

**Subd. J.      Grading, Drainage, Land Filling, Excavation.**

**1.      Grading and Drainage.**

- a.      In the case of all new residential subdivisions, multiple family, business, and industrial developments, a grading and drainage plan shall be submitted to the City for its review and approval. The final grading and drainage plan shall be consistent with the City's Stormwater Management Plan, as may be amended. Where grading involves wetlands, a wetland management plan, consistent with the Minnesota Wetland Conservation Act, shall be submitted and approved by the City. Lots subdivided and recorded after March 2003 shall also be subject to the performance standards of Section 10 of the Delano Subdivision Ordinance.
- b.      As part of a building permit application in which new structures or building footprint expansion of existing structures are proposed, excluding permit applications listed in Section 51.03, Subd. B.2.a, a site survey showing proposed grading, drainage and building pad elevations(s) shall be submitted to the City along with a certificate by the permit applicant that it is consistent with the approved final plat grading and drainage plan, if any.
- c.      Prior to issuance of an occupancy permit, the person or entity who developed, graded and constructed improvements upon the property for which the occupancy permit is requested, shall submit an as-built survey that the grading, drainage and building pad elevations are consistent with the approved final grading and drainage plan for the subdivision, or if no such City approved drainage and grading plan for the entire subdivision exists, that such person or entity represents that the grading, drainage and building pad elevations are consistent with the site survey referred to in Section 51.03, Subd. D.12.b above.
- d.      Prior to issuance of an occupancy permit, the person or entity who developed, graded and constructed improvements upon the property for which the occupancy permit is requested shall execute an indemnification and release of the City of Delano, its elected officials, and other representatives from and against claims relating to grading, drainage, and building pad elevation errors and variances between the grading, drainage and building pad elevation work and approved plans.
- e.      For all construction, erosion control measures must be in place prior to beginning of site work (i.e., grading, striping, or construction).

- 1) The City may withhold inspections or suspend work on a site that does not have an approved grading plan or in place erosion control measures.
- 2) The City may require a financial security to ensure placement and maintenance of erosion control measures.

## **2. Land Filling.**

### **a. Permit Required.**

- 1) Land filling on any property within the City limits in the following manner shall require an administrative land fill permit:
  - a) Any deposit of fill within a drainage or utility easement.
  - b) Any deposit of fill within a natural drainage way.
  - c) Any deposit of fill within ten (10) feet of a property line.
  - d) Adding land fill in excess of twenty (20) cubic yards.
- 2) Land filling in excess of four hundred (400) cubic yards shall require a conditional use permit in accordance with Section 51.02, Subd. B of this Ordinance.

### **b. Exclusions.** This article shall not apply to projects outlined in Section 51.03, Subd. J.1 that have an approved grading or drainage plan.

### **c. Application and Required Information.**

- 1) Any person desiring a permit hereunder shall present an application on such forms as shall be provided by the Zoning Administrator requiring the following information:
  - a) The name and address of the applicant.
  - b) The name and address of the owner of the land.
  - c) The address and legal description of the land involved.
  - d) The purpose of the land fill.
  - e) A description of the source, type, and amount of fill material to be placed upon the premises.
  - f) The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.

- g) An estimate of the time required to complete the land fill.
- h) 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.
- i) 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 land fill is being conducted. Top soil shall be of a quality capable of establishing normal vegetative growth.
- j) A dust control plan.
- k) 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.
- l) A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.
- m) The application shall be considered as being officially submitted when all the information requirements are complied with. A fee for such application is submitted based upon the schedule as established by City Council ordinance.
- n) A schedule for completion of the land filing.
- o) Wetland management plan consistent with the Minnesota Wetland Conservation Act, where applicable.
- p) In addition to the aforementioned submission requirements, the submission of information of Section 51.03, Subd. B shall also be required when a conditional use permit is required.

d. Technical Reports.

- 1) The Zoning Administrator shall process all land fill permit applications. Such applications, when determined to be necessary by the Zoning Administrator and all those for more than fifty (50) cubic yards shall be forwarded 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 Council.

- 2) Filing fees in excess of the actual incurred expenses shall be refunded to the applicant. When the expenses incurred in the review of the application exceed the fee, such excess expenses shall be billed to the applicant.

e. Issuance of Permit.

- 1) The City Engineer and/or the Building Official shall determine as to whether, and when, and under what conditions a land fill permit for less than fifty (50) cubic yards shall be issued.
- 2) Upon receiving information and reports from the Zoning Administrator and the City Engineer, the Council shall make its determination as to whether, and when, and under what conditions such permit for a land fill greater than fifty (50) cubic yards is to be issued to the applicant by the Zoning Administrator.
- 3) Conditional use permits shall be processed and issued in accordance with Section 51.02, Subd. B of this Ordinance.

f. Conditions of Operation.

- 1) Under no circumstances shall any such land fill operation be conducted or permitted if the contents of the land fill 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, or any other 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 6:00 PM, Monday through Saturday.

- g. Security. The Council may require either the applicant or the owner or user of the property on which the land fill is occurring to post a security in such form and sum as the Building Official and/or City Engineer 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, 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 material, the amount of such cost 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.

