

## **CHAPTER 151: GRADING, EXCAVATING AND FILLS**

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## Lawrenceburg-Land Usage

### GENERAL PROVISIONS

#### § 151.01 FENCING AND SIGNS

- (A) Where any quarry or other excavation is located adjacent to a highway, school, church, park, playground or dwellings, a protective fence at least six feet in height shall be placed around such portions of the rim of the quarry, or excavation as constitute a hazard to the life or safety of persons.
- (B) Warning signs shall likewise be posted
- (C) Such fence shall be so constructed as not to have openings, holes or gaps larger than two inches in any dimension except for doors and gates; and if a picket fence is erected or maintained the horizontal dimension shall not exceed four inches. A dwelling house or accessory building may be used as part of such enclosure. All gates and doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use except that the door of any dwelling or accessory building which forms a part of the enclosure need not be so equipped.
- (D) It shall be the duty of the Chief of Police to fix and determine the locations where such fences and signs shall be erected, and to give written notice to the owner and to the tenant or occupant of any property when he deems it necessary that a fence and signs be erected for the protection of the public and it shall be the duty of such owner, or the tenant or occupant thereof to comply promptly with such notice in accordance with the terms thereof.
- (E) Any person aggrieved by the action of the Chief of Police in respect to his determination of the necessity for the erection of a fence and warning signs shall have the right of appeal to the Common Council. The Council will hear the matter at its next regular public meeting, if the appeal is filed with the clerk-treasurer at least ten days before such meeting, and will promptly hand down its decision thereon  
( '80 Code, § 10-1) Penalty, see § 151.99

### EROSION AND SEDIMENT CONTROL

#### § 151.15 TITLE

This subchapter shall be known and may be cited as “The Lawrenceburg Erosion Control and Sediment Control Ordinance.”  
( '80 Code, § 10-21)

#### § 151.16 PURPOSE

The purpose of this subchapter is to provide minimum standards to safeguard persons, to protect property and to promote the public welfare by regulating and controlling the design, construction, quality of materials, use, location and maintenance of grading, excavation and fill.  
( '80 Code, § 10-22)

## Grading, Excavations and Fills

### §151.17 DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BUILDING PERMIT.** A permit issued by the city pursuant to the provisions of the city building code for the construction, erection, alteration or demolition of a structure or building.

**CUT.** An excavation, the difference between a point on the original ground and a designated point of lower excavation on the final grade, also, the material removed in excavation.

**EXCAVATION.** Any act, by which 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.

**FILL.** Any act, by which earth, sand, gravel, rock or any other material is deposited, placed, pushed, dumped, pulled, transported or moved to a new location and shall include the conditions resulting therefrom.

**GRADE.** The elevation of the existing ground surface at the location of any proposed excavation or fill.

**GRADING PERMIT.** Any permit required under §151.35.

**RUNOFF.**

- (1) The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.
- (2) From a fully developed area upstream shall mean the surface water runoff that can be reasonably anticipated upon maximum development of that area of the watershed located upstream from the subject tract, as permitted by prevailing zoning.

**SEDIMENTATION or SEDIMENT.** The process by which mineral or organic matter is accumulated or deposited by moving wind, water or gravity. Once this matter is deposited (or remains suspended in water), it is usually referred to as sediment.

**SITE.** A lot, tract or parcel of land, or a series of lots, tracts or parcels of land, joined together where grading work is continuous and performed at the same time.

**SLOPE.** The face of an embankment or cut section; any ground surface makes an angle with the plane of the horizon. Slopes are usually expressed as a ratio of horizontal distance to verticals or in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

**SOIL STABILIZATION.** Chemical or structural treatment designed to increase or maintain the stability of a mass of soil or otherwise to improve its engineering properties.  
(’80 Code, § 10-23)

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### § 151.18 SCOPE.

New Grading, excavations and fills, or changes, additions, repairs or alterations made to existing excavations and fills, including the construction of berms, shall conform to the provisions of this subchapter, except that this subchapter shall not apply to:

- (A) Work in any existing street or alley.
- (B) Extraction and related activities under the provisions of a use and occupancy permit for such use as landfill operations.

