

CITY OF NORWALK

APPLICATION FOR PERMIT TO: (EXCAVATE) + (FILL)

DATE: _____ FILE: _____

The applicant hereby applies for a permit to (EXCAVATE) + (FILL) at the premises as shown upon the accompanying map entitled:

CUBIC YARDS: _____ FEE: _____

The applicant hereby represents that the work indicated on the accompanying map will be carried out in accordance with the conditions contained in Chapter 97 of the Code of the City of Norwalk, as amended, and that no work will commence without the issuance of a permit. The undersigned applicant further agrees to at all times indemnify, defend and save harmless the City of Norwalk, and its respective officers, agents and employees, on account of any and all demands, suits, claims, damages, loses, litigation, and expenses, arising out of all injuries to persons or damages to property real or personal, directly or indirectly arising out of, related to or in connection with the work performed hereunder. The undersigned applicant shall and does hereby assume and agrees to pay for the defense of all such claims, demands, suits, proceedings and litigation. This agreement shall not be limited by reason of any insurance coverage. I will comply with all Public Works Ordinances, Chapter 90 thru 99.

Any person violating any provision of this Chapter shall be fined \$250.00 per day in accordance with the provisions of section 97-15, COMMON COUNCIL APPROVAL OF RATES AND FEES. Each day's continuance of the violation shall be considered a separate offense.

APPLICANTS SIGNATURE

APPROVED BY CONSERVATION COMMISSION

NO PLANNING & ZONING PERMIT REQUIRED

The DIRECTOR OF PUBLIC WORKS of the City of Norwalk hereby issues a permit to (Excavate) + (Fill) to:

Permit shall be effective on: _____

Permit shall expire on: _____

DIRECTOR OF PUBLIC WORKS

Note: See attached Special Notes and Conditions. Upon Completion of the installation of the sedimentation and erosion control fencing, the applicant shall contact Paul Sotnik of the Department of Public Works at (203) 854-7791 to schedule on-site an inspection.

Chapter 97, EXCAVATING AND FILLING OF LAND

[HISTORY: Adopted City of Norwalk Common Council 5-10-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Excavations and encroachments in public streets and grounds -- See Ch. 96.
Subdivision of land -- See App. Part I.

§ 97-1. Purpose.

In order to safeguard life, limb, property and the public welfare within the City of Norwalk and to preserve the natural environment and the stability of hillsides, the city hereby enacts the following provisions concerning the excavating and filling of land. These provisions shall apply to every person, firm or corporation seeking to develop, redevelop, grade, regrade, excavate, landfill or otherwise effect man-made changes to earth, soil, sand or rock within the City of Norwalk.

§ 97-2. Definitions.

In addition to the terms defined in Chapters 91 and 95 and unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

EARTH MATERIAL -- Any rock, fill or natural soil and/or combination thereof.

EXCAVATION -- Any artificial or mechanical act by which earth, sand, rock or any other similar material is dug into, dredged, graded, cut, quarried, uncovered, removed, displaced, relocated or bulldozed, and shall include conditions resulting therefrom.

FILLING -- Any artificial or mechanical act by which earth, sand, gravel, rock or any other material is placed, pushed, graded, regraded, bermed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface, and shall include the conditions resulting therefrom; the difference in elevation between a point on the original ground and a designated point of higher elevation on the final grade.

SITE -- Any lot or parcel of land or contiguous combination thereof upon which excavation or filling is, has been or will be performed.

SUITABLE FILL -- Inorganic fill which must be approved in advance, and which includes but is not limited to earth, soil, loam, sand, gravel, rocks, boulders, clay, silt and earthy loose materials composed of particles, granules, small fragments of rock, other minerals or inorganic materials.

UNSUITABLE FILL -- Includes but is not limited to organic materials; unwanted or discarded materials, whether solid, semisolid, liquid or containing gaseous materials; recyclable materials, whether aluminum, glass, plastic, rubber, paper, corrugated paper or other natural or synthetic materials; garbage; trash; debris; rubbish; grass clippings or other lawn waste; construction debris; concrete; asphalt; automobiles; automotive parts; or human or animal waste or remains.

§ 97-3. Permit requirements.

