

§ 204-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

EXCAVATION or GRADING — Excavation or grading by blasting or by use of power-assisted machinery or equipment.

SLASHING OF TREES — The cutting, grubbing or other removal of any three or more live trees in any calendar year, when such trees are located within less than 100 feet of each other and have a caliper of six inches or more at height of three feet above ground.

§ 204-2. Regulated activities: temporary permit.

On any lot, excavation, grading or removal of topsoil, clay, sand, gravel, rock or other earth materials; dumping, filling or depositing of such earth materials or fill of any kind; and slashing of trees are activities regulated under this chapter and are permitted only under a temporary permit granted by the City Engineer under §§ 204-3 through 204-9 or as one of the exemptions hereinafter specified. Within 20 days after the City Engineer has granted a temporary permit under this chapter, the City Council may, at its discretion, approve, modify and approve or disapprove the temporary permit. Any failure by the City Council to take action within said twenty-day period shall be deemed to be an approval by the City Council.

§ 204-3. Application for temporary permit.

Before any temporary permit shall be granted, a written application shall be submitted to the City Engineer, together with an application fee in accordance with the City of Beacon Fee Schedule and maps and plans, prepared by and bearing the seal of a land surveyor or professional engineer licensed to practice in the State of New York, showing the following:

- A. The area to be excavated.
- B. Existing contour lines on the premises and proposed contour lines resulting from the intended excavation or removal, shown on a map drawn to a scale of not less than 100 feet to the inch and with a contour interval not to exceed two feet.
- C. Existing and proposed drainage on the premises.
- D. Existing rivers, streams or watercourses on or adjacent to the premises.
- E. Adjoining properties and streets.

- F. Proposed truck access to the property.
- G. Such additional information as the City Engineer may deem necessary in order to decide upon such application.

§ 204-4. Criteria for issuance of temporary permit.

The City Engineer may grant a temporary permit for a limited period of time, not exceeding two years, if he or she shall find that such excavation will not result in the creation of any sharp declivities, pits or depressions, soil erosion or fertility problems, depressed land values nor create any drainage or sewerage problems or other conditions which would impair the use of the property, in accordance with the Zoning Ordinance,¹ and that such excavation will be in harmony with the general purpose and intent of the Zoning Ordinance, and if the City Engineer further finds that the temporary permit to be granted is capable of being completed within the time provided in the permit.

§ 204-5. Standards and conditions for issuance.

A temporary permit shall be granted only subject to the following standards and conditions:

- A. That the premises shall be excavated and graded in conformity with the proposed contour plan, as approved.
- B. That slopes shall not exceed 30° to the horizontal or such lesser slope that the City Council may specify as necessary for the public health or safety, soil stability or for the reasonable use of the property after completion of the excavation.
- C. That no fixed machinery shall be erected or maintained in connection with the excavation and that no building shall be erected on the premises except temporary shelters for machinery and a field office.
- D. That there shall be no excavation or removal within 50 feet of any street or property line, except that, where the property to be excavated is considerably above street grade at the street line, removal may take place at a lesser distance from the street line if approved by the City Engineer.
- E. That there shall be no sharp declivities, pits or depressions and that proper drainage will be provided to avoid stagnant water, soil erosion and water pollution.

1. Editor's Note: See Ch. 223, Zoning.

- F. That after excavation or removal, the premises shall be cleared of debris within the time provided in the permit.
- G. That the top layer of arable soil for a depth of six inches shall be set aside and retained on the premises and shall be respread over the premises and that a suitable ground cover shall be planted and grown to an erosion-resistant condition, upon the completion of the excavation or removal, in accordance with the approved contour lines, and that such work shall be completed within the time provided for in the permit.
- H. If required by the City Engineer, that the area to be excavated or a portion thereof shall be enclosed within a fence of such type, height and location as the City Engineer may specify.
- I. That the City Engineer may establish a schedule to be filed with the records of such application and temporary permit showing limitations on the day of the week or the hours of the day during which any work may be performed on the premises; limitations as to the size and type of machinery to be used on the premises; place and manner of disposal of excavated material; and requirements as to the control of dust, noise and lighting, if permitted, so as to prevent results injurious or offensive to the general public.
- J. That the City Engineer may require the applicant to submit periodic reports, prepared by and bearing the seal of a land surveyor or professional engineer licensed to practice in the State of New York, showing the status and progress of the excavation, and may require the applicant to pay to the City an inspection fee in an amount deemed necessary by the City Engineer to defray the cost of inspection of the operation.

§ 204-6. Performance bond.

The applicant shall file with the City Clerk a performance bond, in form and with surety acceptable to the City Council, in such amount as the City Engineer may deem sufficient to insure the faithful performance of the work to be undertaken.

§ 204-7. Revocation or suspension of temporary permits.

Any temporary permit issued pursuant to the provisions of this chapter may be revoked by the City Engineer, after notice, in writing, and a hearing, for violation of any conditions of the temporary permit; violation of any provision of this chapter, or any other law or other regulation relating to the work permitted; or the existence of any

condition or the doing of any act constituting or creating a nuisance or endangering the life or property of another.

- A. Notice. The notice shall describe the violation charged and may be either delivered personally or mailed postage prepaid to the address appearing on the application.
- B. Suspension. Any temporary permit may be suspended for cause by the Building Inspector for a period not exceeding five days without a hearing. All work under any special permit shall be suspended following notice of hearing to revoke as provided for in this section.

§ 204-8. Exemptions.

A temporary permit is not required for conduct of one or more of the aforesaid regulated activities in the following cases, provided that the activity is conducted and completed in such a manner as to cause no danger to the public health and safety and no stagnant water, soil erosion, sedimentation, water pollution, excessive drainage runoff or flooding problems:

- A. In connection with the grading of land in or the construction and installation of roads, drainage and other improvements in a subdivision plat granted final approval by the Planning Board and only in accordance with plans as approved by the Planning Board.
- B. In connection with the construction, reconstruction, enlargement, moving or structural alteration of a building or other structure, including construction and installation of site improvements related thereto, for which an application for a certificate of occupancy and/or building permit shall have been approved by the Building Inspector, and only in accordance with plans accompanying such approved application or permit.
- C. In connection with a bona fide farming or forest management operation.
- D. In connection with a bona fide landscaping or other site improvement on a lot, provided that no fill is deposited within a watercourse, water body, swamp or other wetlands, and provided that disturbed areas are properly graded and reseeded or otherwise planted.

§ 204-9. Penalties for offenses.

Any person who shall violate any provision of this chapter shall be liable to a fine of not more than \$250 or imprisonment for not exceeding 15 days, or both such fine and imprisonment.