

## **CHAPTER 7-09: DUMPING AND FILL REQUIREMENTS**

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### **7-09-010. Purpose.**

The purpose of this Ordinance is to promote the health, safety and welfare of the persons and property in the City of Woods Cross, to protect and preserve property and property values within the City and to insure that properties within the City are maintained in an attractive and aesthetically pleasing manner by regulating dumping of fill material on real property within the City.

### **7-09-020. Definitions.**

(a) "Construction and Demolition Waste" means waste building material, rubbish, or other debris resulting from construction, remodeling, repair or demolition operations on residential, commercial, industrial, institutional, and governmental buildings, structures, improvements and pavements, including but not limited to debris from streets, sidewalks, curbs and gutters, etc.

(b) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any Solid Waste or Hazardous Waste into or on any land or water.

(c) "Earth material" means any natural rock, natural soil, or any combination thereof.

(d) "Fill" means to deposit, or a deposit of, earth material placed by artificial or mechanical means.

(e) "Generate" means the act or process of producing or creating construction and demolition waste, earth material used as fill, hazardous waste and/or solid waste.

(f) "Hazardous Waste" means a Solid Waste or combination of Solid Wastes which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed. This includes, but is not limited to "Hazardous Waste" as defined by the U.S. Environmental Protection Agency, or agencies of the State of Utah charged with regulation of solid and hazardous wastes.

(g) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of material regulated by this Chapter during its transportation from the point of generation to the point of placement, disposal, treatment, or storage.

(h) "Person" means any individual, public or private corporation and its officers, partnership, association, limited liability company, firm, trustee, executor of an estate, the state or its departments and political subdivisions, institution, bureau or other legal entity recognized by law.

(i) "Solid Waste" means any Construction and Demolition Waste, garbage, refuse, sludge (including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility), or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities but does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Chapter 5, Title 19, Water Quality Act, or under the federal Water Pollution Control Act, 33 U.S.C., Section 1251 *et seq.* "Solid waste" also includes material defined herein as "construction and demolition waste."

(j) "To place" means to distribute, dump, dispose of, or deposit material on or at property in the City.

(k) "To store" or "Storage" means the actual or intended placement or containment of solid waste or hazardous waste on a temporary basis in a manner as not to constitute disposal of the waste.

**7-09-030. Dumping.**

(a) Except as provided herein, it shall be unlawful for any person to place or store Solid Waste in any location in the City with or without the permission of owner or occupant of the location, except at a solid waste management facility licensed by the City, Davis County, or by the State of Utah.

(b) The following activities shall be lawful:

(1) It shall be lawful to place Solid Waste in approved containers serviced by a licensed commercial hauler of Solid Waste or a licensed private hauler of Solid Waste.

(2) It shall be lawful to use fill for purposes of landscaping or construction on property in the City if the following requirements are met:

(i) That prior to placing any fill on the property, a permit is obtained from the City pursuant to the requirements of Section 7-09-040. A permit shall not be required for small loads of topsoil, sand, or similar fill material used for landscaping or construction purposes where the total quantity of material placed upon the property within any calendar year does not exceed twenty-five (25) cubic yards. The fill material shall be utilized on the site within thirty (30) days of its delivery to the site, and shall comply with the "clean fill" requirements set forth in Section 7-09-050.

(ii) The use of and composition of the fill material does not violate any provision of any local, state or federal law or this Chapter.

(3) It shall be unlawful to do any of the following:

(i) To place or store Solid Waste in a container owned, leased, rented or controlled by another person without the consent of that person.

(ii) To place or store any Solid Waste in any container owned or serviced by the City where the regulations of the City or the Wasatch Energy Systems (the "landfill facility") do not allow the material to be received by or deposited therein.

**7-09-040. Fill Permit Required.**

Except as provided in Section 7-09-030 it shall be unlawful for any person to place or store fill at, on, or within any site or property within the City without first obtaining a fill permit from the City. A separate permit shall be required for each site and for any fill not specified within a permit previously issued by the City. A fill permit may be issued by the City if the applicant complies with all of the following:

- (a) The applicant shall submit a fill plan. The fill plan shall include the following:
- (1) A boundary description of the specific location(s) of the proposed fill site. The City may require applicant to submit a meets and bounds legal descriptions.
  - (2) A description of each location or site from which the fill material will be generated.
  - (3) The location of any existing or future buildings or structures on the property where the work is to be performed and the locations of any buildings or structures on any lands which are adjacent to the property or which may be affected by the proposed fill and/or grading operations and drainage resulting therefrom.
  - (4) A detailed accurate description of the type and content of the fill material to be placed at the proposed fill site.

