(3) The structural engineer, if applicable, shall be responsible for the professional inspection and approval of non-standard retaining walls or retaining walls to be constructed in connection with the grading plans, and all other structures designed under the structural engineer's supervision.

(4) When preliminary soil engineering reports are not required by the City Engineer/Public Works Director, inspection and testing may be required by a testing agency. The testing agency shall be responsible for the professional inspection and approval of cleared areas and benches to receive fill and the compaction of fills.

(5) The City Engineer/Public Works Director, or his or her designee, shall inspect the project at various stages of work requiring approval and at any more frequent intervals necessary to determine that adequate inspection and testing are being completed by the professional consultants and to ensure conformance with the approved plans.

(F) Noncompliance; notification; corrective measures. If the civil engineer, the soil engineer, the engineering geologist, the structural engineer, the public works inspector, or the testing agency finds during any inspection conducted pursuant to this chapter that the work is not being completed in conformance with the grading permit, the approved plans, any applicable provisions of this chapter or the code, or state or federal law, the nonconformance shall be immediately reported in writing to the permittee, any contractor performing the work, the property owner, and the City Engineer/Public Works Director. The civil engineer, the soil engineer, the engineering geologist, the structural engineer, or the testing agency shall submit recommendations for corrective measures to the City Engineer/Public Works Director for review and approval. The City Engineer/Public Works Director may require additional or revised soil engineering reports or engineering geology reports for approval of the corrective measures.

(G) Incorporation of corrective measures. The civil engineer shall incorporate any corrective measures approved by the City Engineer/Public Works Director into the approved plans, and the changes shall automatically be deemed part of the grading plans and the grading permit. The civil engineer of record during construction shall be responsible for establishing line and grade for the grading and drainage improvements and shall act as the coordinating agent in the event the need arises for a liaison between the other professionals, the grading contractor and the City Engineer/Public Works Director. The civil engineer of record during construction shall also be responsible for preparing revised grading plans for review and approval, if required by the City Engineer/Public Works Director. Upon completion of the work, the submission of an as-built precise grading plan shall incorporate all corrective measures, changes, and additions made during construction.

§7.90.300 CHANGE IN PROFESSIONAL OF RECORD.

(A) If the civil engineer, the soil engineer, the engineering geologist, the structural engineer, the testing agency, or the grading contractor of record is changed during the course of the work, the work may be stopped by the City Engineer/Public Works Director until:

(1) The permittee submits a letter of notification to the City Engineer/Public Works Director verifying the change of the responsible professional, or the civil engineer who prepared the approved plans submits a letter indicating that he or she is not the engineer of record for construction of the project.

(2) The new responsible professional submits in writing that he or she has reviewed all prior reports and approved plans (specified by date and title) and work performed by the prior responsible professional and that he or she concurs with the findings, conclusions, and recommendations and is satisfied with the work performed. The new responsible professional must also state that he or she assumes all responsibility within his or her purview as of the specified date.

(B) All exceptions to the requirements of this section must be justified to the satisfaction of the City Engineer/Public Works Director.

(C) Where clearly indicated that a corporation, partnership, limited liability partnership, or limited liability corporation, not the individual engineer and/or geologist, is the responsible professional, the designated engineer and/or geologist may be reassigned and another engineer and/or geologist within the corporation, partnership, limited liability partnership, or limited liability corporation may assume responsibility without the requirement for written notification to the City Engineer/Public Works Director.

§7.90.310 ISSUANCE OF BUILDING PERMITS.

(A) Building permits may be issued for a site graded under an approved plan and valid grading permit upon completion, inspection, approval of precise grade, and inspection as required by this chapter. Only building permits for construction of model homes may be issued prior to completion of rough grading for the site, provided that rough grading is completed and inspected for the model home sites.

(B) Building permits shall not be issued for a site graded under a rough grading permit until a new precise grading plan is approved, a grading permit issued, and the provisions noted above are satisfied.

(C) No building permit shall be issued unless and until all conditions of approval have been satisfied to the satisfaction of the approving authority.

§7.90.320 COMPLETION OF WORK.

(A) Final reports. Upon completion of the rough grading work and at the final completion of all work authorized under the grading permit, but prior to the release of grading security or issuance of a certificate of occupancy, the City Engineer/Public Works Director shall require:

(1) An as-built precise grading plan prepared by the civil engineer which shall include original ground surface elevations, as-graded ground surface elevations, slope inclinations, elevations and locations of all surface and sub-surface drainage facilities, location with scaled sections of all buttress/stabilization fill, and location and depth of all areas of unsuitable soil.

