

ARTICLE II. EROSION CONTROL*

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Sec. 42-31. Policy.

(a) This article establishes rules and regulations governing the control of erosion and sedimentation within the jurisdiction of the city. The provisions of this article shall apply to all new construction, existing buildings and structures, and all real property, whether vacant or improved.

(b) Private property owners, developers or builders shall be accountable for any erosion of their property or any construction site which results in measurable accumulation of sedimentation in dedicated streets and ditches and in adjacent and downstream properties. No person shall cause, suffer or permit an accumulation of sedimentation resulting from erosion on property owned, occupied or controlled by that person deeper than one inch in any street, alley, culvert, bar ditch, drainageway, or other private property. Any person in violation of this article shall be punished as provided in this article.

(c) All persons who own, occupy or are in control of real property within the city limits shall comply with the following standards:

- (1) Maximum use shall be made of vegetation to minimize soil loss.
- (2) Natural vegetation should be retained wherever possible.
- (3) Where inadequate natural vegetation exists, or where it becomes necessary to remove existing natural vegetation, temporary controls must be installed promptly to minimize soil loss and ensure that erosion and sedimentation does not occur.
- (4) An erosion control plan must be submitted to the city for approval by the building inspector or city engineer at the time of application and prior to actual construction.
- (5) Wastes or disposal areas and construction should be located and constructed in a manner that will minimize the amount of sediment entering streams and drainage ditches.
- (6) When work areas or material sources are located in or adjacent to live streams, such area shall be separated from the stream by a dike or other barrier to keep sediment from entering a flowing stream. Care shall be taken during the construction and removal of such barriers to minimize the sediment transport into a stream.
- (7) Should preventive measures fail to function effectively, the applicant shall act immediately to bring the erosion and/or siltation under control by whatever additional means are necessary.
- (8) Rainfall and stormwater runoff shall be diverted away from construction areas as much as possible without causing damage or increase in runoff to downstream properties.
- (9) Developers, builders or owners of property shall permanently stabilize all disturbed areas prior to final acceptance of the subdivision, project and/or building or structure. Stabilization shall be accomplished through the use of perennial vegetative cover or other permanent means, such as channel lining, retaining wall, etc.

(Ordinance 99-04, sec. 1(15.26.010), adopted 1/14/99)

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Sec. 42-32. Permanent and temporary erosion controls.

(a) Permanent erosion controls shall be installed at or near the end of a construction project when no further disturbance of the area will occur as a result of construction activity in order to permanently minimize soil loss by such methods as restoring ground cover, building retaining walls for steep slopes, or reducing wave or water action by lining channels or shorelines with gabions, jute mats, vegetation or similar materials.

(b) Temporary erosion control methods shall be used to abate sediment runoff from construction sites and shall be used and maintained throughout the duration of construction activity.

(Ordinance 99-04, sec. 1(15.26.020), adopted 1/14/99)

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Sec. 42-33. Erosion control barriers.

Erosion control measures shall be used in order to trap sediment and prevent high runoff velocities which cause erosion. Acceptable erosion control methods classified as acceptable barriers include straw bale sediment barriers, sandbag sediment barriers, check dam and sediment traps. (Ordinance 99-04, sec. 1(15.26.030), adopted 1/14/99)

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Sec. 42-34. Erosion control filters.

Filtering methods may be used in place of barriers which allow runoff to pass through but retain sediment by filtration. Acceptable types of filters are filter berms, filter fences, filter inlets and vegetation filter strips. (Ordinance 99-04, sec. 1(15.26.040), adopted 1/14/99)

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Sec. 42-35. Routing devices.

Subject to approval by the city's building inspector or city engineer, routing devices may be used to eliminate erosion problems by conveying water down steep slopes and other critical areas and across highly erodible soils where the filtration or capture of solids already moving in the water is not necessary. If approved, some methods classified under erosion control barriers may be used as routing devices to protect erodible areas such as sandbag sediment barriers and straw bale sediment barriers. (Ordinance 99-04, sec. 1(15.26.050), adopted 1/14/99)

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Sec. 42-36. Performance.

(a) No person shall cause, suffer, allow or permit an excessive accumulation of silt, sediment or soil in any stream or pond or on any other property, whether private or public, which originates on property owned or controlled by that person where such accumulation is caused by erosion. The foregoing prohibition applies in areas or properties where construction activity is underway, in areas in which buildings and structures exist, and to vacant properties.

(b) All construction sites where new construction or renovation is being or is to be conducted, whether residential or nonresidential, must have temporary erosion control measures in place during construction.

(c) All persons who own, occupy or are in control of real property within the city shall keep and maintain all culverts, bar ditches and drainageways on the property free and clear of accumulations of trash, debris, sediments and other matter which may impede the flow of water through the culverts, bar ditches and drainageways.

