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## **TITLE 7 — EROSION CONTROL**

### **SECTION 1.0 EROSION CONTROL: STATEMENT OF PURPOSE**

The purpose of this Title is to control soil erosion and sediment damage and related environmental damage by requiring adequate provisions for surface water retention and drainage and for the protection of exposed soil surfaces in order to promote the safety, public health, convenience and general welfare of the citizens of Henry County, Indiana.

### **SECTION 2.0 EROSION CONTROL: PLAN AND IMPLEMENTATION REQUIREMENT**

- A. Unless otherwise provided, no land area shall be disturbed by any person and no Site Plans, Construction Plans or Development Plans shall be approved unless the Applicant has submitted an Erosion Control/Grading Plan to the Zoning Administrator, designed to provide for soil erosion and sediment control for such land areas, and such plan has been approved and an Improvement Location Permit issued by the Zoning Administrator. The Applicant shall submit a separate Erosion Control/Grading Plan for each noncontiguous site. The plan shall be prepared by a registered engineer licensed by the State of Indiana, a registered land surveyor licensed by the State of Indiana or a certified soil scientist.
- B. The Owner of the subject property and/or the Applicant shall bear the final responsibility for the installation and construction of all required soil erosion and sediment control measures according to the provisions of this Ordinance. The Planning Commission, by rule, may require and establish standards for Performance Bonds or other assurances to guarantee compliance with the implementation requirement of this Title.
- C. The failure to submit and/or implement an approved Erosion Control/Grading Plan shall constitute a violation of the Zoning Ordinance and may be enforced as such.

### **SECTION 3.0 EROSION CONTROL: EXEMPTIONS FROM REQUIREMENT**

The following activities are specifically exempt from the requirements and standards of this Title:

- A. Minor Subdivisions of less than two and one-half (2.5) acres;
- B. Site Plans for development where the land will not be disturbed (e.g., addition of a second story, location of a mobile home on an existing pad, etc.);
- C. Land disturbance activities directly associated with the use of existing one- (1-) family and two- (2-) family dwellings (e.g., gardening, repairing septic field, etc.) and the construction of a one- (1-) family or two- (2-) family dwelling on a specific lot of record, accessory buildings and agricultural structures, except those located within two hundred (200) feet of public waters (i.e., waters owned by governmental entities and/or rivers and stream reaches covered by the Indiana Department of Natural Resources flood control permit regulations);
- D. Agricultural use of lands involving land disturbance, when operated in accordance with a Farm Conservation Plan approved the Henry County Soil and Water Conservation District or

when it is determined by the Henry County Soil and Water Conservation District that such use will not cause excessive erosion and sedimentation; and

- E. Projects that are performed by, or on behalf of, the United States, the State of Indiana or any political subdivision of the State of Indiana and that are subject to Federal or State erosion regulations.

#### **SECTION 4.0 EROSION CONTROL: CONTENTS OF EROSION CONTROL/ GRADING PLAN**

The Applicant may consult with the Henry County Soil and Water Conservation District in the selection of appropriate erosion and sediment control measures and the development of the plan. Such plan shall contain:

