

ARTICLE B. GRADING PERMIT

SECTION:

10-18B-1: Permit Required; Exceptions

10-18B-2: Review Process

10-18B-3: Standards For Review

10-18B-4: Discharge Prohibitions

10-18B-5: Dust Control

10-18B-6: Disposal Of Cleared Vegetation

10-18B-7: Interceptors

10-18B-8: Nonconstruction Areas Protected

10-18B-9: Underground Public Utilities Protected

10-18B-10: Grading Operations

10-18B-11: Historic Or Prehistoric Ruins

[10-18B-12: Enforcement](#)

10-18B-1: PERMIT REQUIRED; EXCEPTIONS:

A. General Requirement: No person shall commence or perform any grading, excavation, filling or clearing of land without first having obtained a permit from the Zoning Administrator and ascertaining the existence and location of any underground utilities. No grading permit shall be issued except in connection with a permitted use allowed within the zoning district in which the property that is to be graded, filled or cleared is located. Any such permitted use that requires a building permit, or other approval as provided by this Title, such as home construction or a commercial site or a subdivision, must obtain either [preliminary](#) site plan approval ([for commercial uses](#)), or preliminary plat approval ([for residential uses](#)) as provided under this Title before a grading permit may be issued. All [grading](#) plans submitted for approval must be prepared by a professional engineer licensed in the State of Utah.

~~1. The bond will need to cover one hundred and twenty-five percent (125%) of the grading cost. Staff and City Engineer will need to approve the cost breakdown for the proposed bond prior to the city accepting a bond. Once the city approves the cost~~

~~breakdown, the developer will be required to provide the city either a cash bond or a letter of credit in the amount shown on the approved spreadsheet.~~

B. Exemptions: The applicability of any the below listed exemptions must be determined by the Zoning Administrator.

1. Agricultural: Grading, excavation, filling or clearing for agricultural purposes within an agricultural zone shall be exempt from a grading permit. Grading, excavation, etc., associated with nonagricultural uses or construction, in an agricultural zone, shall require a Preliminary Site Plan and grading permit.

2. Residential Landscaping: Minor grading, excavation, filling or clearing associated with landscaping projects for single-family residential uses shall be exempt from a permit requirement.

3. Non-disturbance of Natural Grade: Grading, excavation, filling or clearing that does not disturb the natural grade of more than two thousand (2,000) square feet or result in a change to the natural grade exceeding four percent (4%), shall comply with the Non-Disturbance Grading Requirements. ~~be exempt from permit requirements.~~

4. Public Facility Projects: Grading required to construct Public Facilities including roadways and utility improvements approved by the City Council.

C. Scope of Permit: A grading permit and the approved grading plan is intended to be utilized for grading purposes only and is not to be used for the purpose of constructing on-site or off-site improvements. Issuance of a grading permit based on an approved grading plan does not constitute approval of driveway locations or sizes, parking lot structural sections or layout of any structure, ADA-related requirements, building locations or foundations, walls, curbing, off-site drainage facilities or other items not related directly to the basic grading operation. On-site and off-site improvements shall be constructed from construction plans and drawings approved by the City. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)

10-18B-2: REVIEW PROCESS:

A. Application Form: Grading permit application forms ~~are available~~may be obtained from the City and shall be submitted to the Zoning Administrator. ~~Included~~ The following must be included in the grading permit application: ~~shall be:~~

- ~~1. —1.~~ A detailed grading plan showing, at a minimum, the details outlined in ~~the 2018 International Building Code, Appendix J-Grading~~ the most current International Building Code. In addition, the grading plan shall contain an estimate of the volumes, in cubic yards, of cut and/or fill and area of site to be graded as well as a statement concerning the ultimate disposition of any excess dirt that shall remain within City limits. The City must approve of the source of any fill material, as well as the ultimate disposition of any excess dirt that is disposed of within City limits.

~~—Excess dirt moved outside the City limits shall comply with the applicable standards of the area it is moved to.~~

~~a. Any location within the city limits used for disposal of excess dirt shall require a separate grading permit application and issuance of a separate grading permit for the receiving site; For any grading which shall require export or import of materials from other sources within City limits, preliminary site plan approval or preliminary plat approval must be obtained for each material source. The City may, in its discretion, allow another portion of the applicant's land to be used as a source of materials, so long as there is also preliminary site plan approval or preliminary plat approval for the source site.~~

2. A ~~s~~Soils ~~e~~Engineering ~~r~~Report and Geology Study Report addressing the adequacy of the native soil to be graded for applicant's intended use.

3. Proof of land ownership in the form of a recorded deed or grant, recorded plat or title insurance policy not older than sixty (60) days at time of application;

4. Additional information that may be required by the Zoning Administrator for complex grading projects such as, but not limited to drainage studies, storm water pollution protection plans, dust control plans and restoration plans;

5. Payment of the required grading plan review and permit fees in accordance with the City's Consolidated Uniform Fee Schedule.

B. City Review: The Zoning Administrator shall determine the adequacy of the application and may require the submission of further information where necessary.

