

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

ORDINANCE 8133

AN ORDINANCE ADDING SECTION 502.050  
"GRADING AND EXCAVATING" TO THE  
1979 LAKE ELMO MUNICIPAL CODE

**Section 1. Amendment:** Section 502.050 "Grading and Excavating" is hereby added to the 1979 Lake Elmo Municipal Code, to wit:

**SECTION 502.050 GRADING AND EXCAVATING**

**Subd. 1. Permit Required.** No person shall undertake, authorize or permit any of the following actions without first having obtained a Grading and Excavating permit from the City:

- A. Any excavating, grading, filling or other changes in the topography of a site resulting in the movement of more than 50 cubic yards of material.
- B. Any excavating, grading, filling or other changes in the topography of a site in any designated Wetlands, Floodplain or Shoreland District for construction projects, development, or subdivisions; or
- C. Any excavating, grading, filling or other changes in the topography of a site for the purpose of creating wetlands, berming, other natural features; and landscape amenities.
- D. Any changing of a natural drainage way or drainage pattern that results in increasing or intensifying the flow of surface water upon adjacent property.

**Subd. 2. Exceptions.** Notwithstanding the above, a grading or excavation permit shall not be required for the following activities except as required by Minnesota State Building Code:

- A. Earthwork undertaken in accordance with grading plans approved in conjunction with a site and building plan review or plat approval, or
- B. Earthwork which will result in moving less than 50 cubic yards of material, provided the work does not take place in any designated Wetlands, Floodplain or Shoreland District and does not affect local drainage patterns.
- C. Public improvement projects.

**Subd. 3.** No grading or excavation permit shall be issued for site grading or excavation without approved plans for site development and adequate provision for site protection from wind or water erosion.

**Subd. 4.** No person shall undertake, authorize or permit any excavating, grading, filling or other change in the topography of a site which is not in compliance with conditions of a grading or excavating permit issued by the City, including the approved plans and all terms and conditions of the permit.

**Subd. 5.** All grading and excavating applications, for the purpose of creating wetlands, berming, landscape amenities and other natural features that result in the moving of more than 400 cubic yards of material shall require a public hearing. To the extent possible grading permit review will be combined with other planning permit reviews.

**Subd. 6. Review of Grading Permits.** Applications for a grading or excavation permit that require either an administrative review or approval by the City Council following a public hearing, shall be made to the City Planner on forms provided by the City. The application shall be accompanied by the fee set forth from time to time by resolution of the City Council.

**Subd. 7. Submission Requirements:** All grading and excavation permit applications shall be accompanied by the following information:

- A. The legal description of the property;
- B. The application fee.
- C. Evidence of ownership or an interest in the property;
- D. Existing and proposed final grades utilizing two foot contour intervals;
- E. A survey showing the location and elevation of all roads, utilities and structures which may be impacted by the proposal;
- F. A tree survey showing all trees having a caliper of six (6) inches or greater and a tree preservation plan;
- G. A landscaping and site restoration plan;
- H. A development concept plan indicating how the re contoured parcel may be developed in a manner consistent with this ordinance and the comprehensive plan;
- I. A drainage plan which includes any engineering work for stormwater retention which may be necessary;
- J. An erosion control plan indicating the type and location of erosion measures to be used;
- K. A traffic analysis showing how the materials will be removed from or delivered to the site;
- L. Two copies of all available soil borings together with boring location maps and any other soil information pertinent to improvements;
- M. Such other information as may be required by the City; and
- N. Schedule of building construction phasing on permit site.
- O. Proposed Hours of Operation
- P. Proposed Duration of Activity

**Subd. 8. Administrative Review of Grading and Excavating Permits.**

- A. Grading or excavating plans that result in the moving of more than 50, but less than 400 cubic yards of material may be approved by the City Administrator upon recommendation of the City Planner and City Engineer. The application shall be accompanied by the submission requirements set forth in Subd. 7.

