

1 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF DIRECTORS**
2 **OF THE CITY OF LITTLE ROCK, ARKANSAS:**

3 **Section 1.** Article I of Chapter 29 of Little Rock, Ark. Rev. Code (1988) (“LRC”),
4 Section 29-1 “Definitions” is amended to add the following definitions:

5 *Clearing* means the act of cutting, harvesting, removing from the ground,
6 burning, damaging or destroying trees, stumps, hedge, brush, roots, logs, or scalping
7 existing vegetation.

8 *Clear cutting* means removing of substantially all merchantable standing trees.

9 *Grading permit* means the permit issued by Public Works for grading, clearing,
10 harvesting, filling, excavating, quarrying, tunneling, trenching, construction, or similar
11 activities in the City of Little Rock.

12 *Imminent construction* means the installation of a foundation or erection of a
13 structure without unreasonable delay following land alteration activities as determined
14 by the Director of Public Works.

15 *Land alteration* means the process of grading, clearing, harvesting, filling,
16 excavating, quarrying, tunneling, trenching, construction or similar activities, unless
17 excluded by section 29-187.

18 *Responsible party* means any person or entity having control of the property
19 subject to this chapter.

20 **Section 2.** Article VI. of Chapter 29 is deleted in its entirety and replaced with the
21 following provisions:

22 **ARTICLE VI. LAND ALTERATION REGULATIONS**

23 **DIVISION 1. GENERALLY**

24 **Sec. 29-166. Penalty.**

25 Any person convicted of a violation of any of the provisions of this chapter shall
26 be punished as provided in section 1-9.

1 **Sec. 29-167. Findings.**

2 The city has experienced development activity causing the displacement of large
3 amounts of earth and tree cover. Significant problems resulting from such development
4 include flooding, soil erosion and sedimentation, unstable slopes, and impaired quality
5 of life. These problems are a concern because of their negative effects on the safety and
6 general welfare of the community.

7 **Sec. 29-168. Purpose.**

8 The purposes of this chapter are to:

- 9 (1) Prohibit the indiscriminate clearing of property.
- 10 (2) Prevent excessive grading, clearing, filling, cutting or similar
11 activities.
- 12 (3) Substantially reduce flooding, erosion and sediment damage
13 within the city.
- 14 (5) To safeguard the safety and welfare of citizens.
- 15 (6) Establish reasonable standards and procedures for
16 development which prevent potential flooding, erosion and
17 sediment damage.
- 18 (7) Prevent the pollution of streams, ponds and other
19 watercourses by sediment.
- 20 (8) Minimize the danger of flood loss and property loss due to
21 unstable slopes.
- 22 (9) Preserve natural vegetation which enhances the quality of
23 life of the community.
- 24 (10) To conceal hillside scars.
- 25 (11) To preserve the contours of the natural landscape and land
26 forms.

1 **Sec. 29-169. General requirements.**

2 Persons engaged in land alteration activities regulated by this chapter shall take
3 measures to protect neighboring public and private properties from damage by such
4 activities. The requirements of this chapter, however, are not intended to prevent the
5 reasonable use of properties as permitted by chapter 36 of this code.

6 **Sec. 29-170. Violation, Enforcement and Penalties.**

7 (a) Violations of any provisions of this chapter shall be punishable as provided in
8 section 1-9 of this code, except that the continuing violation provisions of section 1-9 (c)
9 shall not apply unless (1) an approved plan for correction of the violation(s) has not
10 been implemented by the responsible party within the time specified in the plan, or (2)
11 the responsible party fails to submit a required plan within the time specified.

12 (b) The responsible party shall be liable for all fines levied and remedial action
13 required under this chapter. Each tree removed or improperly preserved or any other
14 activity proscribed by this chapter shall be a separate violation. Each violation shall be
15 considered a separate offense.

16 (c) Any person who engages in land alteration activities regulated by this chapter
17 without obtaining a grading permit shall be required to restore the land to the
18 maximum extent practicable to its original condition in accordance with Section 29-196.

19 (d) When a violation of this chapter is determined to exist, the city official shall
20 issue written notice of violation to the responsible party. The notice shall specify those
21 sections of this chapter which are determined to be violated and shall include the time
22 and conditions under which the violation(s) shall be corrected. If it is determined that
23 the restoration is not feasible due to imminent construction, (1) a citation may be issued
24 and fines may be levied; (2) the site shall be graded to obtain positive drainage; and (3)
25 the site shall be stabilized with vegetation and the addition of erosion controls. If the
26 responsible party has been issued either a notice of violation or stop work order within

1 the previous twelve (12) month period, the notice may require the violation(s) to be
2 corrected within twenty-four (24) hours.

