

CHAPTER 74. ZONING

ARTICLE IV. Conditional Uses

DIVISION 3. Permits for Commercial Excavations

Section 74-136. Definitions.

Unless otherwise indicated, words used in this section shall be considered as used with their ordinary meaning, but all definitions contained in this chapter shall be applicable in this division, particularly with reference to mining and soil processing.

Excavation means any artificial excavation of the earth, dug, excavated, or made by the removal from the natural surface of the earth of soil, sand, gravel, stone or other matter or made by tunneling or breaking or undermining the surface of the earth, of 500 cubic yards or more.

Land reclamation means the deposition of 500 cubic yards or more of earth materials on a site in such manner as to elevate the grade.

Section 74-137. When required; renewal.

- (a) Excavation, deposition and processing of natural earth products regulated in this division shall be permitted only upon issuance of a conditional use permit as provided for in division 2 of this article. The conditional use permit shall be renewed the first January after issuance and every January thereafter for operations to occur beyond the first renewal period. Only that information in the application which is changed from the previous application is required for the annual renewal.
- (b) Conditional use permits may be issued for commercial excavating of natural materials used for building or construction purposes, in any district, subject to the standards and conditions hereinafter set forth. Such permits are required for the purpose of:
 - (1) Establishing reasonable and uniform standards and review procedures in the extraction, deposition and processing of sand, gravel, soil, rock and other natural earth products or the impounding of waters;
 - (2) Controlling noise, dust, hazards, effects on adjacent property and other related adverse factors in the extraction, deposition and processing of sand, gravel, soil, rock and other natural earth products or the impounding of waters;
 - (3) Providing for the restoration of sites in the extraction, deposition and processing of sand, gravel, soil, rock and other natural earth products or the impounding of waters.
- (c) A permit under this division will not be required for the following:
 - (1) The excavation, removal or storage of rock, sand, dirt, gravel, clay or other material preparatory to construction of a building thereon pursuant to a duly issued building permit;

- (2) Moving dirt for construction of roads or to provide for surface water drainage as provided on an approved plat;
- (3) Moving dirt for landscaping purposes on a lot already occupied by a residential structure;
- (4) Excavation or dirt removal incidental to construction of sewer and water mains, highway construction or other public projects;
- (5) Minor agricultural excavation or storage or minor conservation work.

Section 74-138. Application.

- (a) Application for a conditional use permit for excavation, deposition, or processing in accordance with this section shall follow the procedure established for conditional use permits in Division 2 of this Article.
- (b) The applicant shall furnish such information as is required by Division 2 of this Article, and additionally shall include:
 - (1) The true name and address of the applicant, and/or owner of the property under construction.
 - (2) The period of time for which the operation is estimated to continue.
 - (3) A full description of the total parcel and the specific area of the parcel in which the applicant intends to conduct the activities for which the permit is requested.
 - (4) The purpose of proposed excavation, deposition or processing.
 - (5) The estimated quantity of materials to be excavated, extracted, removed from or deposited on the area for which the permit is requested.
 - (6) The long range re-use plans of the applicant for the future development of the area for which the permit is requested.
 - (7) The location of public road access and egress to and from the excavation or deposition site and the anticipated primary routing of all vehicles hauling extracted material within one-half mile of the site.
 - (8) The topography in the area for which the proposed permit applies. The required surveys shall be prepared by a registered land surveyor or engineer, shall be drawn to a scale of not more than 100 feet to an inch and shall be drawn with contour intervals of not more than two feet and/or cross section maps on a grid that will accurately show the configuration of the site:
 - a. As it exists at the time of application;
 - b. As it will appear at the end of the one year permit; and
 - c. As it will exist upon completion of the operation.

- (9) Plans for the following shall be submitted indicating how the items shall be established, constructed or provided for at the site.
 - a. A source of water, disposal of water and re-use of water.
 - b. Test results indicating the exact nature and source of the materials to be extracted, stored, processed or used for fill.
 - c. Plans for drainage, erosion control, sedimentation control and dust control.
- (10) A comprehensive re-use plan showing that suitable provision will be made for the restoration of the area so that it will not become a health or safety hazard or a nuisance. Such plan shall include the final elevations, slopes and a plan for the replacement of subsoil and topsoil. Where the City deems it practical and necessary, such plans shall include adjoining related areas where excavations have previously been made and remain under the control of the owner of the land on which the excavation is to be done or under the control of the person or party to do the excavating.

Section 74-139. Special Requirements.

