

ORDINANCE NO. 0034

THE TOWN OF HORIZON CITY, TEXAS

AN ORDINANCE OF THE TOWN OF HORIZON CITY, TEXAS
CONCERNING CONSTRUCTION GRADING

SECTION 1 - PURPOSE

The provisions of this ordinance are to complement the Planning and Zoning Ordinance, and to make the uses permitted by this ordinance more feasible and acceptable in the interest of the individual property owner, the adjacent property owner and the general public. It shall be the purpose of this ordinance:

- A. To ensure that proposed grading shall result in the minimum possible disturbance of terrain and natural land features necessary to construct residences or other permitted buildings or structures, or to conduct other legal land uses;
- B. To prevent grading which unnecessarily changes the terrain or other natural features, or creates flood problems or irreparable scars which will have an adverse effect on the physical character or economic viability of the community as an attractive place to live;
- C. To ensure that the grading will not adversely affect the natural topographic drainage features, arroyos or other drainage features or alter natural surface runoff;
- D. To ensure that lateral support to either public or private property is not endangered.

SECTION 2 - COMPLIANCE WITH PROVISIONS

- A. No grading shall be done within the town without complying with the requirements of this ordinance. No blasting shall be done with a grading permit. A grading permit can only be issued after review of a grading plan by the Planning and Zoning Commission. A copy of the grading permit must be posted on the grading site during hours of operation.
- B. Work for which a grading permit has been issued under this ordinance shall be executed in conformance with the grading plan approved by the Planning and Zoning Commission and shall not be abandoned or left incomplete.
 - 1. Failure to continue significant work on a grading site once grading has begun may be determined by the designated official to be an abandonment of the work required by the permit, and such abandonment will constitute a violation of this ordinance.
 - 2. Having persons or equipment at a site but not prosecuting the work is not construed to be significant work.

SECTION 3 - DEFINITIONS

For the purpose of this ordinance, the following words have the meaning set forth in this section:

- A. "GRADING" means any disturbance of the surface of the land with earth-moving or other heavy equipment.
- B. "PROCESSED MATERIAL" means naturally occurring materials such as sand, gravel and rock which have been subjected to any process other than initial excavation such as, but not limited to, screening, crushing, washing and segregating.

SECTION 4 - PERMITS REQUIRED

- A. Clearing and Access Permit - "Clearing" means the removal of surface vegetation without disturbance of the root system. A clearing and access permit may be issued by the designated official:
 - 1. To permit the grading of an access road to a site;
 - 2. To permit clearing of vegetation when this work is necessary to allow proper preliminary engineering on the site;
 - 3. To provide security for a site from unauthorized grading or dumping by clearing, loosening and banking the soil in a narrow band around the perimeter of the property;
 - 4. For such other purposes as the designated official may determine are proper but which do not entail reshaping the contour of the land to any significant degree.
- B. Prefinal Grading Permit - A prefinal grading permit may be issued by the designated official:
 - 1. Prefinal grading is grading of a site prior to final grading for the purpose of further defining the extent of grading to be performed on the site;
 - 2. A prefinal grading plan shall show the extent of all cuts and fills, and shall maintain on-site balance of earthwork. No materials shall be brought to or taken from the site;
 - 3. Prefinal grading shall be performed without major alteration of watersheds and drainage patterns, unless appropriate and adequate means of water retainage or control are utilized and shown on the prefinal grading plan;
 - 4. A prefinal grading plan shall show the methods of dust, erosion and drainage control as provided in Section 19, Engineering Controls for Grading, that will be utilized during and after such grading is completed but prior to final grading and final design;
 - 5. No on-site processing of material for commercial or retail sales shall be allowed. On-site processing of materials to be used for preparation or construction of improvements within the site covered by the prefinal or final grading permit shall be allowed;

6. Transporting of processed materials from one site shall be allowed to a noncontiguous site when:
 - a. Both sites are under the same ownership,
 - b. The processed material is transported from a site with a prefinal grading permit to a site with a final grading permit, and
 - c. The site where the material is processed shall have a prefinal grading permit and a borrow permit,
 - d. The designated official shall approve the route for transporting processed material from one site to another, and the acceptable wheel-axle loads.

