

CHAPTER 27

SOIL EROSION

27.01 An Ordinance to prevent soil erosion and sedimentation from non-agricultural development within the City of Lapeer requiring proper provisions for water disposal and the protection of soil surfaces during and after construction, in order to promote the safety, public health, convenience and general welfare of the community, *which shall be known and cited as the CITY OF LAPEER SOIL EROSION ORDINANCE.*

27.02 **DEFINITIONS**

The following definitions shall apply in the interpretation and enforcement of this Chapter:

(A) ACCELERATED SOIL EROSION

The increased lay of the land surface that occurs as a result of man's activities.

(B) BUILDING INSPECTOR

The chief of the Building Department of the City of Lapeer or his duly authorized representative.

(C) CERTIFICATION OF COMPLETION

A signed written statement by the Building Inspector that specific construction has been inspected and found to comply with all grading plans and specifications.

(D) EARTH CHANGE

A man-made change in the natural cover or topography of the land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the State.

(E) EROSION

The process by which the ground surface is worn away by action of wind, water, gravity or a combination thereof.

(F) EXCAVATION OR CUT

Any act by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced or relocated and shall include the conditions resulting therefrom.

(G) FLOOD PLAIN

That area which would be inundated by storm runoff or flood water equivalent to that which would occur with a rainfall or flood of one hundred (100) year recurrence frequency after total development of the watershed.

(H) GRADING

Any stripping, excavating, filling, stockpiling or and combination thereof, and shall include the land in its excavated or filled condition.

(I) GRADING PERMIT

A permit issued to authorize work to be performed under this Ordinance.

(J) LAND USE

A use of land which may result in an earth change, including but not limited to subdivision, residential, commercial, industrial, recreational or other development, private and public highway, road and street construction, drainage construction, logging operations, agricultural practices and mining.

(K) PERMANENT SOIL EROSION CONTROL MEASURE

Those control measures which are installed or constructed to control soil erosion and which are maintained after project completion.

(L) PERSON

A natural person, firm, corporation, partnership or association.

(M) STRIPPING

Any activity which removes or significantly disturbs the vegetative surface cover including clearing and grubbing operations.

(N) TEMPORARY SOIL EROSION CONTROL MEASURES

Interim control measures which are installed or constructed for the control of soil erosion until permanent soil erosion control is effected.

27.03 COMPLIANCE WITH CHAPTER REQUIRED FOR SITE PLAN PLAT APPROVAL

No site plan or plot plan or plat shall be approved under Chapter 6 or 7 of this code unless said site plan, plot plan or plat shall include soil erosion and sediment control measures consistent with the requirements of this Chapter and related development regulations.

27.04 COMPLIANCE WITH CHAPTER REQUIRED FOR OCCUPANCY

No certificate of occupancy for any building will be issued under Chapter 8 of this Code unless the applicant for said certificate shall have obtained a certifications of completion of all permanent soil erosion measures.

27.05 PERMITS AND FEES

(A) PERMIT REQUIREMENT

Except as exempted by Section 28.15 of this Chapter, no person shall do any grading, stripping, excavation or filling nor undertake any earth change unless he has a valid grading permit issued by the Building Inspector.

(B) PERMIT APPLICATION

A separate application shall be required for each grading permit. Plans, specifications and timing schedules shall be submitted with each application for a grading permit. The plans shall be prepared or approved and signed by a Professional Engineer or by an Architect. The City Building Inspector may waive the preparation or approval and signature by the Professional Engineer or Architect

when the work entails little hazard to the adjacent property and does not include the construction of a fill upon which a structure may be erected.

(C) APPLICATION DATA REQUIRED

The plans and specifications accompanying the grading permit application shall contain the following data:

- 1.** A vicinity sketch at the scale of one (1) inch equaling two hundred (200) feet indicating the site location as well as the adjacent properties within five hundred (500) feet of the site boundaries and the location of any lake, stream or drainage within five hundred (500) feet of earth change boundaries.
- 2.** A boundary line survey of the site on which the work is to be performed.
- 3.** A plan of the site at a scale of one (1) inch equaling one hundred (100) feet showing:
 - a.** Name, address and telephone number of the owner, developer and petitioner.
 - b.** A timing schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area prior to the completion of effective erosion and sediment control measures.
 - c.** A certified statement of the quantity of excavation and fill involved.
 - d.** Existing topography at a maximum of five (5) foot contour intervals.
 - e.** Proposed topography at a maximum of five (5) foot contour intervals.
 - f.** Location of any structure or natural feature on the site.

- g.** Location of any structure or natural feature on the land.
- h.** Location of any proposed additional structure or development on the site.
- I.** Elevations, dimensions, locations, extent and the slope of all proposed grading (including building and driveway grades).
- j.** The estimated total cost of the required temporary and permanent soil erosion control measures.
- k.** Plans of all drainage provisions, retaining walls, cribbing, planting, anti-erosion devices, or other temporary or permanent soil erosion control measures to be constructed in connection with, or as a part of, the proposed work together with a map showing the drainage area of land tributary to the site and estimated runoff of the area served by any drains.
- l.** Other information or data as may be required by the City Building Inspector such as a Soil Investigation Report which shall include, but not be limited to:
 - Date regarding the nature, distribution and supporting ability of existing soils and rock on the site.

