

**CITY OF SACRAMENTO**  
**Chapter 15.88 GRADING, EROSION AND SEDIMENT CONTROL**

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**Article I General Provisions and Requirements**

**15.88.010 Title.**

This chapter shall be known as the grading, erosion, and sediment control ordinance of the city of Sacramento, and shall be referred to herein as the “grading ordinance.” (Prior code § 9.31.1501)

**15.88.020 Purpose.**

The grading ordinance is enacted for the purpose of regulating grading on property within the city limits of the city to safeguard life, limb, health, property and the public welfare; to avoid pollution of watercourses with nutrients, sediments, or other materials generated or caused by surface water runoff; to comply with the city’s national pollution discharge elimination system (NPDES) Permit No. CA0082597, provision D2, issued by the California regional water quality control board; and to ensure that the intended use of a graded site within the city limits is consistent with the city general plan, any specific plans adopted thereto and all applicable city ordinances and regulations. The grading ordinance is intended to control all aspects of grading operations within the city limits of the city. (Prior code § 9.31.1502)

**15.88.030 Scope.**

The grading ordinance sets forth rules and regulations to control land disturbances, landfill, soil storage, pollution, and erosion and sedimentation resulting from construction activities. The grading ordinance establishes procedures for issuance, administration and enforcement of permits for such activities. Any grading within the city limits of the city shall conform to provisions of the grading ordinance and other applicable provisions of the city code, including but not limited to, the latest edition of the city standard specifications for public works construction, Sacramento city/county drainage manual, and city manual of standards and improvement standards.

The director shall adopt a manual of standards entitled “Administrative and Technical Procedures Manual for Grading, Erosion, and Sediment Control” setting forth the administrative procedures and technical requirements necessary to implement the provisions of the grading ordinance. The director shall have the authority to change, update or revise this manual as necessary at his or her sole discretion, to implement the provisions of the grading ordinance. (Prior code § 9.31.1503)

### **15.88.040 Administration.**

The grading ordinance shall be administered for the city by the department of utilities through the building permit process, improvement plan process or capital improvement project process, as applicable. (Ord. 2001-014 § 2: prior code § 9.31.1504)

### **15.88.050 Definitions.**

Unless the particular provision or the context otherwise requires, wherever the following terms are used in the grading ordinance, they shall have the meaning ascribed to them in this section:

“Applicant” means any person seeking or receiving grading approval, in accordance with the terms of the grading ordinance, to perform grading after the issuance of a building permit or the approval of improvement plans, or to commence grading prior to such issuance or approval.

“Best management practices” means any program, technology, technique, process, siting criteria, operating method, measure or device which controls, prevents, removes or reduces pollution, erosion, and sediment transport, including but not limited to any best management practices required or implemented under the city’s Stormwater Management and Discharge Control Code, set forth in Chapter 13.16.

“City council” means city council of the city of Sacramento.

“Civil engineer” means a professional engineer registered as a civil engineer by the state of California.

“Compaction” means the increase of density of a soil or rock fill by mechanical means.

“Cut (excavation)” means the removal of naturally occurring earth materials by manual or mechanical means, and the conditions resulting therefrom.

“Director” means director of the department of utilities of the city of Sacramento, or his or her authorized designees.

“Drainage waters” means surface waters which collect, or are accumulated, on the ground and which, by means of drainage ways or water courses, flow off the surface to larger rivers, streams, or lakes. Such waters shall include, but are not limited to, natural precipitation and irrigation waters.

“Drainage way” means a depression in the earth’s surface such as a swale, ravine, gully, slough, draw, hollow, or ditch in which surface water collects for drainage.

“Earth material” means any rock, natural soil or fill and/or any combination thereof.

“Embankment (fill)” means the deposit of soil, rock or other materials placed by artificial means and the conditions resulting therefrom.

“Encroachment permit” means a written permit issued by the department of public works authorizing certain work within a publicly maintained right-of-way.

“Engineering geologist” means a registered geologist certified as an engineering geologist by the state of California.

“Erosion” means the washing or wearing away and transportation of earth material as a result of the movement of wind, water, or ice.

“Erosion and sediment control plan (ESC plan)” consists of a set of best management practices or equivalent measures designed to control surface runoff and erosion, retain sediment on a particular site and prevent pollution of site runoff during the period beginning when any preconstruction- or construction-related grading or soil storage first occurs, until all final improvements and permanent structures are completed.

“Excavation (cut)” means the removal of naturally occurring earth materials by manual or mechanical means, and the conditions resulting therefrom.