C. Final Grading Permit - A final grading permit may be issued by the designated official:

1. Final grading is reshaping of the land to conform to approved plans for construction on the property. Final grading permits may be issued based upon approved subdivision, building or such other improvement plans as are necessary for development of the property on which such permit is requested;
2. On-site processing of material shall be allowed as specified in Section 4, Subsection B, parts 5 and 6;
3. A final grading plan shall show the methods of dust, erosion and drainage control as provided in Section 19, Engineering Controls for Grading;
4. Borrow or waste, if required for final grading of a site, shall be permitted and shall require a borrow or waste permit in conformance with Section 4, Subsection D.

D. Borrow or Waste Permit - A borrow or waste permit may be issued by the designated official with the following conditions:

1. A borrow or waste grading plan and a projected land use plan for the borrow or waste area shall be submitted;
2. No borrow pit permit shall be issued for a borrow site unless required or used for drainage;
3. The borrow grading plan shall indicate where the borrow is to be used and a grading plan for the waste of the borrow shall be submitted. If the borrow is for use on grading work to be performed by or for the town, county, state, federal or other governmental agencies a grading plan for the placement of the borrow may not be required;
4. The waste grading plan shall indicate where the source of the waste is located and a grading plan for the area that is the source of the waste shall be submitted. A waste grading plan is required only if the waste area is offsite the area that is the source of waste;
5. The borrow or waste plan shall clearly identify the location, area and volume of grading required by the borrow or the waste permit.

No grading shall be conducted beyond the limits established by the permit;

6. The borrow or the waste grading plans shall show the methods or structures required for dust, erosion or drainage control; as provided in Section 19, Engineering Controls for Grading;
7. No on-site processing of material for commercial or retail sales shall be allowed;
8. If materials are to be borrowed from or wasted to a development site, it will be necessary to have a final grading permit for either the borrow or the waste site, and a prefinal grading permit on the other site. All requirements of the prefinal grading permit as part of borrow or waste site shall be observed except that earthwork need not balance.

SECTION 5 - EXCEPTIONS FROM PERMITS

Permits will not be required under the following circumstances, which are exceptions concerning only the obligation to apply for a permit, and do not relieve the landowner from complying with the remaining provisions of this ordinance. The person engaged in grading shall have a burden of establishing that he comes within any of the following exceptions:

- A. If the work is to be performed in connection with construction on a legally platted residential lot or an unplatted residential lot not exceeding one acre in size and the work is covered by a valid building permit, a grading permit may not be required. In addition, if work is to be performed in connection with construction on a legally platted lot which has been graded under a previously issued permit in accordance with grading and drainage plans previously approved by the designated official, a grading permit may be waived by the designated official;
- B. Where the work is a trenching operation for the construction or repair of pipelines and other underground utilities;
- C. Where the work is performed as part of a town solid waste disposal operation;
- D. Where the work is small in depth, area or effect such as, but not limited to, tree planting and minor landscaping on a residentially used property;
- E. Where the work is a town public works project under the direction of a town official.

SECTION 6 - PROPOSED SUBDIVISIONS

If property is required to be subdivided by the zoning ordinance, no final grading permit will be issued until a preliminary subdivision plat has been approved by the Planning and Zoning Commission and a final grading plan has been approved by the designated official.

SECTION 7 - PERMIT APPLICATION

Any person desiring a permit under this ordinance shall apply to the designated official upon forms furnished by the town. The application will be signed by the owner of the property where the work is to be performed or by his duly authorized agent. The applicant shall assure that all application data are correct. Any falsification of application data shall invalidate the permit.