(2) Written approval by the civil engineer that the grading conforms with the approved plans and that specifically identifies the following items as conforming with the approved plans:

(a) Construction of line and grade for all engineered drainage devices and retaining walls (both rough and final grading).

(b) Staking of property corners for proper building locations (rough grading only).

(c) Locations of permanent walls or structures on property corners or property lines where monumentation is not required (final grading only).

(d) Location and inclination of all manufactured slopes (both rough and final grading).

(e) Construction of earthen berms and positive building pad drainage (both rough and final grading).

(3) A final soil engineering report (compaction report) prepared by the soil engineer, including the type of field testing performed, the stability of utility trench and retaining wall backfill, summaries of field and laboratory tests, and other substantiating data and comments on any changes made during grading and the effect of the same on recommendations and changes incorporated in the approved plans. Each field density test shall be identified, located on a plan or map, the elevation of the test and finish grade elevation shown, and the method of obtaining the in-place density described (either ASTM 1556-78 or the approved equal shall be noted). The final soil engineering report shall provide written approval as to the adequacy of the site for the intended use, as affected by soil engineering factors, and a statement of compliance to finish grade.

(4) A final engineering geology report prepared by the engineering geologist, including a final description of the site's geology, including any new information discovered during the grading and the effect of the same on recommendations and changes incorporated in the approved plans. The engineering geologist shall provide written approval as to the adequacy of the site for the intended use as affected by geologic factors, a statement of compliance to finish grade, and, when required by the City Engineer/Public Works Director, shall submit an as-built geologic map.

(5) The City Engineer/Public Works Director may require a statement of compliance prepared by the grading contractor that all work was completed in accordance with the grading permit and approved plans.

(B) Notice of completion. The City Engineer/Public Works Director shall give final approval of the work and a notice of completion upon determination that all work, including installation of all drainage facilities and their protective devices and all erosion control measures, has been completed in accordance with the approved plans and undergone final inspection; the required final reports and statements of compliance have been submitted and approved by the City Engineer/Public Works Director; and all fees and costs incurred by the permittee have been paid or satisfied by the security.

TITLE 8: BUILDINGS AND CONSTRUCTION

CHAPTER 8.04: BUILDING CODE

8.04.010 Adoption by reference

8.04.020 Fees

8.04.030 Board of Appeals

8.04.040 Permits

8.04.050 Fences

8.04.060 Permit Expiration

8.04.070 Use and Occupancy

8.04.080 Definitions

8.04.090 Reserved

§8.04.010 ADOPTION BY REFERENCE

Except as hereinafter changed or modified, the 2022 California Building Code as published by the State Building Standards Commission, including all of its chapters (including Chapters 1 through 35), tables, indices, addenda, footnotes, and appendices (including appendices A through P), are hereby adopted by reference as the Menifee Building Code and incorporated into this title. A copy of the 2022 California Building Code, including the above-designated appendices, shall be on file in the office of the City Clerk.

§ 8.04.020 FEES.

Chapter 1, Division I, §1.8.4.2.1, is hereby amended to read as follows:

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring

a permit, a fee for each permit shall be paid in accordance with the schedule as established by resolution of the City Council of the City of Menifee.

(A) **107.4.1 Work commencing before permit issuance.** Any person commencing any work on a building, structure, electrical, gas, mechanical, or plumbing system before obtaining the necessary permit shall be subject to a penalty fee that shall be twice the fee which is established by the Building Official in addition to the required permit fees.

§8.04.030 BOARD OF APPEALS.

(A) Chapter 1, Division I, §1.8.8, is hereby amended by adding the following subsections:

1.8.8.1.1 General. The Planning Commission shall hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Code.

1.8.8.1.2 Limitations on Authority. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder has been incorrectly interpreted, the provisions of this Code do not fully apply or an equally good or better form of construction is proposed. The Planning Commission does not have the authority to interpret the administrative provisions of the Building Code, nor shall the Planning Commission have any authority to waive requirements of this Code.

§8.04.040 PERMITS.

Chapter 1, Division II, §105.1, is hereby amended to read as follows:

105.1 Permits Required. No person shall construct, erect, enlarge, alter, repair, move, improve, demolish, or change the occupancy of a building or structure, or erect, install, connect, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this Code, or to cause, permit, or suffer any such work to be done, without having first obtained a separate and valid permit for each such building, structure, or system from the Building Official.

§ 8.04.050 FENCES.

Chapter 1, Division II, §105.2, subsection 2 under "Building" is hereby amended to read as follows:

2. Chain link, wood, or other similar fences not over seven (7) feet high, and masonry block walls less than three (3) feet high.