3 (e) The responsible party shall have a maximum of ten (10) calendar days from
4 the date of the written notice to appeal the finding of the violation(s) to the planning
5 commission as provided in Section 29-172.

6 (f) If the responsible party fails to comply with the written notice of violation the
7 city official may issue a stop work order and citation, as provided in section 29-10 and
8 revoke all permits including the grading permit, building permit, and certificate of
9 occupancy. Additionally, when the city official determines that trees to be protected are
10 in the process of being removed or damaged or other emergencies exist, a stop work
11 order to immediately cease and desist may be issued.

12 (g) The permit applicant shall have on the project site at all times an agent who is
13 a competent superintendent capable of reading and thoroughly understanding the
14 plans, specifications and requirements for areas of tree protection for the type of work
15 being performed. The superintendent shall have full authority to issue orders or
16 direction to employees working on site, without delay and to promptly supply such
17 materials, labor, equipment, tools, and incidentals as may be required to complete the
18 work in a proper manner. If no superintendent is on site, the city official may issue the
19 notice of violation and stop work order to the person conducting the violation.

20 (h) Removal of trees with a diameter of six (6) inches or greater measured four
21 and one half (4.5) feet above the ground that have been removed without a grading
22 permit or trees required in an approved plan that have been removed or which die shall
23 be considered a violation.

24 (i) If a land alteration activity causes damage to off-site property or water, the
25 responsible party shall be required to mitigate the damage and install such additional
26 erosion controls, as approved by the city official, to prevent further damage.

1 (j) Damage to private or public property due to hauling operations or operation
2 of construction related equipment from a nearby construction site shall be repaired by
3 the responsible party prior to issuance of a certificate of occupancy.

4 **Sec. 29-171. Conflicts.**

5 Where provisions of this chapter conflict with any other ordinance, regulation, or
6 resolution of the City, the most stringent provision shall be enforced. The provisions of
7 this chapter are considered minimum requirements.

8 **Sec. 29-172. Hearing before Planning Commission.**

9 Appeals of a notice of violation as provided for in section 29-170(e), a grading
10 and drainage plan decision, or a restoration plan requirement as provided in section 29-
11 196 shall be heard by the planning commission provided an appeal is filed by the
12 applicant within ten (10) calendar days after the date of the notice of violation, fee(s) are
13 paid, and proper public notice is given. Any hearing before the planning commission
14 regarding such appeal will be conducted in the following manner:

15 a) The appellant shall submit an application and fee as provided in section 29-193 to
16 the director of public works within the time limits provided for in section 29-
17 170(e). The appellant shall provide (1) a cover letter that clearly sets forth the
18 provisions of the ordinance that are being appealed and (2) a copy of all
19 pertinent graphic materials or correspondence. Appealable issues are as follows:

20 (1) for a notice of violation, appealable issues are the determination that a
21 violation has occurred, the time frame for correcting the violation, and the
22 corrective action to be required;

23 (2) for a grading and drainage plan decision, appealable issues are the denial
24 of a grading permit and the terms of a grading permit.

25 (3) For a restoration plan, appealable issues are any requirements of section
26 29-196.

1 b) Certified mail notice of all appeals shall be given by the applicant to adjacent
2 property owners, including those across a street or alley from the subject
3 property, at least ten (10) days prior to the planning commission meeting at
4 which the appeal is to be considered. At least three (3) business days prior to the
5 hearing, the appellant shall provide proof of notice to the director of public
6 works. Failure to provide the required notice will cause the appeal to the
7 planning commission to be dismissed, although minor irregularities in the giving
8 of notice may be waived by the commission.

9 c) At the conclusion of questioning and statements, the chairman will call the
10 appeal to a vote as follows:

11 (1) For an appeal of the finding of a violation, either to affirm or overturn the
12 finding of violation; upon affirmation of a finding of violation, a citation
13 may be issued to the appellant;

14 (2) For an appeal of the time to correct the violation, either to affirm the time
15 or determine a new time;

16 (3) For an appeal of the corrective action, either to affirm, determine a new
17 corrective action, or decide that a corrective action is not feasible. A
18 finding that a corrective action is not feasible or appellant's refusal to
19 comply with the commission's decision may result in a citation being
20 issued to the appellant.

