

**CHAPTER 57:  
EROSION AND SEDIMENT CONTROL**

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**GENERAL PROVISIONS**

**57.01 PURPOSE**

The purpose of this Chapter is to conserve natural resources, to protect air and water quality, and to protect and promote the health, safety, and welfare of the people to the extent practicable by: minimizing the amount of sediment and other pollutants resulting from soil erosion due to land-disturbing activities from being transported off-site to adjacent public or private lands including ditches, streams, lakes, wetlands, reservoirs, storm sewers and MS4 conveyances.

**57.02 AUTHORITY**

This Chapter 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 Chapter for controlling soil erosion in the City of Richmond.

### 57.03 APPLICABILITY

This Chapter applies to nonagricultural land-disturbing activities on land within the corporate boundaries and jurisdiction of the City of Richmond, including commercial, industrial, residential, and highway development.

### 57.04 RESPONSIBILITY FOR ADMINISTRATION

The City of Richmond shall administer, implement, and enforce the provisions of this Chapter by and through the City Engineer's office. Any powers granted or duties imposed upon the City of Richmond may be delegated in writing by the City to persons or entities acting in the beneficial interest of or in the employ of the City.

### 57.05 COMPATIBILITY WITH OTHER PERMIT AND CHAPTER REQUIREMENTS

This Chapter is not intended to interfere with, abrogate, or annul any other Chapter, rule or regulation, statute, or other provision of law. The requirements of this Chapter should be considered minimum requirements, and where any provision of this Chapter imposes restrictions different from those imposed by any other Chapter, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

### 57.06 SEVERABILITY

The invalidity of any section, clause, sentence, or provision of this Chapter shall not affect the validity of any other part of this Chapter which can be given effect without the invalid part or parts. (Ord. 54-1981)

### 57.07 DEFINITIONS

For the purposes of this Chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "AGRICULTURAL LAND USE" --The use of land for the production of animal or plant life, including forestry, pasturing or yarding livestock, and planting, growing, cultivating, and harvesting crops for human or livestock consumption.
- (b) "CITY" – The City of Richmond, or designated party.
- (c) "EASEMENTS" -- An acquired legal right for the specific use of land owned by others. (Ord. 54-1981)

- (d) "EROSION" -- The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.
- (e) "EROSION CONTROL MEASURE" -- A practice or a combination of practices to control erosion and resulting sedimentation.
- (f) "EROSION AND SEDIMENT CONTROL PLAN" -- A written description of pertinent information concerning erosion control measures designed to meet the requirements of this Chapter as submitted by the applicant for the review and approval of the City of Richmond.
- (g) "LAND-DISTURBING ACTIVITY" -- Any manmade change of the land surface including removing vegetative cover, excavating, filling, transporting, and grading. In the context of this Chapter, it includes only nonagricultural land-disturbing activities.
- (h) "MS4" -- Municipal Separate Storm Sewer System
- (i) "NONAGRICULTURAL LAND USE" -- The commercial use of land for the manufacturing and wholesale or retail sale of goods and services, residential or institutional use of land intended primarily to shelter people, highway use of land including lanes, alleys, and streets, and other land uses not included under agricultural land use.
- (j) "NPDES PERMIT" -- National Pollution Discharge Elimination System Permit. A permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to water of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (k) "PERSON" -- Any individual, partnership, co-partnership, firm, company, corporation, association, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent or assigns legally capable of owning property in the State. (Ord. 54-1981)
- (l) "RUNOFF" -- The portion of the precipitation from such sources as rainfall, snowmelt, or irrigation water that flows over the ground surface.
- (m) "SITE" -- The entire area included in the legal description of the land on which land-disturbing activity has been proposed in the permit application.

