

Part IV
Article XXVIII

EROSION CONTROL ON SITES WITH LAND DISTURBING ACTIVITIES

Section 2800 General

A. AUTHORITY

This ordinance is adopted under the authority granted by Indiana Code 36-1-4-11, 36-7-4, and all acts supplemental and amendatory thereto. This authority provides for the administration, enforcement and amendment of this ordinance for controlling soil erosion in the City of Valparaiso, Indiana.

B. FINDINGS AND PURPOSE

1. **FINDINGS.** The Common Council of the City of Valparaiso, Indiana finds that soil erosion resulting from land disturbing activities can cause a significant amount of sediment and other pollutants to be transported to locations including watercourses, wetlands, lakes and reservoirs.
2. **PURPOSE.** The purpose of this ordinance is to preserve certain natural resources; to protect the quality of air and water, and to protect and promote the health safety and welfare of our citizens, to the extent practical by minimizing the amount of sediment and other pollutants resulting from soil erosion that is a result of land disturbing activities, from being transported to adjacent lands, watercourses, wetlands, lakes and reservoirs.

C. OBJECTIVE

The objective of this ordinance is the control of wind borne and/or water borne soil erosion and the resulting sedimentation that is accelerated by land disturbing activities in the City of Valparaiso. Measures taken to control erosion and sedimentation should assure that sediment is not transported to improper locations by wind or water. The intent of this ordinance is to require practices that will control soil erosion and thereby minimize the amount of soil and sediment leaving sites where the vegetative cover has been disturbed. The ordinance applies to land disturbing activities including those associated with agricultural, commercial, industrial, institutional, residential and highway development.

D. DEFINITIONS

The following definitions apply to this ordinance:

1. "Applicant" means the specific person executing the application form for the permit.
2. "Board" means the Board of Public Works and Safety of the City of Valparaiso, or their designated representative(s).
3. "Erosion" means the wearing away of the land surface by water, wind, ice, gravity, or other geological agents.
4. "Erosion control measure" means a specific practice, or combination of practices, to control erosion and resulting sedimentation.
5. "Erosion control plan" means a written description of pertinent information, drawings, sketches, reports, and other appropriate data concerning erosion control measures designed

to meet the requirements of this ordinance for a specific site and activity, and submitted to the Board for approval.

6. "Land disturbing activity" means any person-made change of the land surface, including removing vegetative cover, excavating, filling, and the related transport of excavated materials on city streets.
7. "Person" means any entity, including an individual, corporation or partnership holding title to or having an interest in land, operating, leasing, renting or having made other arrangements with the title holder by which the title holder authorizes use of his or her land. "Person" also means any agent, representative, contractor, sub-contractor, consultant or other individual authorized by the title holder to act on his behalf for the purposes of this ordinance.
8. "Runoff" means that portion of precipitation, snow melt, or irrigation that flows over the ground surface.
9. "Site" means the entire area included in the legal description of the land on which the land disturbing activity is proposed. "Site" also means the lands on which land disturbing activities take place which may be outside the legal description but are necessary for the completion of the improvements.
10. "Watercourse" means a storm sewer, culvert, ditch, swale, stream, ravine, channel, cunette, or other means (natural or man-made) which conveys water from one location to another.

E. APPLICABILITY

This ordinance applies to all land disturbing activities within the boundaries and jurisdiction of the City of Valparaiso, Indiana, except for the following:

1. Land disturbing activities involving less than 3000 square feet of land, unless those sites are immediately adjacent to a storm sewer inlet, ditch, stream, wetland or other watercourse, or unless those sites are on ground with a slope of 6 percent or greater.
2. Land disturbing activities specifically exempted in writing by the Board, or their authorized representative, because of conditions unique to the site that make the use of soil erosion controls unnecessary.

F. GENERAL DESIGN PRINCIPLES

The following principles apply to all land disturbing activities within the City and should be considered when preparing construction plans and/or submissions required under this ordinance:

1. To minimize the potential for soil erosion, development should fit the topography and soils of the site. Areas with steep slopes where deep cuts and fill would be required should be avoided.
2. Natural vegetation should be maintained and protected wherever and whenever possible. Areas immediately adjacent to watercourses, wetlands and lakes should be left undisturbed wherever possible.

3. All construction activities on a site should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
4. Sediment basins, silt traps and filters should be installed prior to the beginning of construction to remove as much sediment as possible from runoff leaving the site or entering watercourses, wetlands, lakes or reservoirs.
5. The selection of soil erosion and sedimentation control measures should be based on the size of the project, the frequency of climatic events likely to accelerate erosion, the season during which the project is being constructed, and the potential for damage should erosion and sedimentation occur.
6. In the design of erosion and sedimentation control measures the requirements for proper maintenance should be considered.
7. Provision should be made to accommodate the increased runoff caused by changed surface and soil conditions both during and after development. Drainage ways should be designed so that their final gradients and resultant velocities will not cause erosion.
8. Provision should be made for the proper transport of soil from the site without tracking or spilling soil along the transport route.
9. Permanent vegetation and erosion control structures should be installed and temporary structures removed prior to the issuance of final occupancy permits.