(b) Upon review of the submitted fill plan the City Engineer may require additional information depending upon the magnitude of the proposed fill and the possible impact upon adjacent properties and/or public right-of-way. Such additional information may include:

- (1) Site information for the site at which the fill will be deposited, including accurate contours of existing ground, and details of terrain and how area drainage will be handled.
- (2) Limiting dimensions, elevations or finished contours to be achieved in the process of fill and grading the site, and proposed channels for drainage and related construction.
- (3) Detailed plans of all surface and sub-surface drainage devices, walls, cribbing, dams and other proposed work, together with a map showing the drainage area and the estimated run-off of the area served by any drains.
- (4) A soils engineering report and an engineering geology report consistent with the currently adopted edition of the Uniform Building Code.
- (5) All of the above information shall be provided and stamped by a licensed engineer.

**7-09-050. Acceptable Fill Material.**

(a) It shall be unlawful to place fill at any site in the City which is not “clean” fill material within reasonable standards of the construction industry in the State of Utah. Generally, “clean” fill material may consist of soil and rocks and related inert earth material which is substantially free from concrete, wood, roots, bark, tree limbs, grass clippings, yard refuse, and other similar materials.

(b) In any event, the following materials are not acceptable as “clean” fill material at fill sites within the City:

- (1) Material which is toxic or which may be characterized as Hazardous Waste.
- (2) Material which may be characterized as “Solid Waste.”
- (3) Material containing detrimental amounts of organic material.
- (4) Material characterized as asphalt and related materials and products, the composition of which includes oils or other petroleum based products.

(5) Rock, concrete, and other irreducible materials with a maximum dimension of greater than twenty-four inches (24"). Rock, concrete or other irreducible material with a maximum dimension of greater than twenty-four inches (24") shall not be brought on any fill site and then reduced in size, by crushing, milling or otherwise, for use in fill on the site or elsewhere.

**7-09-060. Violations.**

In addition to the requirements set forth herein, it shall be unlawful, to do any of the following:

- (a) To make a false statement to obtain a permit pursuant to this Chapter.
- (b) To obtain a permit pursuant to the provisions of this Chapter and thereafter fill, or cause the filling of, any property within the City in a location or manner which violates the conditions and requirements of the fill permit.
- (c) To place, use, or cause the placement or use of, materials as fill within the City which are not permitted under this Chapter, any local, county, State or federal Solid and Hazardous Waste Regulations, or which are in any manner inconsistent with the requirements of the fill permit.
- (d) To refuse entry or access to the City Engineer, Building Official or their designee to the site at which any fill activity is taking place.
- (e) To violate any term, condition or requirement of a fill permit issued by the City.

**7-09-070. Construction Related Fill.**

Where a permit is applied for in connection with a site at which construction is anticipated by the applicant, or at any site in the City at which construction might be anticipated in the future, consistent with the City's Master Plan, in addition to the requirements set forth above, the City may require compliance with any and all excavation and grading requirements and regulations set forth in the Uniform Construction Codes as adopted by the City.

**7-09-080. Contents and Conditions of Fill Permit.**

The City shall require the following as part of any fill permit issued by the City:

- (a) Compliance with all regulations and requirements of this Chapter.
- (b) A statement of conditions providing and specifying the following:
  - (1) The time for commencement and completion of the fill activities;
  - (2) A requirement that the fill work authorized by the permit be performed in a workmanlike manner and in conformance with the terms and conditions of the permit;
  - (3) That if any historic or archaeological remains are discovered while accomplishing the activity authorized by the permit that the applicant immediately notify the City and appropriate state and federal authorities regarding the same;
  - (4) That representatives from the City are authorized to inspect the fill material and work at any time deemed necessary by the City, in its discretion, to insure that it is being or has been accomplished in accordance with the terms and conditions of the permit;
  - (5) That the permit does not excuse or obviate the need of the applicant to obtain other federal, state or local authorizations required by law;

- (6) That the permit does not grant any property rights or exclusive privileges;
- (7) That the permit does not authorize any injury to the property or rights of others.

(c) A statement indicating that in issuing the permit the City does not assume any liability for the following:

- (1) Damages to the permitted project or uses thereof resulting from other permitted or unpermitted activities or from natural causes;
- (2) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the City in the public interest;
- (3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit;
- (4) Design or construction deficiencies associated with the permitted work;
- (5) Damage claims associated with any future modification, suspension or revocation of the permit.

