Chapter 9. Site Development

Article 1. Grading, Excavation and Filling

Sec. 9-9.01. Purpose.

It is the declared intent of the City of Walnut Creek to promote the conservation of natural resources, including the natural beauties of the land, streams and water sheds, hills and vegetation, and as described in Sec. 10-2.1301 of the Walnut Creek Municipal Code and Government Code §65560(b) (1) to protect the health and safety, including the reduction or elimination of the hazards of earth slides, mud flows, rock falls, undue settlement, erosion, siltation and flooding, or other special conditions as described in Government Code §65560(b) (4) by minimizing the adverse effects of grading, cut and fill operations, water runoff and soil erosion. Therefore, the following regulatory provisions of this chapter are hereby adopted for the purpose of stringent control of all aspects of grading operations. (§1, Ord. 1193, eff. December 26, 1973)

Sec. 9-9.02. Permits Required.

No person shall do any grading without first having obtained a grading permit from the City except for the following:

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

b. Cemetery graves;

c. Refuse disposal sites controlled by other regulations;

d. Excavations for wells or tunnels or utilities;

e. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law; provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property;

f. An excavation which is less than three feet in depth and slopes no steeper than two horizontal to one vertical;

g. Exploratory excavations under the direction of soil engineers or engineering geologists;

h. A fill less than one foot in depth, and placed on natural terrain with a slope flatter than five horizontal to one vertical, or less than three feet in depth, not intended to support structures, which does not exceed fifty cubic yards on any one lot and does not obstruct a drainage course;
i. Work conducted in any City street, public right-of-way or easement when the work is for a public facility, public utility or other public purpose;

j. Municipal corporations performing a governmental or proprietary function;

k. Emergency work as authorized by the City necessary to protect life, limb or property or to maintain the safety, use or stability of a public way or drainage way;

l. Minor land leveling for agricultural farming, if the average ground elevation is not changed more than three feet.

The exceptions of this section shall not apply to grading within natural drainage channels.

(§1, Ord. 1193, eff. December 26, 1973, as amended by §1, Ord. 1284, eff. September 8, 1976)

Sec. 9-9.03. Definitions.

For the purposes of this chapter, the definitions listed under this section shall be construed as specified in this section.

a. Architect means a professional architect registered in and by the State.

b. As-graded means the surface conditions' extent on completion of grading.

c. Bedrock means in-place solid rock.

d. Bench means a relatively level stop excavated into earth material on which fill is to be placed or within a cut or fill slope.

e. Blending is a term for the intermixing and compaction of natural site soils, such as of materials from two natural soil horizons, or for the intermixing and compaction of natural site soils with imported soil or other materials.

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

g. Buttress fill means a compacted fill which is placed in an area where soft natural soils beneath a planned fill would be over-stressed by the weight of the fill. The buttress fill is placed after the soft natural soils have been removed.

h. Certification means a written engineering or geological opinion concerning the progress and completion of the work.

i. City, where referring to approvals, denials or waivers, means the City of Walnut Creek, Chief of Code Enforcement, or City engineers or their designees.

j. Civil engineer means a professional engineer registered in and by the State to practice in the field of civil works.

k. Civil engineering means 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.
1. **Contour rounding** means the rounding of cut and fill slopes in the horizontal plane to blend with existing contours or to provide horizontal variation, to eliminate the artificial appearance of slopes.

m. **Compaction** means the densification of a fill by mechanical means.

n. **Competent material** means earth material capable of withstanding the loads which are to be imposed upon it without failure or detrimental settlement as certified by the soils engineer.

n-1. **Depth of cut or fill** means the vertical distance between existing natural ground and the finish elevation at any location.

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

p. **Engineering geologist** means a professional engineering geologist registered in and by the State to practice in the field of engineering geology.

q. **Engineering geology** means 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.

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

s. **Excavation** means the mechanical removal of earth material.

t. **Fill** means a deposit of earth material placed by artificial means.

u. **Grade** means the vertical location of the ground surface.

v. **Existing grade** means the grade prior to grading.

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

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

y. **Grading** means any excavating or filling or combination thereof.

z. **Height of cut and fill slopes** means the finish vertical distance from the top to toe of slope as measured prior to the application of any required slope rounding.

aa. **Key** is a designated compacted fill placed in a trench excavated in earth material beneath the tow of a proposed fill slope.

bb. **Modification** is a term for any procedure that will reduce the Atterberg limits (liquid limit, plastic limit and Plasticity Index) of a soil.

cc. **Nesting** means the placement of large rocks such that voids in the fill are created and that proper compaction becomes difficult or impossible.
dd. **Replacement** is a term for the removal and wasting of natural soil materials adjudged unsuitable for the support of dwellings or other site improvements, and their replacement with suitable soil materials properly compacted.

ee. **Reworking** is a term for the mechanical densification or consolidation of natural loose soil material.

ff. **Site** means any lot or parcel of land or contiguous combination thereof, where grading is performed or permitted.