### § 151.19 SUBDIVISION AND DEVELOPMENT OF LAND GRADING PLANS.

- (A) The Common Council, in its consideration of all preliminary plans of subdivision and development of land shall condition its approval upon the execution of a formal agreement to provide erosion and sediment control measures as required by this subchapter.
- (B) Final plans for minimizing erosion and sedimentation as approved shall be incorporated into the agreement and bond requirements, as required under the city subdivision regulations.
- (C) At the time that a building permit is applied for, a review shall be conducted by the city engineer to insure conformance with the plan as approved. During the construction further consultative technical assistance shall be furnished, as required by the city engineer. During this development phase, the city engineer shall inspect the development site and enforce compliance with the approved plans.
- (D) The approval of plans and specifications for the control of erosion and sedimentation shall be concurrent with the approval of the final plats of subdivision or development of land and become a part thereof.
- (E) No subdivision or development of land plan shall be approved unless there has been a plan approved that provides for minimizing erosion and sedimentation consistent with this section, and an improvement bond or other acceptable security is deposited with the city in the form of an escrow guarantee which will ensure installation and completion of the required improvements. ('80 Code, § 10-25)

### § 151.20 RESPONSIBILITY FOR DRAINAGE AND SEDIMENTATION CONTROL

- (A) Whenever sedimentation is caused by stripping vegetation and/or grading, it shall be the responsibility of the person causing such sedimentation to remove it from all lower properties, drainage systems and watercourses and to repair any damage at his expense as quickly as possible at the direction of the city engineer.
- (B) Maintenance of all drainage facilities and watercourses within any subdivision or land development shall be the responsibility of the developer until they are accepted by the city or some other official agency, after which they become the responsibility of the accepting agency.

### **Grading, Excavating and Fills**

- (C) It shall be the responsibility of any person doing any act on or across a stream, watercourse or swale or upon the flood plain or right-of-way thereof to maintain as nearly as possible in its present state the stream, watercourse, swale, flood plain or right-of-way during the pendency of the activity and to return it to its original or equal condition after such activity is completed.
- (D) Maintenance of drainage facilities or watercourses originating and completely on private property shall be the responsibility of the owner to their point of open discharge at the property line or at a communal watercourse within the property.
- (E) It shall be unlawful for any person to block, impede the flow of, alter, construct any structure or deposit any material, thing, or commit any act which will affect normal or flood flow in any communal stream or water course without having obtained prior approval from the city.
- (F) Adequate right-of-way and/or easements shall be provided for all drainage facilities and watercourses, which are proposed for acceptance by the city.
- (G) Each person who makes any surface changes shall be required to:
  - (1) Collect on-sit surface runoff and dispose of it to the point of discharge into the common natural watercourse of the drainage area.
  - (2) Handle existing off-site runoff through his development by designing to provide adequately for storm runoff from a fully developed area upstream.
  - (3) Pay such share of the total cost of labor and material needed to widen and improve the common natural watercourse either upstream or downstream from the development, based on a fully developed drainage area as shall be made necessary to accommodate the additional surface waters resulting from the development of such ground.
  - (4) Provide and install at his expense, in accordance with the city requirements, all drainage and erosion control improvements (temporary and permanent) as required by the city engineer.  
( '80 Code, § 10-26)

### **§ 151.21 INSPECTIONS**

- (A) The city engineer shall, when requested, make the inspections hereinafter required and shall either approve that portion of the work which has been completed or notify the permit holder wherein the same fails to comply with the provisions of this subchapter. Where it is found by inspection that the soil or other conditions are not as stated or shown in the application, the city engineer may refuse to approve further work until approval is obtained for a revised grading plan conforming to existing conditions.
- (B) Plans for grading work, bearing the stamp of approval of the city engineer, shall be maintained at the site during the progress of the grading work and until the work has been approved.
- (C) The permit holder shall notify the city engineer in order to obtain inspections in accordance with the following schedule and at least 24 hours before the inspection is to be made:
  - (1) Initial inspection. When work on the excavation or fill is about to be commenced.

