

## **Chapter 15.30**

### **GRADING**

#### **15.30.010 Title.**

This Chapter shall be known as and may be cited as the City of Angels Grading and Drainage Ordinance.

#### **15.30.020 Purpose and Scope.**

- A. The purposes of this Chapter are to:
  - 1. Regulate grading, drainage, and other earthwork activities within the City to preserve and safeguard public welfare, life, health, and property;
  - 2. Ensure that the intended use of a graded site is consistent with the City of Angels Camp Municipal Code, the Angels Camp Improvement Standards, the City Wastewater Master Plan, the City Water Master Plan, California Fire Safe Standards, and applicable local ordinances,;
  - 3. Require implementation of erosion and sedimentation control measures to protect water quality and reduce the discharge of pollutants into storm water drainage systems to the maximum extent practicable using best management practices; and,
  - 4. Establish authority and procedures for the issuance of grading permits; for the approval of grading plans; for inspection of earthwork activities; and, for enforcement of the provisions herein.
- B. Where conflicts occur between this Chapter and other local, state, or federal law or regulation, the most restrictive shall apply. The exemption of certain activities from the grading permit requirements of this Chapter does not relieve any person of the need to obtain any other permits or other authorizations that may be otherwise required.
- C. The requirements of this Chapter shall not be applicable to construction for which a complete grading permit application was submitted to the City prior to the adoption of this Chapter. All such work shall be completed in accordance with the requirements and conditions in place at the time the permit was issued by the city, unless the permit has expired and a new permit is required.

#### **15.30.030 Administrative Authority.**

This Chapter shall be implemented and enforced by the City Engineer who may delegate the responsibilities for implementation or enforcement to a professional engineer, code enforcement officer, building official, or other designee, either individually or collectively.

#### **15.30.040 Definitions.**

Definitions, word conventions, abbreviations, and acronyms shall be as defined in the latest version of the Angels Camp Improvement Standards as adopted by the City Council.

#### **15.30.050 Grading and Drainage Standards.**

- A. Grading activities shall comply with the standards of the Angels Camp Improvement Standards that include guidelines, procedures, and design standards necessary to achieve the purposes of this Chapter and to implement the requirements of this Chapter.
- B. All grading within the City, regardless of whether or not a grading permit is required, shall comply with the following:
  - 1. Applicable requirements of this Chapter and other City ordinances, rules, and regulations, including but not limited to Title 15, Title 16, and Title 17 of the City Code;
  - 2. Applying for applicable building permits and planning entitlements prior to commencing grading regardless of the amount of dirt being moved;

3. Design standards and other requirements as contained in the Angels Camp Improvement Standards;
  4. Erosion control requirements contained in the Angels Camp Improvement Standards; and
  5. Requirements of the Central Valley Regional Water Quality Control Board including statewide permits (e.g., “*General Permit for Discharges of Storm Water Associated with Construction Activities*”)
  6. Requirements of the federal Clean Water Act (Section 401)
  7. National Pollution Discharge Elimination System (NPDES) requirements
- C. The City shall impose additional requirements beyond those specified or referenced in this Chapter if such requirements are deemed necessary to protect the health, safety, or welfare of the public; to prevent or eliminate a hazard to public or private property; or, to otherwise fulfill the purposes of this Chapter.

**15.30.060 Prohibitions.**

- A. Grading activities are prohibited if they have the potential, as determined by the City, to result in any one of the following conditions.
1. The creation of a hazard to public health, welfare, or safety.
  2. Threat to the stability or use of adjacent property.
  3. Damage to public or private utilities.
  4. Damage to a public or private road or other transportation facility.
  5. Damage to, or obstruction of, watercourses or drainage facilities.
  6. Substantial degradation of water quality of any watercourse.
  7. Damage to existing septic systems and water supply wells.
- B. If, during construction, one or more of the above conditions exist or have the potential to occur, it is the responsibility of the permittee to immediately cease all grading activities and to notify the City Engineer of the hazard or potential hazard.

