



14-301. Purpose of article.

A. Purpose. In order to promote the public health, safety, and general welfare of the citizens of the City of Ottawa, this Article acts to regulate and control the design, construction, use, and maintenance of any development and its BMPs from activities that disturb or break the topsoil or result in the significant movement of earth.

(Code 2015)

14-302. General provisions.

A. Any person undertaking land disturbance activities, including the clearing, grading, excavating, filling, storing, and disposing of soil and earth materials, shall comply with the requirements and standards set forth in this Article. Permit requirements for land disturbance activities are described in Section 14-303 of this Article.

B. Responsible Person(s). The responsible person(s) are the owner of the property upon which a land disturbance takes place and any person(s) performing a land disturbance activity. When a Land Disturbance Permit or Building Permit is issued, an owner is responsible for land disturbance activities from permit issuance to closure, unless the City approves a transfer of responsibility to a new owner when land is sold. When land disturbance is authorized through the issuance of a permit pursuant to the Building Code, the owner remains responsible until that permit is closed and any open Land Disturbance Permits on the same property are closed according to Section 14-303(F).

(Code 2015; Ord. 4025-19)

14-303. Land disturbance activities and permits.

A. When required. A land disturbance permit (LDP) shall be obtained from the City prior to commencement of any of the following, unless exempted in 14-303(B):

1. Any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.
2. Any new development or redevelopment that cumulatively disturbs equal to one (1) acre or more of land and must complete a SWP2 Plan in accordance with Section 14-108.
3. Utility construction.

B. Exemptions. A Land Disturbance Permit is not required for the following:

1. Residential land disturbance activities that cumulatively disturb less than one (1) acre and are not part of a larger common plan of development or sale that disturbs a cumulative area of 1 acre or more. Residential projects less than one (1) acre shall implement effective erosion and sediment control techniques in accordance with City BMP standards.
2. Work to correct or remedy emergencies, including situations that pose an immediate danger to life or property or substantial flood or fire hazards.
3. Agricultural uses and nursery operations.
4. Land disturbance activities specifically authorized by a building permit that includes an erosion and sediment control plan covering the entire area of disturbance. This exemption is not intended to exempt the building permit from erosion and sediment control requirements provided by Section 14-306.

5. Land disturbance activities in the Special Flood Hazard Area shall adhere to the City of Ottawa Zoning Regulations, Article 19.

6. Linear utility projects with less than 1,000 feet of cumulative open trench construction that are located outside the boundaries of a development project.

C. Limitations of usage. Construction of a project with a final development plan approved by the City also requires a building permit. Construction of a project with a final development plan cannot be accomplished solely through a land disturbance permit.

D. Applications.

1. Applications for land disturbance, site plan approval, or building permits shall be filed upon forms prescribed by the City and conform to the following:

- a) Construction documents shall clearly indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this Article, and other relevant laws, rules and regulations as determined by the City Engineer; and
- b) Shall include a site plan drawn to an engineer scale showing the size and location of new construction and existing structures on the site and the legal description of the lot tract or parcel; and
- c) Shall include a grading plan, drainage map, and an erosion and sediment control plan in conformance with Section 14-306.

2. Applications for land disturbance permits shall be submitted for approval by the City. Issuance of land disturbance permits shall conform to the following:

- a) Where the proposed land disturbance activity covers multiple tracts of land or multiple lots, the permit shall be issued only to the common owner.
- b) A contact person or field representative shall be identified on every permit as a responsible party whom the City can contact regarding the installation, maintenance, and removal of erosion and sediment control measures. The land disturbance permit holder is responsible for timely written notification to the City Manager of any changes to the contact person or field representative.
- c) The land disturbance permit holder may request that the permit be transferred to another party. The transfer of a permit from one party to another shall be subject to the approval of the City Manager and not be effective until written approval is issued.
- d) The owner of the property may designate, in writing, others to act on his or her behalf, however the responsibility for compliance with this Article with respect to land disturbance activities shall remain with the owner of the property until the issued permit has been officially closed.

E. Fees. Application fees for all permit applications shall be established by resolution of the Governing Body. Application fees may be reviewed on an annual basis and revised as necessary by adoption of a new resolution.

F. Closure. Closure of a land disturbance permit is independent of closure of other permits.

1. Stabilized Site. The site shall be considered stabilized when perennial vegetation, pavement, buildings or structures using permanent materials, cover all areas that have been disturbed. Perennial vegetation shall be

considered established and completed for stabilization when it has established a healthy and growing stand with a density of at least 70 percent of undisturbed areas at the site.

