

CHAPTER 3
EROSION AND SEDIMENTATION CONTROL

Section

- 4-3-1 Purpose, General Provisions
- 4-3-2 Definitions
- 4-3-3 Standards, General Principles
- 4-3-4 Plan and Site Development or Alteration Permit
 - 4-3-4-1 When Permit Required
 - 4-3-4-2 When Permit Not Required
 - 4-3-4-3 Application; Required Data
 - 4-3-4-4 Bonds
 - 4-3-4-5 Review
 - 4-3-4-6 Appeals
 - 4-3-4-7 Responsibility
 - 4-3-4-8 Retention of Plans
 - 4-3-4-9 Inspections
- 4-3-5 Operation Standards and Requirements
 - 4-3-5-1 Applicability
 - 4-3-5-2 Lake County Watershed Development Ordinance Adopted by Reference
 - 4-3-5-3 Special Precautions
 - 4-3-5-4 Expiration of Permit
- 4-3-6 Exceptions
- 4-3-7 Revocation of Permit
- 4-3-8 Fees
- 4-3-9 Nuisances

§4-3-1: PURPOSE, GENERAL PROVISIONS:

The regulations contained in this Chapter governing the clearing, grading, excavating and transporting of or otherwise disturbing land are established for the purpose of avoiding or lessening the following situations and to provide minimum standards to safeguard persons, to protect property and to prevent the despoliation of the environment and to promote the public welfare by regulating and controlling the design, construction, quality of materials and the 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 within the Village boundaries:

- (A) That 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.
- (B) That said soil erosion necessitates the costly repairing of gullies, washed out fills and embankments.
- (C) That the sediment from said soil erosion tends to clog sewers and ditches and to pollute and silt rivers, streams, lakes and reservoirs.
- (D) That said sediment limits the use of water and waterways for most beneficial purposes, destroying fish and other aquatic life and that said sediment is costly and difficult to remove.

- (E) That said sediment reduces the channel capacity of waterways, resulting in greatly increased chances of flooding at grave danger to public health and safety.
- (F) That stripping and disturbing and breaking the topsoil of land tends to destroy the physical characteristics of such land and its natural beauty, especially where the land is rolling.

(Ord. 74-96, 1974)

§4-3-2: DEFINITIONS:

For the purposes of this Chapter, certain terms used herein are defined as set forth below:

BUILDING PERMIT: A permit issued by the Village for the construction, erection or alteration of a structure or building as required by village ordinances.

CERTIFY OR CERTIFICATION: That the specific inspections and tests where required have been performed, and that such 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 man to a new location and shall include the conditions resulting therefrom.

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

LAND SURVEYOR: A registered surveyor of the State of Illinois.

PARCEL: All contiguous land in one ownership.

PERMIT OFFICER: The Village Building Officer.

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

PERSON: Any person, firm or corporation being a legal entity, public or private, the State of Illinois 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: The term site includes, but is not limited to:

- (A) A lot resulting from any subdivision; or
- (B) Any subdivision of property; or
- (C) Any planned unit development; or
- (D) Any combination of lots or sites where grading work is performed as a single unified operation; or
- (E) Any other on which grading work is performed.

SITE DEVELOPMENT OR ALTERATION: Altering terrain and/or vegetation and constructing driveways.

SITE DEVELOPMENT OR ALTERATION PERMIT: The permit provided for and required by this Chapter and any other ordinance of the Village.

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

(Ord. 74-96, 1974; amd. 2001 Code)

§4-3-3: STANDARDS, GENERAL PRINCIPLES:

The following general principles shall apply to any and all applications and plans for and the granting of a permit provided for herein and the work carried out pursuant to such plan and permit:

- (A) The smallest practical area of land shall be exposed at any given time during development.
- (B) Such minimum area exposure shall be kept to as short a duration of time as is practical.
- (C) Temporary vegetation or, where appropriate, mulching or other nonviable cover shall be used to protect areas exposed during development.
- (D) Sediment basins, debris basins, desilting basins, or silt traps shall be installed and maintained where necessary to remove sediment from runoff waters from land undergoing development.
- (E) Provision shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.
- (F) Permanent, final plant covering or structures shall be installed as soon as possible.
- (G) The plan of development shall relate to the topography and soils of the site so that the lowest potential for erosion is created.
- (H) Natural plant covering, trees, shrubbery and vines shall be retained and protected so far as is consistent with developing the site.