21 (4) For an appeal of a grading and drainage plan decision, either affirm or
22 overturn the decision to deny a grading permit, either affirm the permit
23 term or establish a new permit term.

24 (5) For an appeal of a restoration plan or plan provision, either to affirm,
25 determine a new provision or provisions, or decide that restoration is not
26 feasible. A citation may be issued after finding that restoration is not

1 days of grading completion. If building construction has not commenced and been
2 diligently pursued within eight (8) months of grading permit issuance, then all
3 disturbed areas must be restored in accordance with Section 29-196 and landscaping
4 and tree requirements in the buffers shall be installed, unless the city official determines
5 that the existing buffers on the site meet the landscape planting requirements of chapter
6 15 and zoning requirements of chapter 36 of this code.

7 (c) A grading permit is required for land alteration activities specified in this
8 section. All construction work shall include appropriate drainage and erosion control
9 measures to protect neighboring properties. All land alteration on properties within the
10 designated floodplain requires a grading permit without exception.

11 (d) Grading permits, which may be obtained as part of a building permit, shall be
12 required for any of the following activities:

- 13 (1) A top of hill or hillside cuts or fills greater than ten (10) feet
14 vertical.
- 15 (2) Any construction activity where the total volume of cut or
16 fill is equal to or greater than one thousand (1,000) cubic
17 yards.
- 18 (3) Clearing or cutting of trees on property in the City of Little
19 Rock except for (i) those districts zoned agriculture and
20 forestry (AF); (ii) mining (M); and (iii) properties abutting on
21 a collector street of two (2) acres or less zoned single or two
22 family districts R1, R2, R3, R4, or R7A, and residentially
23 zoned properties of five (5) acres or less fronting on a
24 residential street.

1 (e) Prior to issuance of a grading permit, a grading and drainage plan shall be
2 submitted to and approved by the City for activities specified in paragraphs (d)(1), (2)
3 and (3) of this section.

4 (f) When the application is for a planned zoning district, conditional use permit,
5 site plan review, subdivision, or multiple building site approval, a sketch grading and
6 drainage plan shall be required in the application to the planning commission only if
7 any of the activities specified in subsection (d) of this section are involved.

8 (g) Utility organizations may obtain a one-time approval from the city for all
9 routine tree trimming and installation, maintenance, replacement and repair of fence
10 and sign posts, telephone poles and other kinds of posts or poles and overhead or
11 underground electric, water, sewer, natural gas, telephone or cable facilities. The
12 approval will include a utility organization and its contractors, agents or assigns and
13 will be permanent in nature as long as the original approved procedures are followed.
14 However, large-scale utility projects involving clearing of areas over twenty-five (25)
15 feet in width shall not be authorized by one-time approval of all projects. In such cases,
16 a separate grading permit must be obtained for each project.

17 (h) One-time approval may be obtained by public or private entities for the
18 stockpiling of construction spoil material and concrete and asphalt rubble at particular
19 locations for a limited time period, not to exceed (6) six months. Grading and
20 replanting of grassed areas and trees is required upon removal of stockpile.

21 **Sec. 29-187. Exemptions and variances.**

22 (a) A grading permit shall not be required for:

- 23 (1) Construction on properties in the City of Little Rock (i)
24 zoned agriculture and forestry (AF); (ii) properties abutting
25 on a collector street of two (2) acres or less zoned single or
26 two family districts R1, R2, R3, R4 or R7A, and residentially

1 zoned property five (5) acres or less fronting on a residential
2 street.

3 (2) Emergency work or repairs to protect health, safety and
4 welfare of the public. Removal of damaged or diseased trees
5 will be permitted by staff upon certification by the city
6 forester of the condition of the trees sought to be removed;
7 and

8 (3) Mining and mining operations because these activities are
9 covered by the Arkansas Open Cut Land Reclamation Act
10 [A.C.A. Section 15-57-301 as amended], which is regulated
11 by the state Department of Environmental Quality.

12 (b) The planning commission may grant variances from the
13 standards set forth in this article provided that a variance
14 request is filed by the applicant, fee(s) are paid, and proper
15 public notice is given. The applicant shall submit a variance
16 request application and fee as provided in section 29-193 to
17 the director of public works. As part of the application, the
18 applicant shall provide (1) a cover letter that clearly sets
19 forth the provisions of the code from which a variance is
20 requested and (2) a copy of all pertinent graphic materials or
21 correspondence.

