



## Chapter 15.14

# EI DORADO COUNTY GRADING, EROSION, AND SEDIMENT CONTROL ORDINANCE

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### ARTICLE I. INTRODUCTION

**Section 15.14.100 Title:** This Chapter shall be known as the Grading Ordinance of the County of El Dorado.

**Section 15.14.110 Purpose and scope:** This Chapter is enacted for the purpose of regulating grading within the unincorporated area of El Dorado County to safeguard life, limb, health, property and public welfare; to avoid pollution of watercourses; and to ensure that the intended use of a graded site is consistent with the El Dorado County General Plan, any Specific Plans adopted thereto, the adopted Storm Water Management Plan, California Fire Safe Standards and applicable El Dorado County ordinances including the Zoning Ordinance and the California Building Code.

This Chapter establishes the administrative procedures for issuance of permits; and provides for approval of plans and inspection of grading construction. This Chapter is not intended to supersede or otherwise preempt any applicable local, state, or federal law or regulation. Where conflicts may occur between this Chapter and such laws or regulations, the most restrictive shall apply.

**Section 15.14.120: Administrative Authority:** This ordinance shall be implemented and enforced by the County agency or agencies granted administrative and enforcement authority by the Board of Supervisors of the County of El Dorado. For purposes of this ordinance, the term "Director" refers to a chief administrative officer (i.e. department head) of an agency identified as having administrative and enforcement authority. The term "Director" also refers to those persons authorized by a chief administrative officer to implement and enforce the provisions of this ordinance.

**Section 15.14.130: Applicability:** A grading permit issued by the Director is required for all grading activities in the unincorporated area of El Dorado County, including underground excavations associated with human occupancy, and agricultural grading activities that convert undisturbed vegetation to agricultural cropland, unless the proposed activities are exempt from this requirement pursuant to Section 15.14.140 of this chapter.

**Section 15.14.140: Exemptions:** The following categories of grading projects are exempt from the requirement of obtaining a grading permit except where such grading would create a cut or fill that could potentially endanger any structure intended for human or animal occupancy, threaten the stability of any public road, or obstruct any watercourse or drainage conduit. Projects located in the Tahoe Basin are not eligible for the exemptions listed below pursuant to Section 15.14.150, "Tahoe Basin special restrictions".

Exempt projects shall comply with all other requirements of this Chapter, CEQA, the County Storm Water Management Plan (SWMP) and all other relevant codes and ordinances.

- A. Single family dwellings and accessory structures that conform to all of the following design parameters:
  - 1. The volume of graded material is less than 50 cubic yards.
  - 2. All cuts are less than five feet in height.
  - 3. All fills are less than three feet in height.
  - 4. The area of soil disturbance is less than 10,000 square feet.
  - 5. No potentially unstable slopes or areas subject to erosion are created, as determined by the Director.
  - 6. Grading activities do not encroach into septic effluent disposal areas.
  - 7. Drainage is not directed into a septic effluent disposal area.
  - 8. Fills are not intended for support of structural improvements, including flatwork concrete, driveways, roads, and buildings.
  - 9. The grading activities would not alter previously placed erosion control materials or drainage facilities.
  
- B. Multi-family residential or commercial/industrial projects that conform to all of the design parameters in Section 15.14.140.A above and for which a waiver of the requirement for a grading permit has been authorized by the Director.
  
- C. Grading that conforms to all of the design parameters in Section 15.14.140.A above necessary to conduct soil, geotechnical, geological, or environmental studies by engineers, geologists, environmental health specialists or soil scientists in which the disturbed areas are subsequently restored to substantially the pre-existing condition.
  
- D. Grading done under the supervision of a County agency for which the Board of Supervisors is the controlling body, or a public agency governed by an elected Board of Directors.
  