gg. **Slope** means an inclined ground surface, the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

hh. **Slope control specialist** is a professional landscape architect or other professional person experienced in erosion control work, retained by the developer in a professional or consultative capacity (not as a contractor performing construction work in the development), and responsible for analysis, plans, specifications, supervision and certifications regarding slope control planting and related slope control work, other than grading, for a specific project.

ii. **Soil** means the top layer of the earth's surface, excluding rock.

jj. **Soils engineer** means a civil engineer experienced and knowledgeable in the practice of soil engineering.

kk. **Soil engineering** means the application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

ll. **Stabilization** is a term for any procedure that will result in increased shear strength in a soil.

mm. **Terrace** means a relatively level step constructed in the face of a graded slope surface for draining and maintenance purposes.

nn. **Variable slope** means the variation in steepness of a cut or fill slope in either/or a combination of the horizontal or vertical plane of the slope.

oo. **Vertical slope rounding** is the rounding of the top and toes of cut and fill slopes. (§1, Ord. 1193, eff. December 26, 1973, as amended by §§2-8, Ord. 1284, eff. September 8, 1976)

**Sec. 9-9.04. Permit Application.**

To obtain a permit the applicant shall first file a written application on an approved form containing the following information:

a. It shall describe the site by lot, block and tract designation, and by a street address or similar description sufficient to readily identify it;

b. It shall state the name and address of the owner of the site, the person who is to perform the work, and the soil and civil engineer if such work is to be performed as supervised grading. The permit shall be issued only to the owner or his agent;
c. An estimate of the time schedule of work;
d. The City business license number of the contractor performing the work;
e. Signature and address of the applicant.

The application shall be accompanied by the following material:

a. Inspection and plan checking fees. Fees may be waived if the City Engineer finds that the scope of work does not require inspection or plan checking services;
b. An engineer's estimate of the quantity and cost of work to be done;
c. A soils and engineering geology report. All or portions of this requirement may be waived by the City for relatively small and/or flat sites or where the City can find that a conservative design will more than compensate for the lack of in-place soils data;
d. Two sets of plans shall be submitted. Plans shall be twenty-four inches by thirty-six inches and to a form as approved by the City Engineer. The plans shall be prepared and signed by a civil engineer and shall contain the following items, plus any additional material which the City deems necessary to show conformance of the proposed grading with the requirements of this section and other related ordinances. They shall contain:
   1. A vicinity sketch or other means of adequately indicating the site location,
   2. Boundary lines of the site,
   3. Each lot or parcel of land into which the site is proposed to be divided,
   4. The location of any existing buildings or structures on the property where the work is to be performed and the location of any buildings or structures on adjacent land within fifty feet of the proposed work,
   5. Accurate contours showing the topography of the existing ground extending at least ten feet outside all boundary lines of the site,
   6. All of the proposed uses of the site and, if the site is to be divided, the proposed use of each lot or parcel of land,
   7. Elevations, locations, extent and slope of all proposed grading shown by contours, or other acceptable means, and location of any rock disposal areas, buttress fills, subdrains or other special features to be included in the work,
   8. Detailed plans of all drainage systems and facilities, walls, cribbing or other erosion protection devices to be constructed in connection with, or as a part of the proposed work, together with a map showing the draining area and estimated runoff of the area served by any drainage systems or facilities,
   9. The location, circumference, species and approximate elevation at the base of all trees, as defined in Section 3-8.02 of this code. The design of the plans shall attempt to save wherever possible trees and other natural features of high aesthetic value. A tree care specialist shall review the trees to be saved at the site for physical condition and prepare a report setting
requirements of grading and development adjacent to the saved trees. These requirements shall be incorporated into the grading plan,

10. A statement of the quantities of material to be excavated and/or filled and the amount of such material to be imported to, or exported from, the site,

11. A written agreement as approved by the City and signed by the owner, or his authorized agent, that a civil engineer, soil engineer and/or engineering geologist will be employed to give technical supervision or make inspections of the work, whenever approval of the plans and issuance of the permit is to be based on the condition that such professional person be so employed;

e. The tree removal permit number along with a plan approved by the Public Services Director indicating the trees which have been approved to be removed;

f. Performance Bonds. The City may require the applicant, as a condition of issuing a grading permit, to post a surety bond or cash deposit in an amount as determined by the City. The surety and/or cash deposit shall be of sufficient amount to insure compliance with the conditions of the permit, this chapter, and to repair any damage that may result from the grading.

Should the permittee fail to comply with the conditions of approval or to repair damage upon request by the City, the City shall give written notice to the permittee and surety of the bond. The notice shall state:

1. The work to be completed and/or repairs to be made,

2. The approximate cost to perform the required work,

3. The time in which all work is to be completed.

Should the required work not be completed within the time specified by the City, the City may cause such work to be done and deduct the cost thereof from any cash deposit or collect such amount from the surety.

When the grading is not performed by the contractor within the time prescribed by the grading permit, a time extension may be granted upon a showing of just cause.

Sureties or the remaining portion of any cash deposit will be released only upon satisfactory completion of the work and completion of any required warranty period. Warranty periods shall not exceed twelve months.