“Existing grade” means the elevation of the ground surface at a given point prior to excavating or filling.

“Fill (embankment)” means the deposit of soil, rock or other materials placed by artificial means and the conditions resulting therefrom.

“Finish grade” means the final grade of the site after excavating or filling which conforms to the approved final grading plan. The finish grade is also the grade at the top of a paved surface.

“Geologic hazard” means any condition in naturally occurring earth materials which may endanger life, health or property.

“Geotechnical engineer” means a civil engineer registered by the state of California who is qualified in the field of soil mechanics and soil engineering and has the authority to use the title “soil engineer.”

“Grade” means the vertical location of the ground surface.

“Grading” means any land excavation or filling or combination thereof, or the removal, plowing under or burial of vegetative groundcover.

“Grading plan” means a plan prepared in accordance with this chapter showing grading and related work.

“Manual of standards” means a compilation of administrative procedures, technical standards and design specifications adopted by the city of Sacramento for controlling construction-related grading, surface runoff, erosion and sedimentation. This manual of standards shall be titled “Administrative and Technical Procedures Manual for Grading and Erosion and Sediment Control.”

“Owner” means the legal owner of the property where the grading work is to be done, as shown on the latest equalized assessment roll in the office of the county assessor.

“Parcel (lot)” means the land described as a lot or parcel in a recorded deed or shown as a lot or parcel on a subdivision map or parcel map on file in the Sacramento County recorder’s office.

“Permit” means either a building permit or a separate grading permit.

“Person” means any person, firm, corporation, or public agency whether principal, agent, employee, or otherwise.

“Post construction erosion and sediment control plan (PC plan)” means consists of a set of best management practices or equivalent measures designed to

control surface runoff and erosion and to retain sediment on a particular site after all final structures and permanent improvements have been erected or installed.

“Preliminary grading plan” means a plan that shows the proposed grading work in relation to the existing site prepared and submitted with the application for a grading permit.

“Rainy season” means the period of the year during which there is a substantial risk of rainfall. For the purpose of this chapter, the rainy season is defined as from October 1st to April 30th, inclusive.

“Rough grade” means the stage at which the grade approximately conforms to the approved plan.

“Sediment” means any material transported or deposited by water, including soil debris or other foreign matter.

“Site” means any lot or parcel of land or combination of contiguous lots or parcels of land, whether held separately or joined together in common ownership or occupancy, where grading is to be performed or has been performed.

“Slope” means an inclined ground surface the inclination of which may be expressed as the ratio of horizontal distance to vertical distance.

“Soil” means all earth material of any origin that overlies bedrock and may include the decomposed zone of bedrock which can be excavated readily by mechanical equipment.

“Vegetation” means plant life or total plant cover of an area.

“Watercourse” means any natural or manmade channel in which water flows continuously or intermittently in a definite direction and course, or which is used for the holding, delay or storage of waters, or which functions at any time to convey or store stormwater runoff. (Ord. 2003-058 §§ 1—2; prior code § 9.31.1505)

#### **15.88.060 Grading approval required.**

Except for the specific exemptions listed hereinafter, no person shall do or permit to be done any grading on any site in the of the city without first obtaining approval of such grading from the director in accordance with the provisions of the grading ordinance. (Prior code § 9.31.1506)

#### **15.88.070 Exemptions.**

The following grading may be done without obtaining grading approval unless grading approval is required in mitigation monitoring agreements or other conditions of project approval. Exemption from the grading approval requirement shall not be deemed as permission to violate any other provision of this chapter.

- A. Minor construction projects which meet all of the following requirements:
  1. The volume of material graded is less than fifty (50) cubic yards,
  2. The depth of cuts and fills is less than two feet,
  3. Any drainageway is not blocked or obstructed and its stormwater carrying capacities are not modified,

- 4. Slopes are less than ten percent and are not left in an unstable or erodible condition;
- B. Single family residential lots less than one-half acre that are not part of a larger common plan and residential infill projects less than one-half acre which also meet the requirements of subsection A of this section;
- C. Excavations in connection with a swimming pool authorized by a valid building permit;
- D. Grading necessary for agricultural operations unless the failure of any cut or fill created by such grading could endanger any structure intended for human or animal occupancy or any public road, or could obstruct any watercourse or drainageway;
- E. Exploratory excavations of less than three hundred fifty (350) cubic yards under the supervision of a geotechnical engineer;
- F. Routine cemetery excavations and fills;
- G. Performance of emergency work necessary to protect life or property when an urgent necessity therefor arises. The person performing such emergency work shall notify the director promptly of the problem and work required;
- H. An excavation below finished grade for basements and footings of a building authorized by a valid building permit;
- I. Refuse disposal sites controlled by Title 23, Chapter 15, of the California Code of Regulations;
- J. The repair and maintenance of levees for river and local drainage control performed by a governmental agency. (Prior code § 9.31.1507)