**15.30.070 Grading Permit Required.**

- A. A grading permit issued by the City is required for all site grading activities on public and privately-owned property within the City unless the activity is specifically exempted as provided for in Section 15.30.080 and is not subject to any other provisions of this Section.
- B. Grading in anticipation of new or expanded construction or development requiring a building or planning permit is prohibited. Upon receipt of an application for building or development requiring a permit; the City may, at its discretion, issue a grading permit prior to issuance of the pending entitlement. The City may request assurances as necessary to ensure site remediation should site development fail to occur within one year after grading commences or an extension is granted by the City.
- C. Notwithstanding the exemptions in Section 15.30.080, a grading permit shall be required for any grading that:
1. Requires an engineered design pursuant to Section 15.30.090.
  2. Will obstruct the flow of water (e.g., dam construction, regardless of size)
  3. Involves grading within a flood plain as shown on the most recent FEMA flood insurance rate maps;
  4. Requires a streambed or lakebed alteration agreement under California Fish and Game Code Section 1600 et seq;
  5. Requires a United States Army Corps of Engineers permit under Section 10 or Section 404 of the federal Clean Water Act; or
  6. Is associated with a project subject to California Environmental Quality Act (“CEQA”) review;

7. Has the potential to do any of the following:
  - a. Endanger any structure intended for human or animal occupancy; or,
  - b. Threaten the stability of any public roadway; or,
  - c. Cause adverse impacts to existing drainage, water, sewer, or other public facilities; or,
  - d. Exacerbate existing flood conditions; or,
  - e. Divert or modify drainage onto an adjacent parcel.

D.

**15.30.080 Grading Permit Exemptions.**

Except as provided otherwise in this Chapter, a grading permit is not required for the following exempted activities:

- A. Grading that meets any one of the following criteria:
  1. The total volume of material is less than 50 cubic yards; or,
  2. Fills that include less than one acre of land area, are less than one foot in depth, and are placed on natural terrain with a slope flatter than one unit vertical for every five units horizontal; or,
  3. Cuts that include less than one acre of land area, extend to less than two feet below ground surface, and do not result in the off-site disposal of more than 50 cubic yards of material.
- B. Geotechnical, geological, or soil investigations conducted by engineers, geologists, environmental health specialists, or soil scientists provided that disturbed areas are subsequently restored to substantially the pre-existing condition.
- C. Earthwork at permitted solid waste disposal facilities and activities at permitted sites involved in mining, quarrying, processing, and sale of aggregate products provided that such activities do not affect the lateral support or increase stresses in or pressure upon any adjacent or contiguous property.
- D. Trenching and grading incidental to the siting, construction or installation of City-approved underground pipelines, conduits, electrical or communication facilities, and drilling or excavation for City-approved wells or post holes, provided that finished grades following all such trenching and grading activities substantially conform to original contours.
- E. Maintenance of existing firebreaks, driveways, and roadways provided that the work does not result in any significant grade changes or drainage system modifications.
- F. Routine cemetery excavations and fills for individual burials.
- G. Grading or other earthwork activities when carried out in conjunction with a use associated with, related to or in support of planting and growing row or field crops. Such activity shall incorporate the use of “best management practices,” as recognized by the UC Cooperative Extension and USDA Natural Resource Conservation Service, to minimize erosion and to control sediment discharges to the maximum extent practicable.
- H. Site clearing operations, including fuel reduction and fire protection measures that do not substantially change the natural contour of the land and disturb less than one acre of soil.
- I. Emergency work as provided for in Section 15.30.230 of this Chapter.

**15.30.090 Engineered Grading.**

- A. A grading project is subject to the requirements specified in the Angels Camp Improvement Standards for “engineered grading” if it includes any of the following:
  1. Grading in excess of 1,000 cubic yards;
  2. Finished grades that are steeper than two units horizontal for one unit vertical;

3. Fill of greater than five feet in height on natural ground with a slope greater than three units horizontal for one unit vertical;
  4. Cut or fills of more than ten feet;
  5. Earthwork within the public right-of-way;
  6. Grading for construction of a public or private road, driveway or common driveway
  7. Fills that are intended to support structures for which a building permit is required;
  8. Storm drain collection system with inlet structures; or
  9. Earthwork within a flood plain as shown on the most recent FEMA flood insurance rate maps.
- B. Engineered grading requirements shall also apply if the proposed work, as determined by the City, has the potential to:
1. Endanger public health, safety or welfare;
  2. Obstruct or alter any water course or adversely impact existing drainage facilities;
  3. Threaten the stability of a public or private road or adjacent structures or property;
  4. Exacerbate existing downstream flood conditions; or
  5. Degrade receiving water without implementation of engineered controls.
- C. For engineered grading projects, a professional engineer shall be responsible for project design and shall provide all required professional services as described in the Angels Camp Improvement Standards including the preparation of a Construction Quality Assurance Plan and, upon work completion, certification that all work has been done in substantial conformance to the approved Engineered Grading Plan and all associated Grading Permit requirements. Certification must be provided to the City prior to approval of the permitted work.