- A. All information required by this Ordinance;
- B. Details and contours, at five (5) feet intervals, of the subject property;
- C. Details of terrain and area drainage, including the identity and location of watercourses, intermittent and perennial streams, receiving waters, karst features and springs and the total acreage of land that will be disturbed;
- D. The location and description of any existing buildings or structures on the subject property where the work is to be performed, the location of any existing buildings or structures on land of adjacent owners that are within one hundred (100) feet of the subject property or that may be affected by any proposed land disturbing activities and proposed and approximate locations of structures relative to adjoining topography;
- E. The direction of drainage flow and the approximate grade of all existing or proposed streets;
- F. Limiting dimensions, elevations or finish contours to be achieved by any proposed grading, including all cut and fill slopes, proposed drainage channels and related construction;
- G. Detailed plans and locations of all surface and subsurface drainage devices, walls, dams, sediment basins, storage reservoirs and other protective devices to be constructed with, or as a part of, the proposed project, together with a map showing drainage area, the complete drainage network, including outfall lines and natural drainage ways that may be affected by the proposed Development and the estimated runoff of the area served by the drains;
- H. A description of the methods to be employed in disposing of soil and other material that is removed from the grading site, including the location of the disposal site;
- I. Location and description of proposed changes to the site;
- J. Measures for soil erosion and sediment control that must meet or exceed the methods and standards adopted by the Indiana Department of Natural Resources and/or set forth in the Indiana Construction Site Erosion Control Manual and that must comply with the design principles, performance standards and requirements set forth in this Title.
- K. A schedule of the sequence of installation of planned erosion and sediment control measures as related to the progress of the project, including the total area of soil surface that is to be

- disturbed during each stage, the anticipated starting and completion dates and a schedule for the maintenance of such measures; and
- L. Any other information reasonably required by the Zoning Administrator to properly evaluate the plan.

## **SECTION 5.0 EROSION CONTROL: REVIEW AND APPROVAL**

Erosion Control/Grading Plans shall be reviewed by the Zoning Administrator or other designated person and approved when in conformance with the design principles and performance standards of this Title. The Zoning Administrator may seek the assistance of the Henry County Soil and Water Conservation District in the review of such plans and may deem as approved those plans that have been reviewed and determined adequate by said District.

## **SECTION 6.0 EROSION CONTROL: DESIGN PRINCIPLES AND PERFORMANCE STANDARDS**

Erosion control measures shall apply to all aspects of the proposed land disturbance and shall be in operation during all stages of the disturbance activity. The following principles and standards shall apply to the soil erosion and sediment control plan and to the development of the subject property:

- A. The methods and standards adopted by the Indiana Department of Natural Resources and/or set forth in the Indiana Construction Site Erosion Control Handbook, as administered by the Natural Resources Conservation Service (a.k.a. "Rule 5" or 327 Indiana Administrative Code IAC 15-5);
- B. Stripping of vegetation, grading or other soil disturbance shall be done in a manner that minimizes soil erosion;
- C. Whenever feasible, natural vegetation shall be retained and protected;
- D. The extent of the disturbed area and the duration of its exposure shall be kept within practical limits;
- E. Temporary seeding, mulching or other suitable stabilization measures shall be used to protect exposed critical areas during construction or other land disturbance;
- F. Drainage provisions shall accommodate increased runoff resulting from modified soil and surface conditions during and after development or disturbance. Such provisions shall be in addition to all existing requirements;
- G. Water runoff shall be minimized and retained on site wherever possible to facilitate ground water recharge;
- H. Sediment shall be retained on site;
- I. Diversions, sediment basins and other required structures shall be installed prior to any on-site grading or disturbance;
- J. Natural or constructed slopes in excess of twelve (12) percent shall not be subjected to development unless the project engineer can demonstrate conclusively to the satisfaction of

- both the Zoning Administrator and the County Highway Engineer that said limitation can be overcome in such a manner as to prevent hazard to life, hazard to property, adverse effects on the safety, use or stability of a public way or drainage channel and adverse impact on the natural environment;
- K. The Zoning Administrator may require that grading operations and/or project designs and schedules be modified if delays occur that incur weather-generated problems not considered at the time plan approval was granted;
- L. No grading, filling, clearing of vegetation, operation of equipment or disturbance of the soil shall take place in areas where any historic or prehistoric ruins or monuments, objects of antiquity or geological landmarks or monuments are present. The Erosion Control/Grading Plan shall indicate all such areas on the subject property and shall indicate the measures that will be taken to protect such areas. The Indiana Department of Natural Resources shall approve the proposed protection measures before the Erosion Control/Grading Plan may be approved by the Zoning Administrator. Whenever during excavation there are uncovered or become apparent any historic or prehistoric ruins or monuments or objects of antiquity or geological landmarks or monuments not previously accounted for in the Erosion Control/Grading Plan, all work in the immediate area shall cease until the Indiana Department of Natural Resources determines what precautions should be taken to preserve the historic artifacts.