Performance bonds for subdivisions shall be in accordance with the requirements of Chapter 1 of Title 10 of this code. (§1, Ord. 1193, eff. December 26, 1973, as amended by §§9-13, Ord. 1284, eff. September 8, 1976)

Sec. 9-9.05. Issuance of Permit.

a. No permit shall be granted until all of the required data has been submitted for the application, the City Engineer has approved the plans, and all required fees have been paid.

b. Except as provided in subsection (l) below, no permit shall be granted until the applicant has obtained approval of all his legislative requirements including, but not limited to, zoning
(including any required findings by the Planning Commission or the City Council), use permit, tentative map and/or building or site plan review where required, and final design review approval. The environmental impact report shall be considered in the granting of a permit and conditions may be imposed by the City to minimize or mitigate the negative environmental impacts of the proposed work.

1. Where the applicant can demonstrate that time is of the essence in securing a grading permit, a grading permit may be issued upon approval of the Community Development Department Director prior to final design approval, provided that all other required approvals for the project have been obtained and are final, and provided further that any required environmental evaluation has been completed and certified. Approval in such cases shall be conditioned on satisfactory assurance, either by sufficient cash deposit or bond in a form satisfactory to the City, that in the event final design review approval is not obtained the site shall be returned to its original condition, if the altered condition of the site is unsatisfactory to the City.

c. In the case of subdivisions, the approval to proceed by the City Engineer, after having signed grading plans and having received all required bonds, fees, agreements and deeds, shall constitute the issuance of a grading permit. Grading shall be defined as an improvement for the purposes of the subdivision improvement agreement. (§1, Ord. 1193, eff. December 26, 1973, as amended by §14, Ord. 1284, eff. September 8, 1976, and by §1, Ord. 1578, eff. August 4, 1983)

Sec. 9-9.06. Soils and Engineering Geology Report.

a. The soils and engineering geology report required in this chapter shall be prepared by a professional soil investigation firm under the direction of a soils engineer and an engineering geologist and shall include the following:

1. An adequate description of the geology of the site;

2. Conclusions and recommendations regarding the effect of geologic conditions on the proposed development;

3. Opinions and recommendations covering the adequacy of sites to be developed by the proposed grading;

4. Data regarding the nature, distribution strength, and in-place relative compaction of existing soils;

5. Conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary;

6. Ground water conditions.

b. Recommendations included in this report and approved by the City shall be incorporated in the grading plans and/or specifications.

c. Sufficient soil samples to represent a true cross section of the cut and fill areas and of the material to be used as fill shall be taken and tested under the supervision of the soils engineer. All soils shall be classified in accordance with the Unified Soil Classification system. Reports, including all test reports by the soils engineer, shall be submitted covering the following:
1. Field and laboratory tests of the land to be covered with fill to determine the characteristics of the soil including its expansive qualities, and bearing value of the land, consolidation potential, and a statement as to whether the land can support the proposed fill and structures. In those areas where saline or alkaline soils or other problem conditions may be encountered, sufficient information to define the problem and evaluate its solution shall be submitted to the City.

2. Field and laboratory soil analysis of the material proposed for the fill, including its source and expansive quality and statement as to its suitability. The analysis shall also specify the optimum moisture content at which each type of proposed fill material compacts to one hundred percent dry density in accordance with State Department of Transportation Impact Method (Test No. 216F) or approved equal. This requirement may be postponed with approval of the City until some grading has been done to obtain good representative samples.

3. Field and laboratory soil analysis of existing soil conditions in proposed cut locations, including expansive qualities and bearing values. If steep slopes are proposed, sufficient data concerning slope stability analysis shall be submitted.

4. Any potential ground water condition which may affect soil strength, consolidation or slope stability shall be defined and evaluated. This is of particular importance in areas subject to vibratory or shock loadings.

5. Proposals to replace, rework or blend, or to stabilize or modify with additives either the natural site soils or the proposed fill materials, shall be supported by appropriate laboratory analysis and other such data as may be necessary for evaluation of the proposal.

6. The location of and effects of active faults which may affect the proposed development. The results of seismic activity on the soils as the site is proposed to be graded and on the proposed buildings, to be evaluated.

d. A complete and detailed specification shall be prepared by the soils engineer for clearing, grubbing and all aspects of grading, including utility trench backfill, with special emphasis on the depth of fill layers, compaction methods, moisture content, frequency of field density tests, and minimum density to be obtained in the field as related to laboratory tests.

e. A statement regarding specified grading and slopes shall be prepared by the soils engineer, giving professional opinion including the following:

1. Shrinkage or settlement of a fill constructed in compliance with the proposed specification for controlled earthwork;

2. The safe load-bearing capacity for such controlled sites;

3. The maximum slope ratios necessary for slope stability for proposed fill and cut slopes, with the assumption of proper planting on the slope to assure freedom from erosion; and

4. The remaining movement anticipated in cut areas. Any forecast of appreciable settlement shall be supported by appropriate site soils data.

f. A complete and detailed specification shall be prepared by the slope control specialist. The specification shall indicate the material and methods for slope control planting and planting
to return the slope to its native appearance including ground covers, trees and shrubs, with
special emphasis on the following:

1. Soil preparation, fertilization, plant material and methods of planting; and

2. Initial maintenance of the plant material and slopes until a specified percentage of
plant coverage is established uniformly on the cut and fill slopes.

g. A statement regarding specified slope control planting shall be prepared by the slope
control specialist giving a professional opinion regarding the following:

1. The length of time after planting in which the specified planting with the specified
initial maintenance will normally produce, on the slopes in the slope control areas, the specified
percentage of plant coverage; and

2. The length of time in which this specified plant coverage, without any special
additional maintenance, will normally produce a coverage of permanent planting which will
control erosion.

h. The City reserves the right to require additional soils and/or geological investigations be
made if it deems necessary in order to further ensure the safety and maintainability of the site.
§1, Ord. 1193, eff. December 26, 1973, as amended by §§15-16, Ord. 1284, eff. September 8,
1976

Sec. 9-9.07. General Grading Regulations.

a. One copy of approved plans and specifications shall be kept on the site at all times
during the progress of grading work.

b. All grading and noise therefrom including, but not limited to, warming of equipment
motors in residential zones, or within one thousand feet of any residential occupancy, hotel,
motel or hospital shall be limited between the hours of seven a.m. and five-thirty p.m. weekdays,
unless other hours are approved by the City upon receipt of evidence that an emergency exists
which would constitute a hazard to persons or property.

c. All graded surfaces and materials, whether filled, excavated, transported or stockpiled,
shall be wetted, protected or contained in such a manner as to prevent any nuisance from dust or
spillage upon adjoining property or streets. Equipment and materials on the site should be used in
such a manner as to avoid excessive dust.

d. No grading shall be conducted as to alter the established gradient of natural drainage
channels as to cause erosion or flooding.

e. All exposed or finished banks or slopes of any fill or excavation shall be protected from
erosion by approved planting, hydroseeding, cribbing, walls or terracing or a combination
thereof. Other unprotected graded surfaces exceeding five thousand square feet in area shall be
planted, paved or built upon, or shall be provided with berms and approved drainage facilities
adequate to prevent erosion and to conduct the accumulation of runoff of surface waters to an
approved place of discharge. It is the intent of this section to prohibit the abandonment of graded
areas or slopes which are not provided with erosion protection and adequate drainage facilities,
even though all other requirements in this section have been provided and approved.
f. All building site pads shall be graded to provide drainage to a street, natural watercourse, approved flood control channel or conduit or public easement for drainage purposes as approved by the City.

g. Cut and fills shall be designed to balance as near as possible to avoid the nuisances created by off-site hauling. If off-site hauling is determined necessary by the City, details of the hauling operation including, but not limited to, size of trucks, haul route, dust and debris control measures, and time and frequency of haul trips shall be submitted to the City for approval. The City shall be empowered to place such restrictions as it deems necessary to minimize health, safety and general welfare problems which might arise from this hauling.

h. Cut and fill slopes shall be contour rounded as approved by the City during the various stages of approval.

i. Variable slopes shall be used to mitigate environmental and visual impacts of grading.

j. Whenever any portion of the work requires entry onto adjacent property for any reason, the permit applicant shall obtain a right of entry from the adjacent property owner or his authorized representative in a form acceptable to the City and shall file a copy of the fully executed right of entry with the City prior to issuance of the grading permit and/or approval of the grading plans.

k. Sediment basins shall be constructed on large developments to detain runoff and trap sediment during construction up until slope erosion planting has been established. The sediment basin dam and collected silt shall then be removed and the resulting material hauled from the site or used as topsoil.

l. Grading shall be designed so that lot lines are at the top of slope and with adequate property line setback from the slope to provide for required vertical slope rounding.

m. Grading shall be designed wherever possible to be at the same elevation or below adjoining properties outside the development so as not to negate the privacy of the adjoining property owners. If it is not possible and there are adjoining properties which will be adversely affected, the developer shall be required to either move the slope onto the adjacent property owner's land replacing fences and improvements or replace the property owner's fence (if one exists) at the top of the slope and deed the slope to the property owner. The City may waive this requirement wherein the adversely affected property owner fails to negotiate for either option.

n. Stockpiling of materials shall be subject to City approval and shall be removed or relocated when required for public health or safety.

o. The permit applicant and grading contractor shall be responsible for the protection of adjacent properties during grading operations. Prior to commencing any grading of the site, the exterior boundaries shall be marked as required by the City Engineer. Boundary markers shall be maintained throughout the grading operation. Temporary barriers and/or protective fencing shall be used when necessary to protect adjacent properties. (£1, Ord. 1193, eff. December 26, 1973, as amended by §§17-23, Ord. 1284, eff. September 8, 1976)

Sec. 9-9.08. Specific Grading Regulations.
a. Cuts and Fills. Cuts and fills shall conform to the City's standard specifications for excavations and embankments and to the following provisions:

1. Cut and fill slopes shall be no steeper than two horizontal to one vertical.

2. Where slopes are steeper than five horizontal to one vertical, the surface to receive fill shall be benched into stable bedrock or other stable competent material.