22 (c) Certified mail notice of all variance requests shall be given
23 by the applicant to adjacent property owners, including
24 those across a street or alley from the subject property, at
25 least ten (10) days prior to the planning commission meeting
26 at which the variance is to be considered. At least three (3)

1 business days prior to the hearing, the applicant shall
2 provide proof of proper notice to the director of public
3 works. Failure to provide the required notice will cause the
4 variance request to the planning commission to be
5 dismissed, although minor irregularities in the giving of
6 notice may be waived by the commission.

7 (d) Appeals from the variance decision of the planning
8 commission shall be filed with the appropriate court of
9 jurisdiction within thirty (30) calendar days of the decision
10 of the planning commission.

11 (e) Variances may be granted, to the extent that the change will
12 not be contrary to the purposes set forth in section 29-168:

13 (1) To clear and grade a multi-lot or multi-phase development
14 where construction is not imminent on all phases of the
15 development;

16 (2) To harvest timber on land not otherwise allowed under this
17 section in accordance with a reasonable staff approved
18 forestry management plan which is determined to be
19 reasonable and prepared by a registered forester or certified
20 arborist using best management practice guidelines for
21 silviculture in urban areas, that complies with the purposes
22 and requirements of this article; however, clear cutting or
23 total harvests shall not be allowed;

24 (3) To exceed the cut, fill, and slope requirements of Sec. 29-190;

25 (4) From the restoration requirements of Sec. 29-196.

1 The planning commission may impose conditions on the approval of variances. Where
2 variances are granted, applicants shall otherwise comply with all other provisions of the
3 ordinance including, but not limited to, obtaining a grading permit prior to construction
4 or tree removal, meeting the standards for grading, drainage, tree removal, maintaining
5 buffer zones, erosion controls, and establishing of vegetative cover following grading
6 activities.

7 **Sec. 29-188. Contents of grading and drainage plans.**

8 (a) The sketch grading and drainage plan shall identify the following:

- 9 (1) Acreage of the proposed project.
- 10 (2) Land areas to be disturbed.
- 11 (3) Stages of grading showing the limits of sections to be graded
12 and indicating the approximate order of development.
- 13 (4) The height and slope of cuts and fills. Cross sections may be
14 required every fifty (50) feet on property where the depth of
15 excavation or fill exceeds ten (10) feet, showing original and
16 final grades and will include visual aids to show how the
17 final development, including planting, and landscaping will
18 look.
- 19 (5) Provisions for collecting and discharging surface water.
- 20 (6) Erosion and sediment measures, including structural and
21 vegetative measures for permanent slopes and bank
22 stability.
- 23 (7) Seal and signature of a registered engineer, architect, or
24 landscape architect, qualified under state regulations to
25 certify that the sketch grading and drainage plan complies
26 with this chapter. However, plans for less than two (2) acres

1 fronting on a collector street, or residentially zoned areas
2 less than (5) five acres fronting on a residential street, where
3 cuts or fills are not greater than ten (10) feet in height or
4 where only tree clearing activities are to be undertaken, may
5 be required by public works to be prepared by a contractor
6 or the property owner.

7 (b) A final grading and drainage plan shall include the following information
8 prior to issuance of grading and special flood hazard development permits:

9 (1) Seal of a registered engineer, architect or landscape architect
10 qualified under state regulations to certify that the grading
11 and drainage plan complies with this chapter.

12 (2) A vicinity drawing showing location of property lines,
13 location and names of all existing or platted streets or other
14 public ways within or immediately adjacent to the tract.

15 (3) Location of all known existing sewers, water mains, culverts
16 and underground utilities within the tract and immediately
17 adjacent thereto; location of existing permanent buildings on
18 or immediately adjacent to the site if right of entry can be
19 obtained to locate the utilities.

20 (4) Identification of rights-of-way or easements affecting the
21 property.

22 (5) Soil loss calculations as estimated by the universal soil loss
23 equation. Allowable soil loss shall not exceed five (5) tons
24 per acre per year. Examples of soil loss calculations are
25 contained in the City's Stormwater Management and
26 Drainage Manual.