§8.04.060 PERMIT EXPIRATION.

(A) Chapter 1, Division II, §105.5 is hereby amended to read as follows:

105.5 Permit Expiration. Except as set forth in Section 105.5.1, every permit issued by the Building Official shall expire by limitation and become null and void unless the work on the site authorized by such permit is commenced within 12 months after its issuance. If the work authorized on the site by such permit is commenced within 12 months after its issuance date, such permit shall expire by limitation and become null and void 180 calendar days after the last

successful inspection. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and good cause demonstrated. In no event shall any permit be extended, nor shall any permit otherwise be valid, for any period exceeding three (3) years from the original date of issuance.

(B) Chapter 1, Division II, §105.5.1 is hereby amended to read as follows:

105.5.1 Expiration of Permit for Unpermitted Structure. Notwithstanding Section 105.5, any permit issued in order to bring an unpermitted structure (as that term is defined in Section 202 of this Code) or other unlawful, substandard, or hazardous condition into compliance with any applicable law, ordinance, rule, or regulation shall expire by limitation and become null and void 90 calendar days from the date of its issuance. The Building Official may extend the validity of the permit for a period not exceeding 90 calendar days beyond the initial 90-day limit upon the written request by the applicant and good cause demonstrated filed with the Building Official prior to the expiration date of the original permit.

§8.04.070 USE AND OCCUPANCY.

Chapter 1, Division II, §111.1 is hereby amended to read as follows:

111.1 Use and occupancy. No person shall use, occupy, or maintain, or allow the use or occupancy of, any unpermitted structure. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the Building Official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this Code or other ordinances of the jurisdiction shall not be valid.

§8.04.080 DEFINITIONS.

Chapter 2, §202 is hereby amended to include the following:

SUCCESSFUL INSPECTION shall mean a required inspection (as set forth in Section 110.3 of this Code) in which work inspected was determined by the Building Official or designee thereof to meet all applicable minimum Code requirements and the inspection was approved and documented as successful.

UNPERMITTED STRUCTURE shall be defined as any structure, or portion thereof, that was erected, constructed, enlarged, altered, repaired, moved, improved, removed, connected, converted, demolished or equipped, at any point in time, without the required approval(s) and permit(s) having first been obtained from the Building Official, or pursuant to a permit which subsequently expired and became null and void before receiving final approval from the Building Official.

CHAPTER 8.05: RESIDENTIAL CODE

8.05.010 Adoption of the California Residential Code

8.05.020 Fees

8.05.030 Board of Appeals

8.05.040 Permits

8.05.050 Fences

8.05.060 Permit Expiration

8.05.070 Use and Occupancy

8.05.080 Definitions

§8.05.010 ADOPTION OF THE CALIFORNIA RESIDENTIAL CODE.

(A) Except as hereinafter modified or changed, the 2022 California Residential Code published by the State Building Standards Commission, including all of its chapters (including Chapters 1 through 44), tables, indices, addenda, footnotes and appendices (including appendices AA through AZ), is hereby adopted by reference as the Menifee Residential Code and incorporated into this title.

(B) A copy of the 2022 California Residential Code shall be on file in the office of the City Clerk.

§8.05.020 FEES.

Chapter 1, Division I, §1.8.4.2.1, is hereby added and read as follows:

On buildings, structures, electrical, gas, mechanical and plumbing systems or alterations requiring a permit, a fee for each permit shall be paid in accordance with the schedule as established by resolution of the City Council of the City of Menifee.

§8.05.030 BOARD OF APPEALS.

The Planning Commission shall hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of this Chapter 8.05 in the same manner outlined in Section 8.04.030 of Menifee Municipal Code.

§8.05.040 PERMITS.

Chapter 1, Division II, §R105.1, is hereby amended to read as follows:

R105.1 Permits Required. No person shall construct, erect, enlarge, alter, repair, move, improve, demolish, or change the occupancy of a building or structure; or erect, install, connect, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing

system, the installation of which is regulated by this Code; or to cause, permit, or suffer any such work to be done, without having first obtained a separate and valid permit for each such building, structure, or system from the Building Official.

§8.05.050 FENCES.

Chapter 1, Division II, §R105.2, subsection 2 under “Building” is hereby amended to read as follows:

1. Chain link, wood, or other similar fences not over seven (7) feet high, and masonry block walls less than three (3) feet high.

§8.05.060 PERMIT EXPIRATION.

