



**City of Milpitas
Building And Safety Department**

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Revision Number	

**BACKFILLING OF
SWIMMING POOL OR SPA**

Approved By: **Keyvan Irannejad, P.E.**
Chief Building Official

The purpose of this information is to establish the requirements for the backfilling of existing residential or commercial swimming pools or spas. The method of backfilling approved by the Milpitas Building & Safety Department (herein noted as “The Department”) depends on the intended future use of the fill. Please see below two options to backfill an existing swimming pool or spa. In both options, a **permit is required.**

I. BACKFILLING WITH STRUCTURAL COMPACTED FILL

A. Requirements for Placement of Structural Compacted Fill:

Preparation of ground surface prior to backfilling, specifications of fill materials, and backfill procedures for placement and compaction requirements shall be per soils report (See Item 5 below).

1. A permit shall be obtained with the total cubic yards of fill specified.
2. Swimming pool or spa water must not be drained into a storm drain. Instead it must be drained into the sanitary sewer system. This is usually done using a cleanout located in front or in the rear of the residence.
3. Existing gas/plumbing line shall be properly capped; electrical and related equipments shall be removed back to the panel.
4. The pool or spa shell must be removed.
5. A licensed soils engineer must prepare a soils report containing recommendations for the backfilling (including temporary excavation, grading specifications) and allowable bearing pressure for foundation design and submit it to the Department for review and approval.
6. The bottom of the excavation shall be inspected and approved by the Department and the soils engineer prior to placing of compacted fill.
7. The soils engineer shall supervise the backfilling work and provide a final report to the Department stating that the site is ready for future construction of structure.
8. A compaction report shall be submitted to the Department for review and approval.
9. No foundation, if proposed, shall be constructed before the compaction report is approved.

B. Inspections:

In accordance with the City of Milpitas Municipal Code, the Department shall be notified when the site is ready for each of the following inspections:

1. Bottom/excavation inspection;

2. Inspection after backfilling is complete;
3. Final inspection after all work is complete.

II. BACKFILLING WITH UNCERTIFIED FILL AND LEAVING THE POOL OR SPA SHELL IN PLACE

A. Conditions of Approval:

Leaving the pool or spa shell in-place and backfilling with uncertified fill may be allowed in self contained areas where the fills are not to be used to support buildings or structures and no hazard will be created as determined by the Department.

