

ORDINANCE NO. 219, THIRD SERIES

CITY OF ORONO
HENNEPIN COUNTY, MINNESOTA

AN ORDINANCE AMENDING THE CODE OF ORDINANCES
PERTAINING TO LAND ALTERATIONS

THE CITY COUNCIL OF ORONO ORDAINS:

SECTION 1. ~~Section 78-947. -Mining shall be amended by adding and deleting text to read as follows:~~

Sec. 78-947. – Intentionally left blank Mining.

~~The commercial extraction of sand, gravel or other material from the land and their removal from the site without processing shall be mining. In all districts, the conduct of mining shall be permitted only upon issuance of a conditional use permit. Such permit shall include, as a condition, a plan for a finished grade which will not adversely affect the surrounding land or development of the site on which the mining is being conducted, and the route of trucks moving to and from the sites. A bond will be required for restoration.~~

~~{Code 1984, § 10.03(25)}~~

SECTION 2. ~~Section 78-948. –Soil Processing shall be amended by adding and deleting text to read as follows:~~

Sec. 78-948. – Intentionally left blank Soil processing.

~~The operation of processing of sand, gravel or other material mined from the land shall be permitted only by conditional use permit. Such conditional use permit shall include a site plan where the processing is to be done, showing the location of the plant, disposal of water, route of trucks moving to and from the site in removing processed material from the site, the condition in which the site is intended to be left upon completion, hour of operation; and such permit shall not be granted for a period of longer than 12 months.~~

~~{Code 1984, § 10.03(26)}~~

SECTION 3. ~~Article V. Conditional uses, Division 3 –Requirements for specific uses, Subdivision II –Land Alterations shall be deleted in its entirety~~

~~Subdivision II. – Land Alteration~~

~~Sec. 78-966.— Prohibition.~~

- ~~(a) It is unlawful for any person to perform or have performed the following land alteration activities without a conditional use permit issued by the council:~~
- ~~(1) Remove, fill, use for fill, dredge, store or excavate rock, sand, gravel, dirt or similar earth material within the limits of the city.~~
 - ~~(2) Fill or reclaim any land by depositing such material or by grading of existing land to elevate or alter the existing natural grade.~~
 - ~~(3) Build, alter or repair any seawall or retaining wall, or otherwise change the grade or shore of lakeshore property.~~
- ~~(b) All land alterations involving filling and grading shall be performed only with clean fill as defined in section 78-1. Granting of such permits is subject to other regulations and prohibitions of this Code and other applicable statutes or ordinances of other governmental bodies.~~

~~(Code 1984, § 10.03(19); Ord. No. 163 2nd series, § 1, 12-8-1997)~~

~~Sec. 78-967.— Exception.~~

- ~~(a) The requirements of section 78-966 are not intended to govern the following land alteration activities:~~
- ~~(1) Normal and customary grading in the area of an existing or a newly constructed building, or the grading of the driveway serving such building.~~
 - ~~(2) Any earth movement less than 500 cubic yards which does not adversely impact the existing drainage.~~
 - ~~(3) Grading, filling or excavating of 50 cubic yards or less within the shore setback zone of all lakes enumerated in article IX of this chapter.~~
 - ~~(4) The following unusual land alterations:
 - ~~a. Any unusual land alterations, including earth filling, removal or grading, proposed by a builder shall be subject to a permit. The following land alterations shall be considered as unusual land alterations:
 - ~~1. All excavations for foundations in excess of 12 feet average depth if any amount of the excess material removed below 12 feet depth is to be stockpiled on the site.~~
 - ~~2. Any additional fill brought on site outside the Shore land Overlay District, in excess of 500 cubic yards, except for fill required to raise grade for adequate frost footing protection, the intent being that structures shall not be artificially raised above the preexisting surrounding topography.~~
 - ~~3. Grading or alterations that would propose any changes in elevations within five feet of adjacent residential lot lines except for drainage swales and ditches.~~~~~~
- ~~(b) Such grading and earth movement shall be subject to approval by the building inspector at the time of issuance of a building permit, provided that a plan showing proper drainage and protection of adjoining property has been submitted. Where such earth movement is not~~

~~being performed in conjunction with a building permit, a separate land alteration permit shall be required.~~

- ~~(c) The building inspector shall have the authority to refer any requests for land alteration permits to the city council for review and approval in instances where the land alteration appears to potentially create negative impacts or be not in keeping with the goals and policies of the community management plan.~~

~~(Code 1984, § 10.03(21); Ord. No. 163 2nd series, § 2, 12-8-1997; Ord. No. 171 2nd series, § 1, 4-4-1998; Ord. No. 133 3rd series, § 1, 1-26-2015; Ord. No. 188 3rd series, § 2, 3-22-2017) Sec. 78-968. Permit.~~

~~An application for a conditional use permit shall be accompanied by a drawing made by a registered surveyor or other competent person showing the location of the proposed excavation or storage and shall state the amount of material which is to be removed, excavated or stored, filled or graded, and such other information as the council may require. Applications shall be filed with the city administrator and shall be accompanied by a deposit to be determined by the city, which will be used to offset the cost of processing the application. Any unused portion will be refunded to the applicant.~~

~~(Code 1984, § 10.03(20)) Sec. 78-969. Reserved.~~

~~Editor's note— Ord. No. 188 3rd series, § 3, adopted March 22, 2017, repealed § 78-969, which pertained to permit for riprap and derived from Code 1984, § 10.03(22) (24).~~

~~Secs. 78-970—78-1000. Reserved.~~

SECTION 4. Section 78-1286. –Topographic alterations/grading and filling shall be amended by adding and deleting text to read as follows:

Sec. 78-1286. - Topographic alterations/grading and filling.

