

CHAPTER 152: SOIL EROSION AND SEDIMENTATION CONTROL

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§ 152.01 FINDINGS AND PURPOSE.

(A) *Findings.* The Village Board of Trustees hereby finds that:

- (1) Excessive quantities of soil may erode from areas undergoing development for certain non-agricultural uses, including, but not limited to, the construction of dwelling units, commercial buildings and industrial plants, the building of roads and highways, and the creation of recreational facilities;
- (2) The washing, blowing, and falling of eroded soil across and upon roadways endangers the health and safety of users thereof by decreasing vision and reducing traction of road vehicles;
- (3) Soil erosion necessitates the costly repairing of gullies, washed-out fills, and embankments;
- (4) Sediment from soil erosion tends to clog sewers and ditches and to pollute and silt rivers, streams, lakes, and reservoirs;
- (5) Sediment limits the use of water and waterways for most beneficial purposes, promotes the growth of undesirable aquatic weeds, destroys fish and other desirable aquatic life, and is costly and difficult to remove; and
- (6) Sediment reduces the channel capacity of waterways, resulting in increased chances of flooding at risk to public health and safety.

(B) *Purpose.* The Board therefore declares that the purpose of this Chapter is to safeguard persons, protect properly, prevent damage to the environment, and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or otherwise results in the movement of earth on land situated in the Village.

(Ord. 8-4-A, passed 2-17-1993)

§ 152.02 DEFINITIONS.

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

BUILDING PERMIT. A permit issued by the Village for the construction, erection, or alteration of a structure or building.

CERTIFY or CERTIFICATION. Formally attesting that the specific inspections and tests where required have been performed, and that the tests comply with the applicable requirements of this Chapter.

CUBIC YARDS. The amount of material in excavation and/or fill measured by the method of "average end areas."

EXCAVATION. Any act by which organic matter, earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed and shall include the conditions resulting therefrom.

EXISTING GRADE. The vertical location of the existing ground surface prior to excavation or filling.

FILL. Any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved by humans to a new location and shall include the conditions resulting therefrom.

FINAL GRADE. The vertical location of the ground or pavement surface after the grading work is completed in accordance with the site development plan.

GRADING. Excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

NATURAL DRAINAGE. Channels formed in the existing surface topography of the earth prior to changes made by unnatural causes.

PARCEL. All contiguous land in one ownership.

PERMITTEE. Any person to whom a site development permit is issued.

PERSON. Any individual, firm, or corporation, public or private, the state and its agencies or political subdivisions, and the United States of America, its agencies and instrumentalities, and any agent, servant, officer, or employee of any of the foregoing.

REMOVAL. Cutting vegetation to the ground or stumps, complete extraction, or killing by spraying.

SITE. A lot or parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT. Altering terrain and/or vegetation and constructing improvements.

SITE DEVELOPMENT PERMIT. A permit issued by the Village for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

STRIPPING. Any activity which removes the vegetative surface cover, including tree removal, clearing, and storage or removal of top soil.

VACANT. Land on which there are no structures or only structures which are secondary to the use or maintenance of the land itself.

VILLAGE. The Village of Port Barrington, Illinois.

(Ord. 8-4-A, passed 2-17-1993)

§ 152.03 GENERAL PROVISIONS.

- (A) It is the objective of this Chapter to control soil erosion and sedimentation caused by development activities in the Village. Measures taken to control erosion and sedimentation should be adequate to assure that sediment is not transported from the site by a storm event of ten-year frequency or less.
- (B) The following principles shall apply to all development activities within the Village and to the preparation of the submissions required under § 152.04.
- (1) Development should be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required should be avoided wherever possible, and natural contours should be followed as closely as possible.
 - (2) Natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to natural watercourses should be left undisturbed wherever possible.
 - (3) The smallest practical area of land should be exposed for the shortest practical time during development.
 - (4) Sediment basins, debris basins, desilting basins, or sill traps or filters should be installed and maintained to remove sediment from runoff waters from land undergoing development.
 - (5) The selection of erosion and sedimentation control measures should be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on evaluation of the risks, costs, and benefits involved.
 - (6) In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance should be considered.
 - (7) Provision should be made to accommodate the increased runoff caused by changed soil and surface conditions during and after development. Drainageways should be designed so that their final gradients and the resultant velocities of discharges will not create additional erosion.
 - (8) Permanent vegetation and structures should be installed as soon as practical during development.