3. All fills shall be compacted to a minimum of ninety percent of maximum density as determined by the State Impact Method Test No. 216 F or equivalent method approved by the City of determining maximum soil density. Field density shall be determined by a method acceptable to the City.

4. The tops and toes of cut and fill slopes shall be set back from property lines and structures as far as necessary to provide for safety of adjacent property, safety of pedestrians and vehicular traffic, required slope rounding, adequate foundation support, required swales, berms and drainage facilities and applicable zoning requirements. Except for pier-type foundations or other special foundation design, setbacks shall be not less than as follows:

5. The faces of cut and fill slopes shall be prepared and maintained to control against erosion and to return the slope to its natural appearance as near as possible. The protection for the slopes shall be installed as soon as practicable and prior to calling for final approval. The planting shall be so timed that ground covers will not be washed out by rains nor burned due to lack of water. Where necessary, check dams, cribbing, rip rap and other devices or methods shall be employed to control erosion and to provide safety.

6. The height of cut and fill slopes (including retaining walls) and the maximum depth of cut or fill shall not exceed:

   (i) Twenty feet in all D, M, R districts and all P-D districts approved after December 26, 1973, or P-D districts approved prior to December 26, 1973 wherein the developer has not undertaken construction activity of any kind for all, or a portion or any phase of the P-D district;

   (ii) Ninety feet in all P-D districts approved prior to December 21, 1973, wherein the developer has undertaken construction activity of any kind for all, or a portion, or any phase of the P-D district, and including those P-D districts approved after December 26, 1973, which amend the land use provisions of P-D districts approved prior to December 26, 1973.

   (iii) Thirty feet in all H-P-D districts. The Planning Commission may waive or modify this requirement in cases where:

          (a) The developer is required to dedicate developable land at or below a thirty-foot limitation for public purposes.

          (b) Higher than thirty-foot slopes are necessary to construct a City street as required by the General Plan of the City.

7. Guidelines for vertical slope rounding shall be in accordance with details as approved by the City Engineer and the Planning Commission.
8. Dust Control. A dust palliative shall be applied to the site when required by the City Engineer. The type and rate of application shall be as approved by the City Engineer.

9. Erosion control measures shall be employed during the rainy season as required by the City Engineer.

(b) Drainage.

(1) Terraces at least eight feet in width shall be established at not more than thirty-foot vertical intervals, subject to maximum height limitations, to control surface drainage and debris on cut or fill slopes. Suitable access shall be provided to permit proper cleaning and maintenance. Swales or ditches on terraces shall have a minimum gradient of one percent and must be paved with reinforced concrete not less than three inches in thickness. They shall have a minimum depth of one foot at the center and a minimum paved width of thirty-two inches. A single run of swale or ditch shall not collect runoff from a tributary area exceeding fifteen thousand square feet (projected) without discharging into a down drain.

(2) All drainage facilities shall be designed to carry waters to the nearest practical drainage way approved by the City and/or other appropriate jurisdiction as a safe place to deposit such waters. If drainage facilities discharge onto natural ground, rip rap and/or energy dissipators shall be constructed. All building sites shall be graded and sloped away from the building foundation with a minimum slope of two percent for a distance of ten feet on all sides of every building except where yard requirements are less than twenty feet, in which case the soil shall be graded away from the foundation to a minimum of two-tenths of a foot in elevation at a distance not less than one-half the required yard width. Lot drainage shall be directed toward approved drainage facilities at a minimum gradient of one and one-half percent.

(3) Properly designed trash racks shall be installed on the upstream end of storm drain pipes where that pipe accepts drainage from a waterway which is not to be undergrounded. These racks are to be constructed so as to preclude large debris and small children from being pulled into the pipe from heavy storm flows. The City may require the installation of trash racks at other locations as deemed necessary for proper maintenance and safety.

(c) Modifications. Modifications to the specific grading regulations in this chapter may be approved or required by the City upon finding that such modification:

(1) Is necessary to preserve existing natural features, such as trees, streams, hills, significant vegetation or rock outcroppings, etc.; or

(2) Will reduce the adverse visual impacts of cut and fill operations.

For subdivisions of five or more units, this finding must be made by the Planning Commission at the time of the approval of the tentative map, site plan, H-P-D permit, etc. For all other grading where a grading permit is required, the finding must be made by the City Engineer in consultation with the permittee and Community Development Department design review staff.