**15.88.080 Grading approval.**

Grading approval may be issued by the director in connection with the issuance of a building permit or the approval of improvement plans, or where grading is commenced prior to such issuance or approval, through the issuance of a separate grading permit. (Prior code § 9.31.1508)

**15.88.090 Conditions of grading approval.**

- A. No grading shall be approved unless the project conforms with the city's general plan, any adopted specific or community plans, and applicable city ordinances, including the zoning ordinance and the subdivision ordinance.
- B. Where the California Environmental Quality Act (CEQA) requires the preparation and approval of environmental documents concerning a project which will result in grading for which a grading permit is required under this chapter, no grading shall be approved until all CEQA requirements have been met, including but not limited to mitigation measures relating to protection of threatened and endangered species under applicable federal and state endangered species laws. Where the land proposed to be graded is located within the North Natomas Community Plan Area or the South Natomas Community Plan Area, grading permits may be issued, provided that the conditions contained in Section 15.88.091 are satisfied.

- C. Where a proposed grading project requires the filing of a tentative map or the intended use requires approval of a discretionary zoning permit or variance, grading may also require approval from the city planning and building department.
- D. Work shall be performed in accordance with the provisions of the grading ordinance and the applicable criteria set forth in the manual of standards.
- E. Grading approval shall be limited to work shown on the grading plans as approved by the director. The director may impose any condition deemed necessary to protect the health, safety, and welfare of the public, to prevent the creation of a hazard to public or private property, and/or to assure proper completion of the grading, including but not limited to the following:
  - 1. Mitigation of adverse environmental impacts as disclosed by any environmental document findings, including but not limited to those matters specified in subsection B of this section;
  - 2. Improvement of any existing grading to comply with the standards of the grading ordinance;
  - 3. Requirements for fencing or other protection of grading which would otherwise be hazardous;
  - 4. Requirements for dust, erosion, sediment and noise control, hours of operation and season of work, access roads and haul routes;
  - 5. Requirements for safeguarding watercourses, whether natural or manmade, from excessive deposition of sediment or debris. In no case shall deposition of sediment or debris cause an exceedance of applicable water quality standards;
  - 6. Assurance that the land area in which grading is proposed and for which habitable structures are proposed is not subject to hazards of land slippage or significant settlement or erosion and that the hazards of flooding can be eliminated or adequately reduced;
  - 7. Requirements for safeguarding existing water wells. (Ord. 2001-021 § 1; Ord. 2001-014 § 3: prior code § 9.31.1509)

**15.88.091 Requirements for development projects in North and South Natomas.**

The city manager is authorized to issue grading permits within the North Natomas Community Plan Area and the South Natomas Community Plan Area only if the city manager finds that the applicant meets all the requirements of subsections A, B, C and D of this section.

- A. The applicant has paid to the city (in addition to the “catch-up fee” required by Ordinance No. 2002-018) the full amount of the habitat-conservation fees that have been assessed by the city pursuant to the April 2003 Natomas Basin Habitat Conservation Plan and are then in effect (HCP Fees), including the entire amount and all elements of any increased HCP fees adopted by the Natomas Basin Conservancy (“NBC”) and by the city pursuant to a validly enacted ordinance or resolution. The city anticipates receiving an adopted fee increase proposal from the NBC for consideration and adoption. The city shall not issue any grading permit until such time as the entire amount of, and all elements of, the anticipated HCP fee increase become effective or the city has otherwise

secured from the applicant a written and unconditional agreement to pay the entire amount of, and all elements of, the increased HCP fees. All HCP fee increases will be included within the obligations to be covered by the agreement required under subsection D of this section.