(Ord. 8-4-A, passed 2-17-1993) Penalty, see § 152.99

§ 152.04 SITE DEVELOPMENT PERMIT.

- (A) *Permit required.* Except as otherwise provided in this Chapter, no person shall commence or perform any grading, stripping, excavating, or filling of land without having first obtained a site development permit from the Village.

(B) *Exceptions.* A permit shall not be required for any of the following:

- (1) Development of a site less than five acres for residential use, or of less than two and one-half acres for commercial or industrial use; provided that the person responsible for any such development shall implement necessary erosion and sedimentation control measures to satisfy the principles set forth in § 152.03;
- (2) Excavation below final grade for the basement and footings of a single-family residence and appurtenant structures on a site in excess of five acres for which a building permit has been issued by the Village;
- (3) Agricultural use of land, including the implementation of conservation measures included in a farm conservation plan approved by the Soil and Water Conservation District, and including the construction of agricultural structures; and/or
- (4) Installation, renovation, or replacement of a septic system to serve an existing dwelling or structure.

(C) *Application for permit.* Application for a site development permit shall be made by the owner of the property or his or her authorized agent to the Village on a form furnished for that purpose. Each application shall bear the name(s) and address(es) of the owner or developer of the site and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at the firm, and shall be accompanied by a filing fee of an amount established by the Village Board. Each application shall include certification that any land clearing, construction, or development involving the movement of earth shall be in accordance with the plans approved upon issuance of the permit.

(D) *Submissions.* Each application for a site development permit shall be accompanied by the following information:

- (1) A vicinity map in sufficient detail to enable easy location in the field of the site for which the permit is sought, and including the boundary line and approximate acreage of the site, existing zoning, and a legend and scale;
- (2) A development plan of the site showing:
 - (a) Existing topography of the site and adjacent land within approximately 100 feet of the boundaries, drawn at no greater than two-foot contour intervals and clearly portraying the conformation and drainage pattern of the area;
 - (b) The location of existing buildings, structures, utilities, water bodies, flood plains, drainage facilities, vegetative cover, paved areas, and other significant natural or human-made features on the site and adjacent land within approximately 100 feet of the boundary;
 - (c) A general description of the predominant soil types on the site, their location, and their limitations for the proposed use;
 - (d) Proposed use of the site, including present development and planned utilization; areas of excavation, grading, and filling; and proposed contours, finished grades, and street profiles;
 - (e) Provisions for storm drainage, including the control of accelerated runoff, with a drainage

area map and computations; kinds and locations of utilities; and areas and acreage proposed to be paved, covered, sodded or seeded, vegetatively stabilized, or left undisturbed.

(3) An erosion and sedimentation control plan showing:

- (a) All erosion and sedimentation control measures necessary to meet the objectives of this Chapter throughout all phases of construction and permanently after completion of development of the sites;
- (b) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures;
- (c) Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance; and
- (d) Identification of the person(s) or entity which will have legal responsibility for maintenance of erosion control structures and measures after development is completed.

(4) The proposed phasing of development of the site, including stripping and clearing, rough grading and construction, and final grading and landscaping. Phasing should identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, and the sequence of clearing, installation of temporary sediment control measures, installation of storm drainage, paving streets and parking areas, and establishment of permanent vegetative cover. These submissions shall be prepared in accordance with the standards and requirements contained in *Procedures and Standards for Soil Erosion and Sedimentation Control in Northeastern Illinois*, prepared by the Northeastern Illinois Erosion and Sedimentation Control Steering Committee, which standards and requirements are hereby incorporated into this Chapter by reference. The Village may waive specific requirements for the content of submissions upon finding that the information submitted is sufficient to show that the work will comply with the objectives and principles of this Chapter.

(E) *Bonds*. The applicant may be required to file with the Village a faithful performance bond or bonds, letter of credit, or other improvement security satisfactory to the Village Attorney in an amount deemed sufficient by the Village to cover all costs of improvements, landscaping, maintenance of improvements, and landscaping for the period as specified by the Village, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.

(F) *Review and approval*. Each application for a site development permit shall be reviewed and acted upon according to the following procedures.