## 57.08 DESIGN CRITERIA, STANDARDS, AND SPECIFICATIONS FOR EROSION CONTROL MEASURES

All erosion control measures including, but not limited to, those required to comply with this Chapter shall meet the design criteria, standards, and specifications for erosion control measures similar to or the same as those outlined in the “City of Richmond- Stormwater Development Manual”, “*Field Office Technical Guide of the USDA Natural Resources Conservation Services*” and the “*Indiana Handbook for Erosion Control in Developing Areas.*”

## 57.09 GENERAL REQUIREMENTS FOR ALL LAND-DISTURBING ACTIVITIES, WITH THE EXCEPTION OF INDIVIDUAL LOTS WITHIN A PERMITTED PROJECT

Control of erosion and sediment is the responsibility of the applicant. Design criteria, details, and specifications are located in the Stormwater Development Manual.

The following erosion and other sediment control requirements shall be met on all sites, with the exception of individual lots within a permitted project:

(a) **SITE DEWATERING:** Sediment-laden water flowing from the site shall be detained by temporary sediment basins. Also, water shall not be discharged in a manner that causes erosion in the receiving channel.

(b) **WASTE AND MATERIAL DISPOSAL:** Wastes or unused building materials including, but not limited to, garbage, debris, cleaning wastes, wastewater, toxic materials, and hazardous substances, shall not be carried by runoff from a site. Proper disposal of all wastes and used building materials, in line with the nature of the waste materials, is required.

(c) **TRACKING:** Sediment being tracked from a site onto public or private roadways shall be minimized. This can be accomplished initially by a well-planned layout of roads, access drives, and parking areas of sufficient width and length. However, protective covering also may be necessary.

(d) **SEDIMENT REMOVAL:** Public or private roadways shall be kept cleared of accumulated sediment. If appreciable sedimentation occurs after a storm event, the sediment shall be deposited on the parcels of land, if in the site, from where it likely originated.

(e) DRAIN INLET PROTECTION: All storm drain inlets shall be protected against sedimentation with straw bales, filter fabric, or equivalent barriers meeting accepted design criteria, standards, and specifications.

(f) SITE EROSION CONTROL: The following items apply only to the time period when land-disturbing activities are taking place:

(1) Runoff passing through a site from adjacent area shall be controlled by diverting it around disturbed areas. Alternatively, the existing channel may be improved to prevent erosion or sedimentation from occurring.

(2) Runoff from a disturbed area shall be controlled by one or more of the following measures:

(a) barring unforeseen weather conditions, all disturbed ground left inactive for seven or more days shall be stabilized prior to the tenth day by seeding, sodding, mulching, covering or by other equivalent erosion control measures.

(b) with disturbed areas within a site of 10 acres or more, where drainage is in the same direction or where runoff will result in loss of soil, an abatement or recovery program is required. Where feasible, one or more sediment basins shall be constructed. Each sediment basin shall have a depth of at least three feet and have sufficient surface area to trap the sediment. The size of sedimentation basin should be at least one percent of its drainage area. Sediment shall be removed from time to time to maintain a minimum three-foot depth. When the disturbed area is stabilized, the sediment basin can be removed. However, if erosion is likely to continue, the sediment basin shall be maintained by the existing or subsequent landowners. The discharge rate from a sediment basin shall not cause scouring in the receiving channel.

(c) with disturbed areas within a site of less than 10 acres, filter fences, straw bales, or equivalent erosion control measure placed along all sideslope and downslope sides of the site shall be required. However, if these measures are not sufficient to control off-site sedimentation, a sediment basin may still be required.

(3) Erosion from all storage piles shall be controlled by placing straw bales, filter fence or other appropriate barriers around the piles. Adjacent storm drain inlets shall be protected using similar

filter barriers. Moreover, any soil storage pile containing more than ten cubic yards of material may be located closer than 25 feet to a roadway or a drainage channel but shall be covered with tarps or suitable alternative if in existence for less than seven days. However, if a pile is in existence for more than seven days, barriers also shall be placed around the pile.

(4) IDEM Rule 5 requirements are addressed in Section 57.11.