- A. Every application will contain the following information:
1. Location, nature and extent of the proposed work and a statement as to the intended use of the site. Changes in the intended use of the land involved will require reapplication for a permit;
 2. The name and address of the owner of record (and owners, if more than one) of the property on which the work is to be performed;
 3. The names and addresses of the persons or organizations that will perform the work and of the person who will be in effective control of the work;
 4. The amount of material to be excavated, moved or filled and the proposed scheduling of the work;
 5. Any additional information required by the designated official that may be required to carry out the purpose and intent of this ordinance.
- B. An application for a prefinal grading permit and a borrow or waste permit shall include the following additional information:
1. Grading plans which show the proposed contours to which the prefinal grading or borrow or waste site will shape the site;
 2. Drainage plans which show existing watersheds and how storm water falling on site will be contained or channeled after preliminary grading has been completed;
 3. Erosion control plans which show all reasonable measures for control of material from being transported off the site due to either wind or water.
- C. An application for a final grading permit shall include complete grading, drainage and construction plans showing in detail the final contours, grades, elevations and all facilities for control and disposition of storm water runoff.

SECTION 8 - LIABILITY INSURANCE REQUIRED

General liability insurance shall be required as a condition for procurement of a grading permit. Insurance shall not be required for projects less than one acre in size. Procurement and maintenance of such liability insurance policy shall be the sole responsibility of the applicant. Before any grading permit is issued the applicant shall attach a copy of a current certificate of insurance as evidence of general liability and contractual insurance to the application. The minimum limit of liability shall be three hundred thousand dollars (\$300,000.00) com-

bined single limit. Such policy certificate shall provide that the insurance cannot be canceled or the limit of coverage reduced without thirty days prior written notice to the designated official. Failure to provide the insurance certificate or failure to meet the minimum liability insurance requirements will result in no permit being issued. Should the liability insurance policy expire or be canceled, the designated official shall revoke any outstanding grading permit under such policy.

The applicant shall be required to enter into a hold harmless agreement with the town, protecting the town, any of its departments, agencies, officers or employees, from all cost, injury and damage incurred by the applicant and from any other injury or damage to any person or property whatsoever caused by any activity, condition or event arising out of any act authorized by the permit. The designated official shall provide the approved form for this hold harmless agreement.

SECTION 9 - PERMIT APPLICATION REFERRAL TO PLANNING AND ZONING COMMISSION

When grading is to be performed on an unplatted site or when the area of the site exceeds one acre, the designated official may refer the application to the Planning and Zoning Commission for study and comment. The Chairman of the Commission will report on any aspect of the proposed work which relates to or affects the zoning or land use, and on the apparent ecological effect of the development. The Chairman will transmit his comments and recommendations to the designated official within a period of thirty (30) days. Failure to respond on the part of the Planning and Zoning Commission within this time period will be deemed concurrence in the continued processing of permit application.

SECTION 10 - PERMIT APPLICATION REFERRAL TO EL PASO-HUDSPETH SOIL AND WATER CONSERVATION DISTRICT

When grading is to be performed on an unplatted site larger than twenty acres, the application may be referred to the El Paso-Hudspeth Soil and Water Conservation District for review and comment when determined advisable by the designated official. The district will have thirty (30) days in which to report on any aspect of the proposed work which relates to land use, soil conditions or soil erosion control during construction and after final grading. Failure to respond within the thirty (30) day period will be deemed concurrence in the continued processing of permit application.

SECTION 11 - ISSUANCE OR DENIAL OF PERMIT

A. The grading permit will be issued by the designated official upon verification and approval of the information contained within the permit application; upon the timely receipt if any, of the comments and recommendations of the Planning and Zoning Commission and the El Paso-Hudspeth Soil and Water Conservation District where referrals have been made; and upon payment of the appropriate permit fees.

B. The designated official can refuse to issue any grading permit not otherwise approved by the Planning and Zoning Commission or the Town Council whenever the proposed grading is contrary to the provisions of this ordinance.

C. If any person is found grading or otherwise disturbing the ground cover of any property within the town without a grading permit, he must apply for a grading permit and shall be subject to a double permit fee.