(1) The Village will review each application for a site development permit to determine its conformance with the provisions of this Chapter. The Village may also refer any application to the McHenry County Soil and Water Conservation District and/or any other local government or public agency within whose jurisdiction the site is located for review and comment. Within 30 days after receiving an application, the Village shall, in writing:

- (a) Approve the permit application if it is found to be in conformance with the provisions of this Chapter, and issue the permit;

- (b) Approve the permit application subject to any reasonable conditions as may be necessary to secure substantially the objectives of this Chapter, and issue the permit subject to these conditions; or
- (c) Disapprove the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.

(2) No site development permit shall be issued for an intended development site unless:

- (a) The development, including, but not limited to, subdivisions and planned unit developments, has been approved by the Village where applicable;
- (b) The permit is accompanied by or combined with a valid building permit issued by the Village; or
- (c) The proposed earth moving is coordinated with any overall development program previously approved by the Village for the area in which the site is situated.

(3) Failure of the Village to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless the time is extended by agreement between the Village and the applicant. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Village.

(G) *Appeals.* The applicant, or any person or agency which received notice of the filing of the application, may appeal the decision of the Village, as provided in division (F)(3) above, to the Zoning Board of Appeals (ZBA). Upon receipt of an appeal, the ZBA shall schedule and hold a public hearing, after giving 15-days' notice thereof. The ZBA shall render a decision within 30 days after the hearing. Factors to be considered on review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands, any comprehensive watershed management plans, or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainageways; nature and type of soil or rock which when disturbed by the proposed development activities may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal of vegetation.

(H) *Retention.* Plans, specifications, and reports for all site developments shall be retained in original form or on microfilm by the Village.

(Ord. 8-4-A, passed 2-17-1993) Penalty, see § 152.99

§ 152.05 OPERATION STANDARDS AND REQUIREMENTS.

(A) *Applicability.* All grading, stripping, excavating, and filling which is subject to the permit requirements of this Chapter, and any grading, stripping, excavating, and filling which is exempted from the permit requirement by § 152.04(B)(1), shall be subject to the applicable standards and requirements set forth in this section.

(B) *Responsibility.* The permittee shall not be relieved of responsibility for damage to persons or property otherwise imposed by law, and the Village or its officers or agents will not be made liable for the damage, by:

- (1) The issuance of a permit under this Chapter;
- (2) Compliance with the provisions of that permit or with conditions attached to it by the Village;
- (3) Failure of Village officials to observe or recognize hazardous or unsightly conditions;
- (4) Failure of Village officials to recommend denial of or to deny a permit; or
- (5) Exemptions from the permit requirements of this Chapter.

(C) *Handbook adopted by reference.* The standards and specifications contained in *Procedures and Standards for Soil Erosion and Sedimentation Control in Northeastern Illinois*, cited in § 152.04(D), are hereby incorporated into this section and made a part hereof by reference for the purpose of delineating procedures and methods of operation under site development and erosion and sedimentation control plans approved under § 152.04. In the event of conflict between provisions of the manual and of this Chapter, this Chapter shall govern.

(D) *Inspection.*

(1) The Village shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the site development or erosion and sedimentation control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Village shall be maintained at the site during progress of the work. In order to obtain inspections, the permittee shall notify the Village at least two working days before the completion of:

- (a) Stripping and clearing;
- (b) Rough grading;
- (c) Final grading; and/or
- (d) Final landscaping.

(2) If stripping, clearing, grading, and/or landscaping are to be done in phases or areas, the permittee shall give notice and request inspection at the completion of each of the above work stages in each phase or area. If an inspection is not made and notification of the results given within five working days after notice is received by the Village from the permittee, the permittee may continue work at his or her own risk, without presuming acceptance by the Village. Notification of the results of the inspection shall be given in writing at the site.

(E) *Special precautions.*

- (1) If, at any stage of the grading of any development site, the Village determines by inspection that the nature of the site is such that further work authorized by an existing permit is likely to imperil any property, public way, watercourse, or drainage structure, the Village may require, as a condition of allowing the work to be done, that the reasonable special precautions to be taken as is considered advisable to avoid the likelihood of the peril. **SPECIAL PRECAUTIONS** may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction, or cribbing, installation of plant materials for erosion control, and recommendations of a registered soils engineer and/or engineering geologist which may be made requirements for further work.