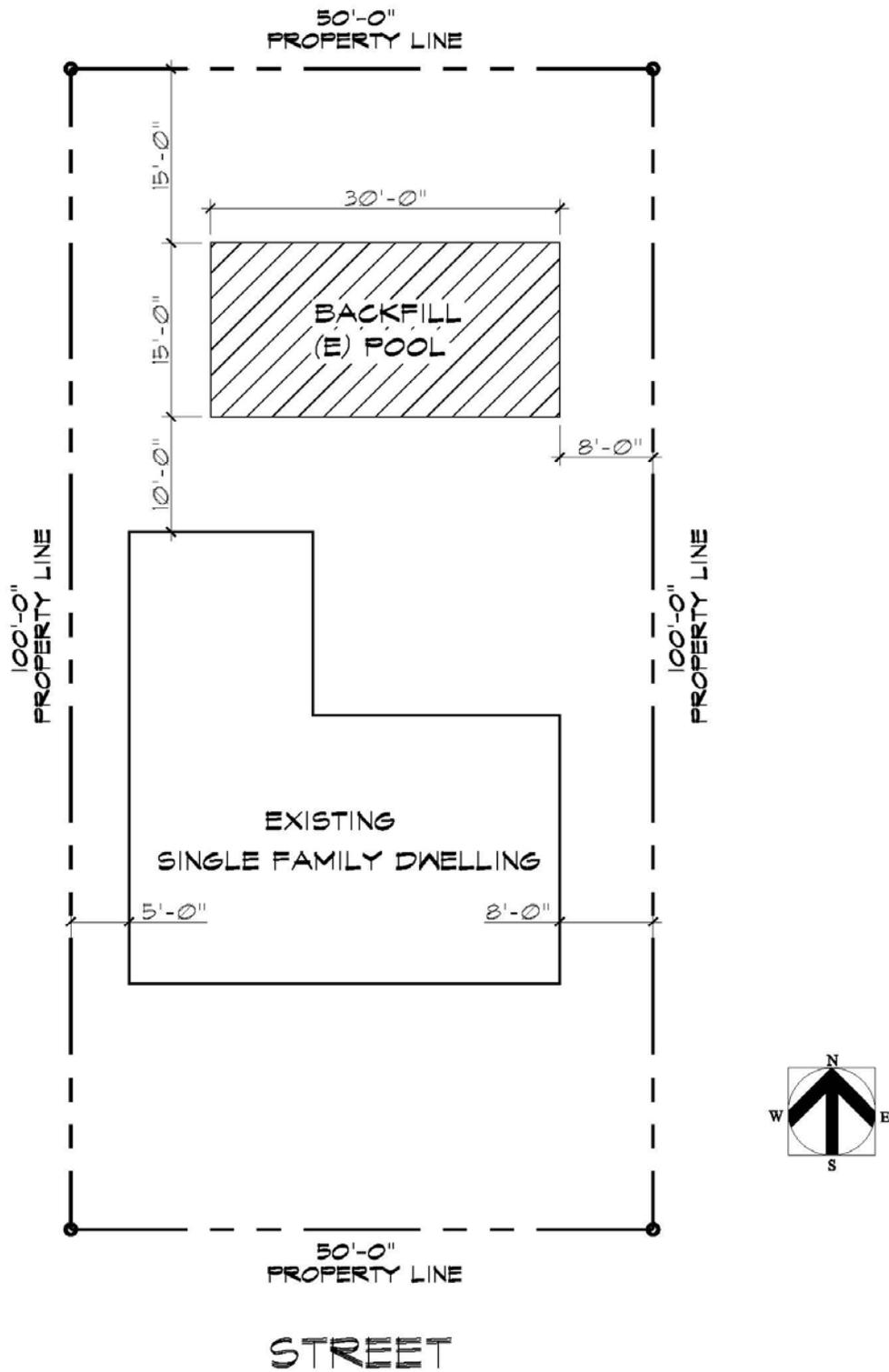
1. A permit shall be obtained with the total cubic yards of fill specified. The permit shall indicate that the fill is uncertified.
2. Swimming pool or spa water must not be drained into a storm drain. Instead it must be drained into the sanitary sewer system. This is usually done using a cleanout located in front or in the rear of the residence.
3. Existing gas/plumbing line shall be properly capped; electrical and related equipments shall be removed.
4. A plot plan showing the pool or spa location and distances to all buildings and property lines will be required (*see page 3 for example*)
5. The plot plan shall have the following notes:
 - Four drainage holes, a minimum of 12 inches in diameter, shall be provided in the concrete in the DEEP END of the pool or spa bottom at a maximum of 8 feet apart to facilitate drainage. One hole shall be located in the deepest section of the pool or spa shell.
 - Backfill shall consist of clean soil or gravel and shall be moistened and tractor rolled or tamped with a whacker into place.
6. The backfilled area shall be used for landscaping purpose only.
7. The existing pool or spa shall not be located on ground sloping steeper that 10 percent. In the event that the pool is located on ground sloping greater than 10 percent, then the backfilling procedures in Part I of this policy shall be followed.
8. A "Covenant and Agreement Regarding the Maintenance of Uncertified Fill" form as attached with this Policy must be completed. The Department's approval of the document must be obtained prior to filing the agreement with the County Recorder. A **certified copy** of the recorded document must be provided to the Department prior to the issuance of the permit. Refer to "Recordation of Documents" as attached for more detail.
9. Prior to placing any fill, obtain inspection approval from the Department for the required four drainage holes and removal of the gas, plumbing, electrical and related equipment.
10. If bond beam is demolished, the concrete debris from the bond beam may be placed in the bottom of the pool to facilitate drainage; provided, however, no concrete debris less than 6" in diameter, including coping, are placed within the two drainage holes.

B. Inspections:

In accordance with the City of Milpitas Municipal Code, the Department shall be notified when the site is ready for each of the following inspections:

1. Bottom inspection after required drainage holes have been made and prior to placing any fill;

2. Inspection after backfilling is complete;
3. Final inspection after all work is complete.



EXAMPLE OF REQUIRED PLOT PLAN



RECORDATION OF DOCUMENTS

As part of the building permit review and approval process, the Chief Building Official may require certain documents to be recorded with the County of Santa Clara, Clerk-Recorder's Office.

Recordation of documents provides constructive notice to the public and future property owners of the existence and content of executed agreements, understandings, conditions or covenants made or imposed, in conjunction with specific buildings, sites or building permit activities.

Building & Safety Department Document Types: Documents commonly required to be recorded include, but are not limited to:

Covenant for Off-Site Work: Use the standard Building & Safety Department Form

Covenant and Agreement regarding Maintenance of Uncertified Fill: Use the standard Building and Safety Department Form

Other declarations: Other recorded documents, such as declaration of a non-sleeping room area, should be in letter format with careful attention to leaving 2 ½ inches high x 4 ½ inches wide blank space at the top right-hand corner of the page/s for recorder's office use and 2 ½ inches high x 4 inches wide space at the top left-hand corner to list the name and address to which the original documents are to be mailed back. The document size can be either letter size (8 ½ x 11) or legal size (8 ½ x 14).