- A. Unless specifically exempted, a permit, as defined and regulated in this chapter, shall be obtained from the Director prior to the commencement of any excavation or filling of any property within the city when such excavation or filling will result in any one or more of the following conditions:
- (1) Removal, relocation or addition of a total of 50 cubic yards of material for the entire project.
 - (2) Interference with adequate drainage of surface and subsurface water for the property.
 - (3) Interference with drainage of surface water and subsurface water for surrounding land.
 - (4) Formation of or aggravation of ponding or creation of areas of standing or stagnant water.
 - (5) The creation of or aggravation of slope stability problems on the subject land or on adjacent land.
 - (6) Detrimental soil erosion.
 - (7) Detrimental sedimentation.
 - (8) The creation of or aggravation of a traffic hazard, dust, mud, ice, water or any other nuisance.
- B. A separate permit shall be required for each separate, noncontiguous site or lot, and no permit shall be transferable without the written consent of the Director.
- C. No permit shall be required under this chapter for the following:
- (1) Excavations or fills which do not exceed a total of 50 cubic yards of excavated or filled material for the entire project.
 - (2) Normal cemetery operations of opening or closing graves.
 - (3) Public work performed by or under control of the Director, except for excavation or filling performed outside the project limits.

- (4) Temporary excavations for wells, tanks, vaults, tunnels, sign foundations and trenches for sewers, waterlines, gaslines, electric lines and other underground utilities.
 - (5) Excavations for foundations and other construction for which a proper building permit has been acquired.
 - (6) Deposit, storage and removal of stored fill, provided that it is conducted in a zone permitting such usage.
- D. Unless waived, all other excavation and/or filling shall require a permit under this chapter.

§ 97-4. Application.

Any application for excavation or filling shall be filed with the Director of Public Works by the owner of the site on which the proposed operation is to be conducted and shall be accompanied by a map of the site signed by a surveyor licensed in the State of Connecticut showing the following:

- A. The full name and address of the site owner.
- B. Contours of the affected area, both existing and proposed, at two-foot intervals.
- C. The proposed amount of excavation or fill in cubic yards.
- D. The type and composition of proposed fill material.
- E. The location of any existing and proposed streets and highways.
- F. The location of any existing and proposed buildings or structures on the subject site and within 20 feet of the subject site.
- G. The location of any existing watercourses, drainage and sewer systems serving the site.
- H. A plan for temporary and permanent drainage of the property, including any new or altered sewer systems or existing drainage easements.
- I. The proposed method of protecting watercourses, utilities and adjacent properties from damage during the project.
- J. The proposed method for the protection of the soils from erosion and/or sedimentation, both during the course of the project and after completion of the project.
- K. The proposed access points and haul roads which will be utilized during the proposed operation.
- L. Any additional information as may reasonably be required by the Director.

§ 97-5. Waiver of requirements.

The Director may waive or modify any part of the procedural requirements for a permit applied for under this chapter if, in his opinion, the proposed excavation or filling will not result in the conditions specified in § 97-3, Permit requirements, or the creation of such conditions is so minor as to be not inimical to the public health, safety and welfare.

§ 97-6. Hearing.

The Director shall hold a public hearing with respect to each application under this chapter unless otherwise waived. Notice as to the time and place of such hearing shall be published in a newspaper having a substantial circulation in the City of Norwalk at least twice at intervals of not less than two days, the first not more than 15 days nor less than 10 days and the last not less than two days before such hearing. Notice shall also be given to all members of the Common Council not less than seven nor more than 15 days before such public hearing.

§ 97-7. Application review and decision.

- A. The Director shall examine the application and map provided for under § 97-4, Application, of this chapter. All public officials and agencies of the city shall, upon request by the Director, furnish him, within a reasonable time, with such available information and assistance as he may require to perform his duties under this chapter. The Director shall, upon receipt of each application hereunder, request the Planning and Zoning Commission to review the application as to conformity with the Master Plan, and said Commission shall, before the time of the public hearing conducted by the Director, render to him its opinion and advice as requested, which opinion and advice may be announced by the Director at said public hearing. The Director shall also, upon receipt of the application, request the Conservation Commission to review the application as to whether it would present a substantial detriment to the conservation of natural resources, and said Commission shall render to him its opinion and advice as requested, which opinion and advice may be announced by the Director at said public hearing.
- B. If, after consideration of said application and map, if applicable, and said information, opinions and advice submitted by other city officials or agencies and the testimony presented at the public hearing, the Director shall be of the opinion that the proposed excavation or filling will not create the conditions described in § 97-3, Permit requirements, of this chapter or will not otherwise be inimical to the public health, safety and welfare, he shall render a decision to issue a permit.
- C. If the Director is of the opinion that the proposed operation for which a permit is applied for

under this chapter would create the conditions described in § 97-3, Permit requirements, of this chapter or would otherwise be inimical to the public health, safety and welfare of the city's inhabitants, he shall render a decision refusing to issue a permit, stating the reasons therefor.