- (2) Where it appears that storm damage may result because the grading on any development site is not complete, work may be stopped and the permittee required to install temporary structures or take any other measures as may be required to protect adjoining property or the public safety. On large developments or where unusual site conditions prevail, the Village may specify the time of starting grading and time of completion or may require that the operations be conducted in specific stages so as to ensure completion of protective measures or devices prior to the advent of seasonal rains.
- (F) *Amendment of plans.* Major amendments of the site development or erosion and sedimentation control plans shall be submitted to the Village and shall be processed and approved or disapproved in the same manner as the original plans. Field modifications of a minor nature may be authorized by the Village by written authorization to the permittee.
- (G) *Expiration of permit.* Every site development permit shall expire and become null and void if the work authorized by the permit has not been commenced within 180 days, or is not completed by a date which shall be specified in the permit; except that the Village may, if the permittee presents satisfactory evidence that unusual difficulties have prevented work being commenced or completed within the specified time limits, grant a reasonable extension of time if written application is made before the expiration date of the permit.

(Ord. 8-4-A, passed 2-17-1993)

§ 152.06 ENFORCEMENT.

- (A) *Exceptions.* The ZBA may, in accordance with the following procedures, authorize exceptions to any of the requirements and regulations set forth in this Chapter.
 - (1) Application for any exception shall be made by a verified petition of the applicant for a site development permit, stating fully the grounds of the petition and the facts relied upon by the applicant. The petition shall be filed with the site development permit application. In order for the petition to be granted, it shall be necessary that the ZBA find all of the following facts with respect to the land referred to in the petition:
 - (a) The land is of the shape or size or is affected by the physical conditions or is subject to the title limitations of record that it is impossible or impractical for the applicant to comply with all of the requirements of this Chapter;
 - (b) The exception is necessary for the preservation and enjoyment of a substantial property right of the applicant; and
 - (c) The granting of the exception will not be detrimental to the public welfare or injurious to other property in the vicinity of the subject property.
 - (2) Each applicant for an exception shall be referred to the Village for review. The Village shall transmit its recommendations to the ZBA, which shall review the recommendations prior to granting or denying the exception.
 - (3) The ZBA shall hold a public hearing on each application for exception, within 30 days after receiving application, in the manner provided with respect to appeals. After public hearing, the ZBA may approve the site development permit application with the exceptions and conditions it

deems necessary or it may disapprove the site development permit application and exception application or it may take any other action as appropriate.

(B) *Stop-work order; revocation of permit.* In the event any person holding a site development permit pursuant to this Chapter violates the terms of the permit, or carries on site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood of the development site or so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Village may suspend or revoke the site development permit.

(1) Suspension of a permit shall be by a written stop-work order issued by the Village and delivered to the permittee or his or her agent or the person performing the work. The stop-work order shall be effective immediately, shall state the specific violations cited, and shall state the conditions under which work may be resumed. A stop-work order shall remain in effect until the next regularly scheduled meeting of the ZBA, at which the conditions of division (B)(2) below can be met.

(2) No site development permit shall be permanently suspended or revoked until a hearing is held by the ZBA.

(a) Written notice of the hearing shall be served on the permittee, either personally or by registered mail, and shall state:

1. The grounds for complaint or reasons for suspension or revocation, in clear and concise language; and
2. The time when and place where the hearing will be held.

(b) The notice shall be served on the permittee at least five days prior to the date set for the hearing. At the hearing, the permittee shall be given an opportunity to be heard and may call witnesses and present evidence on his or her behalf. At the conclusion of the hearing the ZBA shall determine whether the permit shall be suspended or revoked.

(Ord. 8-4-A, passed 2-17-1993)

§ 152.99 PENALTY.

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this Chapter. Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor, and each day during which any violation of any of the provisions of this Chapter is committed, continued, or permitted shall constitute a separate offense. Upon conviction of any such violation, the person, partnership, or corporation shall be punished by a fine of not more than \$500 for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this Chapter shall be required to restore the site to the condition existing prior to commission of the violation, or to bear the expense of the restoration.

(Ord. 8-4-A, passed 2-17-1993)