(Ord. 74-96, 1974)

§4-3-4: PLAN AND SITE DEVELOPMENT OR ALTERATION PERMIT:

4-3-4-1: When Permit Required:

Before land is cleared, graded, excavated, transported or otherwise disturbed by the movement of earth for purposes including, but not limited to, the construction of buildings, the mining of minerals, including sand and gravel, the development of golf courses, and the construction of roads and streets by any person, or any alterations to the topography of proposed or existing developments, a site development or alteration permit embodying the proposed earth movement shall be obtained from the permit officer, where development comes under any one or more of the following provisions, unless such development is exempted therefrom by Section 4-3-4-2 of this Chapter: (Ord. 74-96, 1974)

- (A) Excavation which will exceed one hundred (100) cubic yards.
- (B) Fill or soil importation upon approval of the Village Board except the importation of not more than twenty (20) cubic yards in any one calendar month for landscaping purposes. (Ord. 77-96.1, 1977)
- (C) Excavation will exceed four feet (4') in vertical depth at its deepest point. (Ord. 74-96, 1974)
- (D) Excavation which will exceed five thousand (5,000) square feet of ground surface. (Ord. 77-96.1, 1977)
- (E) Plant cover is to be removed from an area exceeding five thousand (5,000) square feet on any parcel of land. (2001 Code)

4-3-4-2: When Permit Not Required:

- (A) Excavations below finished grade for septic tanks and drain fields, tanks, water pipes, vaults, tunnels, equipment, basements, swimming pools, cellars or footings of buildings or structures for which a building permit shall have been issued by the Village, unless part of a development which would otherwise require such a site development permit.
- (B) Excavation or removal of vegetation in public utility easements by public utility companies for the purpose of installing underground utilities.
- (C) Tilling of the soil for fire protection purposes.
- (D) Engaging in the following, if, but only if, in connection with a farming or other agricultural or conservation enterprise and upon property zoned solely for farming or agricultural purposes and uses:
 - 1. The construction of sod, waterways, or
 - 2. The construction of terraces, or
 - 3. The construction of surface water diversions, or
 - 4. The construction of grade stabilization structures, or
 - 5. The tilling of the soil.

(Ord. 93-349, 1-18-1993)

- (E) Riprapping, boulders, gravel or similar material which is not subject to such erosion itself when used for shoreline erosion control and stabilization projects for lakes and ponds. (Ord. 93-349, 1-18-1993; amd. 2001 Code)

4-3-4-3: Application; Required Data:

- (A) No site development or building permit shall be issued until the developer submits a site development plan, together with other submissions required by this Chapter and other Village ordinances, and certifies that any land clearing construction or development involving the movement of earth shall be in accordance with such plan and submissions.
- (B) Each application for a site development permit shall be made by the owner of the property or his authorized agent to the permit officer on a form furnished for that purpose. When grading or plant cover removal is proposed as a part of a building permit application, the building permit application and the site development permit application may be combined, and one plot plan, in the number of copies required by the permit officer, may be submitted showing building plans and site development plans. A registered civil engineer shall certify as to the accuracy of the existing and proposed contour lines. The requirements for individual lots ordinarily can be met by reference to a subdivision or planned unit development for which a site development permit has been issued. Each application shall be accompanied by the following, unless the permit officer finds any item unnecessary to ensure compliance with the provisions of this Chapter; provided, that the permit officer shall grant no exemption from subsection (B)1 of this Section to any applicant who intends to move in excess of five hundred (500) cubic yards of dirt:
 - 1. Vicinity Sketch: With respect to site developments, a vicinity sketch, showing acreage of site, boundary lines, zoning, type of proposed sewer and water facilities, location of existing utilities, buildings and drains on and within one hundred feet (100') of the site; provided, however, that in the event adjacent property owners refuse access to their property so that exact measurements may not be furnished, then the best available information regarding such utilities, buildings and drains on such property shall be acceptable, together with a legend and scale. There shall be included on or with such a vicinity sketch:
 - (a) A soil map of the subject property showing the predominant soil types on the site based on the soil maps prepared by the United States department of agriculture or soil borings for the specific property.
 - (b) Such information on those areas abutting or adjacent to the site as show existing drainage patterns and the drainage course that may affect, or be affected by, the development of the site.
 - (c) The name and address of the developer or owner.
 - (d) The name and address of any consulting firm retained by the applicant, together with the name of applicant's principal contact at such firm.
 - (e) Limits of natural flood plain(s), if any, as defined in Title 5, Chapter 6 of this Code.
 - (f) Areas to be sodded, seeded, mulched or paved.
 - (g) Acreage of area to be vegetatively stabilized, if any.
 - (h) Areas to be left undisturbed.
 - 2. Topography: With respect to site grading, existing topography or the site and a one hundred foot (100') adjacent peripheral strip, proposed contours and final grades and street profiles; and indicating what measures will be employed to protect cut and fill