(A) Chapter 1, Division II, §R105.5 is hereby amended to read as follows:

R105.5 Permit Expiration. Except as set forth in Section 105.5.1, every permit issued by the Building Official shall expire by limitation and become null and void unless the work on the site authorized by such permit is commenced within 12 months after its issuance. If the work authorized on the site by such permit is commenced within 12 months after its issuance date, such permit shall expire by limitation and become null and void 180 calendar days after the last successful inspection. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and good cause demonstrated. In no event shall any permit be extended, nor shall any permit otherwise be valid, for any period exceeding three (3) years from the original date of issuance.

(B) Chapter 1, Division II, §105.5.1 is hereby added to read as follows:

R105.5.1 Expiration of Permit for Unpermitted Structure. Notwithstanding Section 105.5, any permit issued in order to bring an unpermitted structure (as that term is defined in Section R202 of this Code) or other unlawful, substandard, or hazardous condition into compliance with any applicable law, ordinance, rule, or regulation shall expire by limitation and become null and void 90 calendar days from the date of its issuance. The Building Official may extend the validity of the permit for a period not exceeding 90 calendar days beyond the initial 90-day limit upon the written request by the applicant and good cause demonstrated filed with the Building Official prior to the expiration date of the original permit.

§8.05.070 USE AND OCCUPANCY.

Chapter 1, Division 11, §R110.1 is hereby amended to read as follows:

R110.1 Use and occupancy. No person shall use, occupy, or maintain, or allow the use or occupancy of, any unpermitted structure. No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the Building Official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this Code or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this Code or other ordinances of the jurisdiction shall not be valid.

§8.05.080 DEFINITIONS.

Chapter 2, §R202 is hereby amended to include the following:

SUCCESSFUL INSPECTION shall mean a required inspection (as set forth in Section R109 of this Code) in which work inspected was determined by the Building Official or designee thereof to meet all applicable minimum Code requirements and the inspection was approved and documented as successful.

UNPERMITTED STRUCTURE shall be defined as any structure, or portion thereof, that was erected, constructed, enlarged, altered, repaired, moved, improved, removed, connected, converted, demolished or equipped, at any point in time, without the required approval(s) and permit(s) having first been obtained from the Building Official, or pursuant to a permit which subsequently expired and became null and void before receiving final approval from the Building Official.

CHAPTER 8.06: GREEN BUILDING CODE

8.06.010 Adoption of the Green Building Standards Code

§8.06.010 ADOPTION OF THE GREEN BUILDING CODE.

(A) Except as hereinafter modified or changed, the 2022 California Green Building Standards Code published by the State Building Standards Commission, including all of its chapters (including Chapters 1 through 8), tables, indices, addenda, footnotes and appendices (including appendices A4 through A6 .1), is hereby adopted by reference as the Menifee Green Building Code and incorporated into this title.

(B) A copy of the 2022 California Green Building Standards Code shall be on file in the office of the City Clerk.

CHAPTER 8.08: ELECTRICAL CODE

8.08.010 Adoption of Electrical Code

8.08.020 Commercial Projects

§8.08.010 ADOPTION OF ELECTRICAL CODE.

Except as hereinafter changed or modified, the 2022 California Electrical Code as published by the State Building Standards Commission, including all of its chapters (including Chapters 1 through 9), tables, indices, appendices (including appendices A through J), addenda, annexes, and footnotes is hereby adopted by reference as the Menifee Electrical Code and incorporated into this title.

§8.08.020 COMMERCIAL PROJECTS.

(A) Annex H, §80.19 (A) is hereby amended by adding subsection (3) which reads as follows:

(3) For all commercial projects, a California Licensed Electrical Contractor shall be responsible for obtaining permits for electrical work performed.

(B) A copy of the 2022 California Electrical Code, including the above-designated appendix, shall be on file in the office of the City Clerk.

CHAPTER 8.12: MECHANICAL CODE

8.12.010 Adoption of Mechanical Code

§8.12.010 ADOPTION OF MECHANICAL CODE.

(A) Except as hereinafter changed or modified, the 2022 California Mechanical Code as published by the State Building Standards Commission, including all of its chapters (including Chapters 1 through 17), tables, indices, addenda, footnotes and appendices (including appendices A through G), are hereby adopted by reference as the Menifee Mechanical Code and incorporated into this title.

A copy of the 2022 California Mechanical Code, including the above-designated appendix, shall be on file in the office of the City Clerk.

CHAPTER 8.16: PLUMBING CODE

8.16.010 Adoption of Plumbing Code

§8.16.010 ADOPTION OF PLUMBING CODE.