- (a) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these ~~facilities~~ improvements do not require the issuance of a separate grading and filling permit. However, all grading and filling activity as a part of approved permits for construction of structures, sewage treatment systems, and driveways shall adhere to the grading and filling standards of this article.
- (b) Grading, filling or excavating of more than 50 cubic yards is prohibited without an Interim Use Permit within ~~75 feet of the ordinary high water level~~ the shore setback of the public waters enumerated in section 78-1217.
- (c) New Public and private roads, driveways, parking areas, and public or private watercraft access ramps shall not be constructed within ~~75 feet of the ordinary high water level~~ the shore setback of the public waters enumerated in section 78-1217. If no alternatives exist, such improvements shall be subject to the standard zoning variance review procedure, and such review shall ~~take into account the following considerations~~ consider the following:
- (1) Such improvements shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.

- (2) All roads and parking areas shall be designed and constructed to minimize and control erosion to public waters consistent with the requirements of all agencies with jurisdiction and in accordance with City Code Chapter 79.
- (d) Except for those projects requiring permits for construction of structures, sewage treatment systems and driveways, an administrative land alteration permit will be required as follows:
- (1) For movement of up to 50 cubic yards of material within ~~75 feet of the ordinary high water level~~ the shore setback as per item (b) above, ~~a staff-issued land alteration permit shall be required.~~
 - (2) ~~For movement~~ Import/export of 51 through 500 cubic yards of material anywhere within the Shoreland Overlay District, except for within ~~75 feet of the ordinary high water level~~ the shore setback, ~~a staff-issued land alteration permit shall be required.~~
 - (3) ~~For movement~~ Import/export of more than 500 cubic yards of material within the Shoreland Overlay District, ~~conditional interim~~ use permit approval by the city council is required in addition to the administrative land alteration permit.
- (e) Permits are issued based on the applicant's ability to meet and adhere to the following standards: ~~The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, interim use permit, variances and subdivision approvals:~~
- (1) Grading or filling in any type 1, 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
 - a. Sediment and pollutant trapping and retention;
 - b. Storage of surface runoff to prevent or reduce flood damage;
 - c. Fish and wildlife habitat;
 - d. Recreational use;
 - e. Shoreline or bank stabilization; and
 - f. Noteworthiness, including special qualities, such as historic significance, critical habitat for endangered plants and animals, or others.

This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other sections of city ordinances or by other local, state or federal agencies including but not limited to watershed districts, state Department of Natural Resources, or the United States Army Corps of Engineers.
 - (2) Alteration activities shall be in accordance will City Code Section 79-9 Minimum SWPPP Best Management Practices (BPMs). ~~Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.~~
 - (3) ~~Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.~~
 - (4) ~~Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.~~

- ~~(5) — Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.~~
- (36) Fill or excavated material must not be placed in a manner that creates an unstable slope.
- (47) Plans to place fill or excavated material on steep slopes must be reviewed by the city engineer for continued slope stability and must not create finished slopes of 30 percent or greater.
- (58) Fill or excavated material must not be placed in bluff impact zones.
- (69) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner of the department of natural resources under Minn. Stat. § 103G.245.
- (740) Alterations of topography must only be allowed if they are accessory to permitted, or conditional uses, or interim use and do not adversely affect adjacent or nearby property.
- (844) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet. A riprap permit shall be obtained per the requirements of section 78-969.
- (f) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, are prohibited above the ordinary high water level. Such excavations below the elevation or the ordinary high water level are subject to approval of the Department of Natural Resources and other agencies with concurrent jurisdiction.

(Ord. No. 101 2nd series, § 1(10.56(16)(J)), 2-24-1992; Ord. No. 127 2nd series, § 8, 7-11-1994; Ord. No. 163 2nd series, § 3, 12-8-1997; Ord. No. 171 2nd series, § 2, 4-4-1998; Ord. No. 28 3rd series, § 17, 8-22-2005; Ord. No. 133 3rd series, §§ 2, 3, 1-26-2015

SECTION 5. Article X. —SUPPLEMENTARY REQUIRMENTS AND RESTRICTIONS
Division 7. —GRADING AND LAND ALTERATIONS shall be amended by adding and deleting text to read as follows:

Article X. —SUPPLEMENTARY REQUIRMENTS AND RESTRICTIONS

DIVISION 7. —GRADING AND LAND ALTERATIONS

Section 78-1590 Purpose

The purpose of this section is to promote the health, safety, and welfare of the community and to establish reasonable uniform limitations, standards, and controls for land alterations, excavating, filling and grading within the city. The regulations will allow the city to better manage stormwater discharge, ensuring drainage does not negatively impact neighboring properties, manage hauling traffic and noise, and prevent erosion issues onto adjacent properties, wetlands, lakes, and roads.

