

**CHAPTER 289
FILLING OF LAND**

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289-1. Definitions. In this chapter:

1. COMBUSTIBLE MATERIALS means and includes oils, oil lights, sweepings, barrels, containers containing oil or similar liquids, boxes, rags, cloth, paper, cardboard, wood, grease, paints, varnish or other similar substances, any of which are likely to be readily flammable or combustible.

2. FILL or FILLING means the act of placing, setting down or depositing solid fill on land for the purpose of, or which has the resultant effect of, changing the existing contour of, or raising the elevation of, the land or any part thereof.

3. FILLING PERMIT means a permit which allows the permit holder to engage in the act of filling on a specified parcel of land.

4. GRADING means the act of moving earth or solid fill materials to change the topography of any land or part thereof.

5. SOLID FILL means earth, clay, soil, ground, stones and rocks, as well as broken concrete not exceeding 12 inches in diameter, or any mixture or combination thereof.

289-3. Filling Permits. **1. PERMIT REQUIRED.** No person may fill or grade any lot, tract or parcel of land without first obtaining a permit from the commissioner of city development. However, no permit shall be required whenever excavation, filling or grading is performed in conjunction with a construction project for which the department has issued a permit, the proposed final grade is included in the plans approved by the department and the total amount of material other than that deposited in or taken from the building footprint does not exceed 500 cubic yards. Further, no permit shall be required when the total amount of material does not exceed 100 cubic yards. A permit shall be required whether fill is brought to the site or is moved and deposited within the boundaries of the site.

2. APPLICATION FOR PERMIT. Application for a filling permit shall be made on a form provided by the department of city development and accompanied by the permit fee specified in s. 200-33. The application shall be signed by the person applying for the permit and, if different, the owner of the premises for which the filling is proposed. The application shall specify the location of the premises, a detailed description of the portion of the premises to be filled and an estimate of the number of cubic yards of solid fill necessary to fill the area to approximately the grade of the terrain bounding it.

3. PERMIT VALIDITY ; REVOCATION. A filling permit shall be valid for a period of 6 months. Permits may be renewed for additional 6-month periods upon reapplication to the commissioner of city development. Reapplications shall be referred to the commissioner of neighborhood services for approval. A permit may be revoked by the commissioner of neighborhood services upon service of written notice to the permit holder whenever the permit holder is depositing, or permitting or causing to be deposited, any materials on the premises other than solid fill or has failed to or refused to comply with any of the regulations of this chapter.

4. PLAN REQUIRED FOR LARGE PROJECTS. For a project involving land area greater than one-half acre in size or the excavation, filling or grading of more than 500 cubic yards of earth or fill material other than that deposited in or taken from the building footprint, an applicant shall submit a plan prepared at a recognized engineering or architectural scale. This plan shall be consistent with the city of Milwaukee's comprehensive plan and shall include the following information:

a. The existing and proposed topography of the site at a contour interval of 2 feet. All topographic information shall be prepared to city datum by a registered professional engineer or land surveyor.

b. The existing and proposed grades of the lot at each corner of the lot, at each corner of any existing or proposed buildings and at the center of the street pavement at the lot lines extended.

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c. The existing and proposed grades of all driveways and parking lots.

d. Drainage patterns, or special drainage devices proposed, as well as spot elevations at the top and bottom of all drainage swales, if applicable.

e. Spot elevations of all significant cut and fill areas.

f. Locations of existing or proposed buildings.

g. Locations of any recorded easements as well as above- or below-ground utilities.

h. The date of the plan, the north arrow and graphic scale.

i. A schedule for the project indicating the duration of the project, phasing and the proposed handling of interim conditions including, but not limited to, stockpiling of materials and equipment storage.

j. The proposed use of the site after the completion of the project.

k. Any other information as may be reasonably requested by the city.

5. SURETY BOND. Applicants for projects requiring the filing of a plan pursuant to sub. 4 shall file with the commissioner of neighborhood services a bond of a surety company duly incorporated in the state of Wisconsin or duly licensed to do business in this state in an amount equal to the cost of the excavation, filling or grading project, but in no case less than \$10,000, such bond to be approved by the city attorney. Individual sureties shall not be deemed in compliance with this section. The bond shall provide that they shall not be cancelled until after 30 days' notice in writing to the commissioner of neighborhood services. In lieu of the bond, a public service corporation, or a cooperative association organized under ch. 185, Wis. Stats., to render or furnish telephone, gas, light, heat or power may file with the commissioner of neighborhood services proof of financial responsibility containing the conditions required in the public liability policy. Acceptance of this proof shall be subject to approval by the city attorney.