- B. Upon receipt of a completed application, the City Planner shall review the application and make a recommendation to the City Administrator who shall approve or deny the application within five (5) business days of the date of receipt of the City Planner's recommendation. The City Administrator may impose such modifications and conditions as may be necessary to protect the public interest. Bonding may be required in any amount sufficient to ensure site restoration should the applicant default on his or her responsibilities.

**Subd. 9. City Council Review of Grading and Excavating Permits**

- A. Grading and Excavating plans that result in the moving of 400 cubic yards of material shall require a public hearing and approval of the City Council. The application shall be accompanied by the submission requirements set forth in Subd. 7.
- B. Upon receipt of a completed application, the City Clerk shall call a public hearing within thirty (30) days from the date of application. Notice shall be published in the City's legal newspaper, and property owners within 350' of the project site shall be notified of the public hearing no less than ten (10) days prior to the hearing. The application shall be reviewed by the City Planner and City Engineer and their written comments submitted to the City Council.

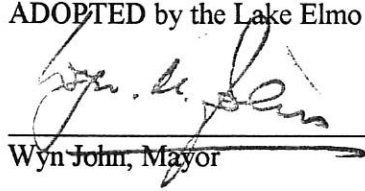
**Subd. 10. Grading Permit Standards.**

- A. Grading and Excavating permits shall be issued only for grading plans which comply with the following:
1. The plans shall maximize the preservation of trees on the property and utilize the trees to the maximum extent possible to screen the grading from adjacent property;
  2. The plan shall utilize landscaping to restore site aesthetics, minimize the visual impact of the work, screen the grading from adjacent property and enhance the property's development potential. All areas altered because of grading activity shall at a minimum, be restored with seed and disked mulch or sod within two weeks after the completion of the activity. The City Council may approve an extension of the restoration completion date by three (3) affirmative votes;
  3. The plan shall not result in sites which are unsatisfactory for development of permitted uses. The development potential of a site may be adversely impacted by such matters as unsuitable finished grades, poor soil stability, unsatisfactory drainage, soil compaction detrimental to drainfield construction, or exposure to deleterious influences such as highway frontages for residential property;
  4. The plan shall provide for the removal of any significant amounts of organic material or construction debris from the site;
  5. In instances where an existing natural or created buffer will be impacted by grading or filling operations, site restoration shall be completed in a manner which resembles, to the extent possible, the original vegetative and topography state of the property, when deemed appropriate by the City;

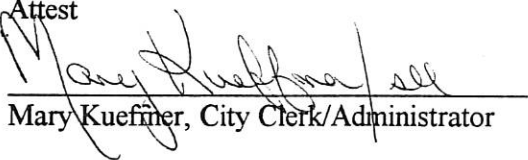
6. The plan shall protect wetlands, floodplains, shorelands, public waters and other natural features to the maximum extent possible.
7. The plan shall provide for adequate drainage, stormwater retention and erosion control measures;
8. The plan shall provide for traffic movements to and from the site which do not have significant adverse affects on roads, intersection or development in the area. Streets surrounding the site shall be swept as needed to remove any debris which may accumulate due to these activities;
9. The plan shall include a schedule of activities which limits the duration of off-site disruptions and impacts;
10. The plan must also be approved, where required, by appropriate watershed districts, the United States Army Corps of Engineers, the Minnesota Department of Natural Resources and any other government agency which has jurisdiction;
11. The plan shall be accompanied by a letter of credit to insure compliance with the approved permit and adequate site restoration. The amount of the letter of credit shall be based upon the size of the site, sensitivity of its surroundings, extent of grading, amount of material moved, necessary site restoration and potential impacts upon public facilities, including damage to public roadways and property; and
12. The plan shall comply with the Minnesota State Building Code and all other applicable statutes or ordinances.

**Section 2. Effective Date:** This ordinance shall become effective upon its passage and publication according to law.

ADOPTED by the Lake Elmo City Council the 16th day of April, 1996.

  
Wyn John, Mayor

Attest

  
Mary Kuefner, City Clerk/Administrator

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