Except as hereinafter changed or modified, the 2022 California Plumbing Code as published by the State Building Standards Commission, including all of its chapters (including Chapters 1 through 17), tables, indices, addenda, footnotes and appendices (including appendices A through M), are hereby adopted by reference as the Menifee Plumbing Code and incorporated into this title.

A copy of the 2022 California Plumbing Code, including the above-designated appendices, shall be on file in the office of the City Clerk.

CHAPTER 8.20: FIRE CODE

8.20.010 Application and Adoption of Fire Code of the California Fire Code

8.20.020 Scope and General Requirements

8.20.030 Applicability

8.20.040 Duties and Powers of the Fire Code Official

8.20.050 Fees

8.20.060 Board of Appeals

8.20.070 Violations

8.20.080 Definitions

8.20.090 Open Flames

8.20.100 Fire Apparatus Access Roads

8.20.120 Fire Command Center

8.20.130 Fire Protection and Utility Equipment Identification and Location

8.20.140 Mechanical Refrigeration

8.20.150 Automatic Sprinkler Systems

8.20.160 Designation of High-Piled Storage Areas

8.20.170 Fire Hazard Severity Zones

8.20.180 Appendix B

8.20.190 Appendix C

§8.20.010 APPLICATION AND ADOPTION OF THE CALIFORNIA FIRE CODE.

Except as stated in this Section or as amended below in this chapter, all of the provisions and appendices of the 2022 California Fire Code, inclusive of all of the inclusions and exclusions set for in each chapter's matrix, are hereby adopted and shall apply to the City of Menifee. In addition, the following provisions that are excluded in the 2022 California Fire Code are hereby adopted, except that Section 103.2, 111.3, and 5707 are not adopted, and Chapters 3 and 25 and Sections 403.11, 503, 510.2, and 1103.2 are adopted.

§8.20.020 SCOPE AND GENERAL REQUIREMENTS.

Section 101.4 of the California Fire Code is deleted in its entirety and replaced with the following:

101.4 Severability. If any provision, clause, sentence or paragraph of this ordinance or

the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are hereby declared to be severable.

§8.20.030 APPLICABILITY.

Section 102.5 of the California Fire Code is amended as follows:

102.5 Application of residential Code. Where structures are designed and constructed in accordance with the California Residential Code, the provisions of this Code shall apply as follows:

1. Construction and design provisions of this Code pertaining to the exterior of the structure shall apply including, but not limited to, premises identification, fire apparatus access and water supplies. Where interior or exterior systems or devices are installed, construction permits required by Section 105.6 of this Code shall apply.
2. Administrative, operational and maintenance provisions of this Code shall apply.
3. Automatic fire sprinkler system requirements of this Code shall apply to detached accessory buildings 3,600 square feet or greater in accordance with Section 903.2. The provisions contained in Section 903.2.18 of the California Fire Code or Section R309.6 of the California Residential Code may be used for the design of the automatic fire sprinkler system for detached private garages.

§8.20.040 DUTIES AND POWERS OF THE FIRE CODE OFFICIAL.

(A) A new Section 104.1.1 is added to Section 104.1 of the California Fire Code to read as follows:

104.1.1 Authority of the Fire Chief and Fire Department.

1. The Fire Chief is authorized and directed to enforce all applicable State fire laws and provisions of this ordinance and to perform such duties as directed by the City Council.
2. The Fire Chief is authorized to administer, interpret and enforce this Chapter. Under the Fire Chief's direction, the Riverside County Fire Department is authorized to enforce ordinances of the City of Menifee pertaining to the following:
 - 2.1. The prevention of fires.
 - 2.2. The suppression or extinguishment of dangerous or hazardous fires.
 - 2.3. The storage, use and handling of hazardous materials.
 - 2.4. The installation and maintenance of automatic, manual and other private fire alarm systems and fire extinguishing equipment.
 - 2.5. The maintenance and regulation of fire escapes.

- 2.6. The maintenance of fire protection and the elimination of fire hazards on land, in buildings, structures and other property, including those under construction.
- 2.7. The maintenance of means of egress.
- 2.8. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials.
3. The following persons are hereby authorized to interpret and enforce the provisions of this Chapter and to make arrests and issue citations as authorized by law:
 - 3.1. The Unit Chief, Peace Officers and Public Officers of the California Department of Forestry and Fire Protection.
 - 3.2. The Fire Chief, Peace Officers and Public Officers of the Riverside County Fire Department.
 - 3.3. The Riverside County Sheriff and any deputy sheriff.
 - 3.4. The Police Chief and any police officer of any city served by the Riverside County Fire Department.
 - 3.5. Officers of the California Highway Patrol.
 - 3.6. Code Officers of the City of Menifee Code Enforcement Department.
 - 3.7. Peace Officers of the California Department of Parks and Recreation.
 - 3.8. The law enforcement officer of the Federal Bureau of Land Management.