SECTION 12 - PERIOD OF VALIDITY OF PERMITS

All permits except for borrow and/or waste permits, issued shall expire within one year of the date of issuance of the permit. Two one-year extensions for completion of work may be granted subject to an additional thirty percent (30%) of the initial total fee for each extension. An application of extension should be submitted to the designated official no later than thirty (30) days before the expiration of the permit. The permit will become void and a new permit application required after the expiration of the second extension. Borrow or waste permits shall expire within six (6) months from the date of issuance of the permit. Upon expiration of the permit, the reapplication of the borrow or waste permit shall be required.

SECTION 13 - PERMIT FEES

A. The application for a permit shall be accompanied by a fee as indicated below:

ACRES	CLEARING AND PERMITS	PREFINAL GRADING PERMITS	FINAL GRADING PERMITS
0 - 5	\$ 50.00	\$100.00	\$250.00
5 - 10	60.00	120.00	300.00
10 - 20	70.00	140.00	350.00
20 - 30	80.00	160.00	400.00
30 - 40	90.00	180.00	450.00
40 - 50	100.00	200.00	500.00
50+	110.00	220.00	550.00

The standard fee for a borrow or waste permit shall be three hundred dollars (\$300.00) for each site.

B. The fees are to help pay the expense of enforcing this ordinance and will not be returned. The cost of any required tests of soils or materials will be an additional charge to the applicant.

SECTION 14 - REVOCATION OF PERMITS

A. After reasonable notice and opportunity to be heard, the designated official may revoke a permit issued under this ordinance if he finds that the work being done is in violation of this ordinance or any other ordinance or law, or creates an unreasonable hazard to persons or property.

B. In the case of a permittee whose permit has been revoked, the designated official may also suspend all other permits currently held by such person, pending completion of any investigation regarding the revoked permit. The permittee whose permits have been suspended shall have the right to appeal the suspension of the permits to the Town Council. If the Town Council finds there is a reasonable relationship between the revocation and the suspension of all currently held permits, the suspension will be upheld.

SECTION 15 - REMOVING HAZARDOUS CONDITIONS

A. If the designated official finds that any grading (either complete or in progress) is causing a hazard to persons or property, he may notify the owner or his authorized agent and require that the hazard be removed or eliminated as soon as practical depending upon the degree of urgency associated with the hazard involved. If such action is not completed within the time limit stated within the notice, the designated official may require the reasonable temporary protective measures be provided in the interim.

B. If materials are washed or deposited upon streets, alleys or other public property as a result of improperly controlled grading of higher or adjacent lands, the designated official shall notify the owner or his authorized agent to remove such materials and restore the streets, alleys or other public property to their original condition. Failure to comply with such an order shall be a violation of this ordinance as provided in Section 20.

C. In addition, and regardless of whether or not any person is convicted of a misdemeanor for failure to comply with the designated official's notice under subsection A or B of this section, the designated official may, if the owner fails to comply with such notice, authorize the work to be done by town forces or by contract. The designated official shall then report to the Town Council the actual cost of doing such work. After notice and an opportunity to be heard, the Town Council may by resolution determine the actual cost of doing the work and declare this amount, plus the cost of recording the resolution, to be a personal liability of the owner of the land and a lien on the land, payable within ten (10) days after adoption of the resolution, and therefore bearing the twelve percent (12%) simple annual interest until paid. A copy of the resolution, authenticated by the acknowledgment of the Town Clerk shall be filed for record in the office of the County Clerk. Notice of the hearing before the Town Council shall be in writing and delivered in person or sent by certified mail with return receipt requested to the owner and the holders of recorded liens on the property. If after reasonably diligent efforts the person to be notified of such hearing cannot be found, notice may be given by one publication in the official newspaper.

D. Materials from a grading site which are spilled or deposited onto public streets shall be removed by the contractor or permittee on the same day. Whenever earthen ramps are required to cross town rights-of-way, approval must be obtained by the designated official.

