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Title: An ordinance relating to the filling of land.

Sponsors: ALD. RICHARDS

Indexes: BUILDING CODE, FEES, LANDSCAPING, PERMITS

Attachments: 1. Fiscal Note.PDF

Date	Ver.	Action By	Action	Result	Tally
7/16/2002	0	COMMON COUNCIL	ASSIGNED TO		
7/22/2002	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
7/22/2002	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	HEARING NOTICES SENT		
7/30/2002	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
8/1/2002	0	COMMON COUNCIL	PASSED	Pass	17:0
8/8/2002	0	MAYOR	SIGNED		
8/19/2002	0	CITY CLERK	PUBLISHED		

020604
ORIGINAL

ALD. RICHARDS

An ordinance relating to the filling of land.

200-19-2 am
200-33-15.5 cr
289 cr

This ordinance establishes a permit requirement, permit fee and regulations for the filling of land. No filling permit shall be required for filling performed in conjunction with the construction or alteration of, or addition to, any building or structure for which a building permit has been issued, provided the amount of fill does not exceed 500 cubic yards. Further, no permit shall be required when the total amount of fill does not exceed 25 cubic yards. Filling permits shall be valid for 6 months and may be renewed. Filling permits may be revoked for failure to comply with the filling regulations.

The regulations for filling of land relate to:

1. Grading and surface quality of the filled area.
2. Erosion control.
3. Hours of the day during which filling activity is permitted.
4. Noise control.
5. Prohibited fill materials, including combustible items and used goods, the depositing of which is declared a public nuisance.

This ordinance also authorizes the commissioner of neighborhood services to order the immediate cessation of any filling activity which does not conform with the filling regulations, to correct or complete any improper or incomplete filling project and bill the property owner for such work, and to prevent the unloading of prohibited fill materials.

Standard building code penalties shall apply to violations of the filling regulations. In addition, those responsible for large fill projects must file a \$10,000 surety bond with the city and the ordinance makes any person who violates the regulations liable for any expenses the city incurs in enforcing the regulations or as a result of fires caused by filling activity.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 200-19-2 of the code is amended to read:

200-19. Penalties.

2. In addition to other applicable enforcement procedures and pursuant to the authority of s. 66.0113, Wis. Stats., the department may issue citations pursuant to the citation procedure set forth in s. 50-25 to any person violating any provision of ss. 200-11-3, 200-11-4, 200-11-5-c, 200-11-5-d, 200-11-6-d, 200-20-2, 200-21.5, 200-22-5, 200-24, 200-42, ch. 207, ch. 214, ss. 218-9-6, 222-11-3, 222-13-1, 222-19-1, ch. 223, ss. 225-2-1, 225-3-4, 225-3-5-a, ch. 236, s. 252-1, ch. 262, ch. 275, >> ch. 289, << ch. 290, ch. 295 or s. 308-81-9.

Part 2. Section 200-33-15.5 of the code is created to read:

200-33. Fees.

15.5. FILLING PERMIT. The fee for a filling permit shall be \$50 if the filling involves up to 500 cubic yards of fill and the area to be filled does not exceed one-half acre in area. The fee shall be \$250 if the filling involves more than 500 cubic yards of fill or the area to be filled exceeds one-half acre in area.

Part 3. Chapter 289 of the code is created to read:

**CHAPTER 289
FILLING OF LAND**

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. SOLID FILL means earth, clay, soil, ground, stones and rocks, as well as broken concrete not exceeding 15 inches in diameter, or any mixture or combination thereof.

289-3. Filling Permits. 1. PERMIT REQUIRED. No person may fill any lot, tract or parcel of land without first obtaining a filling permit from the commissioner of city development. However, no filling permit shall be required whenever excavation or filling is performed in conjunction with a building construction, alteration or addition project for which the department has issued a building permit, the proposed final grade of such excavation and filling is included in the plans approved by the department and the total amount of fill material does not exceed 500 cubic yards. Further, no filling permit shall be required when the total amount of fill material does not exceed 25 cubic yards

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 and at the discretion of the commissioner of city development. A permit may be revoked by the commissioner of city development 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. MAP REQUIRED FOR LARGE PROJECTS. Whenever it appears from a filling permit application or from a site inspection performed by the department that the area to be filled exceeds one-half acre in size or that more than 500 cubic yards of fill will be required to alter the contour of the filling site to the approximate grade of the terrain bounding the area to be filled, the applicant shall submit a topographic and contour map at a scale of not more than 100 feet to the inch with contour intervals of 2 feet. The map shall show the proposed fill area, the proposed final contours, drainage patterns, special drainage devices, if necessary, and other pertinent information that may be required to clearly indicate the orderly development of the fill area.

5. SURETY BOND. Applicants for projects requiring the filing of a topographic and contour map pursuant to par. 4 shall file with the city clerk a bond of a surety company duly incorporated in the state of Wisconsin or duly licensed to do business in this state, in the sum of \$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 city clerk. 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 city clerk 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.

289-5. Filling Regulations. 1. GENERAL REQUIREMENTS. Every person who fills any lot, tract or parcel of land shall do so as evenly as possible and, at the end of such filling, shall level and grade the fill materials. 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. 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 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 junk yard or sanitary landfill.

6. 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.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB02312-1

JDO/jro

07/16/02