

~CHAPTER 32~

EROSION AND SEDIMENT CONTROL

Sections:

32.01. Introduction and Purpose.

- 32.01.01. Introduction.
- 32.01.02. Purpose.

32.02. Definitions.

- 32.02.01. Definitions.

32.03. Site Development Permit Application.

- 32.03.01. Application and Approval.
- 32.03.02. General Information.
- 32.03.03. Required Information.
- 32.03.04. Exceptions.

32.04. Clearing and Grading.

- 32.04.01. Scope.
- 32.04.02. Clearing and Grading.
- 32.04.03. Erosion Controls.
- 32.04.04. Sediment Controls.
- 32.04.05. Waterways and Watercourses.
- 32.04.06. Construction Site Access.

32.05. Inspection.

- 32.05.01. Inspections.

32.06. Enforcement.

- 32.06.01. Stop Work Order; Revocation of Permit.
- 32.06.02. Other Remedies.

32.07. Appeals.

- 32.07.01. Appealing the Decision of the Building Official.

32.08. Separability.

- 32.08.01. Separability.

32.01. Introduction and Purpose.

32.01.01. Introduction.

As a result of excavation, grading and construction processes, or other human activities, soil is prone to erosion by wind and water. This eroded soil endangers water resources by reducing water quality, increasing pollutants and causes the siltation of aquatic habitat for fish and other desirable species, and oftentimes adversely affects streets, right-of-ways and neighboring properties via inundation of increased and/or concentrated storm water runoff.

32.01.02. Purpose.

The purpose of this local regulation is to safeguard persons, protect property, safeguard natural drainages and waterways, to prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land within the jurisdiction of the City of Hot Springs.

32.02. Definitions.

32.02.01. Definitions.

Terms used in this chapter, unless the context otherwise plainly requires, shall mean:

1. **Bond** - Security consisting of a cash deposit, surety bond, personal guarantee, collateral, property, or instrument of credit in an amount and form satisfactory to and approved by the Common Council whenever a bond is required by these regulations.
2. **Building Official** - The appointed official responsible for the administration and enforcement of the City's codes and ordinances regulating construction, use or occupancy of buildings and structures, public or private.
3. **City** - The City of Hot Springs, Fall River County, South Dakota.
4. **City Engineer** - The City of Hot Springs' Public Works Engineer.
5. **Clearing** - Any activity which removes the vegetative surface cover.
6. **Drainage Easement** - A platted drainage easement across private property to a designated outlet or a storm water detention area.

7. **Drainage System - Including**, but not limited to street curb and gutter, storm sewer pipes and catch basins, channels, detention ponds, and natural waterways.
8. **Drainage Way** - Any channel or conveyance that allows surface runoff throughout the site.
9. **Easement** - A right to land generally established in a real estate deed or on a recorded plat to permit the use of land by the public, a corporation, or particular persons for specified uses.
10. **Erosion Control** - A measure or combination of measures that prevents erosion.
11. **Erosion and Sediment Control Plan** - A set of plans prepared by or under the direction of a licensed professional engineer, or by the owner or contractor where applicable, indicating the specific measures and sequencing to be used to control sediment and erosion on a development site before, during and after construction
12. **FEMA** - The Federal Emergency Management Agency.
13. **Governing Body** - The duly elected officials of a corporate political entity to whom authority is given to make, adopt, and amend subdivision regulations.
14. **Grading - Excavation** or fill of material, including the resulting conditions thereof.
15. **Health Department** - South Dakota Department of Environment and Natural Resources. (SD-DENR)
16. **Other Human Activities** - Activities other than those associated with excavation, grading, construction or development which results in the removal or disturbance of surface vegetation causing increased erosion and/or sedimentation concerns.
17. **Perimeter Control** - A barrier that prevents sediment from leaving a site either by filtering sediment-laden runoff, or diverting it to a sediment trap or basin.
18. **Phasing** - Clearing a parcel of land in distinct phases, with the stabilization of each phase before the clearing of the next.
19. **Rip rap** - Also known as rubble, shot rock, or other material used to protect shorelines streambeds, bridge abutments, pilings and other shoreline structures against water or ice erosion.
20. **SD-DOT BMPs** - South Dakota Department of Transportation's Erosion and Sedimentation Control Best Management Practices.

