



**Department of Community and Economic Development
Planning Division
ADMINISTRATIVE POLICY/CODE INTERPRETATION**

**MUNICIPAL
CODE SECTIONS:**

RMC 4-9-080 Grading, Excavation and Mining Permits and Licenses

REFERENCE:

N/A

SUBJECT:

Requiring a Special Fill and Grade Permit for Public projects where dredging or filling occurs on lands covered by water, when State and Federal permits are also required.

BACKGROUND:

The Elliot Spawning Channel was impacted by the 2006 and 2009 flooding events in the Cedar River, resulting in the need to reconstruct the Channel. The Channel was originally built in 2001 as a part of a mitigation project to offset the loss of sockeye salmon spawning habitat. Many habitat enhancement/restoration projects do not require other City land use permits; therefore under current code these projects are not exempt from the Special Grade and Fill Permit. However, other projects that result in grading activities over 500 cubic yards are exempt from the Special Grade and Fill Permit as long as another City permit is required. For example, a Short Plat or a Site Plan Review in conjunction with planned grading work would exempt a project from the Special Grade and Fill Permit.

RMC 4-4-060 lists the purpose of the Grading, Excavation, and Mining Regulations. RMC 4-4-060 states six purposes for this code section which are as follows:

1. Provide a means of regulating mining, excavation and grading to promote the health, safety, morals, general welfare and esthetics in the City of Renton.
2. Promote the progressive rehabilitation of mining, excavation and grading sites to a suitable new use.
3. Protect those areas and uses in the vicinity of mining, excavation and grading activities against detrimental effects.
4. Promote safe, economic, systematic and uninterrupted mining, excavation and grading activities within the City of Renton.

5. Minimize adverse stormwater impacts generated by the removal of vegetation and alteration of landform in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit.
6. Protect water quality from the adverse impact associated with erosion and sedimentation in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit.

The above purpose statement focuses on grading for mining purposes in addition to mining and grading activities for upland areas (lands not covered by water). Furthermore, RMC 4-9-080C.3 exempts wells, tunnels or installation of service utilities by public and private utilities. This exemption identifies the intent of the code section to exempt public projects that may result in grading activities. However, this exemption does not specifically identify habitat enhancement projects and/or projects on lands covered by water.

Furthermore, any project that is conducted on lands covered by water requires SEPA Environmental Review, and other permits depending upon the specific proposal. In the case of the Elliot Spawning Channel, this project requires a Shoreline Exemption, Hydraulic Project Approval (HPA) from Washington State Department of Fish and Wildlife (WDFW), Concurrence from National Marine Fisheries Service (NMFS), Concurrence from United States Fish and Wildlife Service (USFWS), an Army Corps of Engineers permit, National Environmental Policy Act review (NEPA), and SEPA. The above permits review the impacts of the proposed project on the environment and the surrounding area, allow for public input, and provide notice to other agencies. As such, the significant permit requirements that are undertaken for lands covered by water far outweighs the permitting requirements for upland areas that may require additional local permitting. As such, public projects that result in dredging or adding fill to lands covered by water meet the intent of the projects expected to be exempt from the Special Grade and Fill Permit Requirements.

JUSTIFICATION:

Given the Purpose statement of RMC 4-4-060, Grading, Excavation, and Mining Regulations lack of reference to projects such as habitat restoration and/or enhancement, the current exemption for Public utilities, the extensive permit requirements for projects on lands covered by water, and the current exemption received for projects that have an additional local permit requirement, Public projects which result in dredging and/or fill over 500 cubic yards, located on lands covered by water, and require Federal and State permits should be exempt from the Special Grade and Fill Permit requirement.

DECISION: Public projects, resulting in dredging and/or fill over 500 cubic yards, located on lands covered by water, requiring Federal and State permitting shall be exempt from the Special Grade and Fill Permit requirement.

**PLANNING DIRECTOR
APPROVAL:**

C. E. "Chip" Vincent

DATE: June 20, 2011

**APPEAL
PROCESS:**

To appeal this determination, a written appeal--accompanied by the required filing fee--must be filed with the City's Hearing Examiner (1055 South Grady Way, Renton, WA 98057, 425-430-6515) no more than 14 days from the date of this decision. Your submittal should explain the basis for the appeal. Section 4-8-110 of the Renton Municipal Code provides further information on the appeal process.

**CODE
AMENDMENTS
NEEDED TO
IMPLEMENT**

DETERMINATIONS: Amend Code per the attached "Attachment A".

Attachment A

Amend RMC 4-9-080, Grading, Excavation and Mining Permits and Licenses, as follows:

C. EXEMPTIONS:

No person shall do any mining, excavation or grading without first having obtained a special permit from the Hearing Examiner and an annual license issued by the Development Services Division with the concurrence of the Building Official, except for the following:

1. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than five feet (5') after the completion of such structure.
2. Cemetery graves.
3. Excavations for water wells or tunnels or installation of service utilities by public and private utilities.
4. Public projects which result in dredging or placement of fill on lands covered by water provided State and Federal permits are required to complete the activity.
4. An excavation which (a) is less than two feet (2') in depth, or (b) which does not create a cut slope greater than five feet (5') in height and steeper than one and one-half horizontal to one vertical (1-1/2:1), or which does not exceed fifty (50) cubic yards on any one lot and does not obstruct a drainage course.
5. A fill less than one foot (1') in depth, and placed on natural terrain with a slope flatter than five horizontal to one vertical (5:1) or less than three feet (3') in depth, not intended to support structures, which does not exceed fifty (50) cubic yards on any one lot and does not obstruct a drainage course.
6. The construction or maintenance of on-site roads in remote areas; or excavation or grading for farming purposes; or on-site construction. In cases of on-site construction, the plans for such activities shall require the prior written approval of the City.