- E. Excavation and placement of fill associated with the installation, maintenance, repair or replacement of facilities for the production, generation, storage, treatment, or

- transmission of water, wastewater (including recycled water), or electrical energy by a utility company regulated by the California Public Utilities Commission, a public agency governed by an elected Board of Directors, an agency of the State of California or an agency of the United States of America.
- F. Excavations for the foundation of a building or structure where the construction of such building or structure has been authorized by a Building Permit issued by the County.
  - G. Trenching and grading incidental to the construction or installation of county-approved underground pipelines, septic tank disposal fields, conduits, electrical or communication facilities, and drilling or excavation for approved wells or post holes.
  - H. Grading in accordance with plans and specifications incorporated into an approved surface mining permit, reclamation plan, or solid waste facilities permit.
  - I. Grading involving the ongoing operations of a vested mining facility that is conducted in conformance with an approved reclamation plan.
  - J. Maintenance of existing firebreaks and roads to keep the firebreak or road substantially in its original condition.
  - K. Routine cemetery excavations and fills.
  - L. Excavation within the public Right-of-Way under the authority of an Encroachment Permit issued by the County.
  - M. Installation of miscellaneous fills, such as landscape fills, that contain less than 50 cubic yards of material and conform to the design parameters listed in Section 15.14.140.A of this Chapter.
  - N. Construction of miscellaneous cuts that involve less than 50 cubic yards of excavation and conform to the design parameters listed in Section 15.14.140.A of this Chapter.
  - O. Agricultural grading activities that convert less than one acre of undisturbed vegetation to agricultural cropland.
  - P. Agricultural grading or other practices, including fuel reduction and fire protection, that do not substantially change the natural contour of the land and that use “best management practices” as recommended by the County Agricultural Commission and adopted by the Board of Supervisors.

**Section 15.14.150 Tahoe Basin special restrictions:**

- A. The exemptions listed in Section 15.14.140 above are not applicable in the Tahoe Basin.
- B. All other applicable provisions of this Chapter shall apply to grading activities in the Tahoe Basin.
- C. Refer to Section E.6 of Volume III of the County Design and Improvement Standards Manual ~~Section 15.14.220 of this Chapter~~ for conditions of approval applicable to the Tahoe Basin.

**Section 15.14.160 Severability:** If any section, subsection, paragraph, subparagraph, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Chapter; and the Board declares that this Chapter and each section, subsection, paragraph, subparagraph, sentence, clause, and phrase of this Chapter would have been adopted irrespective of the fact that one or more of such sections, subsections, paragraphs, subparagraphs, or sentences, clauses or phrases be declared invalid or unconstitutional.

## **ARTICLE II. PERMIT PROCESSING**

**Section 15.14.200 Application Submittal Requirements:** Grading plans submitted to the County in support of a permit application shall include the informational items listed in Section D, and be consistent with the design standards described in Section B, of the Grading, Erosion and Sediment Control Chapter of the Design and Improvement Standards Manual as currently adopted by the El Dorado County Board of Supervisors.

**Section 15.14.210 Permit Processing Procedures:** Applications for a Grading Permit shall be reviewed in accordance with the procedures outlined in Section E of the Grading, Erosion and Sediment Control Chapter of the Design and Improvement Standards Manual as currently adopted by the El Dorado County Board of Supervisors. Inspections shall be conducted pursuant to the procedures outlined in Section F of the Grading, Erosion and Sediment Control Chapter of the Design and Improvement Standards Manual as currently adopted by the El Dorado County Board of Supervisors.

**Section 15.14.220 Time limits on permits:**

- A The permittee shall perform and complete all the work required by the permit within time limits specified in the permit. 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 fifteen (15) days prior to the expiration of the permit. The Director may add additional time for completion of the work. For single parcel site development, the permit shall be valid for the length of time specified in the California Building Code as amended by County ordinance.
  
- B If all the permit work required is not completed within the time limit specified in subsection A of this section, no further grading shall be done without renewing the permit. The Director may require specific measures to be immediately implemented to ensure stabilization of the site. A written request for renewal shall be submitted to the Director, who may require a new application and fees depending on the time between the expiration date and the renewal request, revisions in county regulations, or changed circumstances in the immediate area. Any revised plan shall be submitted to the Director for review, and any costs thereof shall be at the applicant's expense.