21. **Sediment Control** - A measure or combination of measures that prevents sediment from leaving the site.
22. **Site** - The total area within a parcel of land that is directly or indirectly affected by earth moving activities, to include the storing and staging of equipment and materials.
23. **Site Development** - The excavation, filling, grading, construction or development of property.
24. **Site Development Permit** - A permit issued by the City for excavation, grading, construction or development of property.
25. **Stabilization** - The use of practices that prevent exposed soil from eroding.
26. **Stormwater** - Surface runoff generated from rain or snowmelt.
27. **Watercourse** -
 - a. Any body of water including lakes, ponds, rivers, and streams.
 - b. Seasonal drainages, natural drainages, canyons, gulches, draws, or other bodies of water which are recognized as such by the City of Hot Springs, the Corps of Engineers or the Federal Emergency Management Agency (FEMA).
28. **Waterway** - A channel that directs surface runoff to a watercourse, or to the public storm drain.

32.03. Site Development Permit Application.

32.03.01. Application and Approval.

- A. Any person performing earth disturbing activities, including filling activities, that affect greater than 599 square feet of area, or 30 cubic yards of material, shall first make application for a Site Development Permit on a form provided by the City.
- B. An erosion and sediment control plan, along with the required fees, is required to accompany the application for the Site Development Permit. The plan shall include proposed erosion control methods for all earth moving activities. The application review period begins upon receipt of a completed application and fees.
- C. Application for a permit shall be made prior to any grading operations. Any unauthorized work shall be considered a violation regardless of any later actions taken towards compliance. A building permit shall not be issued for properties that are not in compliance with these requirements.
- D. Soil test borings, geotechnical investigations, vegetative cutting for land surveys, percolation tests, and similar activities shall not be considered start of work.
- E. The City of Hot Springs will review each application for a Site Development Permit to determine its conformance with the provisions of local regulations. Within thirty (30) days after receiving an application, the City shall, in writing, either:
 - 1. Approve the permit application,
 - 2. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions, or
 - 3. Deny the permit application, indicating the deficiencies and the procedure for submitting a revised application and/or submission.
- F. The fee for a site development permit shall be based on the size of the site as follows:

1-	Site 600 square feet to 10,000 square feet:	\$ 100.00
2-	Site 10,001 square feet to 43,560 square feet:	\$ 250.00
3-	Site greater than 43,560 square feet:	\$1000.00

Note: The amount of the Site Development Permit fee for a residential dwelling, commercial building, or accessory buildings thereto, shall be deducted from that individual's building permit fee at the time the building permit is issued.

- G. Failure of the City of Hot Springs to act on a properly submitted original or revised applications within thirty (30) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and the City. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the City of Hot Springs' Erosion and Sediment Control Ordinance.

32.03.02. General Information.

- A. Platted drainage easements shall be provided where surface runoff is directed or concentrated or where stormwater detention is provided.
- B. Existing watercourses, as defined in this chapter, shall not be altered or impeded unless otherwise expressly approved by the governing body having jurisdiction over said watercourse.
- C. Erosion and sediment control plans for sites greater than 43,560 square feet in area shall be prepared by a registered design professional.
- D. Subdivision erosion and sediment control plans must incorporate a separate detailed drawing and narrative describing minimum erosion and sediment control measures on individual lots within the approved subdivision.
- E. Individual lots of less than one (1) acre in a subdivision where an erosion and sediment control plan has been approved shall not be considered a separate construction project but shall be considered a part of the subdivision as a whole. It shall be the responsibility of such lot owner to conform to all the requirements of the approved erosion and sediment control plan for the subdivision.
- F. All applicants shall, where applicable, obtain coverage under the State of South Dakota's General Permit for Stormwater Discharges Associated with Construction Activities.

32.03.03. Required Information.

- A. The Erosion and Sediment Control Plan shall include:
 - 1. For sites greater than 43,560 square feet in area:

- a. A site plan identifying existing ground and forest cover and other resources protected under this chapter. The site plan shall be adequately scaled and detailed for clarity.
 - b. A sequence of construction of the development site, including stripping and clearing, rough grading, construction of utilities, infrastructure, and buildings, and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, and the sequence of clearing, installation of temporary erosion and sediment measures, and establishment of permanent vegetation.
 - c. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
2. For sites less than 43,560 square feet in area:
- a. A site plan identifying existing ground and forest cover and other resources protected under this chapter. The site plan shall be adequately scaled and detailed for clarity.
 - b. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
- B. Modifications to the plan.
- 1. Major amendments of the erosion and sediment control plan shall be submitted to the Building Official and shall be processed and approved, or disapproved, in the same manner as the original plans.
 - 2. Field modifications of a minor nature may be authorized by the City via written authorization to the permittee.

32.03.04. Exceptions.

- A. A site development permit is not required for the following activities:
 - 1. Earth moving activities involving less than 600 square feet of area.

