



MEMORANDUM
COMMUNITY DEVELOPMENT RESOURCE AGENCY
ENGINEERING AND SURVEYING DIVISION
County of Placer

TO: Honorable Board of Supervisors **DATE:** December 6, 2022
FROM: David W. Kwong, Community Development Resource Agency Director
BY: Rebecca Taber, Deputy Director
SUBJECT: Grading Ordinance Update

ACTIONS REQUESTED

1. Adopt an ordinance introduced on November 29, 2022 amending Placer County Code, Chapter 15, Article 15.48, "Grading, Erosion, and Sediment Control."
2. Determine that the proposed action is exempt from environmental review under the California Environmental Quality Act Guidelines Sections 15308 and 15061(b)(3).

BACKGROUND

The ordinance was previously introduced during the Board of Supervisors' (Board) meeting on November 29, 2022. No changes have been made to the ordinance from the version introduced to the Board. The ordinance will amend Placer County Code Chapter 15, Article 15.48, entitled the Grading, Erosion, and Sediment Control Ordinance. Staff now requests the Board adopt the Ordinance.

ENVIRONMENTAL IMPACT

This action is not a project subject to environmental review under the California Environmental Quality Act (CEQA) as defined by CEQA Guidelines Sections 15308 and 15061(b)(3).

FISCAL IMPACT

The Actions requested with this item have no fiscal impact.

ATTACHMENT

Attachment A: Ordinance, "Grading, Erosion, and Sediment Control"

- Exhibit 1: Placer County Code, Chapter 15, Article 15.48, Sections 15.48.030, 15.48.050, 15.48.060, 15.48.070, 15.48.080, 15.48.095 (new), 15.48.120, 15.48.240, 15.48.300, 15.48.320, 15.48.330, 15.48.420, and 15.48.700 as amended

ATTACHMENT A

Before the Board of Supervisors County of Placer, State of California

In the matter of:

An Ordinance to amend Placer County Code,
Chapter 15, Article 15.48, Sections 15.48.030,
15.48.050, 15.48.060, 15.48.070,
15.48.080, 15.48.095 (new),
15.48.120, 15.48.240, 15.48.300,
15.48.320, 15.48.330, 15.48.420, and 15.48.700

Ordinance No.: _____

Introduced: November 29, 2022

The following Ordinance was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held on December 6, 2022, by the following vote:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chair, Board of Supervisors

Attest:

Clerk of said Board

WHEREAS, amendments are sought to Placer County Code Chapter 15, Article 15.48, known as the Grading, Erosion, and Sediment Control Ordinance (“Grading Ordinance”), to update certain provisions for purposes of clarifying grading permit requirements and improving process efficiencies, and other amendments are sought to Section 15.48.070 to fix a publishing error.

WHEREAS, this ordinance includes amendments to Sections 15.48.030 and 15.48.070(A)2 and (E) to better define agricultural operations and clarify those circumstances when an agricultural exemption from the Grading Ordinance applies. Section 15.48.030 is further amended to clarify and update definitions for the agency director and planning director and to add definitions for embankment pond and excavated pond.

WHEREAS, an amendment to Section 15.48.050 regarding water obstruction is proposed to clarify and simplify that drainage shall not be blocked and that drainage changes as a result of grading activities may not cause detrimental impacts to public property, health, or safety. A related update to Section 15.48.700 is also proposed as an amendment to clarify when nuisances related to alteration of natural drainage patterns are actionable and enforceable by the County.

WHEREAS, this ordinance includes an amendment to Section 15.48.060 to require grading permits for specific pond construction based on size and design and to add a new Section 15.48.095 Ponds and amend Section 15.48.320 to incorporate pond design and permitting requirements that have routinely been in use by the Engineering and Surveying Division to supplement the Grading Ordinance but summarized by separate document.

WHEREAS, this ordinance includes an amendment to Section 15.48.080 to provide relief for an applicant needing to reconstruct a failing private vehicular bridge for emergency access by allowing a reduced permit review fee.

WHEREAS, amendments to Sections 15.48.120(B) and 15.48.240(D) are also sought to remove the Lahontan Regional Water Quality Control Board from grading permit review within the Tahoe region since that agency designated the County as the responsible agency for this review. In addition, an amendment to Section 15.48.120(D) is also sought due to the County requiring a grading permit in addition to a TRPA permit when retaining walls over four feet in height or subject to a surcharge are involved since TRPA does not review retaining wall structural calculations. Further, Section 15.48.240(D) is amended to add that grading activities during inclement weather, when the ground is saturated, or covered in snow at elevations above 5,000 feet are prohibited unless written consent by the agency director is obtained.