- 1 (6) A plan of the site at a minimum scale of one (1) inch equals
2 one hundred (100) feet.
- 3 (7) Such other information required by city officials, including
4 but not limited to:
- 5 a. Address and telephone number of owner,
6 permit applicant and the designated agent
7 responsible for maintenance of erosion and
8 sediment control measures.
 - 9 b. The approximate location and width of
10 existing and proposed streets.
 - 11 c. The locations and dimensions of all proposed
12 or existing lots.
 - 13 d. The locations and dimensions of all parcels of
14 land proposed to be set aside for parks,
15 playgrounds, natural condition perimeters,
16 public use, or for the use of property owners in
17 the proposed development.
 - 18 e. Existing and proposed topography at a
19 maximum of five-foot contour intervals for
20 steep terrain; two-foot contour intervals for ten
21 percent (10%) or less grade terrain.
 - 22 f. An approximate timing schedule, indicating
23 the anticipated starting and completion dates
24 of the development; a timing schedule for the
25 sequence of grading and application of erosion
26 and sediment control measures.

- 1 g. Acreage of the proposed project.
- 2 h. Identification of unusual material or soils in
3 land areas to be disturbed. If any surface
4 indications of unusual materials or soils that
5 would cause street or lot instability, such as
6 nonvertical tree growth, old slides, seepage, or
7 depressions in the soil are visible before
8 grading, they should be noted and
9 accompanied by the engineer's, architect's,
10 landscape architect's, or contractor's
11 recommendation for correcting such problem
12 areas.
- 13 i. Identification of suitable material to be used for
14 fills shall be accomplished before actual filling
15 begins. If there are any surface indications that
16 local material is not suitable for fills, those
17 areas to be filled with outside material should
18 be identified and the type and source of the fill
19 noted.
- 20 j. Specification of measures to control runoff,
21 erosion and sedimentation during the process
22 of construction, noting those areas where
23 control of runoff will be required during
24 construction and indicating what will be used,
25 such as straw bales, sediment basins, silt dams,

1 brush check dams, lateral hillside ditches, catch
2 basins, etc.

3 k. Measures to protect neighboring built-up areas
4 and city property during process of
5 construction, noting work to be performed,
6 such as cleaning existing ditches, storm
7 culverts and catch basins or raising existing
8 curbs in neighboring areas.

9 l. Provisions to stabilize soils and slopes after
10 completion of streets, sewers and other
11 improvements, noting on the grading plan
12 when and where ground cover will be planted,
13 also noting any other means to be used such as
14 placement of reinforced turf, staked sod, stone
15 embankments, and riprap or construction of
16 retaining walls.

17 (8) The grading and drainage plan shall include areas of tree
18 protection, erosion and sediment control provisions meeting
19 standards established by the city in the stormwater
20 management and drainage manual. Tree lines and
21 individual trees may be required to be shown.

22 **Sec. 29-189. Issuance procedure.**

23 (a) The following procedure shall be implemented for the issuance of a grading
24 permit.

25 (1) The city official shall approve, disapprove or recommend
26 modification of the grading and drainage plan in writing

1 within five (5) working days after the date of submittal of a
2 complete application.

3 (2) Applications for which planning commission approval is
4 required shall be placed on the next available planning
5 commission agenda following city staff review. Sketch
6 grading and drainage plans shall be reviewed by the city
7 and a report prepared by the time of the applicable
8 subdivision subcommittee meeting, if possible, but not later
9 than the applicable planning commission meeting.

10 (3) Except for residential subdivision work, the approval of a
11 sketch grading and drainage plan shall not eliminate the
12 need to submit and have approved a final grading and
13 drainage plan, prior to issuance of a building permit or the
14 initiation of land alteration activities.

15 (4) For residential subdivision work, only a sketch grading and
16 drainage plan shall be required, and clearing and grading
17 work may proceed upon approval of the preliminary plat
18 and issuance of a grading permit. The sketch plan for
19 residential subdivisions shall indicate how runoff, erosion,
20 and sedimentation will be controlled.

21 (b) Upon approval of the final plan, the City shall issue a grading permit. A
22 superintendent capable of understanding the plans and with authority to issue orders
23 to employees performing the land alteration shall properly supervise the land alteration
24 activities.

25 (c) The city official may issue a stop work order if, upon inspection, it is
26 determined that the work is not progressing in accordance with the approved plan.

