

Chapter 27

SOIL EROSION AND SEDIMENTATION CONTROL*

* **Editors Note:** Ord. No. 705, § 1, adopted April 26, 2009, amended Ch. 27 in its entirety to read as herein set out. Former Ch. 27 pertained to the same subject matter, and derived from the 1977 Code; Ord. No. 496, adopted Oct. 5, 1992; Ord. No. 591, adopted Feb. 23, 2000; and Ord. No. 703, adopted Feb. 2, 2009.

Cross References: Flood protection, Ch. 14; planning, Ch. 23; subdivision regulations, Ch. 30; waterways, Ch. 37; zoning, Ch. 38.

State Law References: Soil conservation districts law, MCL 282.1 et seq.; soil erosion and administration control act, MCL 282.101 et seq.

Art. I. In General, §§ 27-1--27-30

Art. II. Permit, §§ 27-31--27-40

ARTICLE I.

IN GENERAL

Sec. 27-1. Purpose.

The purpose of this chapter is to prevent soil erosion and off-site sedimentation from earth changes within the city by requiring proper provisions of water disposal and the protection of soil surfaces during and after construction.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-2. Designation of the municipal enforcing agency and adoption of the statute and rules by reference.

(a) The city engineering department shall be the municipal enforcing agency responsible for administering and enforcing this article.

(b) Part 91, Soil Erosion and Sedimentation Control, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended and the administrative rules promulgated under Part 91 are incorporated into this article by reference.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-3. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accelerated soil erosion means the increased loss of the land surface that occurs as a result of human activities.

Certification of completion means a signed written statement by the city engineer that specific earthwork has been inspected and found to comply with all soil erosion and sedimentation control plans and specifications.

City engineer means the engineer of the city of Owosso or his/her representative.

Earth change means a human-made change in the natural cover or topography of land, including cut and fill activities, which may result in or contribute to soil erosion or sedimentation of the waters of the state.

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

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

Flood plain means that area which would be inundated by storm runoff or flood water equivalent to that which would occur with a rainfall or flood of 100-year recurrence frequency after total development of the watershed.

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

Soil erosion and sedimentation control permit means a permit issued to authorize work to be performed under this chapter.

Permanent soil erosion and sedimentation control measure means those control measures which are installed or constructed to control soil erosion and/or sedimentation and which are maintained after project completion.

Permittee means a person to whom has been issued a permit under the provisions of this chapter.

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

Temporary soil erosion and sedimentation control measures means interim control measures which are installed or constructed for the control of soil erosion and sedimentation and which are not maintained after project completion.

Waterway means a permanent nonenclosed channel that is designed to convey stormwater runoff. (Ord. No. 705, § 1, 4-26-09)

Sec. 27-4. Compliance with chapter required for site plan plat approval.

No site plan, plot plan or plat shall be approved under chapter 38 unless the site plan, plot plan or plat shall include soil erosion and sediment control measures consistent with the requirements of this chapter and related land development regulations.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-5. Compliance with chapter required for occupancy.

No certificate of occupancy for any building will be issued under chapter 8 unless the applicant for such certificate shall have obtained a certification of completion indicating compliance with all soil erosion and sedimentation control plans and specifications and completion of all permanent soil erosion control measures.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-6. Responsibility of permittee.

When undertaking earth change activities the permittee shall be responsible for:

- (1) The prevention of damage to any public utility or services within the limits of the earth change and along any routes of travel of the equipment;
- (2) The prevention of damage to adjacent property. No person shall deposit sediment on adjacent property or grade on land so close to the property line as to endanger any adjoining public street, sidewalk, alley or any public or private property without supporting and protecting such property from settling, cracking or other damage which might result;
- (3) Carrying out the proposed work in accordance with the approved plans and in compliance with all the requirements of the permit and this chapter;
- (4) The prompt removal of all soil, miscellaneous debris or other materials applied, dumped or otherwise deposited on public streets, highways, sidewalks, or other public thoroughfares during transit to and from the construction.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-7. General requirements.