SECTION 16 - RESPONSIBILITIES OF THE LANDOWNER OR HIS AUTHORIZED AGENT

Under this ordinance the landowner or his authorized agent will bear responsibility for:

A. Obtaining a permit if required for grading. Application for the permit shall be made as provided in Section 7;

B. Obtaining, when required, the services of an engineer or architect, authorized to practice in the state;

C. All of the legal duties, obligations or liabilities incident to ownership of the property while the work of grading is in progress or after the completion of the work. Neither the issuance of a permit under nor the compliance with the provisions of this ordinance shall relieve any person or owner from any responsibility for damages to persons or property otherwise imposed by law, nor impose any liability upon the town or any official of the town for such damages;

D. Installing the appropriate devices, structures, landscaping and facilities and executing soil stabilization, erosion control, handling of materials and other proper measures in conjunction with any proposed grading so as to fulfill the intent and purpose of this ordinance;

E. The continued maintenance and repair of all retaining walls, cribbing, drainage facilities, slopes, landscaping, soil stabilization and erosion control measures and any other protective devices located upon his property and constructed pursuant to the permit;

F. It shall be the responsibility of the applicant applying for a grading permit to obtain clearance from all utilities with a property interest within the boundaries of the permit. Failure to clear any such utility, may result in an immediate suspension of the grading permit at the discretion of the designated official.

SECTION 17 - RESPONSIBILITY AND AUTHORITY OF THE DESIGNATED OFFICIAL

The designated official, under the authority of the Alderman in charge of Planning and Zoning, shall be responsible for:

A. Reviewing all grading permit applications as submitted under the requirements of Section 7 and the issuing or denying of grading permits as expeditiously as possible;

B. Performing or obtaining all the appropriate tests and inspections to assure that the conditions of the permit and intent and purpose of this ordinance have been fulfilled. The costs of all the tests required shall be paid for by the applicant;

C. Imposing such conditions and specifications on the issuance and duration of the grading permit as may be reasonably necessary to cause the work to fulfill the intent and purpose of this ordinance. These conditions and specifications shall include, but will not be limited to, the following:

1. Interim and permanent soil erosion control and land management requirements including provisions for:
 - a. Disturbed soil surface treatments (emissions, mulches, seeding and the like),
 - b. Protective drainage measures for surface drainage and subsurface water where required,
 - c. Terracing and use of dikes and berms,
 - d. Landscaping measures,

- e. Paving and other miscellaneous related measures;
- 2. Compaction requirements in filled areas;
- 3. Slope stabilization requirements, including the establishment of:
 - a. Degree of slope limitation,
 - b. Height of slope limitation,
 - c. Allowable factors of safety with respect to slope stability,
 - d. Protective drainage measures,
- 4. Work procedures and safety requirements;
 - a. Protective fencing
 - b. Excavation slope limitations, shoring and bracing,
 - c. Traffic control requirements concerning transportation of materials on public ways,
 - d. Limitations on the amount of area which may be disturbed by grading operations,
 - e. Work scheduling requirements,
 - f. Stockpiling and reuse of top soils;

D. Promulgating rules and regulations, subject to the approval of the Town Council, concerning grading, concerning the setting up of technical specifications, and concerning the administration of this ordinance. The technical specifications shall deal with (but are not limited to) criteria for degree and height of slope, compaction requirements, work procedures, safety standards, drainage, traffic control requirements, slope protection, methods of erosion control and other matters pertinent to the conduct of the work and the quality of the work upon collection.

SECTION 18 - AUTHORITY TO ISSUE CITATIONS

A. The following public officials are authorized to enforce the provisions of this ordinance and shall have the power to issue Class C misdemeanor citations to any persons violating the provisions of this ordinance:

- 1. Designated official 1
- 2. Designated official 2
- 3. Designated official 3
- 4. Designated official 4

B. The public officials designated in the subsection A of this section are authorized, effective as soon as administratively possible, to make inspections of any property necessary to enforce the provisions of this ordinance. If the owner or person in possession of any property refuses to allow the public officials permission to enter the property, at any

reasonable time, those officials shall have recourse to every remedy provided by law to secure entry including obtaining the proper judicial warrants.

SECTION 19 - ENGINEERING CONTROLS FOR GRADING

A. Statement of Purpose - Earthmoving machinery and methods may be applied to most clearing, grubbing, excavating, filling and land grading operations. The requirement for grading permits may differ due to local conditions of land use, proposed site development, drainage patterns, topography, soil conditions and other items.