1 (d) Groups of trees and individual trees that are not to be removed or that can be
2 preserved with reasonable effort in site design or are located within required
3 undisturbed buffer areas shall be protected during construction by protective fencing.
4 The buffer and any preservation areas shall not be used for material storage or for any
5 other purpose. The fencing shall be placed and maintained by the owner until all
6 exterior construction except landscaping has been completed. Individual trees or
7 groups of trees to be preserved outside the buffer area shall be fenced at no less than
8 75% of the area within the drip line of the critical root zone and shall be flagged with
9 bright orange vinyl tape wrapped around the main trunk at a height of four (4) feet or
10 more such that the tape is clearly visible to workers on foot or operating equipment.

11 (e) The city official may allow minor modifications of the plan to alleviate
12 particular problems during the process of construction. In reviewing a request for
13 modifications, the city official may require from the applicant's engineer, architect, or
14 landscape architect appropriate reports and data sufficient to make a decision on the
15 request.

16 (f) Major changes to plans approved by the planning commission either in sketch
17 or final form shall only be permitted by the planning commission. Examples of major
18 changes are those that substantially increase the height of cuts or the area of clearing or
19 grading, or substantially impact neighboring properties. More than twenty percent
20 (20%) increase in height, area or impact will normally be considered a major change.
21 Examples of increased impact include reductions in buffer area, increased runoff onto
22 adjacent properties, and increased site area that is visible from adjacent properties or
23 public streets.

24 **Sec. 29-190. Grading and drainage plan requirements.**

1 Preparation of grading and drainage plans shall follow the stormwater
2 management and drainage manual and shall be designed on the basis of the following
3 considerations:

4 (1) A maximum of thirty (30) vertical feet of fill or excavation
5 (such as three, ten [10] feet vertical terraces or two, fifteen
6 [15] feet vertical terraces) is permitted, however additional
7 development areas may be constructed a minimum of one-
8 hundred fifty (150) feet in width and at a slope of no more
9 than eight percent (8%). The maximum of thirty (30) feet of
10 fill or excavation may again be utilized.

11 a. The depth of fill or excavation shall be
12 measured from the finish grade elevation to
13 the original ground line elevation.

14 b. No more than two hundred (200) feet of terrace
15 can be in a straight line and a minimum of a
16 ten (10) feet curved section, jog, or offset is
17 required for each additional two hundred 200
18 feet of terrace.

19 c. For excavations or fills constructed with slopes
20 flatter than 3:1 (three horizontal to one
21 vertical), terraces are not required nor is there a
22 limit on the height of cut or fill. Planting
23 requirements on these 3:1 slopes shall be the
24 same as required for terraces and shall be
25 spaced uniformly over the slope.

- 1 d. Cuts or fills shall be limited to ten (10) feet in
2 height or to fifteen (15) feet if architectural
3 stone is included to protect the vertical face. A
4 series of smaller cuts or fills with terraces,
5 preserving portions of natural vegetation and
6 providing areas for planting, shall be used in
7 situations where more than ten (10) feet of cut
8 or fill is needed.
- 9 e. Terracing width shall be at a ratio of at least
10 one (1) foot of horizontal terrace for every one
11 (1) foot of vertical height, up to a maximum of
12 ten (10) feet. Terraces shall be landscaped with
13 dense evergreen plantings sufficient to screen
14 the cut or fill slope. The terrace may be sloped
15 to drain up to one (1) foot in ten (10) feet of
16 width.
- 17 f. If the slope of the cut or fill is faced with an
18 architectural stone wall, the terrace plantings
19 shall be a minimum of two (2) rows of trees
20 four (4) feet between the rows, staggered not
21 more than twenty (20) feet on centers.
- 22 g. Shrubs and ground cover shall be required in
23 accordance with chapter 15 of this code.
- 24 h. Slopes steeper than 3:1 may be allowed for
25 street improvements in the right-of-way due to

1 rock outcropping or extreme slope intercepts if
2 approved by the director of public works.

3 (2) Development shall be planned to fit topography, soils, geology, hydrology,
4 and other existing site conditions.

5 (3) Provisions shall be made for safety against unstable slopes or slopes subject to
6 erosion and deterioration. The city official may require certified geotechnical analysis
7 for sliding and global stability safety. New cuts and fills forming channel banks may
8 require permanent provisions for erosion control upon determination by the city
9 official.

10 (4) Grading shall complement natural landforms.

11 (5) After grading, all paving, seeding, sodding, or mulching shall be performed
12 in accordance with a reasonable schedule approved by the city official.