**Section 15.14.230: Fees**

- A **Fee Schedule:** The schedule of fees and costs shall be those established from time to time by duly adopted resolutions of the Board of Supervisors.
- B **Timing of payment:** As part of the application, the applicant shall provide to the County either an initial deposit of funds or a fixed fee as authorized by the adopted County fee ordinance. Fees and deposits shall be provided to the Administrative Authority as identified pursuant to Section 15.14.120 of this chapter. The authorized

methods of County cost recovery are described below:

Fixed fee cost recovery: For projects eligible for the fixed fee cost recovery method, the fee shall be paid at the time of application. Fixed fees shall be allocated in equal amounts to cover the cost of plan check and the cost of construction inspection and be subject to the refund procedures specified in the applicable adopted fee ordinance or resolution.

Time and Materials cost recovery: For projects that require time and materials reimbursement, an initial deposit of funds shall be provided based upon an engineer's estimate of project cost. This deposit shall constitute an estimate of the County's costs of permit processing. During permit processing, the applicant shall be periodically billed to cover ongoing County costs when a designated portion of the deposit, as determined by the Director, has been expended. Prior to permit issuance, or on an alternate schedule approved by the Director, any unpaid County costs associated with processing of the permit shall be paid by the applicant. In addition, the applicant shall provide a second deposit to cover the costs of construction inspection. During the inspection period, the applicant shall be periodically billed to cover ongoing County costs when a designated portion of the inspection deposit, as determined by the Director, has been expended. Any outstanding County costs at the time of final inspection shall be billed to the applicant. No additional permits shall be issued on a parcel with an unpaid bill for County costs. If there is a balance due the applicant at the time of final inspection approval, a refund will be processed within 60 days and funds will be forwarded to the owner of record.

- C **Public agencies:** The fee required of public agencies may be waived pursuant to the policy of the El Dorado County Board of Supervisors.
- D **Public utilities:** Public utilities may, at the option of the Director, make payment for the above charges as billed by the Director instead of by advance deposit as required above.
- E **Violation fees:** If grading work is done in violation of this Chapter or such work is not done in accordance with an approved permit, a fee covering investigation of any violation and the inspection and plan checking of work required to correct such violation shall be charged to the violator at an amount equivalent to twice the regular permit fee. These fees are in addition to any fines or penalties imposed pursuant to sections 15.14.410 and 15.14.420 of this Chapter.

**Section 15.14.250 Transfer of permit:** No permit issued under this Chapter may be transferred or assigned in any manner whatsoever, without the express consent of the Director.

**Section 15.14.260 Validity:** The issuance of a permit or approval of plans and specifications shall not be construed as an approval of any violation of the provisions of this Chapter or of any other applicable law, ordinance, rule or regulation. If a permit is issued by the County due to inaccurate plans and informational materials submitted by the applicant, the Director may revoke the permit at any time.

**Section 15.14.270 Appeals:** Final decisions made by the Director, or by any applicable County commission, appeals board or decision-maker, pursuant to this Chapter may be appealed to the Board of Supervisors within ten working days of the date of such decision. The appeal to the Board shall be made in writing and shall list the specific grounds for the appeal.

**Section 15.14.280 Emergency Work:** Grading activities to protect life or property, or to implement necessary erosion control measures, may be initiated prior to obtaining a permit when a situation exists that requires immediate action. Only the volume of grading necessary to abate an imminent hazard may be performed prior to obtaining a permit. The person performing such emergency work shall notify the Director and provide photographic evidence of the scope and necessity of the work on the next full working day after the onset of the emergency situation. The person performing the emergency work or the landowner shall apply for a permit within ten (10) calendar days after the commencement of grading. The Director may order work to be stopped or restricted in scope based upon the nature of the emergency.

**Section 15.14.290: Hazards**

Grading activities that cause or have the potential to result in the following conditions, as determined by the Director, are prohibited.

- A. The creation of a hazard to public health and safety
- B. A threat to the stability or use of adjacent property.
- C. Damage to public or private utilities.
- D. Damage to a public or private roadway or other transportation facility.
- E. Damage to, or obstruction of, watercourses or drainage facilities.
- F. Substantial degradation of water quality of any water body.
- G. Damage to existing septic systems and water supply wells.