When a soils report is required for the proposed grading, the modifications shall be subject to approval by the soils report. Where a soils report is not required, the modification shall be subject to approval by the City Engineer. (§1, Ord. 1193, eff. December 26, 1973, as amended by §24, Ord. 1284, eff. September 8, 1976, by §3, Ord. 1319, eff. August 12, 1977)
Sec. 9-9.09. Grading Progress and Inspection.

a. All grading operations for which a permit is required shall be subject to inspection by the City.

b. For engineered grading, it shall be the responsibility of the civil engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He shall also be responsible for the professional inspection and certification of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and certification as to the establishment of line, grade and drainage of the development area. The civil engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the City. The civil engineer shall also be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work.

c. Prior to foundation work, the permittee's engineer shall certify that the building pad elevations do not vary more than two-tenths of a foot from the approved pad elevations.

d. During grading all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the City by the soils engineer and the engineering geologist.

e. The soils engineer's area of responsibility shall include, but need not be limited to, the professional inspection and certification concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and design of buttress fills and the design and need for subdrains and other ground water control devices where required, incorporating data supplied by the engineering geologist.

f. The engineering geologist's area of responsibility shall include, but need not be limited to, professional inspection and certification of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters. He shall report his findings to the soils engineer and the civil engineer for engineering analysis.

g. The City, upon at least twenty-four hours' notification from the permittee or his agent, shall inspect the work at the following stages of the work and shall either approve the portion then completed or shall notify the permittee or his agent wherein it fails to comply with the requirements of this chapter:

1. Initial. When the site has been cleared of vegetation and unapproved fill and has been scarified, benched or otherwise prepared and before any fill is placed;

2. Rough. When rough grading has been completed and approximate final elevations have been established; drainage terraces, swales and other drainage devices graded ready for paving; and berms installed at the top of slopes;

3. Final. When work has been completed, all drainage devices, systems and facilities installed and slope planting established, the civil engineer shall certify that all grading, lot drainage and drainage facilities have been completed and the slope planting installed in conformance with the approved plans and the requirements of this chapter. In addition to the inspections specified in this section, the City may make such other inspections as it deems
necessary to determine that the work is being performed in compliance with the requirements of this chapter.

h. Periodic density tests made by the soils engineer shall be submitted to the City. Dry density, moisture content and the location, elevation and sampling date of each sample taken shall be reported, along with sufficient data to correlate with laboratory analyses submitted.

i. Upon completion of the grading, the soils engineer shall certify that the site was graded and filled with material in accordance with the approved specifications. He shall also give his professional opinion regarding remaining shrinkage or settlement, expansive characteristics, slope stability, load-bearing qualities, saline or alkaline conditions, and of any other conditions pertinent to construction upon the completed cut or fill.

j. If the civil engineer, the soils engineer, the engineering geologist or the testing agency of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of his technical competence for certification upon completion of the work.

k. If, in the course of fulfilling his responsibility under this chapter, the civil engineer, the soils engineer, the engineering geologist or the testing agency finds that the work is not being done in conformance with this chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the City. Recommendations for corrective measures, if necessary, shall be submitted.

l. Upon completion of the rough grading work, and at the final completion of the work, the City may require the following reports and drawings and supplements thereto:

1. An as-graded grading plan prepared by the civil engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and subsurface drainage facilities;

2. A soil and geologic grading report prepared by the soils engineer and engineering geologist including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. The report shall include a final description of the geology of the site including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved grading plan. A certification shall be provided as to the adequacy of the site for the intended use as affected by soil and geologic factors. (§1, Ord. 1193, eff. December 26, 1973, as amended by §§25-29, Ord. 1284, eff. September 8, 1976)

Sec. 9-9.10. Duration of Permit.

a. If a substantial amount of work authorized by any permit is not commenced within six months of the date of issuance or as otherwise indicated on the face of the permit or on the subdivision improvement agreement, or if the work is not completed within one year or as otherwise indicated on the permit or in the improvement agreement, the permit shall expire and become void.
b. In the event any person holding a grading permit pursuant to this chapter violates the terms of the grading permit, or conducts or carries on the grading in such a manner as to materially affect adversely the health, welfare or safety of persons residing or working in the neighborhood of the property of the permittee, or conducts or carries on the grading so that the grading is materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City shall revoke or suspend the grading permit and a temporary suspension may be made effective immediately upon notification by the City. (§1, Ord. 1193, eff. December 26, 1973, as amended by §30, Ord. 1284, eff. September 8, 1976)

**Sec. 9-9.11. Hazards.**

Whenever the City determines that any existing excavation or embankment or fill on private property has become a hazard to life and limb, or endangers property or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agent in control of the property, upon receipt of notice in writing from the City, shall within the period specified therein repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this chapter. (§1, Ord. 1193, eff. December 26, 1973)

**Sec. 9-9.12. Nuisance.**

The provisions of this chapter shall not be construed to authorize any person to maintain a private or public nuisance upon their property, and compliance with the terms of this chapter shall not be a defense in any action to abate such nuisance. (§1, Ord. 1193, eff. December 26, 1973)

**Sec. 9-9.13. Exemptions.**

Except as specified in this chapter, this chapter shall not apply to projects with fully approved tentative maps which approvals have been made prior to December 26, 1973. (§1, Ord. 1193, eff. December 26, 1973, as amended by §31, Ord. 1284, eff. September 8, 1976)

**Article 2. Site Improvement**

**Sec. 9-9.201. Purpose.**

It is the declared intent of the City of Walnut Creek that development of property within the City of Walnut Creek shall be safe and orderly and the impacts of development on the existing community are properly mitigated. Therefore, the following regulatory provisions of this article are adopted for the purpose of stringent control of all aspects of site improvement. (§2, Ord. 1803, eff. 8/27/92)

**Sec. 9-9.202. Permits Required.**

a. No person shall do any of the following work without first having obtained a Site Development Permit approved by the City Engineer.