Please follow the steps outlined below when recording covenant and agreement or declaration document:

1. Obtain and fill out the appropriate covenant form as listed above or, if other type of declaration document is needed, consult with the staff assigned to your project for the appropriate wording and document format. All documents for recording must be clear and legible using typewritten or clearly printed lettering.
2. Provide a plot plan, sketch or other relevant documents as required for the covenant and agreement or by the staff assigned to your project.
3. Provide a copy of proof of ownership for verification (e.g. grant deeds) including the legal description of the subject property. The owner's name on the proof of ownership, covenant, plans and permit applications **MUST** be identical.
4. Secure the proper signature(s) of the owner(s) of the subject property on the covenant and agreement. All signatures must be acknowledged before a Notary Public on the California All-Purpose Acknowledgement notary form. The following table shows the proper signature(s) required for various types of ownership.

TYPE OF OWNERSHIP	REQUIRED SIGNATURE(S)
Individual	The Individual ⁽¹⁾
Partnership	One General Partner ⁽²⁾
Joint Venture	All Joint Venturers
Corporation	At least two of the following: The Chairman of the Board, President, Vice President, Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer ⁽²⁾
Limited Liability Corporation	Managing Member ⁽²⁾
Limited Liability Partnership	One General Partner ⁽²⁾

- (1) A husband and wife who jointly own a property need to both sign the required covenants.
 - (2) The person signing the covenant on behalf of the corporation or partnership must clearly state their capacity in the corporation or partnership.
5. The covenant and agreement form or declaration document **MUST** be signed and approved by the staff assigned to your project prior to recording. Please note that the Santa Clara County Clerk-Recorder's Office will not accept any documents that have been erased or altered in any manner.
 6. Record the covenant and agreement form or declaration document at the following location:

SC County Clerk-Recorder's Office

Recording Division

East Wing, First Floor

70 West Hedding Street (at First St)

San Jose, CA 95110

Hours: 8:00 am – 4:30 pm M-F Phone: (408) 299-5667

Recording Fee: Currently, the fee charged to record 8 ½ x 11 or legal size documents is: \$15.00 for the first page and \$3.00 for each additional page.

Over-the-Counter Recording: Recording services can be obtained over-the-counter provided you take the original document to be recorded and one copy. The Clerk-Recorder's Office will keep the original document and stamp the copy as a "Conformed Copy". The Building & Safety Department will accept the Conformed Copy as evidence of recordation.

Additional Information: If you need additional information about the Santa Clara County Clerk-Recorder's Office, call (408) 299-5667, visit the county website at www.sccgov.org or Email them at ClerkRecorder@REC.SCCGOV.ORG

Recorded at the request of and mail to:

(Name) _____

(Address) _____

SPACE ABOVE THIS LINE FOR COUNTY RECORDER'S USE

**COVENANT AND AGREEMENT
REGARDING MAINTENANCE OF UNCERTIFIED FILL**

(Pre-printed text shall not be changed except when done by an authorized Building and Safety Department employee.)

The undersigned hereby certify that (I am) (we are) the owner(s) of real property located in the City of Milpitas, State of California that is hereinafter legally described (as follows) (on the attached exhibit(s) _____):

LEGAL DESCRIPTION:

LOT _____ BLOCK _____ TRACT _____

LOT _____ BLOCK _____ TRACT _____

LOT _____ BLOCK _____ TRACT _____

as recorded in BOOK _____ PAGE _____, Records of Santa Clara County.

This property is located and known as the following **ADDRESS:** _____

This covenant and agreement is executed as a condition of approval from the Building and Safety Department, City of Milpitas, State of California. I am (We are) fully aware that an existing pool or spa shell was left in-place and backfilled with uncertified fill on this site (SEE ATTACHED PLOT PLAN FOR LOCATION). Furthermore, I am (we are) fully aware that uncertified fills are not to be used to support buildings or structures. As a condition of the approval granted by the City of Milpitas, I (we) agree to use this area only for open space and not for any structural support.

This covenant and agreement shall run with all of the above described land and shall be binding upon ourselves, and future owners, encumbrances, their successors, heirs or assignees and shall continue in effect until released by the authority of the Chief Building Official of the City of Milpitas upon submittal of request, applicable fees and evidence that this covenant and agreement is no longer required by law.

**SIGNATURES
MUST BE
NOTARIZED**

Owner's Name _____
(Please type or print)

Signature of Owner _____
(Signature)

Two Officer's Signatures
Required for Corporation _____
(Signature)

Name of Corporation _____
(Please type or print)

Dated this _____ day of _____, 20_____

STATE OF CALIFORNIA, COUNTY OF _____

On _____, before me, _____, personally appeared

_____, who proved to me the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under **PENALTY OF PERJURY** under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal.

Signature _____
(Signature of Notary Public)

FOR DEPARTMENT USE ONLY
MUST BE APPROVED BY MILPITAS BUILDING AND SAFETY DEPARTMENT PRIOR TO RECORDING

APPROVED BY _____ DATE _____
(Print Name) (Signature)