

**APPENDIX E**

**GRADING AND FILL ORDINANCE**

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### **PURPOSE**

Grading, filling, excavating and other earthwork activities frequently cause damage to existing land features and create problems and conflicts with future public works construction and other related construction activities such as subdivisions, and commercial developments. These earthwork activities frequently result in uncompacted fills and significantly altered contours, which adversely affect all of the citizens of Berea.

The intent of this document is to safeguard the public, protect the natural resources and environment within the boundaries of our City and to prevent conflicts with future developments and constructions. This will be accomplished by regulating clearing, earthwork, excavation, filling and other land disturbing activities, reducing soil erosion, and providing procedures for submission, review and approval of fill site plans and erosion control plans prior to soil disturbance. A standardized permitting process will be developed and detailed.

At all times the permittee is expected to use and exercise reasonable, rational and logical judgment in the filling process so as not to jeopardize the safety of the public, the quality of his site or the integrity of the environment.

### **DEFINITIONS**

Earth Material - Soil, topsoil, clay, sand, or gravel. Rocks, stones, bricks concrete slabs no more than twelve (12) inches in size in any direction may be defined as Earth material. Material of this size may NOT be placed within the top twenty-four (24) inches of a fill area.

Erosion - The process by which the ground surface is worn away by the action of wind or water.

Excavation - Removal of material from a site via any method.

Filling - The process of depositing fill material on a site to replace or supplement the existing material.

Fill Material - Acceptable earth material that is not organic in nature. Fill material shall be capable of being compacted to the standards as noted elsewhere in this document. Furniture, automobiles and other mechanical devices, wood chips, cinders, ashes, trees, tree stumps and other vegetative material are NOT acceptable fill material.

Grading - Any stripping, excavation, filling, stockpiling of soil or any combination thereof used to alter or change existing contours

### **PERMIT REQUIRED, EXCEPTIONS AND COMPACTION**

A Land Disturbance permit is required for the following fill activities:

1. A Land Disturbance permit shall be required for any activity that involves fill materials as defined in this document and is being brought into a property from an off-site location.

A permit is not required for the following fill activities:

1. When the total amount of fill to be brought onto, a property is less than one hundred (100) cubic yards.
2. When the fill material is to be brought onto a site is for a public improvement project or a utility improvement project, which has been authorized by the City of Berea, the Commonwealth of Kentucky or the United States Government.
3. The construction of a single or two family dwelling unit for which a building permit has been issued.

Compaction of the fill material shall be required in the following situations:

1. Compaction shall be required on each and every site NOT zoned Agricultural. Sites in Agricultural zoned areas will be considered on a case-by-case basis. Fill material shall be compacted in no greater than one (1) foot layers to a minimum density of 95% of maximum density as defined by the current ASTM or KDT standard. The compaction process and final configuration shall be monitored and certified by a Licensed Professional Geotechnical Engineer licensed in the Commonwealth of Kentucky.

## **REQUIREMENTS FOR LAND DISTURBANCE PERMIT**

A Land Disturbance permit application for fill shall include the following:

1. The name, address, contact phone number and signature of the property owner as well as the name, address, contact phone number and signature of the person doing the filling operation. The person doing the fill operation must have and maintain a 24-hour contact number.
2. The name, address, parcel number and related deed information of the property where the fill operation will take place.
3. The name, address and phone number of the Licensed Geotechnical Engineering who will be doing the compaction monitoring, fill testing and ultimate site compaction certification.
4. The nature and purpose of the proposed fill operation.
5. The type of fill material to be brought and placed on the site as well as the type of material to be brought and placed on the site.
6. A detailed description and schedule of the filling process to include the proposed method of compaction and a beginning and ending date.
7. The proposed transportation route for the fill material.

8. A drawing/plan of the site which shall contain:
  - A. North arrow.
  - B. The dimensions of the lot and acreage.
  - C. Dimensions of the area to be filled and proposed phasing and method of stabilization for each phase.
  - D. Adjoining property addresses and names of owners.
  - E. The location of all roads bordering or on the property.
  - F. The location of all utilities on the property.
  - G. The location of all easements on the property.
  - H. Any and all natural features.
  - I. Existing 2' contours of the property shown with dashed lines. Contours must extend a minimum of 50' past subject property lines.
  - J. Proposed 2' contours of the property shown with solid lines. Contours must extend a minimum of 50' past subject property lines.
  - K. The location, size and use of any structures on the property.
  - L. Calculated fill volumes based on existing and proposed contours. Cross sections may be required.
  - M. Drainage calculations.
  - N. A detailed soil erosion control and water quality protection plan which includes but is not limited to:
    - i. Silt fence
    - ii. Seeding/straw/mulch erosion controls.
    - iii. Temporary and final/permanent seeding schedule
    - iv. Check dams
    - v. Silt control ponds
    - vi. Any and all other necessary Best Management Processes

Any requested fill permit with a site within proximity to a stream, creek or any other waterway may be subject to additional and extensive requirements due to possible State Government and Federal Government requirements. It is the permittee's responsibility to determine and gain any additional approvals that may be required.