(B) Section 104.7 and 104.7.1 of the California Fire Code are deleted in their entirety and replaced with the following:

104.7 Liability. Any liability against the City of Menifee or any office or employee for damages resulting from the discharge of their duties shall be as provided by law.

(C) A new Section 104.13 is added to Section 104 of the California Fire Code to read as follows:

104.13 Authority of the Fire Chief to close hazardous fire areas. Except upon National Forest Land, the Fire Chief is authorized to determine and announce the closure of any hazardous fire area or portion thereof. Any closure by the Fire Chief for a period of more than fifteen (15) calendar days must be approved by the Riverside County Board of Supervisors and/or the City Council within fifteen (15) calendar days of the Fire Chief's original order of closure. Upon such closure, no person shall go in or be upon any hazardous fire area, except upon the public roadways and inhabited areas. During such closure, the Fire Chief shall erect and maintain at all entrances to the closed area sufficient signs giving notice of closure. This section shall not prohibit residents or owners of private property within any closed area, or their invitees, from going in or being upon their lands. This section shall not apply to any entry, in the course of duty, by a peace officer, duly authorized public officer or fire department personnel. For the purpose of this section, "hazardous fire area" shall mean public or private land that is covered with grass, grain, brush or

forest and situated in a location that makes suppression difficult resulting in great damage. Such areas are designated on Hazardous Fire Area maps filed with the office of the Fire Chief.

§8.20.050 FEES.

(A) Section 107.2 of the California Fire Code is deleted in its entirety and replaced with the following:

107.2 Schedule of permit fees. Fees for services and permits shall be as set forth in the City of Menifee fee schedule.

(B) A new Section 107.7 is added to Section 106 of the California Fire Code to read as follows:

107.7 Cost recovery. Fire suppression, investigation, rescue or emergency medical costs are recoverable in accordance with Health and Safety Code Sections 13009 and 13009.1, as may be amended from time to time. Additionally, any person who negligently, intentionally or in violation of law causes an emergency response, including, but not limited to, a traffic accident, spill of toxic or flammable fluids or chemicals is liable for the costs of securing such emergency, including those costs pursuant to Government Code Section 53150, et seq, as may be amended from time to time. Any expense incurred by the Riverside County Fire Department for securing such emergency shall constitute a debt of such person and shall be collectable by Riverside County in the same manner as in the case of an obligation under contract, express or implied.

§8.20.060 BOARD OF APPEALS.

Section 111.1 of the California Fire Code is deleted in its entirety and replaced with the following:

109.1 Board of appeals established. The Board of Appeals shall be the City Manager. If he or she determines an outside board is needed, he or she shall designate an outside hearing officer to hear the appeal. The Fire Chief shall be notified of any appeal and the Fire Chief or designee shall be in attendance at the appeal hearing. Depending on the subject of the appeal, specialized expertise may be solicited, at the expense of the applicant, for the purpose of providing input to the Appeals Board.

§8.20.070 VIOLATIONS.

Section 112.4 of the California Fire Code is deleted in its entirety and replaced with the following:

112.4 Violation and penalties. It shall be unlawful for any person, firm, corporation or association of persons to violate any provision of this ordinance, or to violate the provisions of any permit granted pursuant to this Code or ordinance. Punishments and penalties for violations shall be in accordance with City of Menifee ordinances, fee schedule and Health and Safety Code Sections 17995 through 17995.5.

§8.20.080 DEFINITIONS.

Section 202, definition of "Fire Chief" in the California Fire Code is deleted in its entirety and replaced with the following:

FIRE CHIEF. The Fire Chief of Riverside County or the Fire Chief's designee.

§8.20.090 OPEN FLAMES.

Section 308.1.6.3 of the California Fire Code is deleted in its entirety and replaced with the following:

308.1.6.3 Sky lanterns or similar devices. A person shall not release or cause to be released a sky lantern or similar device.

§8.20.100 FIRE APPARATUS ACCESS ROADS.

(A) Section 503.2.1 of the California Fire Code is deleted in its entirety and replaced with the following:

503.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 24 feet (7315 mm), exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm). For additional requirements or alternatives see Riverside County Fire Department Standards and Policies, as may be amended from time to time.