Section 78-1591 Administrative Permit Required

A plan showing proper drainage and protection of adjoining properties shall be submitted. The City Engineer shall have the authority to refer any requests for land alteration permits to the city council for review and approval in instances where the land alteration appears to create negative impacts or be inconsistent with the goals and policies of the community management plan.

(a) An active building permit or separate land alteration permit for the following:

- (1) Normal and customary grading in the area of an existing or a newly constructed building; or the grading of the driveway serving such building; and less than 500 cumulative import/export of material, except for fill required to raise grade for adequate frost footing protection, the intent being that structures shall not be artificially raised above the preexisting surrounding topography.
- (2) Import/export of 51- 500 cubic yards which does not adversely impact the existing drainage.
- (3) Changing the grade on a lakeshore property within the shore setback up to 50 cubic yards.
 - a. Exception. A building permit or land alteration permit is not required for earth movement 50 cubic yards or less outside the shore setback.
- (4) Repair or restoration of grade within the shore setback provided import/export does not exceed 500 cubic yards to reestablish existing/ failing slope with engineer review.
- (5) Stockpiling less than 500 cubic yards of material provided that the following documents be submitted:
 - a. An erosion control plan, meeting the standards of Chapter 79; and
 - b. Proposed haul routes.
- (6) Installation of septic systems in accordance with Chapter 58 –Environment Article II. – On-Site Sewage Disposal.
- (7) Grading, excavation, or fill which is greater than or equal to 50 CY or 5,000 square feet.

Section 78-1592 Shoreland Management and Floodplain Management

Additional requirements for grading and land alterations may apply to projects within the Shoreland Overlay District in City Code Section 78-1286 and Floodplain Management areas under City Code Article VIII.

Section 78-1593 Interim Use Permit Requirements

Interim Use Permits may be required for larger grading and land alterations projects outlined in City Code Section 78-1726.

SECTION 6. Article XIV. –INTERIM USES Division 1. –GENERALLY shall be amended by adding and deleting text to read as follows:

ARTICLE XIV. - INTERIM USES

DIVISION 1. - GENERALLY

Subdivision I. –Land Alterations

Section 78-1725 Purpose and Intent

The purpose of this section is to promote the health, safety, and welfare of the community and to establish reasonable uniform limitations, standards, and controls for land alterations, excavating, filling and grading within the city. The regulations will allow the city to better manage stormwater discharge, ensuring drainage does not negatively impact neighboring properties, manage hauling traffic and noise, and prevent erosion issues onto adjacent properties, wetlands, lakes, and roads.

Sec 78-1726 Interim Use Permit Required

An application for an interim use permit shall be accompanied by a certified site plan showing the location of the proposed excavation or storage and shall state the amount of material which is to be removed, excavated or stored, placed, or graded, and such other information as the council may require. Applications shall be filed with the city administrator and shall be accompanied by a deposit to be determined by the city, which will be used to offset the cost of processing the application. Any unused portion will be refunded to the applicant.

- (a) Except where otherwise provided in the article, it is unlawful for any person to perform or have performed the following land alteration activities without an interim use permit issued by the council:
- (1) Mining. The commercial extraction of sand, gravel or other material from the land and their removal from the site without processing shall be mining. In all districts, the conduct of mining shall be permitted only upon issuance of a interim use permit. Such permit shall include, as a condition, a plan for a finished grade which will not adversely affect the surrounding land or development of the site on which the mining is being conducted, and the route of trucks moving to and from the sites. A bond will be required for restoration
 - (2) Soil Processing. The operation of processing of sand, gravel or other material mined from the land shall be permitted only by interim use permit. Such permit shall include a site plan where the processing is to be done, showing the location of the plant, disposal of water, route of trucks moving to and from the site in removing processed material from the site, the condition in which the site is intended to be left upon completion, hour of operation; and such permit shall not be granted for a period of longer than 12 months
 - (3) Creation of an engineered grade for the basis of building height determination outside of a subdivision.
 - (4) Change the grade or shore of lakeshore property within the shore setback, in excess of 50 cubic yards.
 - (5) Stockpiling on site in excess of 500 cubic yards, without an associated building permit.
 - (6) Any import/export of material in excess of 500 cumulative cubic yards, also see City Code 78-1286 (d)(3).
 - (7) Conducting grading or land alterations which result in changes in elevations within five feet of adjacent properties outside of an active building permit.

Secs. 78-1725~~27~~—78-1744. - Reserved.

SECTION 7. EFFECTIVE DATE: This ordinance shall take effect immediately upon its passage and publication.

ADOPTED this 10th day of Dec., 2018 on a vote of 4 ayes and 0 nays by the City Council of Orono, Minnesota.

ATTEST:



Anna Carlson, City Clerk



Dennis Walsh, Mayor

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