

**SECTION 22**  
**LAND FILLING AND LAND EXCAVATION/GRADING OPERATIONS**

Subdivision

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**22.01 PERMIT REQUIRED:**

- A. Except for City landfilling and land excavation/grading operations, and in cases where a grading and drainage plan for a private development has been approved as part of a subdivision or other development plan approved by the City, or as may be otherwise stipulated by this Ordinance, any person who proposes to add landfill or extract sand, gravel, black dirt, or other natural material from the land or grade land in excess of fifty (50) cubic yards within the City limits, shall apply to the City for a permit as specified below:

Cubic Yards Of Landfill or Land to be Excavated/ Graded	Permit Requirement
Less than 50	No permit required
51 - 250	Administrative permit as provided in Section 6 of this Ordinance
Greater than 250	Interim use permit as provided in Section 5 of this Ordinance

- B. Notwithstanding the requirements of this section, no permit will be required for depositing landfill or excavation/grading on a lot for which a building permit has been issued for construction thereon provided that such activity is in accordance with an approved grading plan.
- C. Activities which qualify as mining operations shall be subject to this section.
- D. Except for mining activities, landfilling and land excavation/grading operations are an allowable activity within all zoning districts.

- <sup>1</sup> E. The use of any explosive or incendiary device shall be prohibited in mining operations in the City, provided however, that the use of explosive or incendiary devices may be used when necessary for the purpose of constructing roads or installing municipal sanitary sewer or municipal water service.

## 22.02 APPLICATION AND REQUIRED INFORMATION:

A. 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 established by City resolution and one (1) large scale copy and one (1) reduced scale (not less than 11 inches by 17 inches) copy of detailed written and graphic materials fully explaining the proposed land filling or land excavation operation. If, in the opinion of the Zoning Administrator, reduced scale drawings (11 inches by 17 inches) 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 and complete when the applicant has submitted and complied with all the following required information, as applicable and specified by the Zoning Administrator:

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 landfill or excavation/grading activity.
5. A description of the type and amount of material to be placed upon or excavated/graded from the premises.
6. The source of fill material.
7. The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
8. An estimate of the time required to complete the landfill or excavation/grading.
9. A site plan showing present topography (with a minimum interval of two (2) feet) and also including boundary lines for all properties, water courses, wetlands and other significant features within three hundred fifty (350) feet.

10. A site plan showing the proposed finished grade (with a minimum interval of two (2) feet) 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 landfill is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth.
11. A plan and/or statement demonstrating the proposed activity will in no way jeopardize the public health, safety and welfare or is appropriately fenced to provide adequate protection.
12. A statement that the applicant will comply with all conditions prescribed by the City.
13. A written right-of-entry is provided to the Zoning Administrator to enter the land for the purpose of determining compliance with all applicable conditions imposed on the operation.
14. Other information as may be specified by the Zoning Administrator.

**22.03 TECHNICAL REPORTS:** The Zoning Administrator shall immediately, upon receipt of a completed application, as determined by preliminary staff review, forward a copy thereof to the City Engineer and the City Building Official. Where protected watersheds, floodplains, and/or protected wetlands are in question, the Minnesota Department of Natural Resources and Army Corps of Engineers shall also be contacted. These technical advisors shall be requested to prepare reports, as applicable, for the City Council and/or Zoning Administrator.

**22.04 ISSUANCE OF PERMIT:** Upon receiving information and reports from the City staff and other applicable agencies, as applicable, the City Council or the Zoning Administrator shall make its determination as to whether, and when, and under what conditions such permit for a landfill or excavation/grading activity is to be issued to the applicant.

**22.05 CONDITIONS OF PERMIT:**

A. Landfill Operations:

1. Under no circumstances shall any landfill operation be conducted or permitted if the contents of the landfill or any part thereof shall consist of garbage, animal or vegetable refuse, poisons, contaminants, chemicals, decayed material, filth, sewage or similar septic or biologically dangerous material deemed to be unsuitable by the City.

2. Unless expressly extended by permit, the hours of operation shall be limited to 7:00 AM to 7:00 PM, Monday through Saturday.

B. Land Excavation/Grading Operations:

1. The City, 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:

- a. Properly fence the excavation.
- b. Slope the banks, and otherwise properly guard to keep the excavation in such condition as not to be dangerous from caving or sliding banks.
- c. 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 shall determine.
- d. Keep the excavation/grading within the limits for which the particular permit is granted.
- e. 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.
- f. Retain and store top soil from the site in question and to utilize such materials in the restoration of the site.

2. Unless expressly extended by permit, the hours of operation shall be limited to 7:00 AM to 7:00 PM, Monday through Saturday.

**22.06 SECURITY:** The City shall require either the applicant or the owner or user of the property on which the landfill or excavation/grading is occurring to post a security in such form and sum as determined by the Zoning Administrator. The amount of the security shall be sufficient to cover the extraordinary costs of the City or any other Road Authority for the 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 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 or any other Road Authority may incur as a result of the permit."

**22.07 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 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. In the event that landfilling or excavation/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.

**22.08 COMPLETION OF OPERATION:** All landfill and excavation operations shall be completed within three hundred sixty five (365) days of the issuance of the permit. Upon completion the permit holder shall notify the Zoning Administrator in writing of the date of completion. If additional time beyond the three hundred sixty five (365) days is need for completion, the permit holder may apply to the Zoning Administrator and upon a satisfactory showing of need, the Zoning Administrator may grant an extension of time. If such extension is granted, it shall be for a definite period. Extensions shall not be granted in cases where the permit holder fails to show that good faith efforts were made to complete the landfill or excavation/grading operation within three hundred sixty five (365) days and that failure to complete the operation was due to circumstances beyond the permit holder's control such as shortage of fill or excavated material, labor strike, unusually inclement weather, illness or other such valid and reasonable excuse for non-completion. In the event a request for an extension is denied, the permit holder shall be allowed a reasonable time to comply with other provisions of this section relating to grading, leveling and seeding or sodding. What constitutes such "reasonable time" shall be determined by the Zoning Administrator after inspecting the premises.

**22.09 OPERATIONS IN PROCESS:** All landfill and excavation/grading operations for which a permit has previously been issued shall terminate such operations on the date specified by the permit.