(a) All earth changes shall be conducted in such a manner which will effectively reduce accelerated soil erosion and resulting off-site sedimentation.

(b) All persons engaged in earth changes shall design, implement and maintain acceptable soil erosion and sedimentation control measures, in conformance with this chapter and Part 91.

(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 soil erosion and sedimentation control measures constructed 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) A person shall install temporary soil erosion and sedimentation control measures before or upon commencement of the earth change activity and shall maintain the measures on a daily basis. A person shall remove temporary soil erosion and sedimentation control measures after permanent soil erosion measures are in place and the area is stabilized. A person shall stabilize the area with permanent soil erosion control measures under approved standards and specifications as prescribed by Rule 323.1710.

(g) A person shall complete permanent soil erosion control measures for all slopes, channels, ditches or any disturbed land area within five (5) calendar days after final grading or the final earth change has been completed. If it is not possible to permanently stabilize a disturbed area after an earth change has been completed or if significant earth change activity ceases, then a person shall maintain temporary soil erosion and sedimentation control measures until permanent soil erosion control measures are in place and the area is stabilized.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-8. Maintenance requirements.

Persons carrying out soil erosion and sediment control measures under this chapter, and all subsequent owners of property shall maintain all permanent soil erosion and sedimentation control measures.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-9. Minimum design standards for erosion and sediment control.

All soil erosion and sedimentation control 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 standards contained in the "Standards and Specifications for Erosion Control" published by the county conservation district. Copies of such standards shall be available for inspection in the office of the city engineer.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-10. Variances.

Where it is alleged that there is error or misinterpretation in any order, requirements, decisions, grant or refusal made by the city engineer, the board of zoning 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 as long as those actions comply with Part 91. The procedural requirements for appeals under sections 38-503 and 38-504 shall be applicable to appeals under this chapter.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-11. Inspection.

(a) The requirements of this chapter shall be enforced by the city engineer or his/her representative. The city engineer shall inspect the work and shall require adequate inspection of compaction by a soil engineer or by a soil testing agency, approved by the city engineer, unless the engineer determines that such inspection requirements may be waived due to the nonhazardous nature of the earth change.

(b) Upon satisfactory execution of all approved soil erosion and sedimentation control plans and

other requirements, the city engineer shall issue a certification of completion. If the city engineer finds any existing conditions not as stated in any application, soil erosion and sedimentation control permit or approved plan, he or she may refuse to approve further work until approval of a revised soil erosion and sedimentation control plan which will conform to the existing conditions.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-12. Enforcement.

(a) Notwithstanding the existence or pursuit of any other remedy, the city 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 chapter.

(b) The city engineer, or his/her duly authorized agents may enter at all reasonable times in, or upon any private or public property for the purpose of inspecting and investigating conditions and practices which may be a violation of this chapter, Part 91, or the rules promulgated pursuant to Part 91.

(Ord. No. 705, § 1, 4-26-09)

Secs. 27-13--27-30. Reserved.

ARTICLE II.

PERMIT

Sec. 27-31. Required.

Except as exempted by sections of this chapter, Part 91, or the rules no person shall do any grading, stripping, excavating or filling nor undertake any earth change unless he or she has a valid soil erosion and sedimentation control permit issued by the city engineer.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-32. Application--Generally.

A separate application shall be required for each soil erosion and sedimentation control permit. Plans, specifications and timing schedules shall be submitted with each application for a soil erosion and sedimentation control permit. The plans shall be prepared or approved and signed by a professional engineer or by an architect. The city engineer 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.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-33. Same--Data required.

The plans and specifications accompanying the soil erosion and sedimentation control permit application shall contain the following data:

- (1) A map or maps at a scale of not more than two hundred (200) feet to the inch or as otherwise

determined by the county or local enforcing agency. A map shall include a legal description and site location sketch that includes the proximity of any proposed earth change to lakes or streams, or both; predominant land features, and contour intervals or slope description.