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- (2) Rough grading. When all rough grading has been completed.
- (3) Drainage facilities. When drain facilities are to be installed and before such facilities are backfilled.
- (4) Special structures. When excavations are completed for retaining and crib walls and when reinforcing steel is in place and before concrete is poured.
- (5) Final inspection. When all work, including the installation of all drainage and other structures has been completed.

(D) If at any stage of the work, the city engineer shall determine by inspection that the nature of the formation is such that further work, as authorized by an existing permit, is likely to endanger property, or streets, or alleys, or create hazardous conditions, the city engineer may require as a condition to allowing the work to be done that such reasonable safety precautions be taken as the city engineer considers advisable to avoid such likelihood of danger. Safety precautions may include, but shall not be limited to, specifying a flatter exposed slope, construction of additional drainage facilities, berms, terracing, compaction or cribbing.

('80 Code, § 10-27)

### **§151.22 MAINTENANCE**

The owner of any property on which an excavation or fill has been made shall maintain in good condition and repair all retaining walls, cribbing, draining structures, fences and other protective devices. ('80 Code, § 10-28) Penalty, see § 151.99

### **§ 150.23 GRADING CERTIFICATES**

- (A) If upon final inspection of an excavation or fill, it is found that the work authorized by the grading permit has been satisfactorily completed in accordance with the requirements of this subchapter, and any other requirements imposed, a grading certificate covering such work, and stating that the work is approved, shall be issued to the permit holder by the city engineer.
  - (B) The city engineer shall have the power to revoke any grading certificate whenever he finds that the work covered by the certificate has been materially extended or altered, without a permit to do so, or that any retaining walls, cribbing drainage structures, fence or other protective device shown on the approved plans and specifications submitted with the application for a permit have not been maintained in good order and repair. Before such revocation, the city engineer shall first give written notice to the permit holder and to the owner of the property involved, specifying the defective condition and stating that unless such defective condition is remedied satisfactorily, within a specified time, the grading certificate may be revoked. If the defective condition is remedied, the certificate shall not be revoked.
- ('80 Code, § 10-29)

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### **§ 151.24 APPEALS**

The Common Council shall promptly consider appeals from the provisions of this subchapter or from the determinations of the city engineer and the Council shall make determinations of alternative methods, standards or materials when, in its opinion, strict compliance with the provisions of this subchapter is not necessary.  
(’80 Code, § 10-30)

### **§ 151.25 REMEDIES**

In case any work is performed by any person in violation of any of the provisions of this chapter, the proper officer of this city, in addition to other remedies, may institute in the name of the city any appropriate action or proceeding, whether by legal process or otherwise, to prevent such unlawful work and to restrain or abate such violation.  
(’80 Code, § 10-32)

## **GRADING PERMITS**

### **§ 151.35 REQUIRED**

It shall be unlawful for any person to commence or perform any grading, excavation, fill, topsoil removal or removal of vegetative cover without first having obtained a grading permit from the city engineer. A separate grading permit shall be required for each site. One permit may cover both an excavation and any fill made on the same lot. A grading permit will not be required, however, in the following situations, but in all other respects, the provisions of this subchapter, shall apply:

(A) An excavation which does not exceed 20 cubic yards total material removed.

(B) A fill which does not exceed 40 cubic yards of material deposited.

(C) An excavation below finished grade for basements and footings of a single family residence, swimming pool, or underground structure authorized by building permit, excavation for a driveway or walk between a single family residence site and street, or the grading of such excavated materials into the site from which excavated and including the provision of additional topsoil as may be required for seedbed preparation.  
(’80 Code, § 10-46) Penalty, See § 151.99

### **§ 151.36 APPLICATION**

Every applicant for a grading permit shall file a written application thereof with the city engineer. Such application shall:

(A) Describe the land on which the proposed work is to be done, by lot, block, tract or street address or similar description, which will readily identify and definitely locate the proposed work.