- B. If the applicant prepaid its HCP fees in an amount less than the HCP fees in effect when the grading permit is issued, the applicant has paid a catch-up fee in accordance with Ordinance No. 2002-018 and has paid an amount equal to its fair share of the amount of any HCP fee increase, on a per-acre basis, as reasonably determined by the city.
- C. In lieu of the land-acquisition component of any HCP fee required to be paid under subsections A and B of this section, the applicant has transferred to the city or to the NBC fee title or a conservation easement in perpetuity for mitigation land, at the ratio of 0.5 acre of mitigation land for each acre for which the city issues a grading permit, and the applicant has paid other components of the applicable fees. If the number of acres transferred by an applicant to the city or to NBC exceeds the number of acres required to comply with the 0.5:1 mitigation formula set forth in the April 2003 Natomas Basin Habitat Conservation Plan (NBHCP), the city shall grant the applicant a credit against the land-acquisition component of any HCP fee to be paid in the future or, at the applicant's option, the city (either directly or through the NBC) shall pay the applicant, in cash, an agreed-upon amount not to exceed the fair market value of the excess acres of land transferred to the city or to NBC.
- D. The applicant has executed an agreement, in a form acceptable to and approved by the city attorney, that requires the applicant and its successors in interest to do the following:
  - 1. Comply with all provisions of the NBHCP;
  - 2. Comply with the Incidental Take Permit and the State Incidental Take Authorization issued in conjunction with the NBHCP;
  - 3. Pay all applicable fee increases and additions, whether adopted by the city before or within six months after issuance of the grading permit (but an applicant who has been specifically and expressly asked by the city manager or designee to pay HCP fees earlier than the date of issuance of a grading permit, and who in fact makes the requested early payment, shall not be subject to the "catch up" provisions of this clause); and
  - 4. Release, defend, and fully indemnify the city and its officers, employees, and agents from and against all costs and damages, including attorney's fees, that may arise in connection with the city's issuance of a grading permit to the applicant, including but not limited to claims (procedural or substantive) that relate to HCP fee increases adopted by the city and arise under California's Mitigation Fee Act (title 7, division 1 of the Government Code, at chapters 6, 7, 8, and 9). (Ord. 2003-031 § 1; Ord. 2002-023 § 1; Ord. 2001-021 § 2)

#### **15.88.100 Liability.**

Neither issuance of grading approval under the provisions of the grading ordinance nor compliance with the provisions hereof or with any conditions imposed in a permit issued hereunder shall relieve any person from responsibility for damage to any person or

property or impose any liability upon the city for damage to any person or property. (Prior code § 9.31.1510)

**15.88.110 Scope of approval.**

The issuance of grading approval shall not be construed as an approval of any action or condition constituting a violation of the provisions of the grading ordinance or of any other applicable laws, ordinances, rules or regulations. (Prior code § 9.31.1511)

**15.88.120 Water obstruction.**

No person shall do or permit to be done any grading which may obstruct, impede, or interfere with the natural flow of storm waters, whether such waters are unconfined upon the surface of the land or confined within land depressions, natural drainage ways, unimproved channels, watercourses, improved ditches, channels or conduits, in such manner as to cause flooding where it would not otherwise occur, aggravate any existing flooding condition or cause accelerated erosion except where said grading is in accordance with all applicable laws including, but not limited to, the provisions of the grading ordinance. (Prior code § 9.31.1512)

**15.88.130 Levee work.**

No person shall excavate or remove any material from or otherwise alter any levee adjacent to any river, creek, bay, or local drainage control channel, without prior approval of the governmental agency or agencies responsible for the operation and/or maintenance of the levee. (Prior code § 9.31.1513)

**15.88.140 Construction in public right-of-ways.**

No person shall perform any grading work within the right-of-way of a public road or street, or within a public easement, without prior written approval of the director, and without obtaining a city encroachment permit. (Prior code § 9.31.1514)

**15.88.150 Hazards.**

Whenever the director determines that any grading on private property constitutes a condition which could endanger persons or property, or could adversely affect the safety, use or stability of adjacent property, or an overhead or underground utility, or any public way, watercourse or drainage channel, or could adversely affect the water quality of any water bodies or watercourses, the owner of the property upon which the condition is located, or other person or agent in possession or control of said property, upon receipt of notice in writing from the director, shall, within the period specified therein, stop all work. The director may require the submission of plans, soil or geological reports, detailed construction recommendations, drainage study or other engineering data prior to and in connection with any work or activity proposed or required to correct such condition. (Prior code § 9.31.1515)

**15.88.160 Not retroactive.**

The provisions of the grading ordinance shall not apply to planned or existing construction for which all previously necessary permits and approvals were obtained



prior to the effective date of the ordinance codified in this chapter. (Prior code § 9.31.1516)