WHEREAS, amendments to Sections 15.48.300 and 15.48.330 are sought to update to current practices allowing for electronic grading plan submittals and amendments to Section 15.48.420 are sought to add additional situations where special inspection is required by a geotechnical or civil engineer for retaining walls, sound walls, embankments used as dams, and private vehicular bridge installations.

WHEREAS, a publishing error occurred with Section 15.48.070 that would also be corrected by this ordinance. On April 3, 2006, the Board of Supervisors adopted Ordinance No. 5407-B to amend various portions of the Placer County Code, including Chapter 15, Article 15.48, Section 15.48.070. The ordinance was the subject of a duly noticed public hearing and after adoption, the Clerk of the Board satisfied the publishing requirements set forth in Government Code section 25124(b). Ordinance 5407-B was not legally challenged nor was it repealed and was included in the compiled electronic and printed Placer County Code.

WHEREAS, on September 1, 2020, the Board of Supervisors adopted Ordinance No. 6042-B to amend various portions of the Placer County Code in Chapters 15, 16 and 18 in accordance with approval of the Placer County Conservation Program. The amendments included edits to portions of Section 15.48.070. However, in making the edits, Ordinance 6042-B inadvertently omitted a portion of Section 15.48.070 that was not to be changed, specifically subsections (A)(7)-(9) and (B)-(D), and as a result the Code publisher published the section with those portions removed, and re-lettered the remaining subsections (E)-(O) as (B)-(L).

WHEREAS, Ordinance No. 6042-B did not propose changes to Section 15.48.070, subsections (A)(7)-(9) and (B)-(D), and therefore the adoption of Ordinance No. 6042-B did not repeal or replace the same. This was simply an error in the version of the County Code utilized to bring forward the changes that were adopted by the Board in Ordinance No. 6042-B.

WHEREAS, pursuant to Government Code section 25130, an ordinance that has been “adopted and fully published, may be subsequently recompiled, recodified and indexed, including such

restatement and substantive change as is necessary in the interest of clarity” through the adoption of a subsequent ordinance.

WHEREAS, in the interest of clarity in the County Code, the Board wishes to restate, through the adoption of this ordinance, that Section 15.48.070, subsections (A)(7)-(9) and (B)-(D), shall remain as they were contained in the County Code after adoption of Ordinance 5407-B, the following subsections should be lettered in ascending order in accordance with the letters contained in Ordinance No. 6042-B, and shall be corrected as such in the electronic and printed compiled County Code.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF PLACER
ORDAINS AS FOLLOWS:

Section 1: Placer County Code, Chapter 15, Article 15.48, Sections 15.48.030, 15.48.050, 15.48.060, 15.48.070, 15.48.080, 15.48.095 (new), 15.48.120, 15.48.240, 15.48.300, 15.48.320, 15.48.330, 15.48.420, and 15.48.700 are amended with text to be removed shown in ~~strikeout~~ and bold underlined text to be added as shown in Exhibit 1.

Section 2: This ordinance shall take effect and be in full force thirty (30) days after the date of its passage. The Clerk is directed to publish this ordinance, or a summary thereof, within fifteen (15) days in accordance with Government Code Section 25124.

EXHIBIT 1

15.48.030 Definitions.

“Agency director” means the head of the community development resource agency of Placer County, or their designee.

~~“Agricultural operation” means any land related activity for the purpose of cultivating or raising plants grown in the ground or raising animals or conserving or protecting lands for such purposes when conducted on agriculturally zoned lands and is not surface mining or borrow pit operations.~~

“Bona fide agricultural operation” is determined by the agricultural commissioner and means the conservation or protection of land for the purposes of commercial growing or harvesting of crops from soil (including forest operations), the raising of plants at nurseries, the raising of fowl or animals for the primary purpose of a commercial enterprise, or conducting agricultural research.

“Embankment pond” means a pond created by building a dam or levee (i.e., fill).

“Excavated pond” means a pond constructed by excavation (i.e., cut) with water level entirely below the existing ground level.