The foregoing standards shall be implemented in a manner and to an extent that soil erosion and migration caused by certain land disturbing activities are reasonably minimized. The failure to reasonably minimize such erosion and migration shall constitute a violation of this Title that may be enforced, regardless of plan compliance.

## **SECTION 7.0 EROSION CONTROL: MAINTENANCE**

All necessary soil erosion and sediment control measures installed under this Ordinance shall be adequately maintained for one (1) year after completion of the approved plan or until such measures have stabilized, as determined by the Zoning Administrator. The Zoning Administrator shall provide the Applicant, upon request, with a certificate indicating the date on which the measures called for in the approved plans were completed. The Planning Commission, by rule, may require and establish standards for Maintenance Bonds or other assurances to guarantee compliance with the maintenance requirement of this Title.

## **SECTION 8.0 EROSION CONTROL: INSPECTION AND ENFORCEMENT**

The requirements and standards of this Title shall be enforced by the Zoning Administrator, who shall inspect, or cause to be inspected, the implementation of the plan. If the Zoning Administrator finds existing conditions not as stated in the Applicant's Erosion Control/Grading Plan, he may refuse to approve further work and may require necessary erosion and sediment control measures to be promptly installed and may seek other penalties and remedies as provided in this Ordinance.

## **SECTION 9.0 EROSION CONTROL: FINANCIAL GUARANTY OF PERFORMANCE**

- A. As a condition of approval for issuance of a grading permit, the Zoning Administrator shall require the Applicant to post a Performance Bond ("Performance Bond") to ensure that the

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required improvements are completed and/or dedicated in the manner prescribed by these regulations, unless exempted under the provisions of Section 3.

- B. For grading permits, the Performance Bond shall be in the amount of ten (10) percent of the estimated completion cost of the required erosion control improvements as set forth in the permit application.
- C. The period within which the required improvements must be completed ("Performance Period") shall be specified by the Zoning Administrator as a condition of permit approval, shall be incorporated in the Performance Bond as a material and essential term and shall not exceed two (2) years from the date of permit approval.
- D. The Zoning Administrator may amend the Performance Bond to extend the Performance Period for an additional one- (1-) year period upon a finding that the Applicant has been unable to complete the required improvements despite due diligence. A request for a Performance Period extension must be submitted to the Zoning Administrator by the Applicant at least four (4) months prior to the expiration date of the original Performance Period. As a condition precedent of such Performance Bond amendment, at least one (1) month prior to the expiration date of the original Performance Period, the Applicant shall secure the amended Performance Bond in accordance with these regulations and shall submit the secured, amended Performance Bond to the Zoning Administrator.
- E. The Performance Bond shall name the Planning Commission and/or the County as obligees, shall comply with all statutory requirements and shall be satisfactory to the Planning Commission Attorney and/or the County Attorney as to form (see Henry County Code Section 860-6), sufficiency and manner of execution as set forth in these regulations.
- F. A Performance Bond authorized or required by these regulations shall be secured by either an irrevocable letter of credit or a cashier's check in the amount of the Performance Bond. The beneficiary of such financial guaranty shall be the Planning Commission and/or the County ("Guarantee"). The financial guaranty shall be issued by a financial institution ("Guarantor") that maintains an office within sixty (60) miles of Henry County, Indiana, at which the financial guaranty may be presented for payment. Letters of credit submitted pursuant to this Title shall comply with Title 2, Section 2.6 of this Code. Cashier's checks submitted pursuant to this Title shall be held by the County Auditor until the Performance Bond is released or reduced as provided in these regulations.