C. Inspections: All construction or work for which a permit is required shall be subject to inspection at all reasonable times by the Zoning Administrator and Public Works inspector. The Zoning Administrator and Public Works Inspector may make any inspections of any construction work deemed necessary to ascertain compliance with the provisions of this article and other ordinances which are applicable. The permittee shall notify the Zoning Administrator and Public Works inspector when grading reaches completion and prior to being covered or concealed by additional work. Whenever any work on which inspections are required is covered or concealed by additional work without first having been inspected, the Zoning Administrator may require, through written notice, that such work be exposed for examination. The work of exposing and recovering shall be an expense of the permittee requiring the inspection.

~~D.~~ Grading Bond: In reviewing a grading permit application, the Zoning Administrator may require the applicant/permittee to post a ~~grading bond~~ grading bond in the form of (i) a cash ~~bond~~ deposit or (ii) a letter of credit, from a licensed and insured lender, with the City in an amount sufficient to cover ten percent (10%) of the cost to restore the graded area to an acceptable level of appearance and stability. The City will ~~The Zoning Administrator must approve the cost breakdown for the proposed bond prior to the City accepting said bond. Upon receiving approval of~~ Once the City approves the cost

breakdown, the applicant will be required to provide the bond in the amount ~~shown on the approved cost breakdown~~, equal to that which would be required for a performance bond and in conformance with Said bond must also comply with any applicable provisions in Section 10-5-3, "Security For Completion", of this Title. ~~If~~ Further, if one or more of the following instances are present, a grading bond in the form described above shall be mandatory:

1. Grading ~~that~~ is to occur within any area that is designated as part of the City's Hillside Development Overlay Zone will need to comply with (10-16A-1 et seq of this Title);
2. Any off-site grading will require the written permission of one or more adjacent property owners;
3. Any project in which on-site drainage structures/storm drain system connects to a City storm drain and drainage facilities are constructed in concurrence with grading plan;
4. Any grading plan in which the scope of work increases the potential to transport silt/sediment into public right of way and/or City's storm drain system;
5. Any grading plan in which the scope of work would create a public safety risk in event of work stoppage; and/or
6. Any grading plan in which the Zoning Administrator reasonably determines would create an increased risk of possible damage or injury to residents or Public Facilities of the City. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)
7. Grading that shall require any export or import of materials from any source; or
8. Any project which involves grading that is completed on a large scale ("Mass Grading"). Whether a project involves Mass Grading shall be determined by the Zoning Administrator.

10-18B-3: STANDARDS FOR REVIEW:

All grading, filling and clearing operations which are allowed under this Article shall be consistent with Section 10-21-9 of this Title, and shall be designed to:

- A. Minimize cuts and fills on steep or hazardous terrain.
- B. Eliminate scars from cuts and fills, and preserve the natural scenic beauty of the area, such as by rounding off sharp angles at the top, toe and sides of cut and fill slopes to preserve, match or blend with the natural contours and undulation of the land, and by retaining trees, brush and other native vegetation where possible.
- C. Limit clearing of vegetation or disturbances of the soil to those areas of proven stability, taking into consideration geologic hazards and soil conditions.

D. Assure that the natural runoff capacity of hillsides, slopes, graded areas, cleared areas, filled areas or streams will not be exceeded, causing flooding, erosion or silting greater than that which would have occurred if the land had been left in its natural state.

E. Applicant must submit a grading permit application and checklist with Toquerville City and adhere to all fees, and conditions found within the application along with any conditions found in this chapter. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)

10-18B-4: DISCHARGE PROHIBITIONS:

A. Scope: No solid or liquid waste materials, including soil, silt, clay, sand and other organic or earthen materials shall be discharged, either during the course of the grading process or as a result of changes created by the grading process covered under the permit into any creeks or streams, onto lands below the high water level of the same, or onto adjoining property.

B. Control Devices: In order to prevent such discharges from occurring, approved erosion and siltation control devices may be required for all grading and filling. Control devices and measures which may be required include, but are not limited to, the following:

1. Energy absorbing devices to reduce the velocity of runoff water.
2. Sedimentation controls, such as desilting basins and catch basins. (Any trapped sediment shall be removed to a disposal site approved by the Zoning Administrator.)
3. Dissipation or discharge of water runoff from developed areas into drainage fields to dissipate the runoff into the subsoil.
4. Multiple discharge points to reduce the volume of runoff over localized discharge areas.
5. Physical erosion control devices, e.g., culverts, rock banks, etc.
6. Approved temporary erosion and sedimentation control devices, facilities and measures shall be required during construction. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)

10-18B-5: DUST CONTROL:

Whenever the native ground cover is removed or disturbed, or whenever fill material is placed on the site, the exposed surface shall be treated to eliminate dust arising from the exposed material. The Zoning Administrator must approve dust control methods. All dust control measures must meet local, state, and federal standards.

~~—B. If disturbed area is one acre or greater, a dust control permit must be obtained from the state of Utah, air quality control and provisions of the air quality regulations will be in effect. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)~~

A.