#### 57.10 GENERAL REQUIREMENTS FOR INDIVIDUAL LOTS WITHIN A PERMITTED PROJECT

Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

- (a) The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.
- (b) Installation and maintenance of a stable construction site access.
- (c) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
- (d) Sediment discharge and tracking from each lot must be minimized throughout the land disturbing activities on the lot until permanent stabilization has been achieved.
- (e) Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.
- (f) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
- (g) For individual residential lots, final stabilization will be achieved when the individual lot operator:
  - (1) completes final stabilization; or
  - (2) has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

## 57.11 MAINTENANCE OF EROSION CONTROL MEASURES

During the period of land disturbance at a site, all sediment basins and other erosion control measures necessary to meet the requirements of this Chapter shall be applied by the applicant or subsequent landowner. If sedimentation is likely to be a problem after land-disturbing activities have ceased, some or all of the erosion control measures shall be maintained by the applicant or subsequent landowner for as long as the problem exists.

## 57.12 PERMIT APPLICATION, EROSION AND SEDIMENT CONTROL PLAN, AND PERMIT ISSUANCE

No person shall begin a land-disturbing activity subject to this Chapter without receiving approval of an erosion and sediment control plan. An application should be made after the initial coordination meeting with the City. By submitting an application, the applicant is implying that the City has been given permission to enter the site to obtain information required for review of the erosion and sediment control plan. This permit is in addition to a General Stormwater Permit (Rule 5) required under 327 IAC 15-5.

Applicability: This section applies to the following sites with land-disturbing activities: Those involving construction activities with a land disturbance greater than or equal to one (1) acre, or disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land.

(a) Content of erosion and sediment control plan for land-disturbing activities covering one or more acres in a given site.

(1) At a minimum, the Erosion and Sediment Control Plan shall include a project narrative, a vicinity map, construction plans and calculations. A detailed listing of the comprehensive plan requirements can be found in the Stormwater Development Manual.

(b) Content of Erosion and Sediment Control Plan for a single family residential development consisting of four (4) or fewer lots or a single-family residential strip development where the developer offers for sale or lease without land improvements, and the project is not part of a larger common plan of development or sale.

(1) At a minimum, the Erosion and Sediment Control Plan shall include a project narrative, a vicinity map, construction plans and

calculations. A detailed listing of the plan requirements can be found in the Stormwater Development Manual.

(c) Content of Erosion and Sediment Control Plan for individual lots within a permitted project.

(1) At a minimum, the Erosion and Sediment Control Plan shall include a project narrative, a vicinity map, construction plans and calculations. A detailed listing of the minimal plan requirements can be found in the Stormwater Development Manual.

(d) Review of the Erosion and Sediment Control Plan

The City shall review the application and erosion and sediment control plan in conjunction with the subdivision plat and local improvement permit application to determine whether the requirements of this Chapter have been met. If the conditions are not met, the City shall inform the applicant in writing and either may require additional information or may disapprove the plan. If requested, additional information shall be submitted. The City shall again determine whether the plan meets the requirements of this Chapter. If the plan is disapproved, the City shall inform the applicant in writing, giving reasons for disapproval.

(e) Permits

(1) Surety Bond

As a condition of approval and issuance of the permit, the City shall require the applicant to provide a surety bond or an irrevocable letter of credit when the erosion and sediment control plan has been approved to guarantee a good faith execution of the erosion and sediment control plan and any permit conditions.

(2) Notification Requirements

(a) Notify the City at least 24 hours before commencing with any land-disturbing activity;

(b) Notify the City of the completion of erosion control measures within seven days after their installation;

(c) Obtain approval from the City prior to implementing any changes to the most recently approved erosion and sediment control plan;

(d) Install all erosion control measures as identified in the approved erosion and sediment control plan;

(e) Maintain all road drainage systems, stormwater drainage systems, erosion control measures, and other facilities identified in the erosion and sediment control plan until the project has been terminated (See Section 57.11 for continuing maintenance responsibility).

(f) Where legal, remove sediment resulting from land-disturbing activities from adjacent surfaces and drainageways and/or repair erosion damage to adjacent surfaces and drainageways; and

(g) Allow the City to enter the site for verifying compliance with the erosion and sediment control plan or for the performing of any work necessary to bring the site into compliance with the erosion and sediment control plan.