The principal burden of designing a proper plan for grading must fall unto the landowner, developer, contractor, engineer or architect concerned with the project. In view of this circumstance, the following requirements have been developed as an aid for operations covered the Grading Ordinance. Under no circumstances, should these conditions be construed to replace the basic requirements of judgement, experience or competence that are a part of good engineering and land development practice. The designated official, in order to assure that correct grading practices are followed as directed by this statement of purpose, may impose any of the following requirements as part of the issuance of a grading permit.

B. Soil Erosion Control Guidelines - The requirements for soil erosion control measures depend largely upon the extent of the destructive and nuisance potentials due to erosion that may develop from the work to be performed. Thus, the need for erosion control measures is largely determined by prevailing winds, drainage patterns, soil characteristics, residences, businesses, thoroughfares and other facilities.

C. General Principles of Effective Erosion Control - The following general principles indicate the general measures of erosion control that when properly applied reflect compliance with this ordinance:

1. Development plans for any project site should be effectively fitted to existing topography and soils as practical so as to create the least erosion potential possible.
2. The smallest practical project areas should be physically disturbed at any one time in the development of the site. Where possible, final structures, paving, facilities and effective drainage control measures should be completed in each project area as soon as possible.
3. Project areas physically disturbed during development should be exposed to erosion producing influences for the shortest period of time practical. Every effort should be made to schedule the work to avoid the windy and rainy seasons of the year when at all possible.
4. Special consideration should be given to stabilize critical project areas. Critical areas are those particularly subject to erosion due to effects of wind and water.

D Specific Erosion Control Measures - Erosion control methods for physically disturbed critical project areas:

1. Wind Erosion - The following methods of wind erosion control may be required:
 - a. Watering - During and after completion of site grading the project area shall be completely watered as required to control wind erosion or as directed by the designated official.
 - b. Wind Fencing - Reusable wind fencing may be employed to reduce the effects of wind erosion. This fencing should be located immediately adjacent to critical project areas or as required by the designated official.
 - c. Disturbed Surface Treatments - Other measures that may be employed for control in critical areas are the use of materials such as straw, mulch nettings, asphaltic mulch, mulch and seed mixture, rip-rap, paving, landscaping, etc.
2. Water Erosion - Where drainage patterns, soil characteristics and proximity to downstream development suggest that water erosion may cause hazards or damage to public or private property, the following control measures may be required:
 - a. Permanent storm drainage facilities, paving and other related facilities should be constructed as soon as practical to reduce water erosion problems.
 - b. Where clearing and grubbing, excavating, stockpiling or filling or grading operations will result in long term exposure to rainfall and runoff, the following temporary control measures may be required:
 - 1) Temporary diversions and interceptor ditches to intercept runoff and divert it to a safe outfall before destructive erosion can occur on the project area;
 - 2) Temporary bermed rainfall storage cells or bench terraces to capture and retain rainfall to allow for disposal by percolation into the soil. These cells can be constructed on flat or mild slopes by blading an intersecting network of low berms which can be made in a manner consistent with the rough grading plan for the site.
 - 3) Contour ripping may be employed on medium to mild slopes to retard runoff and to better induce disposal of rainfall by percolation.
 - 4) Other measures for disturbed surface treatments as indicated in subsection D.1.c of this section may also be required where desired.
 - c. Special care will be taken to ensure that the slope faces of cut, fill or natural slopes are completely protected from runoff. This may be accomplished by:
 - 1) Construction of berms and swales on the brow or top of the slope to provide protection from runoff. Swale inverts may be required to be paved.