B. Additional requirements for dust control shall apply to all sites which require approval of a preliminary plat or preliminary site plan. These requirements are as follows:

1. The applicant and/or developer shall be required to post a [reclamation/warranty bond] in an amount sufficient to cover [10%] of [the cost to [?????], as determined by the City Engineer. Said bond shall be provided to the City in the form of a cash deposit and shall not be released by the City until eighteen (18) months after final plat approval for the site is obtained.
2. The dust control methods used must be sufficient to ensure an air quality index ("AQI") of at least [] is maintained at the site, unless a windstorm or other natural occurrence causes winds to exceed [] miles per hour. The Zoning Administrator shall determine AQI of said site through publicly available data from an open, third-party source.
3. The developer and/or applicant must ensure that soil binders are continuously maintained, as specified by the Zoning Administrator. The Zoning Administrator may also choose to require a gravel surface at the site, which shall be maintained to the depth specified by the Zoning Administrator.
4. Compliance with the requirements set forth in (B)(1)-(3) shall be determined by the Zoning Administrator. If the developer and/or applicant fails to comply with these requirements, the City may, in its discretion, utilize the [reclamation/warranty] bond described in (B)(1) to ensure that the site is returned to an acceptable condition and/or its approximate original state.

~~—A. Land use violation according to the uniform fee schedule.~~

~~—B. If disturbed area is one acre or greater, a dust control permit must be obtained from the state of Utah, air quality control and provisions of the air quality regulations will be in effect. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)~~

10-18B-6: DISPOSAL OF CLEARED VEGETATION:

Vegetation removed during clearing operations shall be disposed of in a manner approved by the Zoning Administrator. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)

10-18B-7: INTERCEPTORS:

Diverter may be required at the top of all cut and filled slopes where there is a surface runoff potential. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)

10-18B-8: NONCONSTRUCTION AREAS PROTECTED:

A. There shall be no excavation on the site before the Zoning Administrator has approved the location (stakeout) of the drives, parking sites, building sites and other areas to be graded or filled.

B. Construction equipment shall be limited to the actual area to be graded according to the approved plans. No vehicle of any kind shall pass over areas to be left in their natural state according to the approved plans.

C. Appropriate barriers around all native vegetation proposed for retention may be required to be erected during construction.

D. The permittee shall be fully responsible for any damage caused to existing trees or other vegetation. The permittee shall carry the responsibility both for his own employees and for any and all subcontractors from the first day of construction until the notice of completion is filed. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)

10-18B-9: UNDERGROUND PUBLIC UTILITIES PROTECTED:

The contractor shall ascertain and verify the location of any public underground utilities that may be on the property before doing any grading excavation, and once located, he shall take reasonable care to protect and avoid damage to any such underground utilities by allowing forty eight (48) hours for such utilities to be located. Any and all damage caused to public utilities by any act or negligence of the contractor's employees shall be repaired at the contractor's expense to the satisfaction of the utility company and/or the City. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)

10-18B-10: GRADING OPERATIONS:

A. Hours of operation shall not begin before seven (7:00) AM, and shall not continue after the hour of seven (7:00) PM. No operations shall take place on Sunday or legal holidays.

B. All grading shall comply with standard engineering specifications for slope stabilization in accordance with the geotechnical recommendations included with the application, and all other applicable City ordinances. Slopes shall be maintained in a manner that will prevent erosion damage on adjacent properties.

C. The grading operation cannot exceed the boundary of the approved preliminary plat or preliminary site plan~~plat~~. (Ord. 2022.03, 4-11-2022; amd. Ord. 2022.05, 5-18-2022) No grading may occur on any site for which there is no approved preliminary plat or preliminary site plan.

10-18B-11: HISTORIC OR PREHISTORIC RUINS:

A. No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic, prehistoric ruins, monuments or objects of antiquity are present.

B. ~~B.~~ The grading plan shall indicate all such historic or prehistoric areas on the site and shall indicate the measures that will be taken to protect such areas. Should excavation uncover or discover any historic or prehistoric ruins or monuments or object of antiquity which were not known at the time of the submittal of the grading plan, all work in the immediate area shall cease until the building department shall determine what precautions should be taken to preserve the historic artifacts. (Ord. 2012.04, 1-18-2012; amd. Ord. 2022.03, 4-11-2022; Ord. 2022.05, 5-18-2022)

10-18B-12: EXPIRATION/ANNUAL REVIEW:

A. Approved grading permits shall be reviewed annually from the date of approval.

B. Approval of a grading permit shall be valid for one (1) year from the date of approval. If the approved grading on the site is not completed within one (1) year of the date of approval, reclamation will begin.

C. An applicant may request a one (1) year extension prior to the expiration of the grading permit approval. The grading permit approval cannot be extended beyond a total of five (5) years.

10-18B-13~~2~~: ENFORCEMENT

A violation of this Article may be enforced the City in compliance with Section 10-5-4 of this Title.