(d) The permit shall also include a statement relating to the data supplied by the applicant, and reserving the City's right to re-evaluate the City's decision to issue a permit based upon any of the following:

- (1) The City may re-evaluate its decision to issue the permit at any time the circumstances warrant. Circumstances that could require a re-evaluation include, but are not limited to the following:
  - (i) Failure by the applicant or its agent or employees to comply with the terms and conditions of the permit;
  - (ii) Circumstances which indicate that the information provided by the applicant in obtaining the permit may have been false, incomplete or inaccurate;
  - (iii) Significant new information arises which the City did not consider in reaching its original decision to issue the permit.
- (2) Any re-evaluation may result in a determination that it is appropriate to suspend, modify or revoke the permit.

**7-09-090. Enforcement.**

(a) The City Engineer, Building Official, and their designee(s) are hereby authorized and directed to enforce all provisions of this Chapter. For such purposes the Engineer and Building Official and their designee(s) shall have the authority necessary to direct appropriate action in upholding the provisions of this Chapter.

(b) The City Engineer and/or Building Official shall have the power to render interpretation of this Chapter and to adopt and enforce rules and regulations supplemental to this Chapter as they may deem necessary in order to clarify the application of the provisions of this Chapter. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this Chapter.

(c) Upon obtaining approval from the City Council, the City Engineer and/or Building Official may appoint such technical officers and inspectors and other employees as shall be authorized from time to time to carry out the duties and purposes of this Chapter.

(d) In circumstances where it becomes necessary to make an inspection to enforce any of the provisions of this Chapter, or in circumstances where the City engineer, Building Official or their authorized representative has reasonable cause to believe that there exists on the site any condition or code violation which makes the site unsafe, dangerous or hazardous, or if the City Engineer or Building Official has reason to believe that any person has violated the requirements of this Chapter or violated the terms of any permit issued under this Chapter, the City Engineer or Building Official or their authorized representative may enter the premises covered by the permit to inspect the same or to perform any duty imposed by this Chapter.

(e) If any work is performed contrary to the requirements of this Chapter or the requirements and conditions of any permit issued pursuant to this Chapter, the City Engineer or Building Official may order the work stopped by serving notice, in writing, on any person engaged in doing or causing such activity to be done. Any such person served shall forthwith stop work until authorized by the City Engineer or Building Official to proceed with the work. Prior to proceeding with the work, the applicant may be required to comply with the following requirements:

(1) Submit a report from a reputable certified testing agency certifying that the fill material from each generating site is free from hazardous or toxic materials or wastes.

(2) Keep and make available for inspection by the City, accurate records of all sites and locations from which fill material is generated, and the location on each site within the City at which fill material is placed. These records shall include, at minimum, the preparation and maintenance of manifests to be completed and signed by the driver of any truck or other vehicle in which fill material is hauled which states the following:

(i) The nature and content of the fill material;

(ii) The date and time each truck or other vehicle is loaded;

(iii) The address and location at which the truck or vehicle is loaded;

(iv) The address and location from which the fill material originates, if different from the location at which it is loaded;

(v) The date and time the material is placed on the site to be filled; and

(vi) If the fill site is larger than one acre, a detailed description of the location on the site at which each load of material is placed.

(f) Any person aggrieved by any action of the City Engineer, Building Official, or their designee or deputy, may appeal any decision or stop order issued by the City. The first level of appeal shall be to the City Administrator and shall be commenced by filing a detailed written statement of appeal with the City Administrator. The decision of the City Administrator shall be issued within five (5) working days of the receipt of a written appeal. Any person not satisfied with the decision of the City Administrator, may appeal said decision in writing to the City Council which shall schedule a hearing of the matter within fifteen (15) working days of the date of the decision of the City Administrator. The decision of the City Council shall be final.

#### **7-09-100. Penalty.**

(a) A violation of any section, subsection, or requirement of this Chapter and/or a violation of any requirement or condition of a permit issued pursuant to this Chapter shall constitute, and be punished as, a Class B misdemeanor as defined under the laws of the State of Utah.

(b) Each day of any violation shall constitute a separate offense.

**7-09-110. Fees.**

(a) Until otherwise amended by ordinance or resolution, the fees required for a permit under this Chapter shall be identical to those called for by the currently adopted edition of the Building Code for grading permit fees.

(b) A fill permit shall not be issued by the City until all required fees are paid to the City.