(B) Section 503.2.2 of the California Fire Code is deleted in its entirety and replaced with the following:

503.2.2 Authority. The fire Code official shall be the only authority authorized to designate fire apparatus access roads and fire lanes and to modify the minimum fire lane access widths for fire or rescue operations

(C) A new Section 503.6.1 is added to Section 503.6 of the California Fire Code to read as follows:

503.6.1 Automatic opener. New motorized gates shall be provided with means to be automatically opened remotely by emergency vehicle in accordance with Riverside County Fire Department standards and Policies, as may be amended from time to time.

Exception: Gates serving individual one- and two-family dwelling parcels.

(D) A new Section 503.7 is added to Section 503 of the California Fire Code to read as follows:

503.7 Loading areas and passenger drop-off areas. On private properties, where fire apparatus access roads are utilized for loading or unloading or utilized for passenger drop-off or pick-up, an additional eight (8) feet of width shall be added to the minimum required width for the fire apparatus access road.

§8.20.110 FIRE PROTECTION WATER SUPPLIES.

(A) A new Section 507.5.7 is added to Section 507 of the California Fire Code to read as follows:

507.5.7 Fire hydrant size and outlets. As determined by the fire Code official, fire hydrant sizes and outlets shall be based on the following:

1. Residential Standard - one (1) four (4) inch outlet and one (1) two and half (2 ½) inch outlet.

2. Super Hydrant Standard - one (1) four (4) inch outlet and two (2) two and one half (2½) inch outlet.
3. Super Hydrant Enhanced - two (2) four (4) inch outlet and one (1) two and one half (2½) inch outlet.

(B) A new Section 507.5.8 is added to Section 507 of the California Fire Code to read as follows:

507.5.8 Fire hydrant street marker. Fire hydrant locations shall be visually indicated in accordance with Riverside County Fire Department Technical Policy 06-11, as may be amended from time to time. Any hydrant marker damaged or removed during the course of street construction or repair shall be immediately replaced by the contractor, developer or person responsible for removal or damage.

§8.20.120 FIRE COMMAND CENTER.

(A) Section 508.1 of the California Fire Code is deleted in its entirety and replaced with the following:

508.1 General. Where required by other sections of this Code and in all buildings classified as high-rise buildings by the California Building Code, in all buildings greater than 300,000 square feet (27 870m²), and in Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department vehicle access, a fire command center for fire department operations shall be provided and comply with Sections 508.1.1 through 508.1.7.

(B) Section 508.1.1 of the California Fire Code is deleted in its entirety and replaced with the following:

508.1.1 Location and access. The fire command center shall be located adjacent to the main lobby and shall be accessible from fire department vehicular access or as approved by the fire Code official. The room shall have direct access from the building exterior at the lowest level of fire department access.

(C) Section 508.1.3 of the California Fire Code is amended to add the following:

508.1.3 Size. The fire command center shall not be less than 0.015 percent of the total building area of the facility served or 200 square feet (19 m²) in area, whichever is greater, with a minimum dimension of 0.7 times the square foot of the room area or 10 feet (3048 mm), whichever is greater.

Where a fire command center is solely required because a building is greater than 300,000 square feet (27 870m²), the fire command center shall have a minimum size of 96 square feet (9 m²) with a minimum dimension of 8 feet (2438 mm) where approved by the fire Code official.

§8.20.130 FIRE PROTECTION AND UTILITY EQUIPMENT IDENTIFICATION AND LOCATION.

Section 509.2.1 of the California Fire Code is amended to add the following:

509.2.1 Minimum clearances. A 3-foot (914 mm) clear space shall be maintained around the circumference of exterior fire protection system control valves, or any other exterior fire protection system component that may require immediate access, except as otherwise required or approved.

§8.20.140 MECHANICAL REFRIGERATION.

Section 608.11.1.2 of the California Fire Code is deleted in its entirety and replaced with the following:

608.11.1.2 Manual operation. When required by the fire Code official, automatic crossover valves shall be capable of manual operation. The manual valves shall be located in an approved location immediately outside of the machinery room in a secure metal box or equivalent and marked as Emergency Controls.

§8.20.150 AUTOMATIC SPRINKLER SYSTEMS.

(A) Section 903.2 of the California Fire Code is deleted in its entirety and replaced with the following:

903.2 Where required. In all new buildings and structures which are 3,600 square feet or greater, an approved automatic sprinkler system shall be provided regardless of occupancy classification. Where the Sections 903.2.1 – 903.2.21 of the California Fire Code require more restrictive requirements than those listed below, the more restrictive requirement shall take precedence.