slopes from surface runoff. In the event adjacent property owners will not permit access to their property so that accurate measurements of property within one hundred feet (100') cannot be furnished as required by this Subsection (B)2, then approximate dimensions of adjacent property shall be acceptable.

3. Storm Drainage: Storm drainage by means of a plan based upon a storm drainage study, including a drainage area map and computations, and indicating existing conditions at proposed and natural outlets, including:
 - (a) Whether the drainage course is bare earth or vegetated.
 - (b) Whether the constructed outlet will be in open sun, open shade or dense shade.
 - (c) Whether the natural or proposed outlet is subject to long-term or continuous flow.
 - (d) Whether the existing outlet is actively eroding.
 - (e) Whether there is evidence of a high water table (permanent or seasonal).
 - (f) Whether the area is subject to seepage or spring flow.
 - (g) The elevation of normal water level in all proposed and natural outlets.
 - (h) A profile below outlet for a sufficient distance to indicate the natural gradient of the accepting natural outlet and/or stream channel.
 - (i) A cross section and profile of existing stream channels where applicable.
 - (j) A ditch design and computations for all seeded, sodded or bare earth outlets, ditches and similar water conduction facilities.

4. Estimate Schedule and Phasing of Development of the Site:

- Phase I: Stripping and/or clearing.
- Phase II: Rough grading and construction.
- Phase III: Final grading and vegetative establishment.
- Phase IV: Maintenance.

All erosion and sediment control plans submitted to the permit officer for approval shall show all erosion and sediment control measures planned to provide protection throughout all the phases of construction listed above. These plans shall also include any off-site borrow and spoil areas, sewer lines, utility lines and haul and access roads, and shall further indicate:

- (a) The start of clearing date.
 - (b) Duration of exposure of disturbed areas.
 - (c) Installation of temporary sediment control measures (vegetative and structural) by phase and date.
 - (d) Installation of storm drainage by phase and date.
 - (e) Paving of streets and parking areas, if any, by phase and date.
 - (f) Establishment of permanent vegetative cover (plans will show what will be done to shorten the duration of exposure of disturbed areas as soon after grading as possible), including seeding mixes and rates, type of sod, seedbed preparation, seeding dates, lime and fertilizer application, temporary seedings, if needed, mulching or similar stabilization procedures.
 - (g) Details of all structural sediment control measures.
 - (h) Computations for sediment basins, if any.
5. Lake County Watershed Development Ordinance: The standards and requirements of the Lake County Watershed Development Ordinance, as amended from time to time (the

“LCWDO”) are hereby incorporated into this Section and made a part hereof by this reference, for purpose of exemplifying the considerations and factors which should enter into the preparation of a site development plan. (Ord. 74-96, 1974; amd. 2014 Code)

4-3-4-4: Bonds:

In developments where the aggregate volume of grading will be over one thousand (1,000) cubic yards, the applicant shall be required to file with the Village Clerk a faithful performance bond or other improvement security satisfactory to the Village Attorney in the amount deemed sufficient by the permit officer to cover all the costs of improvements, landscaping, maintenance of landscaping for such periods as specified by the Village, engineering, inspection fees and incidental expenses. (Ord. 74-96, 1974)

4-3-4-5: Review:

To further the specific purposes of this Chapter, the following review procedures are established:

