

SECTION 24

LAND EXCAVATION/GRADING

Section

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20-24-1: **PERMIT REQUIRED:** Except for a governmental jurisdiction, in cases where a grading and drainage plan for a private development has been approved as part of a subdivision or other development, or as may be otherwise stipulated by this Chapter, the extraction of sand, gravel, black dirt or other natural material from the land or the grading of land by a person in the amount of fifty (50) cubic yards or more shall be termed land excavation/grading and shall require a permit. Excavation/grading activities which qualify as mining operations shall be subject to other applicable sections of the City Code.

20-24-2: **EXCEPTIONS:** It is intended hereunder to cover the removal of natural materials from lands including such activity when carried on as a business; but shall not apply to basement excavation, other excavation/grading which is already covered by the Building Code or other such regulations of the City.

^{6/9} 20-24-3: **APPLICATION FOR PERMIT:**

A. Any person desiring a permit hereunder shall present an application on such forms as shall be provided by the Zoning Administrator. Such application shall be accompanied by five (5) large scale copies and thirteen (13) reduced scale (not less than 11" x 17") copies of detailed written and graphic materials fully explaining the proposed land excavation operation. If, in the opinion of the Zoning Administrator, reduced scale drawings (11" x 17") are determined to be illegible, the submission of larger scale materials shall be required. The scale of such materials shall be the minimum necessary to ensure legibility. The request shall be considered as being officially submitted when all the following information has been submitted:

1. The name and address of the applicant.

2. The name and address of the owner of the land.
3. The address and legal description of the land involved.
4. The purpose of the excavation or grading.
5. A description of the type and amount of material to be excavated or graded from the premises.
6. The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
7. An estimate of the time required to complete the excavation or grading.
8. A site plan showing present topography and also including boundary lines for all properties, water courses, wetlands and other significant features within three hundred fifty (350) feet.
9. A site plan showing the proposed finished grade and landscape plan. Erosion control measures shall be provided on such plan. Final grade shall not adversely affect the surrounding land or the development of the site on which the excavation is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth.
10. A security statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.
11. A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.
12. A written right-of-entry given to the City and/or its officers to enter the land for the purpose of determining compliance with all applicable conditions imposed on the operation.

B. The application shall be considered as being officially submitted when all the information requirements are complied with. A fee for such application shall be paid to the City at the time the application is submitted based upon the schedule as established by City Council Resolution.

20-24-4: **TECHNICAL REPORTS:** The Zoning Administrator shall immediately upon receipt of such applications forward a copy thereof to the City Engineer and Building Official. Where watersheds, floodplains and/or wetlands are in question, the Minnesota Department of Natural Resources shall also be contacted. These technical advisors shall be instructed by the Zoning Administrator to prepare reports for the City Council.

20-24-5: **ISSUANCE OF PERMIT:** Upon receiving information and reports from the City Staff and other applicable agencies, the City Council shall make its determination as to whether, and when, and under what conditions such permit for an excavation is to be issued to the applicant by the City.

20-24-6: **CONDITIONS OF PERMIT:**

A. The City Council, as a prerequisite to the granting of a permit, or after a permit has been granted, may require the applicant to whom such permit is issued, or the owner or user of the property on which the excavation/grading is located to:

1. Properly fence the excavation.
2. Slope the banks, and otherwise properly guard to keep the excavation in such condition as not to be dangerous from caving or sliding banks.
3. Properly drain, fill in or level the excavation, after it has been created, so as to make the same safe and healthful as the City Council shall determine.
4. Keep the excavation/grading within the limits for which the particular permit is granted.
5. Remove excavated/graded material from the excavation, away from the premises upon and along such highways, streets or other public ways as the City shall order and direct.
6. Retain and store top soil from the site in question and to utilize such materials in the restoration of the site.

B. Hours of Operation: Unless expressly extended by permit, the hours of operation shall be limited to 7:00 AM to 6:00 PM, Monday through Friday.

20-24-7: **SECURITY:** The City may require either the applicant or the owner or user of the property on which the excavation/grading is occurring to post a security in such form and sum as the City Council shall determine, with sufficient surety provided to the City, conditioned to pay to the City the extraordinary cost and expense of repairing, from time to time, and highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting excavated material, the amount of such costs and expense to be determined by the City Engineer; and conditioned further to comply with all requirements of this Chapter, and the particular permit, and to pay any expense the City may incur by reason of doing anything required to be done by any applicant to whom a permit is issued.

20-24-8: **FAILURE TO COMPLY:** The City may, for failure of any person to comply with any requirement made of them in writing under the provisions of such permit, as promptly as same can reasonably be done, proceed to cause said requirement to be complied with, and the cost of such work shall be taxed against the property whereon the landfill is located, or the City may, at its option, proceed to collect such costs by an action against the person to whom such permit has been issued, and their superiors if a security exists.

20-24-9: **COMPLETION OF OPERATION:**

- A. All excavation/grading operations shall be completed within ninety (90) days of the issuance of the permit. Upon completion the permit holder shall notify the in writing of the date of completion. If additional time beyond the ninety (90) days is needed for completion, the permit holder may apply to the City and upon a satisfactory showing of need, the City may grant an extension of time. If such extension is granted, it shall be for a definite period and the City shall issue an extension permit. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the excavation/grading operation within ninety (90) days and that failure to complete the operation was due to circumstances beyond the permit holder's control, such as teamster's strike, unusually inclement weather, illness or other such valid and reasonable excuse for non-completion. In the event request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with the other provisions of this Chapter relating to grading, leveling and seeding or sodding. What constitutes such "reasonable time" shall be determined by the City Engineer after inspecting the premises.

- B. At the completion of an excavation/grading, the premises shall be graded, leveled, and seeded or sodded with grass. The grade shall be such elevation with reference to any abutting street or public way as the City Engineer shall prescribe in the permit. The site shall also conform to such prerequisites as the City Engineer may determine with reference to storm water drainage runoff and storm water passage or flowage so that the excavation cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The City Engineer shall inspect the project following completion to determine if the applicant has complied with the conditions imposed as part of the permit.