2. Partially Stabilized Site. If a site has been partially stabilized, a land disturbance permit shall be closed upon issuance of a subsequent land disturbance permit covering remaining unstabilized areas. Closure of a land disturbance permit shall be completed by obtaining a satisfactory final inspection and issuance of a certificate of compliance. Timing of final inspections for land disturbance permits shall conform to the following:

- a) For phased residential development, where the permit holder seeks closure of the entire site subject to the permit, a final inspection can be completed after 80 percent of the housing units in the associated final plat have received final certificates of occupancy, or a minimum of three years after issuance of the first building permit for a housing unit. Additionally, no final inspection can be made before any temporary BMP's serving more than one lot are no longer needed and are removed.
- b) For development other than phased residential development, a final inspection can occur when all temporary BMPs serving more than one lot are no longer needed and are removed.
- c) For single-family or two-family construction only, the holder of a land disturbance permit that includes multiple lots shall no longer be responsible for activities that occur on an individual lot for which all dwellings have received certificates of occupancy. In that event there shall be a final inspection of that lot and partial closure of the land disturbance permit prior to or at the time of issuance of a certificate of occupancy.

(Code 2015; Ord 4025-19)

14-304. Expiration, suspension and revocation of permits.

A. Expiration of Permits. Land disturbance permits shall expire if the authorized work has not commenced within 180 days after permit issuance. A land disturbance permit shall not expire after land disturbance activities have begun but shall be closed according to Section 14-303(F).

B. Suspension of Permits. Suspension of land disturbance permits shall comply with the following:

1. A land disturbance permit can be suspended by the City if determined that:

- a) The site is not in substantial compliance with the approved plan or any permit condition.
- b) A violation of any provision of this Article or any other applicable law, Article, rule, or regulation relating to this work exists.
- c) A condition exists, or act is being done that constitutes a nuisance or hazard or endangers human life or the property of others.
- d) The approved plan is failing to achieve required erosion and sediment control objectives due to improper installation, maintenance, or failure of the plan to perform anticipated erosion and sediment control functions as required by Section 14-305.

2. A land disturbance permit shall be suspended by issuance of written notice to the permit holder, or the permit holder's representative. The notice shall indicate the reason for permit suspension and indicate corrective measures required and the timeframe within which corrections must be made to reinstate the permit. The notice shall also include a stop work order according to Section 14-104(C)(1), if not previously

issued. If the applicant fails to make corrective measures within the timeframe required, the City Manager may revoke the permit.

C. Revocation of Permits. A permit may be revoked by the City issuing the permit at any time prior to the completion of the land disturbance when it appears that one or more of the following conditions is present:

1. There is departure from the plans, specifications or conditions as required under the terms of the permit;
2. The permit was procured by false representation;
3. The permit was issued by mistake; or
4. Any of the provisions of this Article are being violated.

Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed in the building or structure for which such permit was issued, or shall be posted in a prominent location on the property. Where notice of revocation has been served or posted, no further construction or use of the property shall proceed. Any revocation of a permit other than a building permit may be appealed to the Governing Body. A revoked permit may not be reinstated, except where revocation of a building permit is successfully appealed to the Construction Board of Appeals.

(Code 2015; Ord. 4025-19)

14-305. Other permits.

A. Building Permits and Compliance

1. Compliance with existing land disturbance permits. Issuance of any building permit that is part of a common plan of development with a pre-existing land disturbance permit, will require written agreement by the permit applicant to comply with the provisions of the pre-existing land disturbance permit.
2. Closure. Closure of a building permit shall be completed in accordance with the provisions of Section 14-303(F). In cases where there is not a separate land disturbance permit issued for a particular site, a final certificate of occupancy shall not be issued until the site has been permanently stabilized and all temporary BMP's removed and all drainage and grading is found to be in compliance with this Article.

B. General Permit for Franchised/Public Utilities. In lieu of obtaining individual project Land Disturbance Permits for utility-funded linear projects, the City may issue a General Permit to franchise and public utilities that shall be renewed annually. To apply for a General Permit, the utility must submit a permit application which includes:

1. Effective erosion control standards and construction methods that are to be implemented on the utility's projects, conforming to Section 14-305. The General Permit does not relieve the utility of the responsibility of preparing and implementing project specific SWP3, as defined by the State of Kansas, for projects disturbing over one (1) acre of area.
2. A procedure to notify the City, no less than fourteen (14) days prior to work beginning, of projects disturbing a cumulative area greater than one (1) acre. The notification shall be accompanied by a copy of SWP3 and the associated KDHE NOI.
3. A mechanism to reimburse the City for the cost of all abatement actions. The City Manager may revoke a Land Disturbance General Permit for failure to reimburse City abatement costs within sixty (60) days of receipt

of an abatement invoice. The utility must notify the City Manager in writing within fourteen (14) days of any State or Federal citations related to erosion and sediment control violations in the City.

4. The City Manager shall revoke any general permit when the activities authorized by that General Permit cause the City of Ottawa to be noncompliant with the NPDES permit.

(Code 2015; Ord. 4025-19)

14-306. Erosion and sediment control plans.