#### **15.30.100 Application Requirements for Grading Permits.**

- A. Application for a grading permit shall be made on a form provided by the Community Development Department. The permit application must be signed by the property owner(s) of the parcel(s) on which grading will occur, except that a property owner may submit a signed, written statement to the City authorizing a designated agent to act on behalf of the property owner(s).
- B. To be considered complete, the application shall include all required information as specified in the Angels Camp Improvement Standards and shall include payment of all applicable fees as provided for in the City's adopted fee schedule.
- C. As a condition of permit issuance, the property owner or agent must:
1. Certify that all work will be done in accordance with all applicable local, state and federal requirements and in conformance with the approved grading plan and associated erosion and sediment control plans;
  2. Agree to the City's indemnification language; and
  3. Agree to provide notifications to the City and allow access to the property for inspection by City employees or agents.
- D. With written notice to the City, an applicant may withdraw their permit at any time. Any refunds shall be in accordance with the city's approved fee schedule.

#### **15.30.110 Limitations of Grading Permit Issuance.**

- A. Neither the issuance of a grading permit nor the approval of grading plans and/or specifications shall be construed as an approval of any violation of the provisions of this Chapter or of any other applicable law, ordinance, rule, or regulation.

- B. If a permit is issued based upon inaccurate or incomplete information submitted by the applicant, the grading permit may be cancelled at any time and a “Stop Work Order” may be issued as provided for in AMC Chapters 1.16, 1.17, 1.18, and 1.19.
- C. No permit issued pursuant to this Chapter shall relieve the permittee of the responsibility for securing other permits or approvals required for work that is regulated by any other City codes or regulations or by other local, federal, or state agency.
- D. The issuance of a grading permit shall not relieve the permittee of the responsibility to secure necessary easements or authorizations for grading on property not owned by the permittee.

**15.30.120 General Plan Consistency.**

No grading permit issued by the City shall be valid unless the project and intended site use conform to all other applicable City ordinances.

**15.30.130 Compliance with CEQA.**

- A. The California Environmental Quality Act (“CEQA”) and the City of Angels Camp Guidelines for the Implementation of CEQA, may require the preparation and processing of environmental documents for a proposed grading project. If so required, the environmental review process must be completed before a valid grading permit can be issued.
- B. CEQA review will be required if any of the provisions of Public Resources Code Section 15300.2 of the State CEQA guidelines exists. This does not limit the application of CEQA to other projects.
- C. If CEQA review is required for grading activities:
  - 1. No grading permit shall be issued until the applicant provides documentation that the CEQA review process has been completed; and,
  - 2. Additional grading restrictions, controls, or standards may be imposed beyond those specified and referenced in this Chapter.
- D. Notwithstanding the above, no additional CEQA review will be required prior to the issuance of a grading permit if the proposed grading is part of a larger project for which CEQA review has been completed and provided that the CEQA review addressed any potentially significant impacts from proposed grading activities.

**15.30.140 Construction.**

- A. The extent and nature of construction shall be limited to the work shown on approved grading plans and all work shall be done consistent with the requirements specified herein and in conformance with the Angels Camp Improvement Standards.
- B. For engineered grading work, permittee shall retain the services of a professional engineer to observe, inspect, and certify proper completion of all permitted work in conformance with the Angels Camp Improvement Standards, unless waived by the City Engineer.
- C. To ensure compliance with the provisions of this Chapter, City staff may enter the project site at all reasonable times in the manner provided by law. If such entry is refused, the City shall have recourse to every remedy provided by law to secure entry.

**Section 15.30.150 Coordination with Utilities.**

- A. Property owners have responsibility for the protection of all utilities on or adjacent to the site and shall coordinate with utility owners
- B. A designated utility location service shall be contacted at least 48 hours prior to excavation to field-locate any and all underground utilities unless this requirement has been waived, in writing, by the City.

**15.30.160 Erosion and Sediment Control Measures.**

- A. Regardless of whether a grading permit is required, all grading and earthwork activities within the City of Angels Camp shall employ best management practices to minimize erosion and to control sediment discharges to the maximum extent practicable as required by the most recently adopted version of the State Water Resources Control Council's "*General Permit for Discharges of Storm Water Associated with Construction Activities*" and the Angels Camp Improvement Standards.
- B. Following construction, property owners shall maintain sedimentation and erosion control measures as may be required to reduce off-site discharges of sediment to the maximum extent practicable. As provided for in Section 15.30.210 of this Chapter, the City may require posting of a security to ensure adequate development of necessary erosion and sedimentation control measures, including vegetative cover on cut and fill slopes.