~~“Planning director” means the director of the planning department~~ **services division** of Placer County, California, ~~acting directly or through his or her authorized agents~~ **or their designee.**

15.48.050 Water obstruction.

No person shall do or permit to be done any grading which may obstruct, impede or interfere with **any drainage channel, ditch, or pipe. No person shall divert drainage water from its natural flow path without providing for its conveyance or dispersion in a manner that will not detrimentally impact public property, health, and safety.** ~~the natural flow of stormwaters, in such manner as to cause flooding where it would not otherwise occur, aggravate any existing flooding condition or cause accelerated erosion. This section applies whether such waters are unconfined upon the surface of the land or confined within land depressions or natural drainage ways, unimproved channels or watercourses, or improved ditches, channels or conduits.~~

15.48.060 Grading permit required.

A. Except for the specific exemptions listed in Section 15.48.070 of this article, no person shall do or permit to be done any grading on any site in the unincorporated areas of Placer County without a valid grading permit obtained from the community development resource agency.

A permit shall also be required for the following:

1. Retaining walls which are over four feet in height, as measured from bottom of footing to top of the retained soil;
2. Any retaining walls that are subject to surcharge;
3. Private vehicular bridge;
4. Swimming pool fill operations whereby depth of fill for swimming pool construction exceeds four feet.

B. A grading permit is required for any grading and/or other construction activity with ground disturbance of one acre or more.

C. Pond construction involving excavation and earthwork over two hundred fifty (250) cubic yards or including an embankment or that could potentially cause a drainage problem.

~~C.D.~~ The excavation and/or discharge of fill into an aquatic resource is subject to the requirements of Section 19.10.070 of the PCCP. Conditions of approval for any authorization for take coverage or impacts to aquatic resources will be appended to a grading permit or other permit issued pursuant to this article.

15.48.070 Exemptions.

Unless in conflict with provisions of adopted general and/or specific plans, or provisions applicable to the Tahoe Basin as described in Section 15.48.120 of this article, the following grading may be done without obtaining a permit. Exemption from the requirement of a permit shall not be deemed permission to violate any provision of this article:

A. Minor projects which have cuts or fills, each of which is less than four feet in vertical depth at its deepest point measured from the existing ground surface, and which meet all of the following criteria:

1. Less than two hundred fifty (250) cubic yards of graded material in a single area, within a two-year period unless the area is located within the stream system boundary within the PCCP (Section 19.10.050). In calculating the graded material quantity, excavation material used as fill material will not be counted twice. (For example: one hundred twenty-five (125) cubic yards [C.Y.] of excavation material that is also placed as fill material would be calculated as one hundred twenty-five (125) cubic yards, not as **two hundred fifty (250) cubic yards**~~+25 C.Y. + 125 C.Y. = 250 C.Y.~~),

2. The removal, plowing under or burial **of existing crop fields as necessary for routine cultivation, or** of less than ten thousand (10,000) square feet of vegetation on slopes ten (10) percent or greater, **or** of any amount of vegetation on slopes less than ten (10) percent on areas of land less than one acre within a two-year period. This exemption only applies to Article 15.48 and does not exempt a landowner from compliance with other provisions of county code including tree permits, payment of tree mitigation fees, and the requirements of Chapter 19, Article 19.10,

3. Does not create unstable or erodible slopes,
4. Does not encroach onto sewage disposal systems including leach field areas,
5. Does not encroach into the areas designated as Zone A as shown on the Flood Insurance Rate Maps,

6. Does not obstruct any watercourse, disturb, or negatively impact any drainage way, aquatic resources, wetland, stream environment zone, stream system, or water body;

7. Does not divert or obstruct overland flow, or negatively affect other adjacent properties,

8. Includes provisions to effectively prevent discharges of pollutants from the site, and

9. Provides for completion of soil disturbing activities within a continuous period of forty-five (45) days, and revegetation of all disturbed areas immediately thereafter.

B. Grading done by or under the supervision or construction control of a public agency that assumes full responsibility for the work.

C. Excavations, (but not fill operations) in connection with a swimming pool authorized by a valid building permit. Any swimming pool fill operation must comply with Section 15.48.060(A)(4) of this article to be exempt.

D. Retaining walls four feet or less in height, as measured from bottom of footing to the top of retained soil, and not subject to surcharge.

EB. Grading necessary for bona fide agricultural operations, unless such grading will create a cut or fill whose failure could endanger any structure intended for human or animal occupancy or any public road, or could obstruct any watercourse or drainage conduit. To be exempt, bona fide agricultural operations must receive a written agricultural status confirmation from the agricultural commissioner prior to any grading that is necessary for these operations, and such grading shall meet all of the following criteria:

1. The clearing and/or grading is exclusively for agricultural purposes and not associated with a building that requires a building permit, a commercial access road, or a pond that requires a grading permit;

2. Grading is not within thirty (30) feet of a water body or watercourse including intermittent watercourses;

3. Grading does not cut or fill slopes with a 2:1 or greater ratio;

4. The work occurs on slopes of twenty percent (20%) or less;

5. The bona fide agricultural operation is following current best management practices guidance for agricultural sediment and erosion control as approved by the county agricultural commissioner, especially during rain events or when soils are saturated;

6. Adequate dust control measures are implemented in a timely manner consistent with the right-to-farm ordinance and all land clearing, grading, earth moving, or excavation activities comply with local air district requirements.

