

Chapter 21.70: Excavation, Fills, Grading and Erosion Control

21.70.040 INTENT

1. It is the intent of this chapter to insure that any excavation or fill adjacent to public right-of-way or within a public easement, designated waterway, or floodplain overlay zone:
 - A. Creates an imminent danger to public safety or public facilities.
 - B. Does not create a public nuisance known to common law or in equity jurisprudence.
2. (The following definitions will be added to the definition section if they do not already exist: Adjacent, Approved, Approved Discharge Point, Backfill, Drainage Course, Excavation, Fill, Floodplain, Qualified Engineer, Waterway)

21.70.080 SCOPE

The scope of this chapter shall include the following items as they relate to excavations, and fills regulated by this chapter:

1. Under what circumstances permits are required and specific exclusions;
2. Limitations imposed on excavations and fills;
3. Surface and subsurface water drainage;
4. Inspection of excavation and fill work before, during, and after completions, and;
5. Alternatives to the limitations set forth in this chapter.

21.70.100 EXCAVATIONS; PERMIT REQUIRED

1. No person shall do any grading without first having obtained a grading permit from the Planning Department. In appropriate instances, the Planning Director may, upon showing by the applicant that one of the following categories applies, allow an exception to this chapter:
 - A. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five (5) feet after the completion of such structure.
 - B. Cemetery graves.
 - C. Refuse disposal sites controlled by other regulations.
 - D. Excavations for wells or utilities.
 - E. Mining, quarrying, excavating processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.
 - F. Exploratory excavations under the direction of soil engineers or engineering geologists
 - G. An excavation that:
 - 1) Is less than two (2) feet in depth, and

- 2) Does not create a cut in slope greater than five (5) feet in height and steeper than one and 1 ½ horizontal to the vertical.
- H. A fill less than one (1) foot in depth and placed on natural terrain with a slope flatter than five (5) horizontal to one (1) vertical, or less than three (3) feet in depth, not intended to support structures, which does not exceed fifty (50) cubic yards on any one (1) lot and does not obstruct a drainage course.
- I. In all cases a permit shall be obtained when more than fifty (50) cubic yards of soil is removed or added.
- J. All residential properties shall obtain a permit and submit a simple grading plan. Single-family lots shall provide a grading and erosion control plan at time of subdivision grading and at time of permit issuance for each lot.
- K. A permit is required for the placement of any fill material adjoining a public right-of-way or easement (or future public right-of-way or easement or within or adjacent to a designated waterway or within a floodplain overlay zone) or for moving more than fifty (50) cubic yards.

21.70.120 PERMIT ISSUANCE

An applicant shall complete a grading, excavation, fill and erosion control permit application provided by the Planning Director. The form shall disclose or be accompanied by the following information:

- 1. Identification of the work as excavation or fill.
- 2. Legal description of property involved.
- 3. Identification of soil type if soil is to be removed from one location and placed in fills at another location.
- 4. Each application for a permit under this section shall be accompanied by two sets of drawings. The minimum required shall be a plan view of the property drawn to suitable scale with the following:
 - A. Lot lines shown and their dimensions given.
 - B. North Arrow
 - C. Street and curb line locations and elevations (if applicable)
 - D. Both existing and final grades depicted by contour lines at two-foot intervals. Contours shall not be interpolated from U.S.G.S. contour maps.
 - E. Intended method of proper storm water drainage (if applicable).
 - F. Recorded easement and right-of-way locations.
 - G. The director may require additional information on the plan view or require cross-section views. In addition, the Planning Director may require additional data or studies necessary to evaluate the impact of the proposed work; and, in geologically hazardous areas, floodplain overlay zone or other unstable areas, may require information such as the name and address of the permittee, property owner, owner's engineer, contractor, and other persons associated with the work.