**15.30.170 Drainage Control Measures.**

- A. Drainage systems for the collection, retention, conveyance, and discharge of storm water run-off shall be constructed in accordance with the Angels Camp Improvement Standards.
- B. For engineered grading projects, the peak off-site storm water discharge from the project site shall not exceed pre-construction conditions unless the applicant demonstrates to the satisfaction of the City Engineer and, if applicable, Caltrans, that downstream storm water conveyance systems have sufficient capacity to handle the increased flow rate without exceeding established design standards.

**15.30.180 Work Completion.**

- A. The permittee shall notify the City upon work completion and request a final inspection. All permitted grading activities shall be subject to final inspection by the City.
- B. Upon determination by the City that all work has been completed in substantial conformance to the grading plan and associated requirements, a "Notice of Completion" shall be issued by the City.
- C. Issuance of a "Notice of Completion" does not relieve the permittee of responsibility for compliance with all grading permit requirements. Issuance of a Notice of Completion should not be construed as modifying any permit requirements or relieving the permittee of responsibilities for satisfactory work completion.
- D. No certificate of occupancy shall be issued for a permitted structure until the City has issued a "Notice of Completion" pursuant to this section. The owner may be required to post an approved security with the City in sufficient amount, as determined by the City Engineer, to ensure satisfactory completion of any ancillary work within a specified period.

**15.30.190 Grading Fees.**

- A. The City Council shall establish a schedule of fees for the issuance and processing of grading permits and for enforcement of this Chapter. This schedule may be reviewed, approved, and modified by resolution of the City Council.
- B. Fees shall be sufficient to cover the costs for issuance of grading permits; for review of plans, specifications, and technical reports; field inspections; and, for other services as may be necessary to ensure compliance with the provisions of this Chapter.
- C. No Notice of Completion, Certificate of Occupancy, or other development permit shall be issued on a parcel for which there is an outstanding balance of fees imposed pursuant to this Section.

**15.30.200 Securities.**

- A. As a condition of grading permit issued at the discretion of the City prior to acquiring a building permit or other required city entitlement, , the City may require a security deposit of a sufficient amount deemed necessary to assure faithful performance of the permitted work and compliance with this Chapter. If required, the 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 City.

- B. In addition to the faithful performance security, the City may also require the deposit of a maintenance security in sufficient amount to ensure the maintenance and proper functioning of drainage systems, earthwork construction, erosion and sedimentation control measures, and stockpile removal operations. This security shall remain in effect for a period of not more than one year after the date of expiration of the faithful performance security.
- C. Improvement security shall be by: (1) bond or bonds, (2) cash, or (3) certificate of deposit; provided, that the City may, upon the request of an applicant, accept (but shall not be required to accept) recorded special assessment liens levied upon such developer or property. The amount of security shall be based upon an approved engineer's estimate and be in an amount established by resolution of the city council; provided, that in the case of special assessment liens, the amount of security shall be based upon the engineer's report approved by resolution in the special assessment proceedings.
- D. The improvement security given for the faithful performance of any act shall be released upon the final completion and acceptance of the act or work subject to the following:
  - 1. The city engineer may release a portion of the security in conjunction with the acceptance of the performance of the act or work as it progresses upon application by the developer; provided, however, that no such release shall be for an amount less than forty-five percent of the total of the total improvement security given for faithful performance of the act or work and that the security shall not be reduced to an amount less than twenty-five percent of the total improvement security given for faithful performance until final completion and acceptance of the act or work. In no event shall the city engineer authorize a release of the improvement security which would reduce such security to an amount below that required to guarantee the completion of the act or work and any other obligation imposed by this title or the improvement agreement.
  - 2. Security given to secure payment to the contractor, their subcontractors, and to persons furnishing labor, materials or equipment may, six months after the completion and acceptance of the act or work, be reduced to an amount of all claims therefor filed and of which notice has been given to the city council. An additional amount reasonably determined by the city engineer shall be required to assure the performance of any other obligations secured thereby. The balance of the security shall be released upon the settlement of all such claims and obligations for which the security was given.

