

## Chapter 15.24

### GRADING, EXCAVATIONS AND FILL\*

#### Sections:

|           |                                      |
|-----------|--------------------------------------|
| 15.24.010 | Permit required.                     |
| 15.24.020 | Application for a permit.            |
| 15.24.030 | Procedure.                           |
| 15.24.040 | Bond and certificate of insurance.   |
| 15.24.050 | Suspension and revocation of permit. |
| 15.24.060 | Inspections.                         |
| 15.24.070 | Penalty for violation.               |

15.24.010 Permit required. It is unlawful for any person to commence or perform any grading, excavation, or fill within the town without first having secured a permit for such work; provided, however, that no permit shall be required for the following exceptions:

- (1) Excavation for a building foundation, basement of a building, or swimming pool for which a building permit has been issued, provided however that this exemption does not extend to excavations or fill for necessary site preparation;
- (2) Excavations by a public utility for the installation, operation, inspection, repair or replacement of any of its facilities;
- (3) Grading in subdivisions in accordance with plans approved by the town council;
- (4) Excavations where the vertical depth of cut does not exceed ten feet, and the slope of the bank is not less than one and one-half to one; or where the vertical depth of cut is in excess of ten feet, and the slope of the bank is not less than one and one-half to one, and four foot horizontal step backs are provided for each ten feet of vertical cut;
- (5) Placing of fill where the vertical height of the fill, measured from the toe to the top is not in excess of ten feet, and the slope of the fill is not less than one and one-half to one; or in cases where the vertical height of the fill is in excess of ten feet, and the slope of the **fill is** not less than one and one-half to one, and four foot horizontal step backs **are** provided for each ten feet of vertical height. (Prior code §3703).

15.24.020 Application for a permit. An applicant for a grading permit shall file an application therefor with the town clerk, accompanied by the required fee. Each application shall contain the following:

- (1) Name and address of the applicant, and person or persons responsible for the correctness of the work to be done;
- (2) Description of the property upon which the work is to be done sufficient to readily identify the location;
- (3) Duplicate copies of plans and specification of the proposed work including:
  - A. Contour maps showing the present contours of the land, and the proposed contours of the land after completion of the proposed work;
  - B. Plot plan showing the boundaries, lot lines, neighboring public ways, and the location of all work;

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\* See also Ch. 12.04 of this code.

- C. Description of the type and classification of the soil;
- D. Details and location of all retaining walls, cribbing, drainage structures, piping, and such further information as may be required by the town engineer;
- E. Proposed dates for the commencement and completion of the work.

(4) Exception: The town engineer may in his discretion waive the requirements for all or any of the plans and specifications heretofore specified, if he finds that a lesser amount of information will suffice to conform to the provisions and spirit of this chapter. (Prior code §3704).

15.24.030 Procedure. (a) The clerk shall refer the application to the town engineer, who shall inspect the site, review the plans and specifications, and make his recommendations. The engineer shall take into consideration all pertinent matters concerning the proposed work which may affect the public health, safety, and general welfare in the neighborhood, and shall exercise reasonable and sound discretion. The engineer may require the applicant to furnish any additional information including, but not limited to, soil tests and any other engineering data at his sole discretion.

(b) The granting of the application shall be recommended unless it appears to the engineer that the proposed work would:

- (1) Remove the lateral or subjacent support of the adjacent land; or
- (2) Result in a dangerous topographic condition; or
- (3) Result in seepage or slides; or
- (4) Divert the flow of drainage water; or
- (5) Cause, aggravate, or increase a nuisance dangerous to public safety; or
- (6) Otherwise in any manner endanger the public health or safety; or
- (7) Be detrimental to the public welfare despite all precautions that the applicant

is ready, willing and able to take.

(c) The engineer shall recommend either:

- (1) Granting the permit, with or without modification and upon such condition or conditions as he deems necessary to carry out the intent of this ordinance; or
- (2) Deny the application in whole or in part.

(d) Upon receipt of the engineer's recommendation, the clerk shall act on the application in accordance with that recommendation. Should the application be denied, or should the engineer recommend the application be modified, the clerk shall immediately notify the applicant, stating the reasons why.

(e) In event that the applicant is not satisfied with the determination of the town engineer, the applicant may appeal to the town council for relief by filing a notice of appeal with the clerk, who shall thereupon set the matter for a hearing by the town council within forty-five days from the date of the filing of the notice. (Prior code §3705).

15.24.040 Bond and certificate of insurance. The town may require as a condition of the granting of any permit hereunder, that the applicant deposit with the town a surety bond, in an amount to be fixed by the town council, inuring to the benefit of the town, guaranteeing that the applicant will faithfully perform all of the conditions and requirements specified in the permit. The surety bond shall be executed by sureties approved by the town as being sufficient in number and financial responsibility. The town may also require as a condition to the granting of a permit that the applicant deposit with the town clerk a certificate of a responsible insurance company showing that the applicant is insured in an amount to be fixed by the town against any loss or damage to persons or property arising directly or indirectly from the operations of the applicant or any person acting in his behalf in carrying on any operation connected directly or

indirectly with the making of the fill or excavation, or the removal of the excavated materials for which the permit is issued. (Prior code §3706).

15.24.050 Suspension and revocation of Permit. If, in the opinion of the town engineer, the public health, safety or welfare require it, the town engineer shall immediately suspend any permit granted under this ordinance.

Any permit granted hereunder may be revoked or suspended:

- (1) For any reason for which the permit might have been denied; or
- (2) For failure of permittee to comply with all the terms and conditions of the permit.

Any permittee having a permit so suspended or revoked may appeal the action to the town council, by following the procedure set forth in Section 15.24.030. (Prior code §3707).

15.24.060 Inspections. The town engineer shall make such inspections as he may deem necessary in each individual case, taking into consideration the complexity of the work to be performed. The permittee shall pay to the town, in addition to the aforesaid application fee, the actual costs of such inspections, and shall deposit with the town clerk, upon making application for a permit, the engineer's estimate of the costs of inspection. (Prior code §3708).

15.24.070 Penalty for violation. Any violation of any of the provisions of this chapter shall be a misdemeanor and punishable as provided in Section 1.04.010, and where such violation creates a nuisance, the additional remedies provided by Chapter 9.04 of this code, and by the laws of the state, shall likewise be applicable. (Prior code §3709).