

## CHAPTER 1027

### LANDFILL / EXCAVATING / GRADING

#### SECTION:

- 1027-1: Procedure
- 1027-2: Special Requirements
- 1027-3: Performance Standards
- 1027-4: Exceptions

#### **1027-1: PROCEDURE:**

- A. **Grading Permit.** The placement or 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 require a grading permit.
- B. **Permit Exceptions.** Exceptions to the grading permit requirement shall be allowed in landfill excavation and grading activities:
  - 1. Conducted by a governmental jurisdiction.
  - 2. Associated with a private development which were approved as part of a subdivision or other development.
  - 3. Which qualify as mining operations and are subject to other applicable sections of the City Code.

#### **1027-2: SPECIAL REQUIREMENTS:**

- A. All applications for an administrative permit shall be accompanied by a detailed site plan drawn to scale and dimensioned displaying the information as specified in Section 1009-6 of this Ordinance and the following:
  - 1. The purpose of the excavation or grading.
  - 2. A description of the type and amount of material to be excavated or graded from the premises.
  - 3. The highway, street or streets, or other public ways in the City upon and along which any material is to be hauled or carried.
  - 4. An estimate of the time required to complete the excavation or grading.

5. A site plan showing present topography and also including boundary lines for all properties, water courses, wetlands and other significant features within three hundred (300) feet.
  6. 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.
  7. 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.
  8. A statement that the applicant will comply with all conditions prescribed by the City or its officers or agents.
  9. 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.
  10. If the site is more than one (1) acre in size, the applicant shall complete a Minnesota Pollution Control Agency National Pollutant Discharge Elimination System (NPDES) Phase II permit for all excavation.
- B. **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.
- C. **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.

**1027-3: PERFORMANCE STANDARDS:**

- A. 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 fill/excavation/grading is located to:
1. Properly fence the project site.

2. Slope the banks, and otherwise properly guard to keep the fill or excavation in such condition as not to be dangerous from caving or sliding banks.
  3. Properly drain, fill in or level the project site so as to make the site safe, as determined by the City.
  4. Keep the fill/excavation/grading within the limits for which the particular permit is granted.
  5. Remove or transport fill/excavated/graded material upon the 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 7:00 PM, Monday through Saturday.
- C. **Security:** The City may require either the applicant or the owner or user of the property on which the fill/excavation/grading is occurring to pose a security in such form and sum as the 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, 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 such 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 Ordinance, 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.
- D. **Completion of Operation:**
1. All operations shall be completed within ninety (90) days of the issuance of the permit. Upon completion the permit holder shall notify in writing 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 fill/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 Ordinance relating to grading, leveling and seeding or sodding. What constitutes such “reasonable time” shall be determined by the City Engineer after inspecting the premises.

2. At the completion of fill/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.

- G. **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.

**1027-4: EXCEPTIONS:** This Chapter is intended to cover the placement or removal of natural materials on 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.