- D. The Director will render a decision within 30 days from the date of any public hearing. Notice of the decision shall be published in a newspaper having a substantial circulation in the city. The notice of the decision will be mailed to the applicant by the Director under his signature. In the event of a decision by the Director to issue a permit, the notice will contain the permit. The permit shall become effective at such time as is fixed by the Director and may be subject to such special conditions as the Director deems necessary and proper to prevent the endangering of the public health, safety and welfare of the inhabitants of the city.

§ 97-8. Appeals.

Any person aggrieved by a decision of the Director under this chapter may appeal therefrom to the Superior Court for the Stamford/Norwalk Judicial District within 30 days from the date when notice of such decision was published in a newspaper pursuant to the provisions of § 97-7, Application review and decision.

§ 97-9. Replacement of topsoil.

The owner of the premises or the person in charge of a permitted excavation or filling shall replace at least six inches of topsoil over all excavated, filled or otherwise disturbed surfaces and shall seed and water the same with a perennial cover crop and shall reseed, if necessary, to assure uniform growth and soil surface stability. The owner of the premises or the person in charge of the removal of soil shall not take away the top layer of arable soil for a depth of six inches, but such top layer of arable soil to a depth of six inches shall be set aside for retention on the site. These conditions may be waived by the Director if, in his opinion, it is not detrimental under the provisions of this chapter.

§ 97-10. Bond.

When, in the opinion of the Director, the failure to complete a proposed excavation or filling operation would create an actual or potential hazard to the public, the Director, prior to issuing the permit, shall require a bond or surety in an amount sufficient to cover the estimated cost of restoration of any affected land or to cover the cost of performance of the operations under such permit, whichever is greater. The bond or other surety will be in a form acceptable to the Corporation Counsel.

§ 97-11. Compliance required.

No operations covered by the provisions of this chapter shall be carried out unless a permit therefor shall have been first obtained as provided in this chapter, and no such operations shall take place except in accordance with the provisions of this chapter. If permitted to undertake an excavating or filling operation under provisions of this chapter, the permittee shall conduct said operations in accordance with all conditions required by the Director, including time limits, and all requirements of this chapter.

§ 97-12. Fees.

Each application for a permit under this chapter shall be accompanied by a permit fee in an amount determined by the number of cubic yards of excavation or fill at a rate as approved in accordance with the provisions of § 90-4, Approval of rates and fees.

§ 97-13. Suspension of operations.

The Director shall issue a cease-and-desist order to suspend operations being carried out under a permit for excavation or filling whenever he determines, at his sole discretion, that such operations are not in compliance with a permit issued under this chapter or are endangering the public health or safety. Such suspensions shall remain in effect until the condition or conditions causing the same are successfully remedied to the satisfaction of the Director.

§ 97-14. Appeals from cease-and-desist orders.

Any person, upon receiving an order from the Director to cease and desist any operation due to violations of this chapter, may appeal such order, in writing, within 10 days of the date of the order to the Superior Court in the Stamford/Norwalk Judicial District. While the appeal is being processed, the cease-and-desist order will remain in effect, and all such operations shall be suspended.

§ 97-15. Violations and penalties.

Any person who violates or permits the violation of any provision of this chapter shall be subject to a fine established in accordance with the provisions of § 90-4, Approval of rates and fees. The Director or his designee will notify the violator, in writing, to cease any operation covered by this chapter being carried out without a permit or in violation of the terms of an issued permit. Any person who continues to violate or permits the continuing violation of any

provision of this chapter, after having been notified by the Director to cease any operation, shall be subject to an additional fine established in accordance with the provisions of § 90-4, Approval of rates and fees. Each twenty-four-hour period that the violation remains uncorrected shall constitute a separate offense hereunder.

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Fee Schedule as Amended – September 12, 2006

97-12 APPROVED FILL PERMIT APPLICATION FEE

- A. Two hundred fifty dollars (\$250) up to and including the first one hundred cubic yards (100CY).
- B. Twenty five dollars (\$25) for each additional one hundred cubic yards (100 CY), or fraction thereof, beyond the first 100 CY.

97-15 FINE FOR VIOLATION OF ANY PROVISION OF CHAPTER 97 (Excavation and Filling of Land)

Lack of Permit	\$ 250/day
Cease and Desist	\$ 500/day