If permitted work is not completed in accordance with the approved plans or if all conditions of permit issuance have not been met, the City shall retain the security funds and may use these funds to complete the required work, stabilize the site, or to pay a contractor to do so. Any funds remaining after the payment of all costs, including administrative and inspection costs, shall be returned to the permittee.

#### **15.30.210 Time Limits on Permits.**

- A. The permittee shall perform and complete all the work covered by a grading permit within one year. If the work cannot be initiated or completed within this timeframe, the applicant may request permit renewal as provided for in Section *15.04.045-B Expiration in the AMC*.
- B. If permitted work is not initiated or completed within the time frame specified in *Section 15.04.045-A Time Limits—Renewals--Refunds*, if the grading permit has not been renewed, no further earthwork shall be done until the grading permit is renewed or until a new grading permit is issued. Notwithstanding this prohibition, the ~~Director~~ Engineer may require that specific measures to be immediately implemented to ensure stabilization of the site.

#### **15.30.220 Violation.**

Whenever a person is performing work in violation of the provisions of this Chapter, in violation of permit requirements, or without a permit as required by this Chapter, the City shall implement the procedures and pursue the remedies provided in AMC Chapters 1.16, 1.17, 1.18, and 1.19.

#### **15.30.230 Emergency Work.**

- A. Grading activities necessary to protect life or property, including activities to implement erosion and sedimentation control measures, may be initiated prior to obtaining a grading permit when a situation exists

that requires immediate action. The extent of such earthwork shall be limited to that which is necessary to abate an imminent hazard.

- B. The person performing such emergency work shall comply with applicable procedures in the Angels Camp Improvement Standards.
- C. The City may order emergency work to be stopped or restricted in scope at any time based upon the nature of the emergency and the extent of work involved.

#### **15.30.240 Corrective Work.**

- A. If any existing excavation or embankment or fill on public or private property constitutes a hazard to life and limb, threatens public health, safety, or welfare, endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, such excavation, embankment, or fill is hereby declared a public nuisance and the owner of the property on which the excavation, embankment, or fill is located, or other person or agent in control of such property, upon receipt of a written notice from the City, shall, within the period of time specified in the written notice, repair or eliminate such excavation, embankment, or fill as needed to satisfactorily abate the nuisance. Such remedial work shall be subject to the grading permit requirements of this Chapter unless emergency conditions exist, in which case work may be done pursuant to Section 15.30.250 Emergency Work .

Such hazards include the following:

- 1. Alteration of drainage patterns that has caused, or has the potential to cause, flooding, erosion, or siltation on any downstream property as determined by the ~~Director~~ City Engineer.
  - 2. 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~~ City Engineer.
- B. If a property owner fails to correct the violation within the specified time in the notice and order to abate, the City may pursue any of the remedies provided for in AMC Chapters 1.16, 1.17, 1.18, or 1.19. Whenever the City expends funds or takes action to abate hazardous conditions as provided for above, the City may recover costs in accordance with AMC Chapters 1.16, 1.17, 1.18, and 1.19.
- C. If a security has been posted for the subject work, the City may recover costs from the security.

#### **15.30.250 Denial of Other Permits and Inspections.**

No other permit or permit waiver shall be issued by the City for a parcel upon which an unabated violation of this Chapter exists.

#### **15.30.260 Recording of Notice of Noncompliance.**

In those cases where there has been a failure to secure the required permit or permits, or if an approved permit has expired, or if conditions of a grading permit have not been met, or if corrective work pursuant to Section 15.30.240 has not been completed as required, the City may pursue any of the remedies identified in AMC Chapters 1.16, 1.17, 1.18 or 1.19.

#### **15.30.270 Enforcement**

Any violation of any provisions of this Chapter, including violation any grading permit condition, failure to comply with a notice of violation, grading without having first obtained a required grading permit, or violation of a stop work order, shall be subject to the following enforcement actions. Each day that a violation continues shall constitute a separate offense.

- A. Any violation of this Chapter is declared a public nuisance and, subject to the provisions of Chapter 1.16 of the City Code. Any person who violates the provisions of this Chapter, may be assessed a penalties in accordance with AMC Chapters 1.16, 1.17, 1.18 and 1.19.

#### **15.30.280 Appeals.**



Decisions made by the City in accordance with this Chapter may be appealed in accordance with AMC Chapter 1.19.

**15.30.290 Limitations of City Liability.**

Neither issuance of a grading 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 City for damage to any person or property.

**15.30.300 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 Council 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.