- (2) A soils survey or a written description of the soil types of the exposed land area contemplated for the earth change.
- (3) Details for proposed earth changes including all of the following:
 - (a) A description and the location of the physical limits of each proposed earth change.
 - (b) A description and the location of all existing and proposed on-site drainage and dewatering facilities.
 - (c) The timing and sequence of each proposed earth change.
 - (d) A description and the location of all proposed temporary soil erosion and sedimentation control measures.
 - (e) The location and description for installing and removing all proposed permanent soil erosion and sedimentation control measures.
 - (f) A program proposal for the continued maintenance of all permanent soil erosion and sedimentation control measures that remain after project completion, including the designation of the person responsible for the maintenance. Maintenance responsibilities shall become a part of any sales or exchange agreement for the land on which the permanent soil erosion and sedimentation control measures are located.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-34. Fees.

At the time of filing an application for a soil erosion and sedimentation control permit, a nonrefundable filing fee as prescribed by resolution of the council shall be paid to the city treasurer.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-35. Bond requirement.

(a) A soil erosion and sedimentation control permit shall not be issued unless the permittee shall first post with the city engineer a bond executed by the owner and a corporate surety with authority to do business in this state as a surety only for projects with soil erosion and sedimentation control costs of more than one thousand dollars (\$1,000.00).

(b) 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 engineer. The bond shall include penalty provisions for failure to complete the work on schedule as specified on the soil erosion and sedimentation control permit. In lieu of a surety bond, the applicant

may file with the city 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.

(c) 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 chapter and all of the terms and conditions of the soil erosion and sedimentation control permit, and shall complete all of the work contemplated under the soil erosion and sedimentation control permit within the time limit specified in the soil erosion and sedimentation control permit, or if no time limit is specified, within one hundred eighty (180) days after the date of the issuance of the soil erosion and sedimentation control permit.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-36. Extension of time.

If the permittee is unable to complete the work within the specified time, he or she may, at least ten (10) days prior to the expiration of the permit, present in writing to the city engineer and building inspector a request for an extension of time setting forth the reasons for the requested extension. If an extension is warranted, the city engineer 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 or cash bond. If the permittee does not request an extension and the original permit expires prior to the site being stabilized, he or she must apply for a new permit.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-37. 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 the permit issued under the provisions of this article, the city engineer 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 or she 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 be insured or expended by the city in causing any and all such work to be done. In the case of a cash deposit, any unused portion thereof shall be refunded to the permittee.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-38. Denial of permit.

Soil erosion and sedimentation control permits shall not be issued where:

- (1) The proposed work would cause hazards to the public safety and welfare;
- (2) 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 an unreasonable hazard to persons or property;
- (3) The land area for which 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

- (4) The land area for which the grading is proposed may lie within the floodplain of any stream or watercourse (not specifically designated and delineated by the city as an area subject to flood hazard), unless a hydrologic report, prepared by a professional engineer, is submitted to certify that the proposed grading will have, in his or her opinion, no detrimental influence on the public welfare or upon the total development of the watershed.

(Ord. No. 705, § 1, 4-26-09)

Sec. 27-39. Modifications of approved plans.

All modifications of the approved soil erosion and sedimentation control plans must be submitted and approved by the city engineer. All necessary substantiating reports shall be submitted with any proposal to modify the approved soil erosion and sedimentation control plan. No soil erosion and sedimentation control work in connection with any proposed modification shall be permitted without the approval of the city engineer. (Ord. No. 705, § 1, 4-26-09)

Sec. 27-40. Exceptions.

(a) In addition to the exceptions identified in section 27-31, no permits shall be required by the provisions of this article for the following:

- (1) Grading or an excavation below finished grade for basements, footings retaining walls, or other structures or plots zoned R-1, R-2, RM-1 and RM-2 of less than twenty thousand (20,000) square feet and more than five hundred (500) feet from any lake or stream;

(b) Although no permits are required for earth changes identified under subsection (a), the earth change activities exempted from obtaining permits must comply with the rules and regulations of this chapter. (Ord. No. 705, § 1, 4-26-09)