## **Article II Application for Grading Approval**

### **15.88.170 Filing of application for grading approval—Permit.**

Applications for permits shall be obtained from and filed with the department of planning and development, building inspections division. Each application shall include a plan checking fee, the preliminary or final grading plans and a statement of the intended use of the site. Only one application and permit is allowed for grading work to be done on a site. The director shall determine whether the application is complete in accordance with provisions of Article III of this chapter herein and may require additional information from the applicant before accepting the application as complete. The applicant shall be notified within ten (10) working days if the application is deemed incomplete, and of the requirements for completing the application. (Prior code § 9.32.1601)

### **15.88.180 Improvement plans in lieu of application for permit.**

Where a subdivision improvement plan is being processed in conjunction with either an approved tentative, parcel, or final map; or a site plan is being processed in accordance with the provisions of this code, such plan shall also be considered as an application for grading approval. Such plans shall be reviewed and approved, conditionally approved or denied in accordance with the standards and requirements set forth in the grading ordinance and other applicable city specifications. If an improvement plan or site plan is approved, then a separate grading permit shall not be required. Approval of the improvement plans constitutes approval of the grading work intended. (Prior code § 9.32.1602)

### **15.88.190 Grading prior to issuance of building permit or approval of improvement plans.**

Applicants for a permit to allow grading prior to issuance of a building permit or approval of improvement plans shall meet the following requirements:

- A. Preliminary grading plan shall be submitted for review and approval by the director. This plan shall conform to the requirements of the grading ordinance and any applicable conditions placed on the project as a result of any formal discretionary permit process. The applicant shall acknowledge that any additional grading or revisions to work necessitated by conflicts discovered during the improvement plan check or subsequent construction will be corrected at the applicant's expense.
- B. Both erosion and sediment control plans in accordance with provisions of Article III of this chapter, plans and specifications, of the grading ordinance shall be submitted for review and approval by the director.
- C. A winterization certification shall be submitted for review and approval by the director in accordance with Section 15.88.270 of this chapter.
- D. Plan check and inspection fee deposit shall be required in the amount of the full plan check fee applicable at the time of submittal in accordance with Section 15.88.310 of this chapter.

- E. No grading permit shall be issued until all applicable CEQA requirements have been met. (Prior code § 9.32.1603)

**15.88.200 Referral to other public agencies.**

The director may refer the application to other interested public agencies for their recommendations. (Prior code § 9.32.1604)

**15.88.210 Permission of other agencies or owners.**

No application for grading approval shall relieve the applicant of responsibility for securing other permits or approvals, including but not limited to those specified in Section 15.88.090, subsection B, required for work which is regulated by any other department or other public agency, or for obtaining any easements or authorization for grading on property not owned by the applicant. Proof of applicable public agency permits may be required prior to issuance of grading approval. (Ord. 2001-014 § 4: prior code § 9.32.1605)

**Article III Plans and Specifications**

**15.88.220 Application—Plans.**

Five complete sets of plans, as determined by the director, including but not limited to, profiles, cross-sections, topographic maps, erosion and sediment control plans, and accompanying specifications shall be submitted to the director with each application for grading approval or when otherwise required by the director for enforcement of any provision of this chapter. At the time of application, the applicant may provide preliminary grading plans. Prior to the issuance of grading approval, the applicant must furnish final grading plans and all erosion and sediment control plans. Preliminary grading plans with appropriate changes and additions thereto may be accepted as final grading plans. When the final grading plans and other required documents have been approved, grading approval will be issued by the director. The work shall be done in strict compliance with the approved plans and specifications which shall not be changed or altered except in accordance with the provisions of this chapter. (Prior code § 9.33.1701)

**15.88.230 Preliminary grading plans.**

Preliminary grading plans provide for review and determination of grading requirements prior to approval of final plans and issuance of grading approval. Precise design at this stage is not required. The plans shall be clearly and legibly drawn and entitled “preliminary grading plan,” and shall contain a statement of the purpose of the proposed grading, and shall include all of the information required in the Manual of Standards, Chapter 2, Section 2. (Prior code § 9.33.1702)

**15.88.240 Final grading plans.**

Final grading plans and specifications shall be prepared and signed by a registered civil engineer, except as otherwise provided herein. In addition to all requirements for preliminary grading plans, the final plans shall include the information required in the Manual of Standards, Chapter 2, Section 2. The director may waive the requirement

that all plans and specifications be prepared and signed by a registered civil engineer if the grading would not endanger the public health, safety, or welfare as determined by the director and would not involve or require any of the following:

- A. Cuts and fills with a combined total of three hundred fifty (350) cubic yards or more;
- B. An access road serving five or more existing or proposed residences;
- C. A cut or fill that is located so as to cause unduly increased pressure or reduce support upon adjacent structure of property;
- D. The construction of any drainage or sediment control structures, culverts, or facilities or alteration of any existing drainage course;
- E. The creation or aggravation of an unstable slope condition. (Prior code § 9.33.1703)

**15.88.250 Erosion and sediment control plans (ESC plan).**

An ESC plan shall be prepared for all projects to control surface runoff and erosion and to retain sediment on a particular site and prevent pollution of site runoff during the period beginning when any preconstruction- or construction-related grading or soil storage first occurs, until all final improvements and permanent structures are complete. The ESC plan shall be prepared and submitted concurrently with the final grading plan. The ESC plan may be incorporated on the same plan sheet as the final grading plan unless it makes the sheet cluttered, or it may be submitted on a clean separate sheet. The separate sheet shall be drawn clearly and legibly and entitled "erosion and sediment control plan," shall contain a statement of the purpose of the proposed best management practices to be used, and shall include all of the information required and contained in the Manual of Standards, Chapter 2, Section 3. (Ord. 2003-058 § 3; prior code § 9.33.1704)

**15.88.260 Postconstruction erosion and sediment control plan (PC plan).**

The PC plan shall be prepared for all projects to control surface runoff and erosion and retain sediment on a particular site after all planned final improvements and/or structures have been installed or erected. The PC plan shall be prepared and submitted concurrently with the final grading plan. The PC plan shall be drawn clearly and legibly, and entitled "postconstruction erosion and sediment control plan." The PC plan shall contain a statement of the purpose of the proposed best management practices to be used to secure the project after completion, and shall include all of the information required and contained in the Manual of Standards, Chapter 2, Section 4. (Prior code § 9.33.1705)

**15.88.270 Winterization certification.**

A winterization certification shall be submitted no later than September 15th for all projects where any construction will occur between October 1st and April 30th. Construction that will occur solely in the summer months, between May 1st and September 30th will not be required to submit a winterization certification. The winterization certification shall consist of a written statement or descriptive plan sheet from the owner certifying that the project under construction is prepared for an event which will stop construction, such as rain or snow, that all ESC plan best management

practices are in place and operating correctly, that housekeeping practices are maintained and that the site can be left or abandoned safely for an extended period of time during the rainy season without causing any erosion and sediment control problems. If a winterization certification is required and has not been submitted and approved prior to September 16th, the grading approval will be suspended until a winterization certification is submitted and approval obtained. Refer to the Manual of Standards, Chapter 4, Section 5, for additional information regarding winterization certification. (Prior code § 9.33.1706)

**15.88.280 Modification of approved plans.**

Any modifications of an approved final plan shall be submitted in writing to the director, who shall approve or deny such modification in his or her sole discretion. All necessary soils and geological information and design details shall accompany any proposed modification. Any modification shall be compatible with all subdivision map or land use requirements. (Prior code § 9.33.1707)

**15.88.290 General design standards.**

Any activities performed under the authority of the grading ordinance, including but not limited to grading, excavation, soil storage, soil transportation, erosion and sediment control measures, shall conform to the general design standards set forth in the Manual of Standards, Chapter 3. (Prior code § 9.33.1708)

**Article IV Permit Requirements**

**15.88.300 General.**

The director shall issue grading approval if final grading plans satisfy the provisions of the grading ordinance and the Manual of Standards. The director shall identify the provision, requirement, or condition which has not yet been met or performed by the applicant in the event the issuance of grading approval is denied. (Prior code § 9.34.1801)

**15.88.310 Fees.**

- A. The applicant shall pay a fee to cover the city's costs of reviewing plans, specifications, reports and other materials related to grading approval and performing all engineering services, field investigations, inspections, routine laboratory tests of materials and compaction or other work or services in connection with the issuance of grading approval or to determine or enforce compliance with any requirement or provision set forth in this chapter or in Chapter 13.16.
- B. The fee or fees required by subsection A shall be established from time to time by resolution of the city council and shall be paid to the director either before grading approval is issued or before the issuance of a building permit, or both in accordance with the fee schedule adopted by resolution of the city council. The director may charge additional fees in any case where the city incurs costs that are not covered by the initial fee payment(s).