### 57.13 INSPECTION

To ensure compliance with the erosion and sediment control plan, the City shall inspect sites having ongoing land-disturbing activities as deemed appropriate by the City.

If land-disturbing activities are being carried out without a permit, the City shall issue a stop work order pursuant to the provisions of IC 36-1-4-11 and IC 36-1-6-2.

### 57.14 PROPER CREDENTIAL OR IDENTIFICATION REQUIRED

The City shall present proper credentials or identification before entering upon property of the person.

### 57.15 ENFORCEMENT

(a) The City shall post a stop work order if:

- (1) Any non-complying land-disturbing activity regulated under this Chapter is being undertaken.
- (2) The erosion and sediment control plan is not being implemented in good faith; or
- (3) The conditions of the permit are not being met.

(b) Upon appeal to the City, a stop work order or the revocation may be retracted.

(c) Ten days after posting a stop work order, the City may issue a notice of intent to the violator stating that 14 days after issuing the notice of intent the City will use the surety bond to perform the work necessary to provide compliance with this Chapter.

(d) If, within five days after notification, a permit holder does not comply with the erosion and sediment control plan or permit conditions, the City shall revoke the permit.

(e) Administrative Fines

(1) When the City finds that a person has violated, or continues to violate, any provision of this Chapter, the City may impose an administrative fine against such person in an amount not to exceed \$2,500.00 on a per violation, per day basis, plus any administrative or remediation costs.

(2) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the person.

(f) Compliance with the provisions of this Chapter also may be enforced by injunction.

## 57.16 PROJECT TERMINATION

An orderly and timely termination of a project with land-disturbing activities should be planned between all persons involved with a site.

(a) Nearing the end of a project, but prior to final land grading, seeding, and mulching, the person holding the permit should petition the City, in writing, to allow the installation of utility lines on the site. Those persons involved in the installation of utility lines shall perform their work promptly to minimize the time period during which some of the land may be left in a relatively unprotected state. After the utility lines have been installed, the person holding the permit shall promptly complete all erosion control activities.

(b) When a project has been completed, the person holding the permit shall petition, in writing, the City for approval of erosion control measures which are to remain on the site to evaluate the adequacy of these control measures.

(1) If the erosion control measures are approved, any surety bonds and/or letters of credit shall be released forthrightly. However, maintenance responsibilities (See Section 57.11) shall remain with

the person owning the land.

(2) If the erosion control measures are not approved because they are not in line with either the erosion and sediment control plan or the General Principles of this Chapter, the City shall notify, in writing, the person holding the permit of unacceptable features. After a minimum period of two weeks during which corrective measures are taken, a petition, again in writing, may be sent asking the City to evaluate the adequacy of the erosion control measures. If, in good faith, the City again decides that the erosion control measures are inadequate, the City may delay the release of any surety bonds and/or letters of credit for up to two months. After an agreed upon time period of two months or longer has lapsed without corrective measures being taken, the City may use the surety bonds to finance changes or additions to the erosion control measures needed to complete the project.

#### 57.17 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

#### 57.18 JUDICIAL ENFORCEMENT REMEDIES

##### (a) Injunctive Relief

When the City finds that a person has violated, or continues to violate, any provision of this Chapter, an NPDES permit, or order issued hereunder, or any other standard or requirement, the City may petition through any court of general jurisdiction within Wayne County, for the issuance of a temporary or permanent injunction. The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the person to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a person.

##### (b) Civil Penalties

In addition to the administrative fines available herein, a person who has violated, or continues to violate, any provision of this Chapter, or order issued hereunder, or any other standard or requirement shall also be liable to the City for a maximum civil penalty of \$2,500.00 per violation, per day. Penalties shall accrue for each day during the period of the violation.

(c) The City may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the District.

(d) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the person's violation, corrective actions by the person, the compliance history of the person, and any other factor as justice requires.

(e) Filing a suit for civil penalties shall not be a bar against, or a prerequisite, for taking any other action against a person.

#### 57.19 REMEDIES NOT EXCLUSIVE.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.