

# City Code

## Chapter 14

### Land Excavation and Reclamation

Article 1. General Conditions, §§ 14-1--14-15

Article 2. Permit, §§ 14-16--14-23

#### Article 1. General Conditions

##### Sec. 14-1. Definitions.

The definitions in this Section shall apply when these words and phrases are used in this Chapter.

- (1) ***Earth or Soil.*** Any material that occurs naturally on the surface of the earth which can be dug, plowed, and planted and will sustain plant growth.
- (2) ***Land Excavation.*** The extraction of sand, gravel, rock, peat earth, or any other material from the ground, whether or not such material is removed from the site of extraction.
- (3) ***Land Filling.*** The depositing of materials on land for any purpose other than reclamation.
- (4) ***Land Reclamation.*** The reclaiming of land by the depositing of material so as to elevate the grade. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988; Code of 2001)

##### Sec. 14-2. Exceptions.

- (1) This Chapter shall not apply to any excavation that is necessary for the construction of a structure when the structure will replace the excavated materials, and when the excavated materials, which consist of clean earth, are to be used in the final grading of the building site.
- (2) However, such excavations shall require issuance of a building permit for the structure. Issuance of the permit shall give due consideration to the intended grading work as required by this Chapter and other provisions of the City Code. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988; Code of 2001)

**Sec. 14-3. Enforcement and Penalty.**

The City shall administer and enforce this Chapter and may institute such appropriate actions or procedures against a violator as provided by law. A person shall be guilty of a misdemeanor who has obtained a permit and fails to:

- (1) Comply with any of the conditions upon which the permit was issued.
- (2) Complete a land reclamation project in the time prescribed in the permit application.
- (3) Act in accordance with the work authorized by the permit. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988)

**Secs. 14-4--14-15. Reserved.** (Code of 2001)

## **Article 2. Permit**

### **Sec. 14-16. Permit Required.**

A permit shall be required to:

- (1) Excavate land in excess of 100 cubic yards per year.
- (2) Fill land or to reclaim land by filling by depositing material in excess of 100 cubic yards per year.
- (3) Fill or reclaiming land by depositing non-earth materials. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988; Code of 2001)

### **Sec. 14-17. Application.**

Application for a permit shall be made on a form as prescribed by the City and shall include:

- (1) The name and address of the applicant.
- (2) The legal description of the land involved.
- (3) A general description of the work proposed to be done.
- (4) The type of materials to be excavated or filled.
- (5) The time work will commence and be completed.
- (6) The proposed route for hauling of materials. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988; Code of 2001)

### **Sec. 14-18. Plan Required.**

The application shall be accompanied by a plan that completes all of the requirements in Chapter 7 as well as the Engineering Design Standards. A registered professional engineer must complete the plan if the area to be excavated, filled, or reclaimed is greater than 10,000 square feet. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988; Code of 2001; Ord. 833)

### **Sec. 14-19. Fee.**

The application fee shall be established by ordinance. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988; Code of 2001, Ord. 751, 11-13-2007)

### **Sec. 14-20. Bond.**

A bond may be required as a condition precedent to obtaining a permit. The bond shall be in an amount that is deemed sufficient to cover the expense of restoring the site to a reasonable condition. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988; Code of 2001)

**Sec. 14-21. Performance Standards.**

(1) The review of the application shall take into consideration the health, safety, and general welfare of the inhabitants of the City. The permit issued shall include:

- A. Finished grade plan which will not adversely affect the adjacent land. Said plan shall be a condition for issuance of the permit.
- B. Designation of the type of fill or extracted material permitted.
- C. Plans for rodent control and fire control.
- D. Designation of the manner in which the site and adjacent area are to be maintained during the operations.
- E. Provisions for control of material dispersed by wind and water and from hauling of material to or from the site.
- F. Specifications for general maintenance of the site during the operation including systematic leveling and landscaping.