EC. Trenching and grading incidental to the construction or installation of approved underground pipe lines, storm drains, conduits, electrical or communication facilities provided that such grading does not result in the excavation or discharge of fill into aquatic resources;

ED. Excavation and grading incidental to construction or installation of septic tank disposal fields, and drilling or excavation for post holes or approved wells;

EE. Excavations less than two hundred fifty (250) cubic yards for soil or geological investigations by a geotechnical engineer, civil engineer, or engineering geologist;

EF. Grading in accordance with plans incorporated in an approved surface mining permit, reclamation plan, or sanitary landfill or environmental remediation project or petroleum product tank removal and installation where governed by other state or county ordinance;

EG. Maintenance of existing firebreaks and roads to keep the firebreak or road substantially in its original condition;

KH. Routine cemetery excavations and fills;

LI. Performance of emergency work necessary to protect life or property when an urgent necessity arises. The person performing such emergency work shall notify the community development resource agency promptly of the problem and work required and shall apply for a permit within ten (10) calendar days after commencing such work;

MI. An excavation below finished grade for basements and footings of a building authorized by a valid building permit;

~~NK.~~ Timber harvest operation conducted under valid state or federal permit, lake and streambed alteration agreements and dams under state jurisdiction, etc.;

~~OL.~~ The discharge of fill or excavation of soil less than twenty-five (25) cubic yards of graded material within the stream system. This exemption only applies to Article 15.48 and does not exempt a landowner from compliance with other provisions of county code including tree permits. Payment of tree mitigation fees, and the requirements of the PCCP (Article 19.10).

15.48.080 Fees.

A. The schedule of fees and costs shall be those established and adopted by the board from time to time by resolution or ordinance. Before a permit is issued, the applicant shall deposit with the community development resource agency cash or a check, in a sufficient sum to cover the fee for issuance of the permit, charges for review of plans, specifications and reports, other engineering services, field investigations, necessary inspection or other work and routine laboratory tests of materials and compaction, all in accordance with schedules established and adopted by the board.

B. No fee shall be required of public agencies.

C. Public utilities may, at the option of the community development resource agency, make payment for the charges in subsection A of this section as billed instead of by advance deposit as required in subsection A of this section.

D. If grading work is done in violation of this article or such work is not done in accordance with an approved permit, a fee covering investigation of any violation and inspection and plan checking of work required to correct such violation shall be charged to the violator to cover all actual costs.

E. For projects that are private vehicular bridge projects only and not associated with any discretionary permit, and the project is replacing a failing vehicular bridge or performing needed repairs to provide access for emergency service providers, the fee may be calculated as fifty (50) percent of the specified minimum plan check and inspection fees.

15.48.095 Ponds.

A. Any pond requiring a grading permit that is fed by a surface water source (drainage ditch, canal, or similar free flowing source) requires a drainage report prepared by a civil engineer. The report shall discuss the inflow, outflow, storage of the pond, and the inlet and outlet works for the pond. An appropriately sized emergency spillway is required. The minimum design storm event is one hundred twenty-five percent (125%) of the 100-year storm. All appropriate watershed maps and hydrology and hydraulic calculations shall be included.

B. Any pond requiring a grading permit that is fed by man-made means, such as a pipe or groundwater well that can be easily shut off and the pond level regulated so that no drainage problem is created may not be required to submit a drainage report if approved by the County.

C. All ponds requiring a grading permit shall maintain two feet minimum of freeboard at all times unless otherwise approved by the agency director.

D. Excavated ponds shall include a minimum two foot high berm around the perimeter of the pond unless otherwise approved by the agency director. The outlet works shall be properly designed to regulate the level of the pond.

E. Embankment ponds shall have the dam or levee designed and inspected by a civil engineer. A properly sized and stabilized emergency spillway located off the embankment and a pipe to drain the entire pond for maintenance purposes are required to be included in the pond design.

15.48.120 Tahoe Basin area special restrictions and exemptions.

A. Provisions of this section apply to the unincorporated area of Placer County within that area defined as “TRPA region” in the Tahoe Regional Planning Agency Compact. This area is the Tahoe Basin and that additional and adjacent part of the county of Placer outside of the Tahoe Basin in the state of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to township 15 north, range 16 east, M.D.B. and M.