13 (6) Open areas not planned for immediate use shall be seeded or sodded. Soil
14 which is exposed for more than twenty-one (21) days with no construction activity shall
15 be seeded, mulched or revegetated in accordance with this code.

16 (7) Areas not well suited to development, as evidenced by existing competent
17 soils, geology, hydrology investigations and reports, should be allocated to open space
18 and recreational uses.

19 (8) The potential for soil loss shall be minimized by retaining natural vegetation
20 wherever possible.

21 (9) Appropriate provisions such as those in the stormwater management and
22 drainage manual shall be used to accommodate stormwater runoff and soil loss
23 occasioned by changed soil and surface conditions during and after development,
24 including the use of vegetation and limitations on soil exposure. If staff determines
25 upon visual inspection that excessive silt from the construction has migrated on or
26 offsite, additional measures to reduce erosion may be required.

1 (10) Permanent improvements such as streets, storm sewers, curb and gutters,
2 and other features for control of storm runoff shall be scheduled as soon as
3 economically and physically feasible before removing vegetation cover from the area, so
4 that large areas are not left bare and exposed for long periods of time beyond the
5 capacity of temporary control measures.

6 (11) A temporary or permanent sediment basin, debris basin, desilting basin or
7 silt trap shall be installed and maintained to substantially reduce sediment from water
8 runoff upon determination by the city official. The volume of the sediment basin shall
9 be three-thousand six hundred (3600) cubic feet per acre for property with average
10 slope steeper than five (5) percent, or eighteen hundred (1800) cubic feet per acre for
11 property with an average slope five (5) percent or flatter. A properly sized sediment
12 basin is required for each separate drainage area within the property being developed.

13 (12) Construction access shall be limited to locations as approved by the city
14 official. Construction access points shall be paved in uniformly graded stone without
15 fines for a minimum length of twenty percent (20%) of the lot depth or fifty (50) feet,
16 whichever is greater, up to a maximum of one hundred (100) feet to prevent tracking
17 onto the city street.

18 (13) Appropriate provisions such as the addition of water or dust retardants shall
19 be utilized to prevent excessive particulate matter from becoming airborne.

20 (14) A perimeter buffer strip shall be temporarily maintained around disturbed
21 areas for erosion control purposes and shall be kept undisturbed except for reasonable
22 access for maintenance. The width of the strip shall be six percent (6%) of the lot width
23 and depth. The minimum width shall be twenty-five (25) feet and the maximum shall
24 be forty (40) feet. In no event shall these temporary strips be less than the width of the
25 permanent buffers required for the development.

1 (15) A minimum strip twenty-five (25) feet wide, undisturbed except for
2 reasonable access, shall be provided along each side of streams having a ten (10) year
3 storm of greater than one hundred fifty (150) cubic feet per second. The twenty-five
4 (25) foot strip shall be measured from the top of the bank. An exception to this
5 requirement is allowed where the only work being done on the site is public street
6 construction.

7 (16) Care shall be exercised to minimize the risk of damage from or to pedestrian
8 and vehicular traffic in the vicinity of a cut or fill by placement of handrails, guardrails,
9 fencing or landscaping.

10 (17) Additional landscape treatment shall be provided in accordance with chapter 15
11 of this code.

12 **Sec. 29-191. Unified plan and permit.**

13 One plan may be submitted incorporating all provisions for compliance with the
14 applicable city zoning, landscaping, drainage detention, grading, clearing, filling,
15 cutting, quarrying, and construction requirements.

16 **Sec. 29-192. Reserved.**

17 **Sec. 29-193. Fees.**

18 A fee for each grading permit shall be paid to the city as follows:

19 <i>Total Project Area</i>	20 <i>Fee</i>
21 Less than 1/2 acre	\$ 60.00
22 1/2 to 1 acre	\$120.00
23 Greater than 1 acre	\$120.00 for first acre, \$60.00 for
24 each additional acre, up to a maximum of ten (10) acres, not to exceed \$660.00. Fees for	each grading permit will double if the grading permit is issued after a notice of

1 violation(s) has been issued for violation(s) of the land alteration regulations that have
2 occurred on the subject property.