Section 2810 Design Criteria, Standards and Specifications

All erosion control measures, including, but not limited to those required to comply with this ordinance, shall meet the design criteria, standards and specifications as adopted by the Board and those listed in the "INDIANA HANDBOOK FOR EROSION CONTROL IN DEVELOPING AREAS".

Section 2820 Specific Requirements

Control of erosion and sediment through the entire duration of the land disturbing activity is the responsibility of the applicant. The following measures shall be utilized where required to provide the necessary control.

1. Runoff from off-site and flowing through the land in question shall be diverted around the land disturbing activity by means of swales, channels, ditches, culverts or storm sewers. The diversion may be a temporary installation, utilized only until the land disturbing activity is complete, or it may be a permanent part of the proposed improvement on the land. Such diversion shall not be such that it causes drainage or erosion problems down stream.
2. Any detention basin proposed for the site should be utilized during construction as a sediment basin to trap as much soil as possible. Such basins shall be designed for this purpose, utilizing over excavation for temporary sediment storage, temporary perforated standpipes and or stone filters as required by proper engineering design.

3. Temporary sediment traps may be required in areas where runoff exits the site and is likely to carry sediment from eroded soils on the site. The temporary traps shall be sized proportionate with the expected flow rate from the site.
4. Ingress and egress to the site shall be by way of coarse stone drive(s) of sufficient length to cause soil picked up by the tires of vehicles to be dropped before the vehicle enters the roadway. Drives shall be designed and situated so that they provide maximum protection against tracking of soil or mud onto the street. For single family and duplex home sites the stone drive should coincide with the final location of the drive to the residence.
5. Drain inlets and entrances to culverts shall be protected with an installation of silt fence.
6. All disturbed ground left inactive for a period of twenty-one (21) days shall be seeded, sodded or stabilized with mulch or equivalent. Between the dates of October 1 and the release of the frost law in the following year, the disturbed ground shall be stabilized with the use of silt fence or approved equivalent.
7. Storage piles of soil left for longer than 3 days shall be completely encircled with silt fence. If left inactive or unused for longer than twenty-one (21) days the pile shall be seeded, sodded, or covered with a mulching fabric or tarpaulins.
8. Stone check dams shall be used in open drainage courses to slow velocities of the runoff and allow sediment to drop out of the runoff.
9. Silt fence shall be installed along the down slope edges of all disturbed areas on the site. In general, silt fence shall be installed at the edges of pavements, adjoining properties and open water courses whenever the adjacent ground slopes towards that street, adjoining property or watercourse.

Section 2830 Maintenance of Erosion Control Measures

All erosion control measures shall be maintained throughout the course of the construction or until the growth of vegetation has made them unnecessary. If silt fence is temporarily removed to allow access to a portion of the site it shall be re-installed at the end of the work day. The applicant is responsible for the maintenance of all erosion control measures.

Section 2840 Erosion Control Plan

An erosion control plan, (the plan) shall be submitted with each application for an Erosion Control Permit. The Board shall have the authority to waive any of the requirements for the plan.

A. ONE, TWO AND THREE FAMILY HOME SITES

The erosion control plan for one, two and three family home sites shall be made a part of the sketch provided with the application for a building permit. It shall be prepared by the applicant and shall show, as a minimum, the direction of surface slopes (arrows), any watercourses on the lot, and the location of the silt fence and/or other erosion control installations proposed.

B. MULTI-FAMILY, AND ALL NON-RESIDENTIAL SITES

The Erosion Control Plan for multi-family and all non-residential sites shall conform to the following:

1. The plan shall be prepared by an Indiana Licensed Professional Land Surveyor, Engineer, Architect or Landscape Architect.
2. The plan shall be drawn to a scale adequate to clearly show the site and the required information. In no case shall the plan be drawn to a scale less than 1"=100'.
3. The plan may incorporate one or more sheets as necessary to clearly convey the intent of the plan. The plan may also incorporate text to explain any specifics of the plan, cover the specifications for the materials required or convey the development phasing.
4. As a minimum the plan shall show all existing and proposed:
 - a. Site boundaries, lots, etc.
 - b. All watercourses (with sizes), ponds, lakes, wetlands.
 - c. Apparent floodplains, floodway fringes, and floodways.
 - d. Soil types and their erodability. The information provided in the Soil Survey of Porter County, Indiana, as published by the U.S. Dept. of Agriculture, Soil Conservation Service, is appropriate.
 - e. Vegetative cover such as crops, grass, weeds, and/or trees.
 - f. Utilities, structures, road pavements and other improvements.
 - g. Existing contours at an interval not greater than 2 feet. An adequate number of spot elevations may be provided in lieu of the contours.
 - h. Locations and dimensions (where applicable) of all proposed erosion control measures.
 - i. Provisions for maintenance of the erosion control measures during the course of the project.
 - j. Provisions for removal of the temporary measures when final vegetation and control structures are established.

