

## CHAPTER 31

### EXCAVATIONS, GRADING, AND FILLING

#### SECTION:

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**10-31-1: PERMIT REQUIRED:** Any person who proposes to move the natural surface of the earth via excavation, grading, or filling on any property in the City shall apply for an interim use permit. The following are exempted:

- A. Excavation, filling, or grading in conjunction with an approved building, driveway, or other such permit.
- B. Excavation, filling, or grading in reliance on and in accordance with an approved development plan or grading plan.
- C. Excavation, filling, or grading by the State, County or City authorities in connection with construction or maintenance of roads or highways or utilities, provided such activity is conducted within the road or highway right-of-way or utility easement.
- D. Curb cuts, utility hook ups or street openings for which another permit is required from the City. Where another license or permit is not required or obtained, the excavation permit provided for in this Chapter shall be required.
- E. Excavation, filling, or grading of less than one hundred (100) cubic yards. Such activities, however, will be subject to an administrative permit which will address erosion control, traffic, streets, safety, noise, hours of operation, duration of activity, and environmental factors. If these factors cannot be adequately addressed, the permit may be denied.

- F. Excavation, filling, or grading for agricultural purposes greater than one hundred (100) cubic yards shall require an administrative permit. Less than one hundred (100) cubic yards shall not require a permit.
- G. Excavation, filling, or grading for extraction, mining, or gravel pit purposes shall follow the procedure in Section 10-32 of this Ordinance.

**10-31-2: ADMINISTRATIVE PERMIT EXEMPTIONS:** In cases above where excavation, filling, and grading are administratively permitted, the following are exempted:

- A. If the excavation, grading, or filling is conducted within the Urban Service Area, is less than fifteen (15) cubic yards in volume, and is the only such activity permitted in the last year.
- B. If the excavation, grading, or filling is conducted in the Rural Service Area, is less than forty-five (45) cubic yards in volume, and is the only land disturbance activity in the last year.

**10-31-3: APPLICATION FOR PERMIT:** Any person desiring a permit hereunder shall file an application on such forms as shall be provided by the Zoning Administrator. Such application shall be accompanied by a fee as set forth by City Council resolution and a large scale copy and reduced scale (11 by 17 inches) copy of detailed written and graphic materials fully explaining the proposed land filling or land excavation operation. The applicant shall submit four (4) copies for review. The scale of such materials shall be the minimum necessary to ensure legibility. The request shall be considered as being officially submitted and complete when the applicant has submitted and complied with all the following required information, as applicable and specified by the Zoning Administrator and/or City Engineer:

- A. **Application.** The application for a permit for excavation, filling, grading, and other such land disturbance activities shall require:
  - 1. Complete application on form provided by City.
  - 2. Written narrative describing the project including:
    - a. The purpose of the excavation, grading, and/or filling.
    - b. A description of the type and amount of material to be excavated, graded, or filled on the premises.
    - c. The highway, streets, or other public ways in the City upon which any material is to be hauled or carried.

- d. An estimate of the time required to complete the excavation, filling, or grading.
3. Site plan showing:
  - a. Areas where soil is to be stockpiled.
  - b. Location of silt fencing and other erosion control measures meeting the requirements of Section 10-16-4 of this Ordinance.
  - c. Property lines.
  - d. Current site topography.
  - e. Proposed site topography.
  - f. Public waters and wetlands on and within three hundred fifty (350) feet of the site.
  - g. Flood plains on site.
4. Stormwater Management Plan meeting the standards of Sections 10-93, Section 10-91 and Section 10-92 of this Ordinance, if applicable.
5. A written right-of-entry agreement stating the City and its officers have permission to enter the land for the purpose of determining compliance with all applicable conditions imposed in the permit.

**10-31-4: PERMIT REVIEW CRITERIA:** The permit shall be reviewed and approved if none of the following conditions are found to exist:

- A. Negative impact on an approved grading plan.
- B. Negative impact on neighboring properties or public drainage systems on or off-site.
- C. Fill brought on site is of an unsuitable quality.
- D. Excavation is for commercial activity/transport.
- E. Negative impact on public waters and wetlands.
- F. Hours of operation of the land disturbance activity fall outside of 7:00 AM to 7:00 PM on Monday-Friday.