3 A fee for each appeal and variance shall be paid to the city as follows:

4 Flat Fee \$50.00 plus \$5.00 per acre of the
5 total project area up to ten (10) acres, not to exceed \$100.00

6 **Sec. 29-194. Inspection and compliance.**

7 (a) The department designated by the City Manager shall be responsible for
8 determining whether construction is proceeding according to the approved grading and
9 drainage plan.

10 (b) City officials shall perform inspections of the development site. In applying
11 for a grading permit, the applicant shall be deemed to have consented to such
12 inspections.

13 (c) The city official, through such periodic inspections, shall ensure that all
14 erosion control measures are implemented within one (1) week after cessation or
15 completion of all or portions of authorized work. The city official may where necessary,
16 order remedial work or issue a stop work order in accordance with this chapter.

17 **Sec. 29-195. Reserved.**

18 **Sec. 29-196. Land restoration requirements.**

19 All land restoration corrective action activities resulting from land alteration
20 violations shall comply with following conditions:

21 (1) Submit site restoration and erosion control plans to Public Works for
22 approval prior to beginning restoration work.

23 (2) All restoration work must be begin within ten (10) calendar days of plans
24 approval and conclude within thirty (30) calendar days of commencement
25 unless otherwise provided by the approved plan or other uncontrollable
26 conditions.

- 1 (3) Prior to commencing restoration activities, erosion controls such as silt fence,
2 hay bales, and rock check dams shall be installed and shall remain in place
3 until restoration activities are complete.
- 4 (4) Return all ground surface contours to those in existence prior to land
5 alteration violation while maintaining positive drainage. All slopes must be
6 3:1 or flatter. Terraces are prohibited.
- 7 (5) All spoil materials and debris including tree debris must be removed from the
8 property.
- 9 (6) Replant one (1) tree for every seven hundred fifty (750) square feet of the area
10 of violation, as determined by the city official, with an average linear spacing
11 of not less than thirty (30) feet with at least two (2) inch caliper nursery or
12 farm grown trees of the same species as those cleared, harvested, removed or
13 damaged. Planting specifications shall be provided on the plan including soil
14 preparation, staking and other necessary measures to ensure trees thrive. If
15 the city official determines the current season of the year is not conducive to
16 sustaining life for trees, the time compliance with these provisions may be
17 extended for not more than one hundred eighty (180) days.
- 18 (7) Establish a permanent vegetative cover of perennial grasses with the addition
19 of fertilizer mixes conducive to site conditions.
- 20 (8) For one (1) year, restored trees shall be watered once per month and
21 additionally every ten (10) calendar days during the months of June, July,
22 August, and September.
- 23 (9) Final inspection and approval is required following completion of required
24 restoration activities. All incomplete items or additional work identified
25 during the final inspection must be completed within seven (7) calendar days
26 following the final inspection.

1 (10) All restoration work is to be guaranteed by the responsible party in the form
2 of cash, surety bond or letter of credit as referenced in Section 31-431(2) for
3 two (2) years following its installation and approval by the department of
4 public works.

5 (11) All permits and approvals must be obtained from all federal, state, and local
6 agencies prior to commencing work.

7 (12) All restoration work shall be required as stated above unless approved
8 otherwise by the city official.

9 **Section 3. Severability.** In the event any portion of this ordinance is declared or
10 adjudged to be invalid or unconstitutional, such declaration or adjudication shall not
11 affect the remaining portions of the ordinance, which shall remain in full force and
12 effect as if the portion so declared or adjudged invalid or unconstitutional were not
13 originally a part of this ordinance.

14 **Section 4. Repealer.** All laws, ordinances and regulations and parts thereof in
15 conflict with this ordinance are hereby repealed to the extent of such inconsistency.

16 **Section 5. Emergency Clause.** *The ability to limit, to a reasonable extent, the number
17 of trees destroyed or removed as a result of development and redevelopment within the City is
18 essential to the public health, safety and welfare. The protection of foliage and open space has
19 been demonstrated to increase the overall quality of life within the community, and to reduce
20 aspects of urban stress such as crime and temperature. An emergency is, therefore, declared to
21 exist and this ordinance shall be in full force and effect from and after the date of its passage.*

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23 **PASSED: July 19, 2005**

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1 ATTEST:

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3 *Nancy Wood*
4 Nancy Wood, City Clerk

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APPROVED:

Barbara Graves
Barbara Graves, Vice Mayor

6 APPROVED AS TO LEGAL FORM:

7 *Thomas M. Carpenter*
8 Thomas M. Carpenter, City Attorney

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