(Ordinance 99-04, sec. 1(15.26.060), adopted 1/14/99)

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Sec. 42-37. General provisions; intent.

During the land development process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat. Eroded soil also necessitates repair of sewers and ditches and the dredging of waterways. During the land development process, clearing and grading during construction cause the loss of native vegetation necessary for a healthy habitat. This article is intended to safeguard persons, protect property, and prevent damage to the environment while promoting the public welfare by regulating and controlling activity that disturbs or breaks the topsoil or results in the movement of earth on land. (Ordinance 13-10, sec. 2, adopted 10/24/13)

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Sec. 42-38. Definitions.

The following words, when used in this article, shall have the meanings respectively ascribed to them in this section, unless such construction would be inconsistent with the manifest intent of the terms of this article or where the context of this article clearly indicates otherwise.

City. The City of Lake Dallas, Texas, and, when in context, shall refer to the city manager or his delegate.

Clearing. Any activity that removes the vegetative surface cover.

Development or development activity. Any manmade change to an improved or unimproved site, including, but not limited to, construction of or adding buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, grading or clearing.

Drainage way. Any channel that conveys surface runoff throughout the site.

Erosion control. A measure that prevents erosion.

Erosion and sediment control plan. A set of plans indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction activity.

Grading. Any stripping, cutting, filling, stockpiling or combination thereof which modifies the existing land surface contour.

Land-disturbing activity. Any activity which may result in soil erosion from water or wind and the movement of sediments into public waters or onto public lands or adjacent property, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land. The term does not include home gardening activity and individual home landscaping repairs, fences, and other related activities which result in minor soil erosion.

Sediment control. Measures that prevent eroded sediment from leaving the site.

Site. A parcel of land or a contiguous combination thereof.

Site development permit. A permit for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading on a site.

Watercourse. Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water.

Waterway. A channel that directs surface runoff to a watercourse or to the public storm drain.

(Ordinance 13-10, sec. 2, adopted 10/24/13)

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Sec. 42-39. Permit required.

- (a) A person commits an offense if the person performs or causes to be performed any land-disturbing activity without an approved site development permit from the city.
- (b) It is an affirmative defense to prosecution of a violation of subsection (a) that the land-disturbing activity consists of one of the following activities:
- (1) An emergency activity that is immediately necessary for the protection of life, property, or natural resources;
 - (2) A nursery and/or agricultural operation existing as of the date of adoption of this section and conducted as a permitted use on the site; or
 - (3) Gardening or yard work for a residential dwelling disturbing less than 7,500 square feet of vegetation.
- (c) Each application shall be submitted to the city on a form maintained by the city and shall contain the name(s) and address(es), email addresses and phone numbers of the owner, and if different, the developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.
- (d) A person shall submit with their application a stormwater pollution prevention plan (SWPPP) for the property for which the land-disturbing activity is proposed. Additionally, if applicable, off-site borrow areas, spoil areas and construction staging areas shall be considered as part of the development site and shall be included in the SWPPP.
- (e) Each application shall include a signed statement by the applicant affirming that any land clearing, grading, construction, or development involving the movement of earth shall be conducted in accordance with the SWPPP approved with the site development permit.

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Sec. 42-40. Review and approval.

- (a) The city will review each application for a site development permit to determine its conformance with the provisions of this article.
- (b) After receiving an application, the city shall review the application and:
- (1) Approve the permit application;
 - (2) Approve with permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this article, and issue the permit subject to these conditions; or
 - (3) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application.

(Ordinance 13-10, sec. 2, adopted 10/24/13)

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Sec. 42-41. Stormwater pollution prevention plan.

- (a) The stormwater pollution prevention plan (SWPPP) shall include the following:
- (1) Site and activity description including site plan at a scale of no smaller than 1" = 40';
 - (2) Project and SWPPP contact(s) information;
 - (3) A description of all potential pollutant sources that could come into contact with stormwater leaving the site;
 - (4) Description of controls and best management practices to reduce pollutants during construction; and
 - (5) Maintenance, inspection and record procedures.
- (b) The city may approve modifications to the approved plan administratively.

(Ordinance 13-10, sec. 2, adopted 10/24/13)

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Sec. 42-42. Design and construction requirements.

- (a) A person who engages in land-disturbing activity shall comply with the SWPPP approved by the city. The person who owns the land for which the SWPPP is submitted shall install or cause to be installed and maintained the erosion control devices in accordance with the plan and this article.

(b) A person who engages in land-disturbing activity shall comply with the grading and erosion control practices, sediment control practices, and waterway crossings contained in the standards set forth in the building codes adopted by and in effect in the city.