- G. Inadequate erosion control.
- H. Failure to comply with Section 10-16-4, Section 10-91, Section 10-92, and/or Section 10-93 of this Ordinance.
- I. The proposed transport of materials is incompatible with the neighboring land uses.
- J. The proposed transport can be safely accommodated by the existing transportation infrastructure.

**10-31-5: INTERIM USE PERMIT REVIEW:** In cases where the permit requires an Interim Use Permit, the process in Section 10-7 of this Ordinance shall be followed to determine compliance with the criteria in Section 10-31-4 of this Ordinance.

**10-31-6: ADMINISTRATIVE PERMIT REVIEW:** In cases where an administrative permit is required, the following process shall be followed:

**A. Permit Review.**

- 1. The City Engineer and Zoning Administrator shall review the application and render a decision within sixty (60) days, unless otherwise extended.
- 2. No administrative permit shall be issued for activity to be conducted over a period of time longer than ninety (90) days.
- 3. If the permit is denied, the applicant shall be notified in writing.

**B. Permit Conditions.** All applicable provisions from this Ordinance shall be placed in effect at the discretion of the City Engineer. Failure to comply with all conditions shall result in the revocation of the Administrative Permit.

**10-31-7: SECURITY:** The City may require either the applicant or the owner or user of the property on which the excavation, filling, or grading is occurring to post a security in such form and sum as determined by the City Engineer. The amount of the security shall be sufficient to cover the City's extraordinary cost and expense of repairing, from time to time, any highways, streets or other public ways where such repair work is made necessary by the special burden resulting from hauling and travel in transporting fill or excavated material. The amount of the security shall also be sufficient to insure compliance with all requirements of this Section, and the particular permit, and to pay the expense the City may incur as a result of the permit.

**10-31-8: FAILURE TO COMPLY:**

- A. 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 certified as an assessment against the property whereon the landfill or excavation/grading operation 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 bond exists.
- B. In the event that excavation, filling, or grading operations requiring a permit are commenced prior to City review and approval, the City may require work stopped and all necessary applications filed and processed. In such cases, application fees shall be double the normal charge.
- C. Upon finding that an excavation, filling, or grading operation is being conducted out of compliance with this ordinance or any permit conditions, the City Engineer or Building Official may issue a stop work order. No such work shall be conducted while the stop work order is in effect.
- D. Upon issuance of a stop work order, completion of ordered corrective action, or taking corrective action, the City Engineer or Building Official may revoke any permit effective immediately. The City may cause to have the site brought into conformance with Section 10-31-10 of this Ordinance via the process identified in Section 10-31-8.A of this Ordinance.

**10-31-9: MAINTENANCE OF RIGHT OF WAY:** The City Engineer or City Building Official shall also have cause to take any action identified in Section 10-31-8 of this Ordinance for operations that are damaging any right-of-way or are being maintained in a manner that allows for sediment to be deposited in any right-of-way. Cost for any corrective action taken by the City shall be the responsibility of the permit holder or violator via an assessment against the property.

**10-31-10: COMPLETION OF OPERATION:** Upon completion of work, the permit holder shall notify the City Engineer or Zoning Administrator. At the completion of a excavation, filling, or grading operation, 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 shall prescribe in the permit. The site shall also conform to such prerequisites as the City may determine with reference to storm water drainage runoff and storm water passage or flowage so that the landfill or excavation cannot become a source of, or an aggravation to, storm water drainage conditions in the area. The Zoning Administrator and/or the City Engineer shall inspect the project

following completion to determine if the applicant has complied with the conditions required thereof.

**10-31-11: OPERATIONS IN PROCESS:** All excavation, filling, or grading operations for which a permit has previously been issued shall terminate such operations on the date specified by the permit.