- h. Failure to Comply. The Council may, for failure of any person to comply with any requirement made of such person 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. The cost of such work shall be assessed against the property whereon the land fill 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 such person's superiors if a bond exists. In the event that land filling 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. Application fees shall be double the normal charge.

### 3. **Excavation/Mining.**

- a. Permit Required.

- 1) The excavation of sand, gravel, black dirt, or other natural material from the land or the grading of land by a person in the following manner shall require an administrative permit:
  - a) Removing sand, gravel, black dirt or other natural materials or grading land within a drainage or utility easement.
  - b) Removing sand, gravel, black dirt or other natural materials or grading land within a natural drainage way.
  - c) Removing sand, gravel, black dirt or other natural materials or grading land within ten (10) feet of a property line.
  - d) Removing sand, gravel, black dirt or other natural materials or grading land in excess of twenty (20) cubic yards.
- 2) The excavation of sand, gravel, black dirt, or other natural material or grading of land by a person in the amount of four hundred (400) cubic yards or more shall require a conditional use permit in accordance with Section 51.02, Subd. B of this Ordinance.

- b. Exclusions. This article shall not apply to:

- 1) The excavation, removal, storage, or placement of rock, sand, dirt, gravel, clay, or other like material for any construction for which a

building permit has been issued, site plan approval or a development contract signed.

- 2) Such excavation, removal, storage, or placement of rock, sand, dirt, gravel, clay, or other like material as may be required by the state, county, or city authorities within their acquired rights-of-way and easements in connection with the construction or maintenance of roads and highways and utilities. "Rights-of-way" as used herein shall not include isolated parcels used exclusively for borrow pits.

c. Application for Permit.

- 1) Any person desiring a permit hereunder shall present an application on such form as shall be provided by the Zoning Administrator requiring the following information:
  - a) The name and address of the applicant.
  - b) The name and address of the owner of the land.
  - c) The address and legal description of the land involved.
  - d) The purpose of the excavation or grading.
  - e) A description of the type and amount of material to be excavated from or graded on the premises.
  - f) The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
  - g) An estimate of the time required to complete the excavation or grading.
  - h) 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.
  - i) 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.

- j) 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.
  - k) A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.
  - l) A schedule for the completion of the excavation or mining.
  - m) A wetland management plan consistent with the Minnesota Wetlands Conservation Act, where applicable.
- d. 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 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 Council.
- e. Conditions. The City, as a prerequisite to the granting of a permit, may require the applicant or the owner of the premises to incorporate and attach any conditions or restrictions that it deems necessary for the preservation of health, welfare, and safety of the citizens:
- 1) Properly fence any pit or excavation, and barricade entrances to prevent the general public from depositing garbage or refuse.
  - 2) Slope the banks, and otherwise guard and keep any pit or excavation in such condition as not to be dangerous because of sliding or caving banks.
  - 3) Properly drain, fill, or level off any pit or excavation so as to make the same safe and healthful as the permitting authority may determine.
  - 4) Limit the depth of such excavation to an elevation no lower than the minimum floor elevation for building construction as established by the City Engineer, so as not to diminish development potential of the parcel.
  - 5) Limit any fill material to clean fill, defined as rock, sand, gravel, clay, or other like and similar non-decomposable material. Concrete, asphalt, metal, wood, and other debris shall be prohibited.

- 6) Require that all decomposable material, or other unsuitable foundation material, be removed from an area before deposition of fill begins.
- 7) Prepare a site plan showing existing and proposed grade elevations and effect of storm water drainage on adjacent areas.
- 8) Specify a time when the excavation or land reclamation project shall be completed.
- 9) Place a minimum of four (4) inches of top soil over the completed project and establish appropriate ground cover within sixty (60) days of completion, or in a time period consistent with the City's storm water management and pollution prevention plan.
- 10) Reimburse the City for the cost of periodic inspections by the City for the purpose of determining that the terms under which the permit has been issued are being complied with.
- 11) Implement the tree preservation plan.
- 12) Rodent control plan.
- 13) Dust control plan/street clean up.
- 14) Transport route plan for mining operation.
- 15) Site restoration plan including final grading plan/utility plan and master land use concept.
- 16) Post a form of security and sum as the permitted authority may require, running to the City, conditioned to pay the City the cost and expense of repairing or cleaning any highways, streets, or other public ways within the City made necessary by the special burden resulting from transporting thereon by the applicant material to or from the site, the amount of such cost to be determined by the Council; and conditioned further to comply with all the requirements of this Ordinance and the particular permit, and to save the City free and harmless from all suits or claims for damages resulting from the negligent excavation, removal, storage, or filling of rock, sand, dirt, gravel, clay or other like material within the City.
- 17) Other conditions deemed appropriate to the application by the permitted authority.



- f. Security. The City may require either the applicant or the owner or user of the property on which the excavation or grading is occurring to post a security in such form and sum as the 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 cost 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 based.
  
- g. Failure to Comply. The City may, for failure of any person to comply with any requirement made of such person 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 land fill 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 his superiors if a security exists.