- (a) Excavations made to a water producing depth must meet the following requirements:
 - (1) The depth must be such that a permanent water body will be established.
 - (2) All banks shall be sloped to the water line at a slope which shall not be steeper than three feet horizontal to one foot vertical.
 - (3) All banks shall be sodded or surfaced with a soil of quality at least equal to the topsoil of land areas immediately surrounding and to a depth of at least three inches; or approved rip-rapping, where applicable.
 - (4) Such topsoil as required shall be planted with trees, shrubs, legumes, or grasses upon the parts of such area where revegetation is possible.
- (b) Excavations not made to a water-producing depth must be graded or backfilled and shall meet the following requirements:
 - (1) Such grading or backfilling shall be made with non-noxious, nonflammable, noncombustible solids.
 - (2) The graded or backfilled area shall not collect and permit stagnant water to remain there; unless ponding areas are created as part of the re-use plan with a specific function proposed.
 - (3) The peaks and depressions of the area shall be reduced to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding; and which will minimize erosion due to rainfall.

- (4) Such graded or backfilled area shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three inches.
- (5) Such topsoil as required in subsection (b)(4) of this section shall be planted with trees, shrubs, legumes or grasses upon the parts of such area where revegetation is possible.

Section 74-140. Conditions of Permit.

Prior to the granting of a permit or after a permit has been granted, in addition to the special requirements enumerated in this Article, the Council may require the applicant to whom such permit is issued or the owner or user of the property on which the excavation, deposition, processing or impounding of waters are located, to:

- (a) *Fences:* Properly fence any pit or excavation;
- (b) *Slopes:* Slope the banks and otherwise properly guard and keep any pit or excavation in such condition as not to be dangerous from caving or sliding banks;
- (c) *Drainage:* Properly drain, fill or level any pit or excavation, after created, so as to make the pit or excavation safe and healthful as the City Council shall determine;
- (d) *Containment:* Keep any excavation, deposition, or impounded waters within the limits for which the particular permit is granted;
- (e) *Transporting materials:* Transport material to, from and within one-half mile of the excavation or deposition site, only upon and along such highways, streets or other public ways as the City Council shall order and direct;
- (f) *Impounded waters:* Provide, for the purpose of retaining impounded water, a container of sufficient strength and durability and maintain such container in safe and proper condition;
- (g) *Crushing:* Conduct no activities of crushing gravel, rocks or any other materials or substances without first receiving the expressed consent of the City Council;
- (h) *Hours of operation:* All operations shall be conducted only between the hours of 7:00 a.m. and 7:00 p.m., except in the case of public emergency such as floods or whenever any reasonable or necessary repairs to equipment are required to be made;
- (i) *Setback:* Extraction and processing shall not be conducted closer than 50 feet to the boundary of any parcel on which such operations are in process, unless the adjoining parcel is owned or under the control of the mining operator. Excavation and processing shall not be made closer than 50 feet to the right-of-way line of any existing or platted street, road, or highway, except that excavating may be conducted within such limits in order to reduce the elevations thereof in conformity to the existing or platted street, road, or highway.
- (j) *Noise:* All equipment used for excavation and reclamation and processing shall be constructed, maintained and operated in such manner as to eliminate, as far as

is practicable, noises and vibrations which are injurious or substantially annoying to persons living in the vicinity. The use of explosives shall require specific City approval, upon reasonable conditions.

- (k) *Dust and dirt:* All equipment shall be constructed, maintained and operated in such a manner as to minimize, as far as is practicable, dust conditions which are injurious or substantially annoying to persons living in the vicinity. All operations shall meet the standards of the state pollution control agency. All access roads on the site operating to public highways, roads, or streets or to adjoining property shall be paved, treated or watered as far as is practicable, so as to minimize dust conditions.
- (l) *Progress surveys:* Prepare and submit progress surveys of current ground elevations, upon the request of the City Council.
- (m) *Inspection:* At all reasonable times permit the City Manager or any designee of the City Manager to enter upon any premises, for which an application is pending or issued, for the purpose of making inspection to enforce this chapter.
- (n) *Bond:* Post a surety bond, in such form and sum as the City Council may require, conditioned to pay the City:
 - (1) The cost and expense of repairing any highways, streets, or other public ways within the City made necessary by the special burden resulting from hauling and transporting thereon by the applicant in the removal of rock, sand, dirt, gravel, clay or other like material;
 - (2) The cost and expense expended by the City, in case of abandonment or failure to complete the project specified by the permit, for returning the site to a safe and usable condition, and further, to comply with all the requirements of this section and the particular permit;
 - (3) To save the City free and harmless from any and all suits or claims for damages resulting from the negligent excavation, removal or storage of rock, sand, dirt, gravel, clay or other like materials with the City;
 - (4) Applicant shall fulfill such other requirements as the City Council shall from time to time deem proper and necessary for the protection of the citizens and the general welfare; and
 - (5) Applicant shall secure required permits from other involved agencies prior to commencing operation under the terms of this chapter.

Section 74-141. Records.

Accurate weekly records of site operations shall be maintained. Volume of materials in tons or cubic yards shall be recorded in a manner acceptable to the City and shall include the type of materials extracted, processed or deposited. These records shall be available at all times for review and inspection by the City.

Sections 74-142 – 74-160. Reserved.