

KENDALL COUNTY
EROSION AND SEDIMENTATION CONTROL ORDINANCE

ARTICLE I

PURPOSE

The County Board of the County of Kendall hereby find as follows:

That excessive quantities of soil are eroding from areas that are undergoing development for certain non-agricultural uses, including but not limited to, the construction of dwelling units, commercial buildings and industrial plants, the building of roads and highways, and the creation of recreational facilities;

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 on road vehicles;

That said soil erosion necessitates the costly repairing of gulleys, washed-out fills, and embankments;

That the sediment from said soil erosion tends to clog sewers and ditches and to pollute and silt the rivers, streams, lakes and reservoirs;

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; and

That said sediment reduces the channel capacity of waterways, resulting in greatly increased chances of flooding at grave danger to public health and safety.

That County Board therefore declares that the purpose of this Ordinance is to provide minimum standards to safeguard persons, and to protect property and prevent the disipilation of the environment, and to promote the public welfare, by regulating and controlling the design, construction, quality of materials and use and maintenance of any development or other activity which distrubs or breaks the topsoil or otherwise results in the movement of earth on land situated in the County of Kendall, Illinois.

ADOPTED this 10 day of June, 1974


Chairman, Kendall County Board
State of Illinois

ATTEST: 
Clerk

ARTICLE II

DEFINITIONS

For the purpose of this Ordinance certain terms used herein are defined as set forth below:

BUILDING PERMIT means a permit issued by the County of Kendall for construction, erection or alteration of a structure of building.

CERTIFY or CERTIFICATION means the specific inspections and tests where required have been performed, and that such tests comply with the applicable requirements of this Ordinance.

COUNTY means the County of Kendall, Illinois.

CUBIC YARDS means the amount of material in excavation or fill measured by the method of "average end areas."

EXCAVATION means 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 means the vertical location of the existing ground surface prior to excavation or filling.

FILL means 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 means excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

PARCEL means all contiguous land in one ownership.

PERMITTEE means any person to whom a site development permit is issued.

PERSON means any person, firm or corporation, 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 means cutting vegetation to the ground or stumps, complete extraction, or killing by spraying.

SITE means a lot or parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

SITE DEVELOPMENT means altering terrain or vegetation and construction driveways.

LAND SURVEYOR means a registered surveyor of the State of Illinois.

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

ARTICLE III

GENERAL CRITERIA AND STANDARDS

The following general principles shall apply to any movement of earth and any sedimentation and erosion control plan and the granting of a permit for the execution of said plan as hereinafter provided:

1. The smallest practical area of land shall be exposed at any given time during development.
2. Such minimum area exposure shall be kept to as short a duration of time as is practical.
3. Temporary vegetation or, where appropriate, mulching or other non-viable cover shall be used to protect areas exposed during development.
4. Sediment basins, debris basins, desilting basins, or silt traps shall be installed and maintained to remove sediment from run-off waters from land undergoing development.
5. Provisions shall be made to effectively accommodate the increased run-off caused by changed soil and surface conditions during and after development.
6. Permanent, final plant covering or structures shall be installed as soon as possible.
7. The plan of development shall relate to the topography and soils of the site so that the lowest potential for erosion is created.
8. Natural plant covering shall be retained and protected so far as is consistent with developing the site.

ARTICLE IV

PLAN AND PERMIT

A. Permit Required.

1. Before land is cleared, graded, transported, or otherwise distributed 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, partnership, or corporation within the County, a site development permit embodying the proposed earth movement shall be obtained from the Kendall County Plat Officer, where development comes under any one or more of the following provisions, unless such development is exempted therefrom by subsection 2 of this Article IV:
 - a. Excavation, fill or any combination thereof, will exceed one hundred (100) cubic yards.
 - b. Fill will exceed three (3) feet in vertical depth at its deepest point measured from the natural ground surface.
 - c. Excavation will exceed four (4) feet in vertical depth at its deepest point.
 - d. Excavation, fill, or any combination thereof will exceed an area of five thousand (5,000) square feet.
 - e. Plant cover is to be removed from an area exceeding five thousand (5,000) square feet on any vacant parcel of land or any parcel of land in excess of ten (10) acres.
2. A site development permit shall not be required in the following cases:
 - a. Excavations below finished grade for septic tanks and drain fields, tanks, vaults, tunnels, equipment basements, swimming pools, cellars, or footings of buildings or structures for which a building permit shall have been issued by the County, unless part of a development which would otherwise require such a 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. Engraving 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:
 - (i) the construction of sod waterways, or
 - (ii) the construction of terraces, or
 - (iii) the construction of surface water diversions, or
 - (iv) the construction of grade stabilization structures, or
 - (v) the tilling of the soil.