- H. The application shall be accompanied by the written concurrence, in recordable form, of the holders of any private easements and rights-of-way affected by the proposed excavation or fill.
 - I. The Planning Director shall either issue or deny the permit, or notify the applicant that additional information is required pursuant to this section. In the event that additional information is required, the Planning Director shall either issue or deny the permit, or notify the applicant of what additional time will be necessary to review and evaluate the additional information submitted.
 - J. In the event a permit is denied, the Planning Director shall furnish the applicant with a written statement of the reasons therefore.
- 5. Applications for development over five (5) acres in size shall include an engineers report.
 - 6. The Building Official may request an engineers report for any application he deems necessary.
 - 7. All fill shall be compacted to a minimum 90 percent of maximum density as determined by the American Society for Testing and Materials (ASTM) Test D1557-78 Method A. Field density shall be determined in accordance with Test (ASTM) D1556-82 or equivalent as approved by the Building Official.

21.70.130 SCOPE OF WORK AUTHORIZED BY PERMIT

- 1. The issuance of a permit under the provisions of this chapter shall be held to authorize work only in accordance with the provisions of this chapter, the approved plans, and work necessarily implied there from.
- 2. The issuance of such a permit shall not be construed to be a permit for or approval of any violation of the provisions of this chapter, or any other applicable law or ordinance. The issuance of a permit based on submitted plans shall not thereafter prevent the Planning Director from requiring correction of errors or apparent violations contained therein, or from preventing operations being carried on there under when in violation of any applicable law or ordinance.

21.70.150 PLAN REVIEW AND PERMIT FEES

Every application for a plan review and for a permit required by this chapter shall be accompanied by a fee as prescribed by resolution of the City Council.

21.70.180 TERM AND TERMINATION OF PERMIT

Every permit issued by the Planning Director under the provisions of this chapter shall expire and become null and void if the work authorized by the permit is not commenced within 180 days from the date the permit is issued or if the work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before the work can be recommenced, a new permit shall be obtained accompanied by a fee set by City Council resolution.

21.70.250 PROHIBITED FILLS; PARTICULAR STANDARDS

- 1. Fill shall not obstruct a natural drainage course unless provisions for an alternative drainage method are made and approved by the Oregon Division of State Lands and the Public Works Director.

2. Fill shall not be placed in a recorded or platted easement designated for public utilities without consent of the easement holder or, in the case of platted easements, the Public Works Director.
3. Fill shall not be placed in floodplain overlay zones and waterways, except when such fills are placed under a permit issued by the Oregon Division of State Lands.

21.70.280 ALTERNATIVES

The limitations imposed in this chapter may be varied by the Planning Director if a qualified engineer designs and oversees the prescribed work and provides the Planning Director with all supportive data necessary to establish, to the Planning Director's satisfaction, that the alternative design provides equal or better safety, durability, and protection of adjacent property than compliance with the standards of this chapter.

21.70.300 SURFACE AND SUBSURFACE DRAINAGE

Excavation or fill shall not create a slope that causes surface drainage to flow over adjacent public or private property in a volume or location materially different from that which existed before the excavation or fill. Surface and subsurface drainage caused or affected by changing of grade or uncovering subsurface sources such as springs shall be collected by an approved means and carried to an approved discharge point.

21.70.400 GRADING INSPECTIONS

1. Slopes. The faces of cut and fill slopes shall be prepared and maintained to control against erosion. This control shall consist of effective planting or such other measures as the Public Works Director may determine. The protection for the slopes shall be installed as soon as practicable and prior to final approval. Where cut slopes are not subject to erosion due to the erosion resistant character of the materials, such protection may be omitted.
2. Other devices or methods shall be employed to control erosion and provide safety.

20.70.420 INSPECTIONS

The Planning Director shall be notified at least 24 hours, but no more than 72 hours prior to the commencement of any excavation or fill work requiring a permit. Inspections may occur at any time throughout the project. A work schedule may be required at the discretion of the Planning Director when notice of such requirements is given at the time of the permit issuance. A final inspection is required of all fill work and an approved set of plans shall be provided to the inspector.