## **APPROVALS, TIME FRAME AND APPEAL PROCESS**

Within 30 days from the date the requested fill permit was logged in to the Codes Administration office, the Codes Administrator or the City Engineer will determine if the requested permit may be approved by City of Berea Planning Staff or approved by the Berea Planning Commission and/or if a public hearing will be necessary. The following guidelines will govern the approval process:

- A. If the intended fill area contains less than 250 cubic yards of fill material or if the intended fill area is less than 10,000 square feet, the fill permit may be approved by City of Berea Planning Staff. However, it is still within the discretion of the staff to take this request to the planning commission. This actual decision will be made within 60 days from the date the request is logged in to the Codes Administration Office. Decisions made by City of Berea Planning Staff may be appealed to the Board of Adjustments.
- B. If the intended fill area contains more than 250 cubic yards of fill material or if the intended fill area is greater than 10,000 square feet, the fill permit must be approved by Berea Planning Commission. The Planning Commission will decide on a case-by-case basis whether to require a public hearing. If no public hearing is required, the final decision will be rendered within 60 days from the date the request was logged in to the Codes Administration Office. Approvals that require a public hearing may require up to 120 days after the date the request was logged into the Codes Administration Office, however, additional time may be required due to the legal requirements to conduct a public hearing. Decisions made by the Berea Planning Commission may be appealed to the Madison County Circuit Court.

Any requested fill permit with a site within proximity to a stream, creek or any other waterway may be subject to additional and extensive time due to possible State Government and Federal Government requirements. It is the permittees responsibility to determine what additional approvals may be required.

## **PUBLIC NOTICE REQUIREMENTS**

In every case regardless of the approval process, it will be the permittees responsibility to notify the public of their intention to fill on the proposed site via:

- A. A sign posted on the site that is legible from the closest street stating the owners name, the site address, a contact number as well as a proposed schedule for the filling process.

- B. A legal notice in the local newspaper at least 30 days prior to the start of the filling process. A copy of the notice must be submitted before final approval of the permit.
- C. Certified letters sent to each adjoining property owner and any property owners within a 500-foot radius of any street or road contiguous to the fill site. Copies of the mail receipts must be submitted before final approval of the permit.

### **AS-BUILT DRAWINGS AND SITE CERTIFICATION**

Upon completion of the fill process and within 30 days of the intended completion date as stated in the original fill application the permittee must submit:

- A. Certified as-built drawings, stamped and signed by the Geotechnical Engineering as designated in the original fill application. The as-built drawings shall contain but are not limited to final contours, any and all drainage structures with invert and flow line elevations, any other relocated or added public utility facilities, roadways and/or entrances, structures of any type or size.
- B. A site certification letter signed and stamped by the Licensed Geotechnical Engineering who did the compaction monitoring and fill testing. The Certification Letter will contain statements by the Geotechnical Engineer that he monitored the fill site and fill process, tested the material on an ongoing basis, and that the final compaction meets required standards. Copies of all test results and dates of his site visits and/or his project diary must also be submitted.

The Codes Administrator or the City Engineer shall respond within 30 days of the receipt of the above documents with a decision or a recommendation for a decision to the Planning Commission.

# Land Disturbance Permit Application

## City of Berea, KY

Applications can be found online at [www.bereaky.gov](http://www.bereaky.gov). The following information will be required on the online application. Paper applications will not be accepted.

Date: \_\_\_\_\_

**Applicant (the Responsible Party):** \_\_\_\_\_

Contractor \_\_\_\_\_ Other(describe) \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

### Property Owner

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

### Project/Property information

Location/Address: \_\_\_\_\_

Estimated Start Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_

Type of Development/Description of Work:

\_\_\_\_\_

\_\_\_\_\_

Total Parcel Area (acres): \_\_\_\_\_ Total Disturbed Area (acres): \_\_\_\_\_

Will excavated material be removed from site?: \_\_\_\_\_ Will fill material be brought to site?: \_\_\_\_\_

Amount of fill brought to site (cy)

If yes, is the other site covered by a land disturbance Permit?: \_\_\_\_\_

### Contractor information

Company Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Contact name: \_\_\_\_\_ Contact Phone: \_\_\_\_\_

Contact email: \_\_\_\_\_

### Engineer/Designer

Company Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_

Contact name: \_\_\_\_\_ Contact Phone: \_\_\_\_\_

Contact email: \_\_\_\_\_

**Submittal Checklist:**

Print "Yes" or "Not Applicable" (N/A)

- \_\_\_\_\_ Stormwater Pollution Prevention Plan (SWPPP)
- \_\_\_\_\_ KY Construction Permit (KYR10 or Individual)
- \_\_\_\_\_ KY DOW 401 Water Quality Certificate
- \_\_\_\_\_ KY Stream construction Permit
- \_\_\_\_\_ US Corps of Engineers 404 Permit
- \_\_\_\_\_ FEMA LOMR or CLOMR
- \_\_\_\_\_ KY Transportation Cabinet Encroachment Permit
- \_\_\_\_\_ Planning and Zoning Approval
- \_\_\_\_\_ Site Plan Review Checklist
- \_\_\_\_\_ Set of Finalized Construction Plans and Specs
- \_\_\_\_\_ Copy of Approved Kentucky DOW NOI
- \_\_\_\_\_ Application Fee
- \_\_\_\_\_ Completed Maintenance Agreement

I hereby certify, under penalty of law, that I have reviewed this document and understand the erosion protection and sediment control requirements, construction site requirements and will adhere to any and all ordinances and regulations adopted by the city. I understand that these requirements will be inspected and enforced by the city and failure to comply may result in the issuance of a "stop work order" and / or other penalties until compliance is accomplished.

I also certify that the information supplied is complete and correct, and that I am the owner or the authorized agent of the owner or have permission of the owner to obtain this permit, and to undertake the subject work, and that the work will conform to all applicable codes, regulations, manuals and other applicable laws which related to the property.

Signature of Owner or Agent \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name \_\_\_\_\_ Title: \_\_\_\_\_

**FEES:**

Application fee is to be paid as part of permit approval.

Bond Amount \$ \_\_\_\_\_  
(Must be approved by staff)

**Internal Use Only**

Land Disturbance Permit Number: \_\_\_\_\_

Date Received: \_\_\_\_\_ Date paid: \_\_\_\_\_

Permit Effective Date: \_\_\_\_\_