- (A) Grading Work Under Five Hundred Cubic Yards: Where the aggregate volume of grading on any site or contiguous group of sites is in excess of one hundred (100) cubic yards but not over five hundred (500) cubic yards, the permit officer shall review the application for the proposed site development permit. If the permit officer finds that the application for the proposed plan is in conformance with the provisions of this Chapter and all other ordinances of the Village requiring site development permits, he shall issue a permit with such reasonable conditions as he may deem necessary to secure substantially the objectives of this Chapter and other ordinances of the Village.
- (B) Grading and/or Removal of Vegetation Work in Excess of One Thousand Cubic Yards: Where the aggregate volume of grading on any site or contiguous group of sites is in excess of one thousand (1,000) cubic yards, or the proposed cuts and falls exceed five feet (5') at their maximum point, or where approval to remove plant cover is required by this Chapter:
1. The permit officer shall refer the application and his recommendations to the Plan Commission for review and recommendation to the Village Board. This action will accompany recommendations on other subdivision engineering standards.
 2. Upon receipt of the recommendations of the Plan Commission by the Village Board, and upon approval by the Village Board, the Village President shall sign the plat of subdivision or other development documents.
 3. The permit officer shall issue a site development permit upon compliance of the conditions established by the Village Board and upon compliance with other applicable ordinances of the Village.
- (C) Prohibition of Earth Removal: No site development permit shall be issued for an intended building site unless:
1. Such permit is accompanied by or combined with a valid building permit issued by the Village, or
 2. The proposed earthmoving is coordinated with any overall plan previously approved by the Village for the area in which the site is situated.

(Ord. 74-96, 1974)

4-3-4-6: Appeals:

The applicant, as well as any person who has received notice of the filing of the application for site development permit or the Plan Commission, may appeal the decision of the permit officer, including any approval resulting from lack of action by the permit officer as provided in Subsection 4-3-4-5(B)3 of this Chapter, to the Board of Trustees. Upon receipt of a notice of appeal, the Board shall schedule and hold a public hearing, after giving the same notice thereof as required in the case of variations to the Zoning Ordinance of the Village, the filing fee for such appeal shall be two hundred dollars (\$200.00). The Board shall render a decision within thirty (30) days of the completion of the hearing. Factors to be considered on review and findings to be made shall include, but not be limited to, 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 that when disturbed by the proposed grading 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. (Ord. 74-96, 1974; amd 2014 Code)

4-3-4-7: Responsibility:

Failure of the Village officials to observe or recognize hazardous or unsightly conditions or to recommend denial of the site development permit, or of the Board of Trustees to deny said permit, shall not relieve the permittee from responsibility for the condition or damage resulting therefrom, and shall not result in the Village, its officers or agents being responsible for any condition or damage resulting therefrom. (Ord. 74-96, 1974; amd. 2014 Code)

4-3-4-8: Retention of Plans:

Plans, specifications and reports for all site developments shall be retained in original form, or on microfilm, or in digital form, by the Village Clerk. (Ord. 74-96, 1974; amd 2014 Code)

4-3-4-9: Inspections:

The permit officer shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the same fails to comply with the site development or alteration permit. Where it is found by inspection that conditions are not substantially as stated or shown in the said plan, the permit officer may stop further work until approval is obtained for a revised grading plan conforming to the existing conditions. Plans for grading work, bearing the stamp of approval of the permit officer, shall be maintained at the site during the progress of the grading. Until the final inspection is made, a sign issued by the Village indicating permission to grade has been granted by the Village shall be prominently displayed on the front property line of the property involved so as to be visible from the street on which the property fronts. In order to obtain inspections in accordance with the following schedule, the permittee shall notify the permit officer at least two (2) full working days before the said inspection is to be made:

- (A) Rough Grading: When all rough grading has been completed; and
- (B) Final Inspection: When all work including installation of all drainage and other structures and required planting, has been completed. (Ord. 74-96, 1974)

§4-3-5: OPERATION STANDARDS AND REQUIREMENTS:

4-3-5-1: Applicability:

All earthmoving, grading and grading operations not specifically exempted by the provisions of this Chapter shall comply with the applicable standards and requirements set forth in this Section 4-3-5, in addition to the other requirements of this Chapter. (Ord. 74-96, 1974)

4-3-5-2: Lake County Watershed Development Ordinance Adopted by Reference:

The standards and requirements of the Lake County Watershed Development Ordinance, as amended from time to time (the "LCWDO") are hereby incorporated into this Section 4-3-5 and made a part hereof by this reference, for the purpose of delineating procedures and methods of operation under development plans approved in this Section 4-3-5. In the event of conflict between provisions of the said "LCWDO" and other provisions of this Chapter, the said provisions of this Chapter shall govern. (Ord. 74-96, 1974; amd. 2001 Code; amd. 2014 Code)

4-3-5-3: Special Precautions:

- (A) If at any stage of the grading, the permit officer determines by inspection that the nature of the formation is such that further work as authorized by an existing permit is likely to imperil any property, public way, watercourse or drainage structure, the permit officer may require, as a condition to allowing the work to be done, that such reasonable safety precautions be taken as he considers advisable to avoid the likelihood of such peril. "Special precautions" may include, but shall not be limited to, specifying a more level exposed slope, construction of additional drainage facilities, beams, terracing, compaction or cribbing, installation of plant materials for erosion control, and upon reports of a registered soils engineer and/or of a registered engineering geologist whose recommendations may be made, requirements for further work.
- (B) Where it appears that storm damage may result because the grading is not complete, work may be stopped and the permittee required to install temporary planting to control erosion, install temporary structures or take such other measures as may be required to protect adjoining property or the public safety. On large operations or where unusual site conditions prevail, the permit officer 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.

(Ord. 74-96, 1974)

4-3-5-4: Expiration of Permit:

Every site development permit shall expire by limitation and become null and void if the work authorized by such permit has not been commenced within one hundred eighty (180) days, or is not completed within one year from date of issue; except that the permit officer may, if the permit holder presents satisfactory evidence that unusual difficulties have prevented work being started 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. 74-96, 1974)

§4-3-6: EXCEPTIONS:

The Village’s Board of Trustees (“Board of Trustees”) may authorize exceptions to any of the requirements and regulations set forth in this Chapter.

(A) Application For Exception:

Application for any exception shall be made by a verified petition of applicant stating fully the grounds of the application and the facts relied upon by the petitioner. Such petition shall be filed with the site development permit application. In order for the land referred to in the petition to come within the provisions of this Section, it shall be necessary that the Board of Trustees find all of the following facts with respect thereto:

1. That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations of record that it is impossible or impractical for the subdivider to comply with all of the regulations of this Chapter.
2. That the exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
3. That 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.

(B) Referral of Proposed Exception:

Each proposed exception may be referred by the Board of Trustees to qualified persons for investigation and such persons shall transmit to the Board of Trustees their recommendations, which recommendations shall be reviewed along with all other matters submitted prior to the granting of any exception.

(C) Board of Trustees:

After public hearing thereon, the Board of Trustees, by resolution, may approve the site development permit application with the exceptions and conditions it deems necessary or it may disapprove such site development permit application and exception application or it may take such other action as is appropriate.

(Ord. 74-96, 1974; amd. 2014 Code)

§4-3-7: REVOCATION OF PERMIT:

(A) Authority:

In the event any person holding a site development or alteration permit pursuant to this Chapter violates the terms of the permit, or conducts or carries on said 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 property of the said permittee, or conducts or carries on said site development so that it is materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the permit officer shall temporarily revoke or suspend the permit.

(B) Procedure For Revoking Site Development Or Alteration Permit:

No site development permit shall be permanently revoked or suspended until a hearing is held by the Village President or Board of Trustees. Written notice of such hearing shall be served upon the permittee, either personally or by certified or registered mail, notice to be deemed given upon deposit of the same in the mail, and shall state:

1. The grounds for complaint or reasons for the revocation or suspension, in clear and concise language.
2. The time when, and the place where, such hearing is to be held. Such notice shall be served by certified or registered mail or personal service on the permittee not less than five (5) days prior to the date set for the hearing. At any such hearing, the permittee shall be given an opportunity to be heard, and he may call witnesses and present evidence on his behalf. Upon conclusion of such hearing, the Board of Trustees shall determine whether or not the permit shall be suspended or revoked.
3. The Board of Trustees shall hold the hearing to consider recommendations for permanent revocation or suspension of permits which have been temporarily suspended at the next regularly scheduled meeting of the Board of Trustees at which all conditions of Subsection (B)2 of this Section can be fulfilled.

(Ord. 74-96, 1974; amd. 2014 Code)

§4-3-8: FEES:

Filing fees and deposits for services shall be as set forth for building permits or subdivision control. (Ord. 74-96, 1974)

§4-3-9: NUISANCES:

This Chapter shall not be construed as authorizing any person to maintain a private or public nuisance upon their property, or to perform any act which the statute or case law of the State of Illinois would not permit regarding drainage and waterways and compliance with the provisions of this Chapter shall not be a defense in any action to abate such nuisance or involving water rights. (Ord. 74-96, 1974)

(Amd. 2014 Code)