Section 2850 Permits

A. GENERAL

A permit shall be obtained for any land disturbing activity governed by this ordinance. The permit shall be on a form approved by the Board and shall be processed through the office of the City Engineer.

B. PERMIT CONDITIONS

All permits shall require the applicant to:

1. Notify the Engineering Department at least 24 hours before beginning any land disturbing activity.
2. Obtain the permission of the Board before modifying the erosion control plan.
3. Install and maintain all erosion control measures as identified in the erosion control plan.
4. Maintain all road drainage systems, storm water drainage systems and other facilities as identified in the erosion control plan.
5. Remove sediment resulting from land disturbing activities from adjacent surfaces and/or drainage courses.
6. Allow the Engineering Department to enter the site to verify compliance with the erosion control plan or to perform any work necessary to bring the site into compliance with the erosion control plan.

7. Submit a revised plan for approval if the nature of the project changes from that proposed under the permit.

C. PERMIT SURETY

Applicants for permits for individual one, two and/or three family home sites shall be exempt from the conditions of this sub-section.

As a condition of the approval and issuance of the permit the applicant shall provide surety in the amount of not less than \$5000 which shall remain in full force and effect throughout the length of the permit.

For contractors who regularly do work within the City on this or other types of projects may file a continuous surety bond with the City to cover the requirements of this section. Renewal notices shall be issued annually. Unless provided otherwise this same bond may be used to cover other City projects.

If a contractor maintains a performance bond recorded with Porter County and said bond includes all cities, towns and municipalities within the county under the coverage, the City will accept a copy of that bond in lieu of separate surety to the City. However, renewals, continuation certificates, and notices of cancellations must be directed to the City of Valparaiso by the bonding agency.

D. PERMIT FEES

The Board shall formally adopt a resolution establishing application fees for the erosion control permit. Such fees shall reflect the cost of reviewing the erosion control plan, verifying satisfactory surety, reviewing the permit application and inspecting the erosion control measures on the site.

E. LENGTH OF PERMIT VALIDITY

In the event that the land disturbing activities are not started within 6 months and/or the work is not completed within 3 years from the date of the permit said permit shall become invalid and a new permit shall be obtained.

Section 2860 Enforcement

A. STOP WORK ORDER

The Board may post a stop work order per the provisions of chapter 30 of the Municipal Code for any work not conforming to the requirements of this ordinance. The stop work order may be lifted only after the work has been made to conform with this ordinance or by appeal to the Board. If, after the stop work order has been issued for a period of not less than 10 calendar days and the work is not in compliance with this ordinance the Board may serve notice of forfeit of any surety provided with the permit.

B. WITHHOLD PERMITS

The Building Commissioner may refuse to issue building permits to any applicant who is in violation of this ordinance and has received notification of that violation. The permits may be for sites other than those where the violations have occurred. The Building Commissioner may

withhold issuance of the permits until the violations are corrected to the satisfaction of the City Engineer.

C. FINES FOR VIOLATION

In addition to any and all other remedies set forth in this ordinance for a violation thereof, the City Engineer may, for any violation of this ordinance, levy a fine against the violator(s) of up to the maximum allowed by the provisions of the Ordinance Violations Bureau, Chapter 37 of the Municipal Code, for each occurrence, each day being a separate occurrence. The City Engineer shall notify the violator(s) of such fine, in writing, on a form approved by the Board. The violator shall pay the levied fine through the Local Ordinance Violations Bureau. The City Engineer may levy a fine for each and every day that the violation is continued.

D. REVOCATION OF SURETY

In the event that other enforcement remedies listed herein do not cause the correction of the violation(s) the Board, acting on the recommendation of the City Engineer, may initiate a claim upon any bond or surety posted with the application. The Board may seek recovery of any costs associated with the correction of the violation(s) along with any fines levied and not paid.

E. COURT ACTION

The Board may elect, in lieu of the fine set forth above but in addition to all other remedies set forth in this Ordinance, to seek a fine for such violation in a court of competent jurisdiction in an amount up to the maximum permitted by IC 36-1-3-8.

Section 2870 Administrative Appeals - Judicial Review

A. BOARD OF ZONING APPEALS

The Board of Zoning Appeals of the City of Valparaiso shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Board in administering this ordinance.

Upon appeal, the Board of Zoning Appeals may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hindrances.

B. JUDICIAL REVIEW

Final decisions of the Board of Zoning Appeals are subject to review by Porter County Circuit Court provided an appeal is filed within 30 days from the date of final decision of said Board.

Section 2880 Effective Date

This ordinance shall be in full force and effect from and after passage by the Common Council of the City of Valparaiso, Indiana and the approval by the Mayor of the City of Valparaiso, Indiana.

Section 2890 Severability

Should any portion or clause of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction the remaining portions of this ordinance shall be given their full force and effect to the extent reasonable and logical.