Exception: Unless required elsewhere in this Code or the California Building Code, automatic fire sprinkler systems shall not be required for the following:

1. Detached Group U occupancies used for agricultural purposes constructed in accordance with the California Building Code.
2. Detached non-combustible equestrian arena shade canopies that are open on all sides and used for riding only - no commercial, assembly or storage uses.
3. Detached fabric or non-combustible shade structures that are open on all sides and used to shade playground equipment, temporary storage of vehicles and dining areas with no cooking.
4. Where determined by the Fire Chief that no major life safety hazard exists, and the fuel load does not pose a significant threat to firefighter safety or to other structures or property, automatic fire sprinklers may be exempted.

One- and two-family dwellings shall have an automatic fire sprinkler system regardless of square footage in accordance with the California Residential Code. Fire sprinkler systems shall be installed in mobile homes, manufactured homes and multifamily manufactured homes with two dwelling units in accordance with Title 25 of the California Code of Regulations.

The following exceptions in the California Fire Code shall not be allowed:

- a. Exception in Section 903.2.3
- b. Exception 2 in Section 903.2.11.3

(B) A new Section 903.3.5.3 is added to Section 903 of the California Fire Code to read as follows:

903.3.5.3 Hydraulically calculated systems. The design of hydraulically calculated fire sprinkler systems shall not exceed 90% of the water supply capacity.

§8.20.160 DESIGNATION OF HIGH-PILED STORAGE AREAS.

A new Section is added to Section 3204.1 to Section 3204.2 of the California Fire Code to read as follows:

3204.2.1 Minimum requirements for client leased or occupant owned warehouses. Designs of an automatic sprinkler system for client leased or occupant owned buildings containing high pile storage shall be based on the requirements of NFPA 13. The responsible fire protection engineer shall perform a survey of the building to determine commodity classification, storage configuration, building height and other information related to the development of an appropriate sprinkler system design. The fire protection engineer shall also make reasonable efforts to meet with the building owner or operator to understand seasonal or customer related fluctuations to the stored commodities, storage height, and configuration. The sprinkler design shall be based on the most demanding requirements determined through the onsite survey and discussions with the building owner or operator. The technical report shall describe the basis for determining the commodity and sprinkler design selection, how the commodities will be isolated or separated, and include references to the design document(s). If a specific fire test is used as the basis of design, a copy of the fire test report shall be provided at the time of plan review.

§8.20.170 FIRE HAZARD SEVERITY ZONES.

A new Section 4904.2.1 is added to Section 4904 of the California Fire Code to read as follows:

4904.2.1 High Fire Hazard Severity Zone Maps. In accordance with Government Code Sections 51175 through 51189, Very High Fire Hazard Severity Zones (VHFHSZ) located in the Local Responsibility Areas (LRA), are designated as shown on the most recently published VHFHSZ in LRA map, as recommended and published by the Director of the California Department of Forestry and Fire Protection (CAL FIRE), which may be revised from time to time. The most recent VHFHSZ in LRA map is on file at the office of the Fire Chief, which supersedes other maps previously adopted by Riverside County designating high fire hazard areas.

§8.20.180 APPENDIX B.

Table B105.2 of the California Fire Code is amended as follows:

TABLE B105.2 - REQUIRED FIRE-FLOW FOR BUILDINGS OTHER THAN ONE- AND TWO-FAMILY DWELLINGS, GROUP R-3 AND R-4 BUILDINGS AND TOWNHOUSES

AUTOMATIC SPRINKLER SYSTEM (Design Standard)	MINIMUM FIRE-FLOW (gallons per minute)	FLOW DURATION (hours)
No automatic sprinkler system	Value in Table B105.1(2)	Duration in Table B105.1(2)
Section 903.3.1.1 of the <i>California Fire Code</i>	50% of the value in Table B105.1(2) ^a	Duration in Table B105.1(2) at the reduced flow rate
Section 903.3.1.2 of the <i>California Fire Code</i>	50% of the value in Table B105.1(2) ^b	Duration in Table B105.1(2) at the reduced flow rate

For SI: 1 gallon per minute = 3.785 L/m.

- a. The reduced fire-flow shall be not less than 1,000 gallons per minute.
- b. The reduced fire-flow shall be not less than 1,500 gallons per minute.

§8.20.190 APPENDIX C.

Section C103.1 of the California Fire Code is deleted in its entirety and replaced with the following:

C103.1 Hydrant spacing. Fire apparatus access roads and public streets providing required access to buildings in accordance with Section 503 of the California Fire Code shall be provided with one or more fire hydrants, as determined by Section C102.1. Where more than one fire hydrant is required, the distance between required fire hydrants shall be in accordance with Sections C103.2 and C103.3. Fire hydrants shall be provided at street intersections.