If one or more of the above conditions exist or have the potential to occur, it is the responsibility of the landowner to immediately cease all grading activities and notify the Director. The landowner shall obtain a new or revised grading permit to authorize the work necessary to eliminate the hazard. The Director may require the submission of new plans and engineering or geological reports that include professional design recommendations. The Director may require design modifications to address the identified issues. In the case of an emergency condition, the Director may authorize immediate work to occur pursuant to Section 15.14.280 of this Chapter.

### **ARTICLE III. IMPROVEMENT SECURITY**

**Section 15.14.300 Security required:** As a condition for the issuance of a permit, the Director may require the deposit of improvement security in sufficient amount deemed necessary by him to assure faithful performance of the work.

- A **Form of Security:** The security shall be in the form of cash, a certified or cashier's check, a letter of credit, or a faithful performance bond executed by the applicant and a corporate surety authorized to do business in this state. Public agencies are exempted from this provision by law.
- B **Effective period of Security-Subdivisions:** 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 as complete by the Director.
- C **Effective period of Security-general projects:** 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 as complete by the Director.
- D **Maintenance security:** In addition to the improvement security, the Director may also require the deposit of maintenance security in sufficient amount deemed necessary to guarantee and maintain the grading work to assure the proper functioning of drainage systems and adequate erosion and sedimentation control. Said maintenance security shall be in the form of cash, a certified or cashier's check, a letter of credit, or a faithful performance bond executed by the applicant and a corporate surety authorized to do business in this state and shall remain in effect for a period of one year after the date of expiration of the improvement security as designated in subsections B and C of this section.
- E **Payee of Bond or other security:** Any bond or deposit required by the Director pursuant to this Chapter shall be payable to the County of El Dorado, El Dorado County Department of Transportation or Development Services Department, as applicable.
- F **Release of security:** Upon satisfactory completion of the permitted work (including any County-required monitoring period), as determined by the Director, the improvement and maintenance security deposits or bonds shall be released to the applicant. In the event of failure to complete the work in accordance with the approved plans and all permit conditions of approval, the County shall retain the security funds. The County may use these funds to complete the required work or to pay a contractor to complete the required work. Any funds remaining after the payment of all costs, including administrative and inspection costs, shall be returned to the permittee.
- G **Grading Agreement:** Where an Improvement Security Agreement is required, it shall be executed in a form approved by the Director.

**Section 15.14.310 Bond for stockpiles:** If required by the Director, a bond and grading agreement in conformance with Section 15.14.300 of this Chapter shall be provided to assure future stockpile removal, implementation of erosion control and restoration of the site.

## **ARTICLE IV. ENFORCEMENT**

**Section 15.14.400 Suspension and revocation of permit:** The Director may suspend or revoke a permit for good cause, subject to appeal to the Board of Supervisors. Except for erosion control facility installation and maintenance, no work shall be performed pending an appeal except as authorized by the Director.

### **Section 15.14.410 Corrective work:**

#### **A. Abatement of Unlawfully Created Conditions:**

1. **Entry onto property:** Pursuant to Section 15.14.440 of this Chapter, the Director may order County workers or contractors to immediately enter private property to conduct work necessary to abate hazards to public health and safety such as:
  - a. The alteration of drainage patterns that has caused, or has the potential to cause, flooding of or siltation upon any downstream property as determined by the Director.
  - b. Grading activities that cause or have the potential to cause erosion, sedimentation or landslides that could affect offsite property, sensitive environmental resources or public safety as determined by the Director.
  - c. Other emergency conditions that threaten public or private property.
2. **Cost Recovery:** Whenever the County expends any funds or takes any action, the County shall bill the landowner, lessee or licensee for the costs indicated herein. Pursuant to the requirements of Government Code Section 54988, the costs shall become a lien on the property, or shall be recoverable from the property owner by other legal means. All of the following costs shall be billed:
  - a. Engineering and design--professional and specialized services (private or County);
  - b. Construction - contractor's invoices or County's force account cost;
  - c. Administration and supervision overhead costs as authorized by Government Code Section 54985;
  - d. Interest accrued at the percentage rate currently authorized by the Board of Supervisors on all unpaid amounts from the date of billing.