B. Application.

1. No site development or building permit shall be issued until said developer submits a site development plan, together with other submissions required by this Ordinance, and certifies that any land-clearing construction or development involving the movement of earth shall be in accordance with such plan and submissions.
2. Each application for a site development permit shall be made by the owner of the property or his authorized agent to the County Plat Officer on a form furnished for that purpose. When grading or plant cover removal is proposed as a part of a building permit application may be combined, and one plot plan, in the number of copies required by the County Plat Officer, may be submitted showing building plans and site development plans. In such instances, a registered land surveyor shall certify as to the accuracy of the existing and proposed contour lines. Each application shall be accompanied by the following, unless the County Plat Officer finds any item unnecessary to insure compliance with the provisions of this Ordinance; provided, however, that no exemption from subsection (a) hereof shall be granted to any applicant who intends to move in excess of five hundred (500) cubic yards of dirt:
 - a. With respect to site developments, a vicinity sketch, showing acreage of site, boundary line survey, zoning, type of proposed sewer and water facilities, location of existing utilities, buildings and drains on and within one hundred (100) feet of the site, together with a legend and scale. There shall be included on or with such a vicinity sketch:

- (i) A soil map of the subject property showing the predominant soil types on the site.
 - (ii) Enough information on those areas abutting or adjacent to the site to show existing drainage patterns and the drainage course that may affect, or be affected by the development of, the site.
 - (iii) The name and address of the developer or owner.
 - (iv) The name and address of any consulting firm retained by the applicant, together with the name of applicant's principal contact at such firm.
 - (v) Limits of natural flood plain, if any.
 - (vi) Areas to be sodded, seeded, mulched, or paved.
 - (vii) Acreage of area to be vegetatively stabilized, if any.
 - (viii) Areas to be left undisturbed.
- b. With respect to site grading, existing topography of the site and a 100-foot 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 run-off.
- c. Storm drainage by means of a plan based upon a competent storm drainage study, including a drainage area map and computations, and indicating what conditions now prevail at proposed and natural outlets such as:
- (i) Whether the drainage course is bare earth or vegetated.
 - (ii) Whether the constructed outlet will be in open sun, open shade, or dense shade.
 - (iii) Whether the natural or proposed outlet is subject to long term or continuous flow.
 - (iv) Whether the existing outlet is actively eroding.
 - (v) Whether there is evidence of a high water table (permanent or seasonal).
 - (vi) Whether the area is subject to seepage or spring flow.
 - (vii) The elevation of normal water level in all proposed and natural outlets.

- (viii) A profile below outlet for a sufficient distance to indicate the natural gradient of the accepting natural outlet or stream channel.
- (ix) A cross-section and profile of existing stream channels where applicable.
- (x) A ditch design and computations for all seeded, sodded, or bare earth outlets, ditches and similar water conduction facilities.

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

- Phase I Stripping 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 Kendall County Plat Officer for approval shall show all the erosion and sediment control measure needed 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:

- (i) The start of clearing date.
- (ii) Duration of exposure of disturbed areas.
- (iii) Installation of temporary sediment control measures (vegetative and structural) by phase and date.
- (iv) Installation of storm drainage by phase and date.
- (v) Paving of streets and parking areas, if any, by phase and date.
- (vi) 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.
- (vii) Details of all structural sediment control measures.
- (viii) Computations for sediment basins, if any.