B. Grading and soil disturbance shall be prohibited during the period from October 15th through May 1st unless otherwise approved, in writing, by the agency director and by the Tahoe Regional Planning Agency ~~and Lahontan Regional Water Quality Control Board~~. Complete winterization of the site is required by October 15th, if work is not complete and permanent revegetation is not established.

C. All work shall be in conformity with any grading restriction required by other federal, state, or local agencies.

D. A permit for grading on residential property issued by the Tahoe Regional Planning Agency will be evidence of conformity to provisions of this section; **however, if the project includes a retaining wall over four feet in height or any retaining wall subject to a surcharge, a county grading permit is also required.** All other grading in the region, unless otherwise exempt as provided herein, is subject to review and approval by the community development resource agency.

15.48.240 Permit conditions.

D. All grading activities, **regardless of whether a grading permit is required, in snow areas at elevations of 5,000 feet or above** east of the Sierra crest (excluding the “TRPA region” as specified in Section 15.48.120 of this article) are prohibited between October 15th and May 1st, **during inclement weather, and when the ground is saturated or covered with snow, without unless written approval is obtained from** of the agency director ~~and the Lahontan Regional Water Quality Control Board~~.

15.48.300 Grading permit application—Plans.

A. Each application for a grading permit shall include the following:

1. A completed application form;
2. Two complete sets of grading plans **or an electronic grading plan submittal in accordance with engineering and surveying division requirements;**
3. Profiles, cross sections, and specifications as required;

4. A complete drainage report as required by the community development resource agency;
5. The application fee as determined by the board of supervisors;
6. Where applicable, evidence of coverage, or application for coverage, under an NPDES general construction permit;
7. Any information necessary to comply with the Placer County Conservation Program including Article 19.10, Sections 19.10.070 and 19.10.080.

15.48.320 Requirements for engineered grading plans.

Grading plans and specifications shall be prepared and signed by a civil engineer, as provided herein.

A. The plans shall include the following:

1. All plans shall be on twenty-four (24) inch by thirty-six (36) inch sheets unless otherwise approved, and shall be drawn at a scale no ~~less~~ **smaller** than one inch equals one hundred (100) feet, **except plans for ponds and private vehicular bridges shall be drawn to a scale of one inch equals forty (40) feet or larger;**

15.48.330 Retention of approved plans.

~~Three~~ **One** sets of approved plans and specifications shall be retained by the community development resource agency.

15.48.420 Special inspection.

A. As a condition of the permit, the community development resource agency may require the permittee to retain a private geotechnical engineer or civil engineer to directly supervise or perform continuous inspection work, and upon completion of the work to provide a written statement acknowledging that he or she has inspected the work and that in his or her professional judgment the work was performed in accordance with the approved plans and specifications. The permittee shall make his or her own contractual arrangements for such services and shall be responsible for payment of all costs. Continuous inspection by a geotechnical engineer or civil engineer shall include, but not be limited to, the following situations:

1. During the preparation of a site for the placement of fills which exceed five feet in depth on slopes which exceed ten (10) percent and during the placing of such fills; however, for vehicular pathways, fill placement shall be continuously inspected when fills exceed ten (10) feet in height;

2. During the installation of retaining walls over four feet in height, as measured from bottom of footing to top of the retained soil, or any retaining walls subject to a surcharge;

3. During the installation of sound walls;

4. During the installation of private vehicular bridges;

5. During the installation of an embankment for use as a dam;

—**2.6.** During the preparation of a site for the placement of any fill which is intended to support any building or structure when the fill exceeds three feet in depth;

—**3.7.** During the installation of subsurface drainage facilities.

B. Reports filed by the private geotechnical engineer or civil engineer regarding special inspection shall state in writing that from his or her personal knowledge the work performed during the period covered by the report has been performed in substantial accordance with the approved plans and specifications.

C. The use of a private geotechnical engineer or civil engineer for inspections shall not preclude the community development resource agency from conducting personal inspections or from authorizing inspections by other qualified inspectors as may be necessary.

15.48.700 Nuisance.

A. Established Nuisances Per Se. The board of supervisors of Placer County ordains that the following violations of this article constitute public nuisances:

1. A violation has altered natural drainage patterns and has or will cause **detrimental** flooding to adjacent property **or impacts to County maintained roadways**; or
2. A violation has created a threat to public health, safety or welfare.