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(B) (1) Be accompanied by plans and specifications prepared by a registered engineer or surveyor, including: A contour map showing the present contours of the land and the proposed grading; a plot plan showing the location of grading, boundaries, lot lines, neighboring streets and alleys, buildings, trees then over ten inches in diameter measured at a point two feet above the ground, and sufficient dimensions and other data to show the location of all work; description of the type and classification of the soil; details and location of any proposed drainage structures and pipes, walls and cribbing; nature of fill material and such other information as the city engineer may require to carry out the purposes of this subchapter: Cross section plans indicating existing and proposed elevations; sections shall be of intervals of 30 feet and where extreme changes in grade exist or are anticipated; end area calculations shall be submitted and totalized. The amount of cut and fill between stations and for the entire project shall be submitted and calculated to the cubic yard. All plans shall be dated and bear the name of:

(a) Person who prepared the same;

(b) The applicant; and

(c) The owner of the land.

(2) Plans shall be submitted in triplicate: The contour map, the plot plan and the cross section

(C) Include a plan to be approved by the city engineer for minimizing erosion and sedimentation in conformity with the requirements of § 151.50 through § 151.53.

(D) State the estimated dates for the starting and completion of the grading work.

(E) State the purpose for which the grading application is filed.

('80 Code, § 10-47)

### § 151.37 FEES

Before issuing a grading permit, the Clerk-Treasurer shall collect a permit and inspection fee as follows:

(A) Permit Fees:

(1) Not more than 60 cubic yards, \$10;

(2) More than 60 cubic yards and not more than 250 cubic yards, \$15;

(3) More than 250 cubic yards and not more than 500 cubic yards, \$20;

(4) More than 500 cubic yards and not more than 1,000 cubic yards, \$25;

(5) More than 1,000 cubic yards, \$5; for each 1,000 cubic yards or portion thereof, \$25 plus.

(B) Inspection Fee: \$10 per inspection or \$10 per hour.

('80 Code, § 10-48)

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### **§ 151.38 DENIAL**

The city engineer shall deny a grading permit where, in his opinion, the work as proposed by the applicant may endanger any property or any street or alley or fails to meet city standards. In determining whether the proposed work is likely to endanger any property, or streets, or alleys, or create hazardous conditions, the city engineer shall give due consideration to: possible saturation by rains, earth movements, run-off or surface waters and subsurface conditions such as stratification and faulting of rock, and the nature and type of the soil or rock.  
( '80 Code, § 10-49)

### **§ 151.39 EXPIRATION**

Every grading permit shall expire by limitation and become null and void if the work authorized by such permit has not been commenced within six months or is not completed within one year from the date of issue, the city engineer may, if the permit holder presents satisfactory evidence that unusual difficulties have prevented work being started or completed within the specified limits, grant reasonable extensions of time, not to exceed three month extensions, provided the application for extension of time is made before the date of expiration of the permit.  
( '80 Code, § 10-50)

## **DESIGN REQUIREMENTS**

### **§ 151.50 ACCEPTABLE STANDARDS**

Measures used to control erosion and reduce sedimentation shall as a minimum meet the standards and specifications of the city.  
( '80 Code, § 10-61)

### **§ 151.51 EROSION AND SEDIMENTATION CONTROL PRINCIPLES**

The following measures are hereby approved as effective means for minimizing erosion and sedimentation and shall be included where applicable in the control plan:

- (A) Stripping of vegetation, grading or other development shall be done in such a way as to minimize erosion.
- (B) Grading and development plans shall preserve salient natural features, keep cut and fill operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
- (C) Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- (D) The undisturbed area and the duration of exposure shall be kept to a practical minimum.
- (E) Disturbed soils shall be stabilized as quickly as practicable.