- 2) Grading of areas adjacent to slopes shall drain away from slope face.
 - 3) Construction of bench terraces in slopes of thirty or more feet in height. A bench terrace should be at the mid-height of a thirty foot high slope and should be no more than twenty feet vertically apart on slopes in excess of thirty feet in height. The bench should be constructed in such a way as to collect rainfall and conduct it to a point of safe discharge. The invert of the bench terrace may be required to be paved to prevent the percolation of water into the slope.
 - 4) No storm water storage should be allowed at or adjacent to the top of a slope
 - 5) Cut and fills should be set back a minimum of five feet from property lines and fences. Walls, buildings or structures should be set back from cut or fill slopes sufficiently to allow access to the top of the slope for maintenance purposes and to assure the stability of the slope and the security of the foundations of the buildings and structures.
 - 6) Drainage facilities should be provided to protect slope faces from erosion. Subsurface drainage facilities should be provided where needed to intercept seepage that would affect slope stability, building and structure foundations or create undesirable wetness.
3. Exposure for Extended Periods of Time - Where any project area is to be exposed to the effects of wind or water for extended periods of time, erosion control measures should be continued or maintained until natural growth comparable to that removed by the work has been reestablished or until a stable, final development project has been wholly completed.

E. Earthwork Requirements - The requirements for earthwork are generally fulfilled through application of the requirements of good engineering practice. Thus, significant earthwork should be designed by a registered professional engineer. An approved grading plan signed by a registered engineer will generally govern as determining the specific requirements of significant earthwork. Significant earthwork may be considered the grading of large tracts of land and the construction of fills, excavations and slopes.

1. General

- a. Fill materials should be free of materials detrimental to the construction of stable fills.
- b. No fill or excavation should have final exposed face or final excavated face more steep than two feet horizontal to one foot vertical except where otherwise determined by a professional engineer as part of his design.

- c. Excavations should not be made close to property lines as to endanger adjoining property without providing support and protection to prevent damage due to erosion, sliding or settlement.
- d. Fills should not be placed where they will slide or wash onto the property of others; nor should they be placed where they will cause encroachment upon arroyos or other natural drainageways without provision of facilities to assure that capacity of the drainageway as approved by the designated official.
- e. Fills that toe out on natural slopes or grades steeper than three feet horizontal to one foot vertical should not be made unless the fill has been designed by a registered professional engineer.
- f. Fills placed above the top of an existing or proposed surface with a slope steeper than three feet horizontal to one foot vertical shall be set back from the top of the slope face at least five feet.
- g. Prior to placing fills on natural surfaces, all organic materials should be removed and the natural surface should be scarified to a depth of three inches.
- h. Temporary drainage facilities should be provided to protect the earthwork from erosion, overflow or ponding as generally indicated in subsection D.2 of this section.

2. Compaction

- a. The compaction requirements for load bearing fills upon which buildings and structures are to be located should be determined by a registered professional engineer as part of the design for the fill.
- b. Load bearing fills upon which streets, alleys or public facilities are to be located shall fully meet the requirements of the designated official as to the quality of fill materials, placement and compaction.
- c. Fills should be compacted to minimum density of eighty-five percent as per American Society of Testing and Materials D-1557. Fills shall be placed and compacted to minimize erosion and to produce a stable surface.

*applicable to
the residential
grade (regional)
Notes: same
as Ref. 1
Low to 1*

F. Other Conditions - The following conditions may be imposed by the designated official

- 1. Flagmen may be required as part of the grading permit.
- 2. Any use of vibratory rollers must be approved by the designated official.
- 3. The designated official must be notified twenty-four hours in advance of any work; such as placing curb, pavement and storm sewer in town right-of-way.

4. The designated official may impose hours of operation and truck routes to be utilized based on individual site locations and shall be indicated on the permit.

SECTION 20 - PENALTY

Violations of the provisions of this ordinance shall be determined as having been done intentionally, knowingly, recklessly or with criminal negligence. Any person violating this ordinance shall be deemed guilty to a misdemeanor and shall be punished by a fine not to exceed two thousand dollars (\$2,000.00). In the case of a continuing violation, each day's violation shall be deemed a separate offense and may be punished as herein contained.

PASSED AND APPROVED BY VOTE OF THE TOWN COUNCIL THIS

11th DAY OF JUNE, 1991.


MAYOR


TOWN CLERK