#### **B. Stop Work Orders:**

1. **Order and Penalty:** Whenever it comes to the attention of the Director that any person is performing work in violation of the provisions of this Chapter or without a permit as required by this Chapter, or the work is in violation of the

*Section references corrected*

conditions of approval of an approved permit, the Director may serve upon such person a written order citing such violations and directing that person performing the work to stop work immediately. A violation of a Stop Work Order is a misdemeanor punishable pursuant to Section 15.14.420 of this Chapter.

2. Failure to comply: Upon failure of any person to comply with the stop work notice served pursuant to this section, the department may perform the corrective work either with County crews or by contract. All persons responsible for the violation shall be liable jointly and severally to the county for the cost of such corrective work.
3. Required actions by violator: Upon receipt of such stop work notice, the person performing the work shall comply with all of the following:
  - a. Stop work immediately except as allowed under Section 15.14.280 of this Chapter.
  - b. 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 Chapter. The Director shall review the proposed remedies for conformance with this Chapter, the El Dorado County General Plan and other applicable laws and regulations;
  - c. Within twenty-four (24) hours after acceptance of the proposed remedies by the Director, implement the remedies accepted by the Director as is necessary to bring the work into compliance with this Chapter. All costs associated with the remedial work are the responsibility of the violator.
4. Engineering work: Necessary engineering work required to identify and define the proper course of action, as determined by the Department of Transportation or the Development Services Department, shall be funded by the violator at no cost to the County.

**C. Notice of Noncompliance:**

1. Unpermitted work: In those cases where there has been a failure to secure the required permit or permits, or an approved permit has expired, the Director, shall record a notice of noncompliance with the County Recorder. This action shall be taken no sooner than thirty (30) days after attempting to notify the owner of the property by certified mail of the requirement of permits, the nature and extent of the identified violation and the sections of County Code that pertain to this violation. The filing of a notice of noncompliance shall be done in addition to any other legal remedy that the department may employ.
2. Notice of Cancellation: When the work has been completed under the authority of a grading permit, the Director shall record with the County

Recorder and provide to the property owner of record, a notice of cancellation certifying that a permit has been issued and the notice of noncompliance has been rescinded. This shall be done at the permittee's expense.

**D. Noncompliance notification by licensed professional:** The Geotechnical Engineer, Certified Engineering Geologist or Civil Engineer retained to monitor construction shall immediately notify the Director if it is observed that the work is not being performed substantially in accordance with the approved plans and specifications. The licensed professional shall make recommendations for corrective measures that would abate the violation. Any necessary modifications of project plans shall be submitted to the Director for review and approval.

**Section 15.14.420 Penalties imposed by law:** Notwithstanding any other provisions of this code, a violation of a provision of this ordinance is considered a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment pursuant to Section 1.24.020 of the El Dorado County Code. Each day that such violation continues shall constitute a separate offense punishable as set forth herein.

**Section 15.14.430 Nonexclusive remedies:** The remedies provided in this Chapter are not exclusive, and are in addition to any other remedy or penalty provided by law. The available remedies include, but are not limited to, actions taken by El Dorado County pursuant to Section 9.02 of the County Code.

**Section 15.14.440 Right of entry:** Whenever necessary to enforce the provisions of this Chapter, the Director may enter the premises at all reasonable times in the manner provided by law to perform any duty imposed by this Chapter. If such entry is refused, the Director shall have recourse to every remedy provided by law to secure entry.

**Section 15.14.450 Liability:** Neither issuance of a permit under the provisions of this Chapter nor compliance with the provisions hereof or with any conditions created in a permit issued hereunder shall relieve any person from responsibility for damage to any person or property or impose any liability against the county for damage to any person or property.

**Section 15.14.460 Denial of other permits and inspections:** No new permit of any type shall be issued, nor any inspection services provided, for a parcel upon which an unabated violation of this ordinance exists.

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