(D) FEES

At the time of filing an application for the grading permit, a nonrefundable filing fee of five dollars (\$5.00) shall be paid to the City Treasurer. An additional nonrefundable fee of ten dollars (\$10.00) per acre of site area will be charged for plan review and site inspections (with a minimum fee of ten dollars (\$10.00) for such review and inspection). Such fees shall not be required where a building permit is also obtained for such work.

27.06 BOND REQUIREMENT

A grading permit shall not be issued unless the permittee shall first post with the City Clerk a bond executed by the owner and a corporate surety with authority to do business in this State as a surety. The bond shall be in a form approved by the City Attorney, payable to the City, and in the amount of the estimated total cost of all temporary or permanent soil erosion control measures. The total cost shall be estimated by the City Building Inspector. The bond shall include penalty provisions for failure to complete the work on schedule as specified on the grading permit. In lieu of a surety bond the applicant may file with the City Clerk a cash bond or an instrument of credit approved by the City Attorney in the amount equal to that which would be required for the surety bond.

Every bond and instrument of credit shall include and every cash deposit shall be made on the conditions that the permittee shall comply with all of the provisions of this Ordinance and all of the terms and conditions of the grading permit, and shall complete all of the work contemplated under the grading permit within the time limit specified in the grading permit, or if no time limit is specified, within one hundred eighty (180) days after the date of the issuance of the grading permit.

27.07 EXTENSION OF TIME

If the permittee is unable to complete the work within the specified time, he may, at least ten (10) days prior to the expiration of the permit present in writing to the Building Inspector a request for an extension of time setting forth the reasons for the requested extension. In the event such an extension is warranted, the Building Inspector may grant additional time for the completion of the work, but no such extension shall release the owner or the surety on the bond or the person furnishing the instrument of credit of cash bond.

27.08 FAILURE TO COMPLETE WORK

In the event of failure to complete the work or failure to comply with all the requirements, conditions, and terms of permit, the Building Inspector may order such work as is necessary to eliminate any danger to persons or property and to leave the site in a safe condition and he may authorize completion of all necessary, temporary or permanent soil erosion control measures. The permittee and the surety executing the bond or person issuing the instrument of credit or making the cash deposit shall continue to be firmly bound under a continuing obligation for the payment of all necessary costs and expenses that may

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be insured or expended by the City in causing any and all such work to be done. In the case of a cash deposit, unused portion thereof shall be refunded tot he permittee.

27.09 DENIAL OF THE PERMIT

Grading permits shall not be issued where:

- (A) The proposed work would cause hazards to the public safety and welfare; or
- (B) The work as proposed by the applicant will damage any public or private property or interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or sediment on any public way or into any waterway or create any unreasonable hazard to persons or property; or
- (C) The land area for which the grading is proposed is subject to geological hazard to the extent that no reasonable amount of corrective work can eliminate or sufficiently reduce settlement, slope instability or any other such hazard to persons or property; or
- (D) The land area for which the grading is proposed may lie within the flood plain of any stream or water course (not specifically designated and delineated by the City as an area submitted to flood hazard), unless a hydrologic report, prepared by a Professional Engineer, is submitted to certify that the proposed grading will have, in his opinion, no detrimental influence on the public welfare or upon the total development of the watershed.

27.10 MODIFICATIONS OF APPROVED PLANS

All modifications of the approved grading plans must be submitted and approved by the Building Inspector. All necessary sustaining report shall be submitted with any proposal to modify the approved grading plan. No grading work in connection with any proposed modification shall be permitted without the approval of the City Building Inspector.

27.11 RESPONSIBILITY TO PERMITTEE

During grading operations, the permittee shall be responsible for:

- (A) The prevention of damage to any public utilities or services within the limits of grading and along any routs of travel of the equipment.

- (B) The prevention of damage to adjacent property.
- (C) No person shall grade on land so close to the property line as to endanger any adjoining public streets, sidewalk, alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result.
- (D) Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of the permit and this Ordinance.
- (E) The prompt removal of all soil, miscellaneous debris or other materials applied, dumped or otherwise deposited on public streets, highways, sidewalks, or other thoroughfares during transit to and from the construction, where such spillage constitutes a public nuisance or hazard in accordance with Chapter 12.04(G).