- e. The standards and specifications of "Erosions and Sediment Control Handbook, Kendall County, Illinois," First edition, as compiled for the Kendall County Soil and Water Conservation District and approved by the Kendall County Regional Planning Commission, are hereby incorporated into this Article IV 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.
- C. Bonds. The applicant may be required to file with the County Clerk a faithful performance bond or other improvement security satisfactory to the State's Attorney in the amount deemed sufficient by the County Plat Officer to cover all the costs of improvements, landscaping, maintenance of landscaping for such periods as specified by the County, engineering, inspection fees and incidental expenses.
- D. Review. To futher the specific purposes of this Ordinance the following review procedures are established:
- 1. 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 County Plat Officer shall review the application for the proposed site development permit. If the County Plat Officer finds the application for the proposed grading plan in conformance with the provisions of this Ordinance, he may issue a permit with such reasonable conditions as he may deem necessary to secure substantially the objectives of this Ordinance, or he may in the alternative refer the application to the Soil and Water conservation District or the Kendall County Regional Planning Commission in the manner provided in Section D-2 of this Article IV.
 - 2. Grading Work in Excess of Five Hundred Cubic Yards or Removal of Vegetation. Where the aggregate volume of grading on any site or contiguous group of site is in excess of five hundred (500) cubic yards or the proposed cuts and fills exceed five (5) feet at their maximum point, or where approval to remove plant cover is required by this Ordinance:
 - a. The County Plat Officer shall refer the application to the Soil and Water Conservation District and the Kendall County Regional Planning Commission for review and recommendations. Such recommendations shall be submitted to the County Plat Officer within thirty (30) days.
 - b. Upon receipt of the recommendatiosn of the Regional Planning Commission and the Soil and Water Conservation District, and after consideration thereof, the County Plat Officer shall approve, approve with such reasonable conditions as he may deem necessary to secure substantially the objectives of this Ordinance, or disapprove the application for the site development.

- c. Failure to the County Plat Officer to make a determination upon the approval, conditional approval, or disapproval of the application for a site development permit within sixty (60) days after receipt of all necessary information for such action will constitute an approval of the application unless such time is extended with the consent of the applicant.
3. Prohibition of Earth Removal. No site development permit shall be issued for an intended building site unless:
 - a. Such permit is accompanied by or combined with a valid building permit issued by the County, or
 - b. The proposed earth moving is coordinated with any overall plan previously approved by the County for the area in which the site is situated.
- E. Appeals. The applicant, as well as any person who has received notice of the filing of the application for site development permit, the Regional Planning Commission, and the Kendall County Soil and Water Conservation District may appeal the decision of the County Plat Officer, including any approval resulting from lack of action by the Plat Officer as provided in Subsection D-2 (c) of this Article IV, to the Zoning Board of Appeals. Upon receipt of an appeal, the Board shall schedule and hold a public hearing, after giving 15 days' notice thereof. The Board shall render a decision within 30 days of the hearing. Factors to be considered on review shall include, but not be limited to, possible saturation of fill and unsupported cuts by water, both natural and domestic; run-off surface waters that produce erosion, and silting of drainage ways; 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.
- F. Responsibility. Failure of the County officials to observe or recognize hazardous or unsightly conditions or to recommend denial of said permit, shall not relieve the permittee from responsibility for the conditions or damage resulting therefrom, and shall not result in the County, its officers or agents being responsible for any condition or damage resulting therefrom.
- G. Retention of Plans. Plans, specifications and reports for all site developments shall be retained in original form or on microfilm by the County Plat Officer.
- H. Inspections. The County Plat 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 plan. Where it is found by inspection that conditions are not substantially as stated or shown in the said plan, the County Plat 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 County Plat Officer, shall be maintained at the site during progress of the grading. Until the final inspection is made, a sign issued by the County indicating permission to grade has been granted by the County 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 County Plat Officer at least two (2) full working days before the said inspection is to be made:

1. Rough Grading. When all rough grading has been completed; and
2. Final Inspection. When all work, including installation of all drainage and other structures and required planting, has been completed.

ARTICLE V

OPERATION STANDARDS AND REQUIREMENTS

- A. Applicability. All earth moving grading and grading operations not specifically exempted by the provisions of this Ordinance shall comply with the applicable standards and requirement set forth in this Article V in addition to the other requirements of this Ordinance.
- B. Handbook Adopted by Reference. The standards and specifications of "Erosion and Sediment Control Handbook, Kendall County, Illinois," First Edition, as compiled for the Kendall County Soil and Water Conservation District and approved by the Kendall County Regional Planning Commission, are hereby incorporated into this Article V and made a part hereof by this reference, for the purpose of delineating procedures and methods of operation under development plans approved in Article IV of this Ordinance. In the event of conflict between provisions of the said "Handbook" and other provisions of this Ordinance, the said provisions of this Ordinance shall govern.
- C. Special Precautions.
 1. If at any stage of the grading the County Plat 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 County Plat 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, berms, terracing, compaction, or

or cribbing, installation of plant materials for erosion control, and reports of a registered soils engineer and/or of a registered engineering geologist whose recommendations may be made requirements for further work.

2. 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 County Plat 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 insure completion of protective measures or devices prior to the advent of seasonal rains.
- D. 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 and eighty (180) days, or is not completed within one (1) year from date of issue; except that the County Plat 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.