(c) The SWPPP shall provide for all practices and erosion control devices that prevent runoff of soil from the site onto public streets, drainage easements, drainage facilities, storm drains, alleys, sidewalks or other property.

(d) The owner of the site, and if applicable, the site developer, shall implement and maintain the erosion control measures shown on its approved SWPPP in order to minimize the erosion and the transport of silt, earth, topsoil, etc., by water runoff or construction activities, beyond the limits of the site prior to beginning any land-disturbing activity.

(Ordinance 13-10, sec. 2, adopted 10/24/13)

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Sec. 42-43. Inspection.

(a) The city shall make regular inspections of the site for which the permit was granted to inspect all control measures outlined on the approved SWPPP(s). The purpose of such inspections will be to determine the overall effectiveness of the SWPPP and the need for additional control measures or maintenance to the control measures. The city shall either approve that portion of the work completed or notify the permit holder wherein the work fails to comply with the approved SWPPP.

(b) Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the city shall be maintained at the site during the progress of work.

(c) The site development permit shall, whether or not expressly stated therein, authorize the city to enter the property of the applicant as deemed necessary to make regular inspections to ensure the effectiveness of the erosion control measures.

(d) The city shall have a right of entry onto property to conduct such inspections as may be necessary to confirm that proper and effective erosion control measures have been constructed, implemented and installed. It shall be a violation of this article for any person to refuse such entry or to fail to call for such inspection in a timely manner.

(Ordinance 13-10, sec. 2, adopted 10/24/13)

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Sec. 42-44. Stop work order; suspension; appeal.

(a) In the event that a person holding a site development permit violates the terms of the site development permit or engages in development activity in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or the site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may issue a stop work order and suspend the site development permit. Any suspension shall state the reasons for which the permit is being suspended and shall advise the permit holder of their right to appeal.

(b) Any person whose site development permit has been suspended may, at any time, make written application for a reinspection for the purpose of reinstating the permit. If upon reinspection, the facility is found to be in

compliance, then the permit shall be reinstated.

(c) A permit holder may appeal the stop work order or suspension to the city manager by submitting a request in writing to the city secretary, who shall set a time for the appellant to have a hearing before the city manager. The appeal shall state the grounds for the appeal and notice of the meeting shall be sent to the permit holder at the address shown on the application. At the hearing, the permit holder may present any evidence and the city manager shall determine, based on preponderance of the evidence, whether the suspension shall be sustained, modified or rescinded. The decision of the city manager shall be final and binding.

(Ordinance 13-10, sec. 2, adopted 10/24/13)

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Sec. 42-45. Penalty.

- (a) A person commits an offense if the person conducts a land-disturbing activity and;
- (1) Fails to install erosion control devices or to maintain erosion control devices throughout the duration of land-disturbing activities, in compliance with the approved SWPPP for the location where the violation occurred;
 - (2) Fails to remove off-site sedimentation that is a direct result of land-disturbing activities where such off-site sedimentation results from the failure to implement or maintain erosion control devices as specified in an approved SWPPP for the location where the violation occurred;
 - (3) Fails to repair damage to existing erosion control devices, including replacement of existing grass or sod; or
 - (4) Constructs, enlarges, alters, repairs, or maintains any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this article.
- (b) Any person in violation of any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than \$1.00 nor more than \$2,000.00. Each separate offense may be punished separately, and each day during which such violation occurs or continues shall be deemed to constitute a separate offense. For the purposes of criminal enforcement, it shall not be a defense that the city failed to issue any notice described in this article. It is the intent of the city that a violation of any provision of this article shall be a strict liability offense; no allegation or proof of intent or of a knowing or intentional violation shall be necessary in any prosecution hereunder.
- (c) Any person convicted of violating any of the provisions of this article shall be required to bear the expense of restoration of any property damaged as a proximate result of the violation. The city shall send the person an invoice for the costs incurred to repair or remediate the property and the person shall pay the invoice within 30 days of receipt of the invoice.
- (d) Nothing contained herein shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation, including seeking injunctive relief, and the remedies provided for herein and in other codes or laws are cumulative.
- (e) No building permit or certificate of occupancy or other use permit may be issued for any construction, reconstruction or development upon any land where such construction, reconstruction or development is not in conformity with the requirements of this article. This shall include payment for the actual costs incurred by the city to restore or remediate any damages to property resulting from a violation of this article.

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Sec. 42-46. Miscellaneous provisions.

The erosion protection measures required by this article are considered reasonable for regulatory purposes and are based on scientific and engineering considerations. This article does not imply that erosion controls will survive inundation by runoff from storms greater than the design flood for erosion controls. This article shall not create liability on the part of the city, any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder. (Ordinance 13-10, sec. 2, adopted 10/24/13)

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Secs. 42-47–42-70. Reserved.