(2) Other required performance standards shall be:

- A. Land brought to grade by fill of non-earth material shall be covered with clean earth.
- B. Areas of exposed non-earth fill shall at all times be kept to a minimum.
- C. All non-earth materials shall be non-combustible and in no case shall garbage or other combustible material be used as fill unless approved by the City Council as a private or public dumping ground.
- D. Landscaping by systematic planting of the excavated, filled, or reclaimed portion of the site with cover crops shall be required. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988; Code of 2001)
- E. Depending on applicability, the project shall follow the standards established in the Engineering Design Standards. (Ord. 833)

**Sec. 14-22. Additional Requirements.**

The City shall have the right to order any positive act to be done in connection with the work to bring the operation into compliance with the terms of the permit. These orders may:

(1) Require the person responsible for land excavation to refill any excavation site which adversely affects the general health, safety, and welfare.

(2) Require the person responsible for land reclamation to cover any non-earth fill with clean earth if such is not done within a reasonable time of the filling or depositing.

Any such positive act should be performed by the permit holder within thirty calendar days after being given written notice of the requirement. No further reclamation or excavation work on the site shall proceed until the required act is completed. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988; Code of 2001)

**Sec. 14-23. Revocation.**

The City Council reserves the right to revoke any permit for violation of the conditions of the permit. Upon such an order from the Council, further work on the site shall be deemed a violation of this Chapter. The City shall have the right to order any positive act to be done in connection with the work to comply

with the conditions of the permit. (Code 1966; Ord. No. 281, 6-22-71; Code of 1988)

### **Article 3. Land Disturbing Activities**

#### **Section 14-24. Permit for Land Disturbing Activities**

(1) No construction, reconstruction, development, redevelopment, grading, excavation or other activity shall occur without first securing a permit from the City Engineer if such activity causes a land disturbance of one acre or more of land or a land disturbance of less than one acre if it is a part of a common plan of development of one acre or more.

(2) The applicant shall submit an erosion and sediment control plan. The plan shall meet the requirements established in Engineering Design Standards.

(3) Depending on the applicability, the applicant may be required to submit a stormwater management plan as per City Code Chapter 7 requirements. The plan shall meet the requirements established in Chapter 7 of the City Code as well as the Engineering Design Standards.

(4) The Engineer may require such additions or modifications to the plan and may impose such conditions and restrictions on the permit as the Engineer deems necessary to provide water quality protection. Such conditions may include, but are not limited to: limiting the size, kind or character of the proposed development; requiring the construction of structures, drainage facilities, storage basins and other facilities; requiring the replacement of vegetation; establishing required monitoring procedures; requiring that the work be staged over time; requiring the execution and filing of such declarations or agreements as the Engineer deems necessary to assure the continuing monitoring and maintenance of all facilities and systems; and requiring a performance bond, or other acceptable security, to assure that all facilities and systems are constructed as required.

(5) Every effort shall be made during the permit application process to determine the full extent of erosion control required. However, the City Engineer may require additional controls to correct specific site related problems as inspections are performed during construction.

(6) All erosion control noted on the approved plan shall be installed prior to the initiation of any site grading or construction.

(7) All activities requiring a permit under this section shall conform to all requirements of federal, state and local laws, rules and regulations including the Rice Creek Watershed District.

(8) The City Engineer shall inspect and enforce all control measures and shall receive and consider reports of non-compliance or other information on construction issues related to water quality submitted by members of the public. Non-compliance with the requirements of this section, the approved plan, any conditions or restrictions imposed by the City Engineer, or any orders issued by the City Engineer under paragraph (4) of this Section is a violation of this Section. Violation of this Section is a misdemeanor and constitutes grounds for the City to issue an order to halt all construction or pursue any other legal or equitable remedy to enforce the requirement of this Section. (Ord No 761 6-24-2008; Ord 833)

**Editor's Notes**  
**City Code-Chapter 14**  
**Land Excavation, Reclamation**

This Chapter has been renumbered to be consistent with the numbering system used throughout the Code:

The first division within a Section is numbered "(1)" followed by "(2)", etc.

The next division of a Section is numbered with an "A" followed by "B", etc.

As with all other parts of the codification, the language in this Chapter has been simplified and made general neutral.

Margaret A. Egan  
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