   1. Construction of frontage improvements, installation of concrete or asphalt paving and parking lots according to this Chapter and Chapter 4 (Design Review) of Title 10 (Planning and Zoning).
(2) Landscaping as required by Chapter 4 (Design Review) of Title 10 (Planning and Zoning).

(3) Construction of any improvements of the above mentioned type which may be required off-site.

(4) Construction of retaining walls which are not part of a building except as provided in b. (2) and (3) below.

(5) Construction of, or replacement of, curbs, gutters and sidewalks required for residential building permits.

b. The following shall not require a Site Development Permit:

(1) All site or off-site work which is being performed under the provisions of a subdivision improvement agreement and/or an encroachment permit.

(2) A concrete or concrete block retaining wall not supporting a surcharge with a height of less than four (4) feet measured from the bottom of the footing to the top of the wall.

(3) A wood retaining wall not supporting a surcharge with a height of less than three (3) feet measured from the finish grade to the top of wall.

(4) Any site improvement work which is determined to be minor in nature by the City Engineer, such as driveway repair and replacement, private area drainage systems and landscaping which does not require approval of the Design Review Commission. (§2, Ord. 1803, eff. 8/27/92)

Sec. 9-9.203. Definitions.

a. For the purposes of this chapter, the definitions listed under this section shall be construed as specified in this section. Words not defined shall have their common usage or technical definitions.

(1) Development or Improvement means any physical alteration to a site, including, but not limited to, construction of drainage facilities, streets, parking lots, landscaping and utilities.

(2) Erosion Control means the control of erosion and sedimentation from rain and runoff during and after project construction.

(3) Frontage improvements means sidewalks, curbs, gutters, conform pavement, street lights, utilities, storm drainage, and driveways, constructed as approved and in accordance with City standard plans and specifications.

(4) Landscaping means planting, irrigation systems, electrical control equipment, area drainage systems, fencing, decorative pavers, pathways and related improvements.

(5) Off-site means all property or easements not physically located on the site, or rights-of-way not contiguous to the site, in which the City has required improvements to be installed.

(6) Pavement means the paved area from the gutter lip to the centerline of the street.
(7) **Private street** means a street, easement, or way or other area open to and used by the public and/or several property owners for pedestrian and vehicular traffic which has not been dedicated to the public and accepted by the City Council.

(8) **Public street** means a street which is open to the public for pedestrian and vehicular traffic and which has been dedicated to the public and accepted by the City Council.

(9) **Site** means all that property within the legal lot lines of a parcel of property for which application is made for development. All streets or access rights-of-way, public or private, contiguous to said parcel shall be considered a part of the site from the centerline of said streets or accesses.

(10) **Street setback line** means the City adopted existing or future street right-of-way line to which street frontage improvements are constructed and right-of-way is dedicated to the City. (§2, Ord. 1803, eff. 8/27/92)

**Sec. 9-9.204. Plans Required**

a. Plans for all site development shall be submitted for approval to the Public Services Department. Plans shall include, but not be limited to, drainage, erosion control, parking lots, driveways, retaining walls, subdrains, lighting, landscaping, fencing, walkways and utilities. (‘17, Ord. 2046, eff. 12/1/2005)

b. The plans shall include a survey, if required by the City Engineer, of the property proposed to be improved prepared and signed by a licensed land surveyor.

c. Landscape plans may include walkways, lighting, fencing, area drainage, mounds, planters, benches, arbors and other architectural features. Landscape plans shall be prepared and signed by a registered landscape architect.

d. The improvement plans shall be prepared and signed by a registered civil engineer and shall delineate the following information:

   (1) A vicinity map.

   (2) The exterior lines of the property defined by appropriate stakes or marks with bearings and distances between them.

   (3) The distance along the street property line from a side line of the property to the nearest intersecting street or street monument.

   (4) Contour lines at not more than two (2) foot intervals, which extend to the center of the street. All grades and contours shall be based on the U.S. Coast and Geodetic Survey Datum.

   (5) The location of all existing buildings on the property.

   (6) The location of existing street improvements, utilities, water courses and drainage facilities on or affecting the property, and any existing easements or proposed easements required;

   (7) The location, dimensions and elevation of all the proposed improvements.
(8) Driveway profiles from the street centerline along both sides of the driveway to the garage or carport if the driveway slope is greater than 10%.

(9) The location of all existing trees as defined in Chapter 8 of Title 3 of the Walnut Creek Municipal Code relating to preservation of trees.