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- (F) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
- (G) The permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practical in the development.
- (H) Provisions shall be made to accommodate effectively the increased runoff caused by changed soil and surface conditions during and after development; where necessary, the rate of surface water runoff shall be mechanically retarded.
- (I) Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps, or similar measures.  
( '80 Code, § 10-62)

### § 151.52 GRADING FOR DRAINAGE

In order to provide more suitable sites for building and other uses, and to improve surface drainage and control erosion, the following requirements shall be met:

(A) All lots, tracts, or parcels shall be finally graded to provide proper drainage away from buildings and dispose of it without ponding, and all land within a development shall be graded to drain and dispose of surface water without ponding, except where approved by the Common Council on the recommendation of the city engineer.

(B) All drainage provisions shall be such design as to adequately handle the surface runoff and carry it to the nearest suitable outlet such as curbed street, storm drain or natural watercourse. When drainage swales are used to divert surface waters away from buildings, they shall be sodded or planted as required and shall be of such slope, shape and size as to conform with the recommendations of the city engineer.

(C) Concentration of surface water runoff shall only be permitted in swales or watercourses.  
( '80 Code, § 10-63)

### § 151.53 EXCAVATION AND FILLS

- (A) Slopes created by cut or fill shall not be steeper than 2.5:1 unless stabilized by a retaining wall or cribbing except where approved by the city engineer.
- (B) Adequate provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills.
- (C) Cur and fills shall not endanger adjoining property.
- (D) All fills shall be compacted to provide stability of material and to prevent undesirable settlement. The fill shall be spread in a series of layers, each not exceeding 12 inches in thickness and shall be compacted by a sheepsfoot roller or other approved method after each layer is spread. The city engineer may require tests or other information if in his opinion the conditions or material are such that additional information is necessary.

## **Grading, Excavations and Fills**

- (E) Fills shall not encroach on natural watercourses, constructed channels or flood plain areas.
- (F) Fills placed adjacent to natural watercourses, constructed channels or flood plains shall have suitable protection against erosion during periods of flooding.
- (G) Grading shall not be done in such a way as to divert water onto the property of another landowner.
- (H) During grading operations, necessary measures for dust control shall be exercised and sediment deposits on public highways should be minimized and cleaned at the direction of the city engineer.
- (I) Whenever a fill is to be made of materials other than clean soil or earth, the grading permit shall be subject to the following additional limitations and requirements:
  - (1) The fill shall be completed within a reasonable length of time, the time limit to be determined by the city engineer and to be specified on the grading permit.
  - (2) Clean soil or earth shall be placed over the top and exposed surfaces of the fill to a depth not less than six (6) inches and sufficient to conceal all materials other than clean soil or earth within the fill. Where the nature of the fill requires, the city engineer may require clean soil or earth be placed over the top and exposed surfaces of the fill to a depth sufficient to conceal all materials at the end of each day's operations.
  - (3) No grading permit shall be issued for the filling of materials other than clean soil or earth until a faithful performance bond in the amount of the city engineer's estimated cost of adequately covering such fill with clean soil or earth has been furnished to the city. The bond shall be executed by a corporate surety, or by the principal, as the city may require, and shall be subject to the approval of the city attorney as to form. In lieu of the bond, a cash deposit in such amount may be made with the city or with a bank or trust company, approved by the city attorney, which shall act as escrow agent.  
( '80 Code, § 10-64) Penalty, see § 151.99

### **§ 151.98 VIOLATIONS**

- (A) It shall be unlawful for any person to construct, enlarge, alter, repair or maintain any grading, excavation or fills or cause the same to be done, contrary to or in violation of any provision of this chapter.
- (B) When written notice of a violation of any of the provisions of this chapter has been served by the city engineer on any person, such violation shall be discontinued immediately.  
( '80 Code, § 10-31(a),(b))

### **§ 151.99 PENALTY**

Any person violating any provisions of this chapter shall be liable on conviction thereof to a penalty as provided in § 10.99 for each and every offense, and whenever such person shall have been notified by a city official by service of summons in a prosecution or other written notice that he is committing such violation of this chapter, each day that he shall continue such violation after such notification shall constitute a separate offense.