2. Any emergency activity immediately necessary for the protection of life, property, or natural resources.
3. Existing nursery and agricultural operations conducted as a permitted primary or accessory use.
4. Sidewalk and driveway construction disrupting less than 1,000 square feet of surface area.
5. Underground utility installation and repair projects confined within improved streets of impervious materials, provided such activities are confined to the hard-surfaced area and provided the soils stockpiles are confined to the project area.
6. Mining operations as permitted by the State of South Dakota and approved by the City of Hot Springs.
7. Earth disturbing activities approved by the City Building Official or Public Works Engineer.

32.04. Clearing and Grading.

32.04.01. Scope.

Clearing and grading activities affecting greater than one (1) acre, and all activities affecting waterway crossings shall meet the design criteria set forth in the most recent version of the South Dakota Department of Transportation's Erosion and Sedimentation Control Best Management Practices (SD-DOT BMPs), and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the City of Hot Springs.

32.04.02. Clearing and Grading.

- A. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance all other chapters of this Section.
- B. Clearing techniques that retain natural vegetation and retain natural drainage patterns, as described in the SD-DOT BMPs, shall be used to the satisfaction of the City.
- C. Phasing shall be required on all sites disturbing greater than ten (10) acres, with the size of each phase to be established at plan review and as approved by the City.

- D. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- E. Cut and fill slopes shall be no greater than 2:1, except as approved by the City to meet other community or environmental objectives.
- F. Landscaping provided for erosion and sediment control, property protection, final backfill grade, or stormwater detention areas shall be shown on the plan with projected completion dates indicated.

32.04.03. Erosion Control.

- A. Soil must be stabilized within seven (7) days of clearing or inactivity in construction.
- B. If vegetative erosion control methods, such as seeding, have not become established within four (4) weeks, the City may require that the site be reseeded, or that a non-vegetative option be employed.
- C. On steep slopes or in drainage ways, special techniques that meet the design criteria outlined in the SD-DOT BMPs shall be used to ensure stabilization.
- D. Soil stockpiles must be secured against erosion or silting at the end of each work day.
- E. At the close of the construction season, the entire site must be stabilized, using a heavy mulch layer, or another method that does not require germination to control erosion.
- F. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
- G. Techniques that divert upland runoff past disturbed slopes shall be employed.

32.04.04. Sediment Controls.

- A. Sediment controls shall be provided in the form of settling basins or sediment traps or tanks, and perimeter controls.
- B. Where possible, settling basins shall be designed in a manner that allows adaptation to provide long term stormwater management.
- C. Adjacent properties shall be protected by the use of a vegetated buffer strip, in combination with perimeter controls.

32.04.05. Waterways and Watercourses.

- A. When a wet watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided and approval obtained from the appropriate agency (ies) having jurisdiction over such watercourse.

- B. When in-channel work is conducted, the channel shall be stabilized before, during and after work.
- C. All on-site stormwater conveyance channels shall be designed according to the criteria outlined in the SD-DOT BMPs.
- D. Stabilization adequate to prevent erosion must be provided at the outlets of all pipes and paved channels.

32.04.06. Construction Site Access.

- A. A temporary access road shall be provided at all sites.
- B. Other measures may be required at the discretion of the City in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.

32.05. Inspection.

32.05.01. Inspections.

All construction or work for which a permit is required shall be subject to inspection as required or authorized by the governing body.

32.06. Enforcement.

32.06.01. Stop-Work Order; Revocation of Permit.

- A. In the event that any person holding a site development permit pursuant to this ordinance violates the terms of the permit, or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the City may suspend or revoke the site development permit.
- B. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance. Any person violating any of the provisions of this ordinance shall be subject to penalties under Section 1-7 of the municipal code. In addition to any other penalty

authorized by this section, in the event of commencement of construction without an approved permit, the fee for said permit shall be multiplied by a factor of four (4).

32.06.02. Remedies for non-compliance of regulations.

- A. Should erosion and sediment controls fail during a rain event, or soils are placed in a manner inconsistent with proper erosion and sediment control practices, either of which imminently endangers a property or waterway, the City, after a good faith effort to contact the responsible party(ies), may implement emergency measures to secure the site, the cost thereof shall be charged to that responsible party.
- B. Site Development Permits shall be denied to applicants who have exhibited a practice of non-compliance with the Erosion and Sediment Control Ordinance.

32.07. Appeals.

32.07.01. Appealing the decision of the Building Official.

Appeals to the decision of the Building Official in the determination of the provisions of this code shall be made to the Common Council of the City of Hot Springs.

32.08. Separability.

32.08.01. Separability.

The provisions and sections of this ordinance shall be deemed to be separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

[Ord. 1088, Eff. 4/5/10]