27.12 GENERAL REQUIREMENTS

- (A) Any earth changes shall be conducted in such a manner which will effectively reduce accelerated soil erosion and resulting sedimentation.
- (B) All persons engaged in earth changes shall design, implement and maintain acceptable soil erosion and sedimentation and control measures, in conformance with the Soil Erosion and Sedimentation Control Act of 1972 and all official rules of the Michigan Water Resources Commission promulgated pursuant thereto, which effectively reduce accelerated soil erosion.
- (C) All earth changes shall be designed, constructed and completed in such a manner which shall limit the exposed area of any disturbed land for the shortest possible period of time.
- (D) Sediment caused by accelerated soil erosion shall be removed from runoff water before it leaves the site of the earth change.
- (E) Any temporary or permanent facility designed and construct for the conveyance of water around, through or from the earth change area shall be designed to limit the water flow to a nonerosive velocity.

- (F) Temporary soil erosion control facilities shall be removed and earth change areas graded and stabilized with permanent soil erosion control measures pursuant to approved standards and specifications as prescribed by the Michigan Water Resources Commission rules.
- (G) Permanent soil erosion control measures for all slopes, channels, ditches or any disturbed land area shall be completed within fifteen (15) calendar days after final grading or the final earth change has been completed. When it is not possible to permanently stabilize a disturbed area after an earth change has been completed or where significant earth change activity ceases, temporary soil erosion control measures shall be implemented within thirty (30) calendar days.
- (H) All temporary soil erosion control measures shall be maintained until permanent soil erosion control measures are implemented.

27.13 MAINTENANCE REQUIREMENTS

Persons carrying out soil erosion and sediment control measures under this Chapter, and all subsequent owners of property upon which such measures have been taken, shall maintain all permanent anti-erosion devices, retaining walls, structures, plantings, and other protective devices.

27.14 MINIMUM DESIGN STANDARDS FOR EROSION AND SEDIMENT CONTROL

All grading plans and specifications including extensions of previously approved plans shall include provisions for erosion and sediment control in accordance with, but not limited to, the Lapeer Soil and Water Conservation District Standards and Specifications. Copies of said standards and specifications shall be available for inspection in the offices of the City Clerk or the Building Inspector.

EFFECTIVE DATE: August 6, 1975

27.15 VARIANCES AND EXCEPTIONS

- (A) No permits shall be required for the following:

1. Agricultural use of land zoned agricultural.
2. Grading or an excavation below finished grade for basements, footings, retaining walls or other structures on plots in zoning districts zoned R-1 through R-4 of less than twenty thousand (20,000) square feet, or where such grading or excavation is located more than five hundred (500) feet from any lake, stream or drainage course.

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3. A sidewalk or driveway authorized by a valid permit.
4. Where the Building Inspector certifies in writing that the planned work and the final structures or topographical changes will not result in, or contribute to soil erosion, sedimentation of the waters of the state, will not interfere with any existing drainage course in such a manner as to cause damage to any adjacent property or result in the deposition of debris or debris or sediment on any public way, will abate any hazard to any persons or property, and will have not detrimental influence upon the public welfare or upon the total development of the watershed.
5. Although no permits are required under subsections (A) 1, 2, 3 and 4 of this section, the operations and constructions exempted from operations and constructions exempted from obtaining permits must comply with the rules and regulations concerning grading and erosion specified in this Chapter.

- (B) Where it is alleged that there is error or misinterpretation in any order, requirements, decisions, grant or refusal made by the Building Inspector, the Zoning Board of Appeals shall have the power to hear specific applications and may amend or change such order requirements, decisions, grant or refusal so that it is in harmony with the general purpose and intent of the requirements. The procedural requirements for appals under Chapter 7, Section 7.16 of the code shall be applicable to appeals under this Chapter.

The requirements of this Chapter shall be enforced by the Building Inspector. The Building Inspector shall inspect the work and shall require adequate inspection of compaction by a soil engineer or by a soil testing agency, approved by the Building Inspector, unless he determines that such inspection requirements may be waived due to the non-hazardous nature of the grading.

Upon satisfactory execution of all approved grading plans and other requirements, the Building Inspector shall issue a certification of completion. If the City Engineer or Building Inspector find any existing conditions not as stated in any application, grading permit or approved plan, he may refuse to approve further work until approval of reviewed grading plan which will conform to the existing conditions.

27.17 ENFORCEMENT

- (A) Notwithstanding the existence or pursuit of any other remedy, the City of Lapeer may maintain an action in its own name in any court of competent jurisdiction for an injunction or other process against any person to restrain or prevent violations of this Ordinance.

- (B) The Building Inspector, or his duly authorized agents, may enter at all reasonable times in, or upon any private or public property for which the purpose of inspecting and investigating conditions and practices which may be a violation of this Ordinance, or the rules of the Department of Natural Resources, Water Resources Commission promulgated pursuant to Act 347 PA 1972.

27.18 EFFECTIVE DATE

This Ordinance shall become effective on the 15th day of January, 1975 at 12:01 a.m.

27.19 SEVERABILITY

If any section, sentence, clause or phrase of this entire Chapter 28 is for any reason held to be unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of this section or subsections thereof, it being the legislative intent that the provisions of this Chapter 28, are separable and that the Ordinance shall continue in effect notwithstanding the invalidity of such section, sentence, clause or phrase.

EFFECTIVE DATE: August 6, 1975