(10) Erosion control plans if construction is to be done between October 15th and April 15th. Plans shall be based on the "Manual of Standards for Erosion and Sediment Control Measures" from the Association of Bay Area Governments. (§2, Ord. 1803, eff. 8/27/92)

Sec. 9-9.205. Frontage Improvements.

a. No permit for construction of a new or replacement building or expansion of any building which increases the building floor area by more than 50% shall be issued, or variance granted, or use permit issued until the City Engineer shall state that:

(1) Adequate onsite and offsite storm drainage facilities are provided to convey storm drainage to an adequate point of discharge according to the City minimum drainage standards; and

(2) One of the following conditions has been satisfied:

(i) The frontage improvements have previously been installed in accordance with the Street Setback Line; or

(ii) The frontage improvements, designed by a registered civil engineer, will be installed in accordance with the Street Setback Line as a part of the Site Development Permit at no cost or expense to the City; or

(iii) The City Engineer has found that physical constraints, practical difficulties, or extenuating circumstances exist and that the owner has entered into an agreement with the City to defer construction of the improvements to a future date determined by the City Engineer; or

(iv) If approved by the City Engineer, the owner has paid a fee in lieu of construction. (§2, Ord. 1803, eff. 8/27/92)

Sec. 9-9.206. Conditions of Permit Approval.

Any Site Development Permit shall be subject to the following conditions:

a. Reconstruction of Existing Streets. If the structural section of the existing street along the site frontage is inadequate for the estimated traffic index, as determined by the City Engineer, the increased street structural section shall be constructed to the street centerline.

b. Dedication of Rights-of-Way and Easements. The City Engineer may require the developer to dedicate or offer to dedicate public rights-of-way and/or other easements as necessary. Dedications may include rights-of-way and/or easements for future streets and/or drainage facilities. Dedication or offer of dedication shall be made to the City in a form satisfactory to the City Attorney.

c. Private Streets. Access from a public street to all developed lots shall be concrete, asphalt concrete or other impervious surfacing material. Private streets shall be improved to
public street standards. Width of improvements shall be determined by the City Engineer according to the minimum street design standards. A driveway approach shall be constructed for the connection of a private street to a public street. The applicant shall provide evidence of legal access to a public street.

d. Driveway Access. Driveway access from a public or private street shall be concrete, asphalt or other impervious surfacing material from the street to any covered vehicle parking space or parking lot. If an existing driveway is relocated, the existing driveway approach shall be removed and replaced with sidewalk.

e. Undergrounding of Overhead Utility Lines.

(1) For new construction and expansion of existing structures by 50% or more in the Core Area, as designated on the General Plan, all overhead utility lines along the development's frontage street(s) shall be undergrounded or an in lieu of undergrounding fee paid. Undergrounding shall be required for overhead lines on either side of the street. The fee shall be determined by the City Engineer based on one-half the estimated cost necessary to underground all overhead utility lines on both sides of the street. In lieu fees shall be deposited in a special undergrounding account to be used as approved by the City Council for future undergrounding of overhead utility lines within the Core Area.

(2) For new construction and expansion of existing structures by 50% or more outside the Core Area, undergrounding overhead utilities shall not be required. If the City Engineer finds that undergrounding of the utilities in the area is likely to occur within the ten-year period following approval of the development, the owner shall be required to pay a fee in lieu of undergrounding according to Section 9-16.10.a. The in lieu fee collected shall be used only for the undergrounding of utilities along streets adjacent to the development. If the fee is not used within the ten-year period, the City, upon request by the owner, shall refund the fee.

f. The City Engineer may impose additional conditions necessary to carry out the purpose of this Article. (§2, Ord. 1803, eff. 8/27/92)

Sec. 9-9.207. Fees and Security.

The fee for issuance of a Site Development Permit shall be according to the Council resolution establishing fees and charges. Amount and type of security to guarantee the completion of the public and private improvements shall be set by the City Engineer based on the size of the development. Security may be a cash deposit with the City, a certificate of deposit, a bond or a combination of securities in a form acceptable to the City Engineer. Security shall be released upon completion of the improvements and written acceptance of the public and private improvements by the City Engineer. (§2, Ord. 1803, eff. 8/27/92)

Sec. 9-9.208. Issuance Of Permit.

No permit shall be granted until all the required data has been submitted, the plans have been approved by the City Engineer, all fees have been paid and security has been submitted. (§2, Ord. 1803, eff. 8/27/92)

Sec. 9-9.209. Duration of Permit.
a. If work has not commenced within six (6) months of the issuance of the permit, or the commencement date stated on the permit, the permit shall expire and become void. An extension of time may be granted by the City Engineer. Additional permit fees may be required. If work is not completed by the date stated on the permit, the permit shall expire and become void. The City Engineer may require re-submittal of plans and additional permit fees to grant an extension of the time for completion of the project.

b. If any person who has been issued a Site Development Permit violates the terms of the permit, or conducts or carries out the work in a manner which adversely affects the health, welfare, or safety of persons in the area of the work, or work is being done which is detrimental to the public welfare or injurious to property or improvements in the area, the permit shall be revoked or suspended upon notification to the person having the permit by the City Engineer. No work shall be done until a valid permit is issued. (§2, Ord. 1803, eff. 8/27/92)


No certificate of occupancy for any building shall be issued until the City Engineer has stated that the public and private improvements for which a Site Development Permit has been issued have been completed. (§2, Ord. 1803, eff. 8/27/92)