A. All proposed land disturbance activity that requires a permit in accordance with Section 14-303 shall be depicted on a site-specific Erosion and Sediment Control Plan. Land disturbance activities that do not require a permit in accordance with Section 14-303(B) are required to employ applicable BMPs included in standard details provided by the City. For persons not subject to permit requirements, any pollutants or sediment found emanating from a site or parcel may constitute a violation of Article II.

B. Other Pollutants. In addition to sediment, the Erosion and Sediment Control Plan shall provide for the control of other pollutants related to the land disturbance activity that might cause an adverse impact to water quality, including, but not limited to, discarded building materials, concrete truck washout, fuel, hydraulic fluids, chemicals, litter, and sanitary wastes.

C. Design Requirements.

1. Where land disturbance activities have temporarily or permanently ceased on a portion of a project site for over fourteen (14) consecutive days, the disturbed areas shall be protected from erosion by stabilizing the areas with mulch or other similarly effective soil stabilizing BMPs. If seeding or other vegetative erosion control method is used, it shall become established in two (2) weeks or the City may require the site to be reseeded or a non-vegetative option employed, unless the timeframe for compliance is extended by the City Engineer. Where implementation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

2. Cut and fill slopes shall not exceed 3:1, except as approved by the City Engineer to meet other community or environmental objectives.

3. Erosion and sediment controls shall not obstruct any existing or built drainage ways.

4. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except as approved by the City Engineer. Clearing techniques that retain natural vegetation and drainage patterns shall be upon approval of the City Engineer.

5. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

6. Phasing shall be required on all sites disturbing greater than thirty (30) acres, with the size of each phase to be established at plan review and as approved by the City Engineer.

D. The Erosion and Sediment Control Plan shall include the following:

1. A natural resources map identifying soils, forest cover, and resources.

2. 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, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

3. All erosion and sediment control measures necessary to meet the objectives of this Article throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.

4. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

5. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.

E. Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 14-108, and shall include:

1. Major amendments of the erosion and sediment control plan.
2. Field modifications of a minor nature.

F. Erosion control requirements shall include, but are not limited to, the following:

1. Special techniques for steep slopes or in drainage ways shall be used to ensure stabilization.
2. Soil stockpiles must be stabilized or covered at the end of each workday.
3. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
4. Techniques shall be employed to prevent the blowing of dust or sediment from the site.
5. Techniques that divert upland runoff past disturbed slopes shall be employed.
6. Sediment control requirements shall include:
 - a) Settling basins, sediment traps, or tanks and perimeter controls.
 - b) Settling basins that are designed in a manner that allows adaptation to provide long-term stormwater management.
 - c) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
7. Construction site access requirements shall include:
 - a) A temporary access road provided at all sites.
 - b) Other measures required by the City Engineer in order to ensure that sediment is not tracked into public streets by construction vehicles or washed into stormwater drains.

(Code 2015; Ord. 4025-19)

14-307. Inspection.

- A. Initial Inspection. The permit holder shall notify the City when initial erosion and sediment control measures are installed in accordance with the Erosion and Sediment Control Plan. No land disturbance activities shall begin prior to approval from the City that all pre-construction erosion and sediment control measures are correctly installed per the approved plan.
- B. Maintenance of Control Measures. All prescribed erosion and sediment control measures shall be maintained in good order and in compliance with the Erosion and Sediment Control Plan at all times.
- C. Routine Inspection. It shall be the duty of the permit holder to routinely inspect the construction site and maintain effective Erosion and Sediment Control measures. Routine inspections shall be performed once every 14 days and within twenty-four hours following each rainfall event of ½" (one half) or more within any twenty-four hour period. A log shall be kept of these inspections. Any deficiencies shall be noted in a report of the inspection and include the action taken to correct the deficiency. Inspection reports shall be submitted to the City Manager upon request. The inspection report shall include the following minimum information:
1. Inspectors name.
 2. Date of inspection.
 3. Observations relative to the effectiveness of the erosion and sediment control measures.
 4. Actions necessary to correct deficiencies.
 5. Signature of person performing the inspection.

The City may also perform inspections of the land disturbance activity site to verify compliance with the Erosion and Sediment Control Plan. Should it be found that erosion and control methods are ineffective or are not being maintained properly, the City may take enforcement actions described in Article I, Section 14-104.

D. Removal of Temporary Erosion and Sediment Control Measures. Subsequent to a satisfactory final inspection of the land disturbance, all temporary erosion and sediment control measures must be removed and the final segments of the storm sewer system shall be constructed in the manner described within the approved plans. Such removal shall be complete prior to closure of the permit that authorized the land disturbance.

(Code 2015; Ord. 4025-19)

14-308. Enforcement and penalties.

Enforcement, penalties, and administration for violations shall be managed by Article I, Section 14-104.

(Code 2015; Ord. 4025-19)

14-309. Miscellaneous.

Effective Date. The provisions of this Chapter shall apply to all Land Disturbance activities that take place on or after September 21, 2011.

(Code 2015)