- C. If grading work is done in violation of the grading ordinance or does not comply with the terms and conditions of a grading approval issued for such grading, the violator is required to pay the city for all costs actually incurred by the city to inspect or investigate such violation and to perform inspection and plan checking of work required to correct the violation. (Ord. 2003-058 § 4; prior code § 9.34.1802)

**15.88.320 Progress report.**

Applicant shall submit periodic progress reports on specified calendar dates and at commencement and completion of specified grading and erosion and sediment control operations. The dates upon which such reports are required and their content shall be as required by the director in the grading approval. (Prior code § 9.34.1803)

**15.88.330 Submit record construction drawings.**

The applicant shall submit to the director record construction drawings of the final grading plan and erosion and sediment control plans following completion of grading operations. (Prior code § 9.34.1804)

**15.88.340 Performance of work—Inspection.**

The director may inspect any work done pursuant to the grading ordinance at any time during the course of construction. No person shall be deemed to have complied with the grading ordinance until a final inspection of the work has been made by the director. As a condition of any grading approval, the applicant shall provide the city a right-of-entry and reasonable access, in accordance with Section 15.88.470 of this chapter, to the site during the performance of all work and for a minimum period of one year after acceptance by the director of all improvements pursuant to the grading ordinance. (Prior code § 9.34.1805)

**15.88.350 Location of property lines.**

Prior to any grading work or related activities, the owner must flag all property corners of the parcel of land to be graded. If the property corners are unknown, or whenever the location of a property line or easement or the title thereto is disputed during the application process or during a grading operation, a survey by a licensed land surveyor or civil engineer or other resolution of the title dispute, all at the expense of the applicant, may be required by the director. (Prior code § 9.34.1806)

**15.88.360 Other responsibilities of applicant.**

- A. Protection of Utilities. The applicant shall be responsible for the prevention of damage to any public utilities or services.
- B. Protection of Adjacent Property. The applicant shall be responsible for the prevention of damage to adjacent property. No person(s) shall excavate on land that is so close to the property line as to endanger any adjoining public street, sidewalk, alley, structure or other public or private property or easement without supporting and protecting such property from any damage which might otherwise result.

- C. Advance Notice. The applicant shall notify the director at least twenty-four (24) hours prior to the start of work.
- D. Erosion and Sediment Control. It shall be the sole responsibility of the applicant to prevent discharge of sediment from the site, in quantities greater than before the grading occurred, to any watercourse, drainage system, or adjacent property.
- E. Compliance with Stormwater Management and Discharge Control Code. At all times during the preconstruction and construction of any project for which grading approval is issued until all final improvements and permanent structures are complete, the applicant shall fully comply with all applicable requirements of the city's Stormwater Management and Discharge Control Code, set forth in Chapter 13.16. (Ord. 2003-058 § 5; prior code § 9.34.1807)

**15.88.370 Time limits.**

All the work required by the permit or grading approval shall be completed within the time limits specified in the permit or approval. If the work cannot be completed within the specified time, a request for an extension of time setting forth the reasons for the requested extension shall be presented in writing to the director no later than thirty (30) days prior to the expiration of the permit or approval. The director shall in his or her sole discretion approve or deny such request. The director may require a new application and fees depending on the time between the expiration date and the extension request, revisions in city regulations, and/or changed circumstances in the immediate area. (Prior code § 9.34.1808)

**15.88.380 Transfer of grading approval.**

No approval or permit issued under the grading ordinance may be transferred or assigned in any manner whatsoever, without the express written consent of the director. (Prior code § 9.34.1809)

**15.88.390 Improvement security required.**

- A. As a condition for the issuance of grading approval, the director may require the deposit of an improvement security in an amount deemed sufficient by him or her to assure faithful performance of the grading work in the event of default on the part of the applicant. Said security shall be in a form acceptable to the city.
- B. In the case of subdivisions, the improvement security shall remain in effect until final inspections have been made and all grading work and subdivision improvements have been accepted by the city.
- C. For projects other than subdivisions, the improvement security shall remain in effect until final inspections have been made and all grading work has been accepted by the director.
- D. In addition to the improvement security, the director may also require the deposit of maintenance security in an amount deemed sufficient by him or her to guarantee and maintain the grading work performed, to assure the proper functioning of drainage systems and adequate erosion and sedimentation control. Said maintenance security shall be in a form acceptable to the city and shall remain in effect for a period of one year after the date of acceptance of the

improvements or grading work, as designated in subsections B and C of this section, or such other periods of time as required by the director.