6. ZONING PERMIT. In addition to the permit required by this section, a special use permit from the board of zoning appeals may be required for a filling or grading project. A special use permit may be required even if no permit is required by this section. See s. 295-419 for additional information.

289-5. Filling Regulations. **1. GENERAL REQUIREMENTS.** Every person who fills or grades any lot, tract or parcel of land shall do so in such a manner so as to minimize adverse effects to nearby properties. At the completion of the project, all final grades shall be level and match existing, adjacent topographies. The top of the filled area shall be free from concrete and relatively free from gravel, and the topmost 4 inches of the fill material shall be soil suitable for growing grass. The surface of the filled area shall be kept free of dust and rodents at all times during the filling operation and thereafter.

2. EROSION CONTROL. All filling activity shall be performed in compliance with ch. 290. No filling activity shall be permitted unless an erosion control permit has been issued for the fill site. All materials delivered to the fill site shall be deposited in such manner as to prevent erosion into any waterways or onto any adjoining properties. No natural drainage ways or swales shall be blocked as a result of filling. Fill materials shall be placed in such manner that they do not create water or wind nuisances or insect breeding ponds.

3. HOURS OF OPERATION. No filling shall be performed outside the hours of 7 a.m. to 5 p.m. on weekdays and 7 a.m. to 12:00 p.m. on Saturdays unless specifically allowed on the filling permit. No filling shall be performed on Sundays.

4. NOISE CONTROL. A permit holder shall comply with the provisions of ch. 80 with respect to noise control.

5. PROHIBITED MATERIALS. No person shall deposit on any land any combustible materials or any fly ash, foundry refuse or similar materials which are capable of becoming airborne. The depositing of such materials is declared a public nuisance. The depositing of used materials such as used automobiles, automobile parts, appliances, scrap metal, demolition debris or junk shall also be prohibited and declared a public nuisance unless the site is licensed as a junkyard or sanitary landfill.

6. ENVIRONMENTAL CONTAMINATION PROHIBITED. No fill material shall be placed in such a manner as to cause a violation of any of the following environmental standards:

a. Groundwater quality as contained in ch. NR 140, Wis. Adm. Code, as amended.

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b. Surface water quality as contained in chs. NR 102 to 106, Wis. Adm. Code, as amended.

c. Air quality as contained in chs. NR 400 to 499, Wis. Adm. Code, as amended.

7. INSPECTIONS. No person shall deny the commissioner the right of entry onto a property for which a filling permit has been issued for the purpose of inspection and determining compliance with this chapter and the terms of the filling permit.

289-7. Violations. 1. CESSATION OF WORK. Whenever the department finds that any person engaged in filling is failing to conform with the provisions of this chapter, the terms of a filling permit or other rules, regulations or orders imposed by the department, the department may require that such person cease filling at once and until such time as the person complies with the chapter, terms, rules, regulations or orders.

2. COMPLETION OR CORRECTION OF WORK BY CITY. Whenever any person fails to perform or complete a filling project in accordance with the terms of the permit or the provisions of this chapter, the commissioner shall notify the permit holder that the city will complete or correct the work by using city staff or by contract, and assess the reasonable cost thereof against the property upon which the filling is being performed.

3. PROHIBITED MATERIALS. Whenever any person brings upon any land fill materials which are prohibited by this chapter, the commissioner shall refuse to permit the materials to be unloaded. Whenever any portion or all of such materials have already been unloaded, the commissioner shall order the person bringing the materials onto the site to reload the materials and remove them from the premises.

289-9. Penalties. 1. PENALTY. Any person violating any of the provisions of this chapter shall be subject to the penalty provisions of s. 200-19.

2. ENFORCEMENT-RELATED EXPENSES. Any person violating any provision of this chapter shall be liable for any expenses which the city may incur in enforcing any of the terms or provisions of this chapter with respect to the person's filling activity.

3. FIRE-RELATED EXPENSES. Any person violating any provision of this chapter shall be liable for any and all damages or expenses incurred by the city as a result of any fire occurring on any public or private property in the city and caused by the person performing filling activity or depositing materials referred to in this chapter.

289--Filling of Land (HISTORY)

LEGISLATIVE HISTORY CHAPTER 289

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

rn = renumbered
rp = repealed

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