- E. Any deposit required by the director pursuant to this title shall be payable to the city.
- F. Upon failure to complete the work, failure to comply with all of the terms of the grading ordinance, or failure of the completed site to function properly to provide proper drainage or erosion and sedimentation control, the city may do the required work, or cause it to be done and collect from the applicant or surety all costs incurred thereto, including administrative and inspection costs. Any unused portion of a deposit shall be refunded to the applicant after deduction by the city of the cost of the work. (Prior code § 9.34.1810)

#### **15.88.400 Appeals.**

Appeals of any decision made pursuant to the grading ordinance shall be made to the construction codes advisory and appeals board in writing, setting forth the specific grounds therefor. Such appeals shall be heard and determined in accordance with the procedures set forth in Chapter 2.48 of this code. (Prior code § 9.34.1811)

### **Article V Enforcement**

#### **15.88.410 Enforcement official.**

The director shall enforce the provisions of the grading ordinance. (Prior code § 9.35.1901)

#### **15.88.420 Suspension and revocation of grading approval.**

The director may suspend or revoke grading approval for good cause. In the event that a suspension or revocation is appealed to the construction codes advisory and appeals board, no work shall be performed pending appeal except as expressly authorized, in writing, by the director. (Prior code § 9.35.1902)

#### **15.88.430 Stop work order.**

- A. Whenever any work is being done in violation of the provisions of the grading ordinance or any other applicable law, ordinance, rule or regulation, the director may order the work stopped by serving written notice of such violation on any persons engaged in, doing, or causing such work to be done. Any such person shall forthwith stop such work until authorized by the director to proceed with the work. If there are no persons present on the premises, the notice shall be posted in a conspicuous place. The notice shall state the nature of the violation. Any person violating a stop work order shall be guilty of an infraction.
- B. Upon receipt of or knowledge of the existence of such stop work notice, the person performing the work shall:
  - 1. Stop work immediately; and
  - 2. Within twenty-four (24) hours, provide the director with a list of remedies which can be immediately undertaken to bring the work into compliance with this title; and

3. Within twenty-four (24) hours after acceptance of such remedies by the director, undertake at the violator's expense, such action as is necessary to bring the work into compliance with this title.
4. If engineering work is required to identify and define the proper course of action, as determined by the director, such work shall be provided by the violator at no cost to the city. (Prior code § 9.35.1903)

**15.88.440 Abatement of unlawfully created conditions.**

- A. Any condition in violation of the grading ordinance is declared to be a public nuisance, subject to abatement in accordance with Title 8 of this code. In the event that the director determines that a violation has created a condition which is of such a nature to be imminently dangerous to the public health, safety or welfare, such condition may be abated in accordance with the summary abatement procedures set forth at Chapter 8.04, et seq. of this code.

The following conditions are declared to constitute an imminently dangerous condition:

1. When a violation has altered natural drainage patterns and has caused flooding to any downstream or upstream property; or
  2. When a violation results in a condition which creates a drainage alteration such that upstream or downstream property may be flooded when weather conditions change and the owner, lessee, or licensee of the property on which the violation exists cannot be found; or
  3. When a violation results in a hazard, requiring immediate correction for the preservation of the public health, safety, or welfare; or
  4. When a violation results in a discharge or release of significant amounts of sediment which causes or threatens to cause flooding, property damage, or unsafe conditions.
- B. The costs incurred by city to abate any nuisance caused by a violation of the grading ordinance shall be assessed against the subject property as a lien or made a personal obligation to the owner of the property as provided in Chapter 8.04, et seq. of this code. Such costs may include, but shall not be limited to, the following:
1. Engineering and design costs;
  2. Contractor service bills or public employee wages at cost;
  3. Administrative overhead and supervision based on ten (10) percent of all other costs incurred;
  4. Interest which shall accrue and be billed at the rate of ten (10) percent of all unpaid amounts from the date of billing;
  5. Attorney fees and costs.
- C. The abatement procedures set forth in this section are cumulative and in addition to any other rights or remedies which are or may be available to city to correct or cause to be corrected any violation of the grading ordinance, or to abate a condition which is otherwise a public nuisance. (Prior code § 9.35.1904)



**15.88.450 Infraction.**

Any person violating any provision of the grading ordinance shall be guilty of an infraction. (Prior code § 9.35.1905)

**15.88.460 Nonexclusive remedies.**

The remedies provided herein are not exclusive, and are in addition to any other remedy or penalty provided by law for violation of the grading ordinance. (Prior code § 9.35.1906)

**15.88.470 Right of entry.**

Whenever necessary to enforce the provisions of the grading ordinance, the director may enter the premises at all reasonable times to the extent authorized by law to perform any duty imposed by the grading ordinance. If such entry is refused, the director shall have recourse to every remedy provided by law to secure entry. (Prior code § 9.35.1907)