ARTICLE VI

FEE, DEPOSITS, BONDS, APPEALS, EXCEPTIONS AND PENALTIES

- A. Exceptions. The Zoning Board of Appeals may authorize exceptions to any of the requirements and regulations set forth in this Ordinance.
1. 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 Zoning Board of Appeals find all of the following facts with respect thereto:
 - a. That the land is of such shape or size or is affected by such physical conditions or is subject to such title limitations or record that it is impossible or impractical for the subdivider to comply with all of the regulations of this ordinance.
 - b. That the exception is necessary for the preservation and enjoyment of a substantial property right of the petitioner.

c. 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.

2. Referral of Proposed Exception. Each proposed exception shall be referred to the officers or agencies involved and such officers or departments shall transmit to the Zoning Board of Appeals their recommendations, which recommendations shall be reviewed prior to the granting of any exception.

3. Zoning Board of Appeals. After public hearing thereon, the Zoning Board of Appeals, 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.

B. Revocation of Permit.

1. Authority: In the event any person holding a site development permit pursuant to this Ordinance 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 County Plat Officer shall revoke or suspend the site development permit.

2. Procedure for Revoking Site Development Permit. No site development permit shall be permanently revoked or suspended until a hearing is held by the Board of Appeals. Written notice of such hearing shall be served upon the permittee, either personally or by registered mail, and shall state:

a. The grounds for complaint or reasons for the revocation or suspension, in clear and concise language.

b. The time when, and the place where such hearing is to be held. Such notice shall be served by registered mail or personal service on the permittee at least 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 conclusions of such hearing the Board of Appeals shall determine whether or not the permit shall be suspended or revoked.

c. The Board of Appeals shall hold the hearing to consider recommendations for revocation or suspension of permits

which have been temporarily suspended at the next regular scheduled meeting of the Board of Appeals at which all conditions of paragraph (b) above can be fulfilled.

- C. Fees. Filing fees and deposits for services shall be set by the Kendall County Board.
- D. Nuisances. This Ordinance shall not be construed as authorizing any person to maintain a private or public nuisance upon their property, and compliance with the provisions of this Ordinance shall not be a defense in any action to abate such nuisance.
- E. Violations and Penalties. No person, firm or corporation 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 provisions of this Ordinance. Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Ordinance is committed, continued, or permitted, and upon conviction of any such violation such person shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than one hundred eighty (180) days, or by both such fine and imprisonment.
- F. Constitutionality. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions, of this Ordinance. The County Board of the County of Kendall hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase hereof irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases hereof be declared invalid or unconstitutional.
- G. CONSULTING ENGINEER. Authority is hereby granted to the Building and Zoning Committee of the Kendall County Board to employ the services of a Consulting Engineer to expedite the terms of this Ordinance.

SAMPLE REQUIREMENTS
FOR
STANDARDIZATION OF EROSIONS AND SEDIMENT CONTROL PLANS

- I. Site Development - Information to be included;
- Vicinity sketch, acreage of site, boundary line survey, zoning, type of proposed sewer and water facilities, location of existing utilities, buildings, and drains on and within 100 feet of the site, legend, and scale.
- A. Include a general description of the predominate soil types on the site. Soil survey information is available at the Kendall County Soil and Water Conservation District Office.
 - B. Include information on those areas abutting or adjacent to the site to show existing drainage patterns and the drainage courses that may affect the site or be affected by the development of the site.
 - C. Include the name and address of the developer or owner.
 - D. Include the name and address of the consulting firm and the name of the person to contact.
 - E. Delineate limits of natural flood plain(s). (Based on ultimate development of watershed.)
 - F. Delineate areas to be sodded, seeded, mulched, paved, etc.
 - G. Include acreage of area to be vegetatively stabilized.
 - H. Delineate areas to be left undisturbed.
- II. Site Grading - Show existing topography of the site and a 100 foot adjacent peripheral strip, proposed contours and final grades, and street profiles.
- A. Are cuts and fills balanced?
 - B. Provide measures to protect cut and fill slopes from surface runoff.
- III. Storm Drainage Plan based on the competent storm drainage study. Include a drainage area map and computations.
- A. Indicate what conditions now prevail at proposed and natural outlets such as:
 - 1. Is it a bare earth or vegetated drainage course?
 - 2. Will constructed outlet be in open sun, open shade, or dense shade?

3. Is natural or proposed outlet subject to long term or continuous flow?
4. Is the existing outlet actively eroding?
5. Is there evidence of high water table (permanent or seasonal)?
6. Is the area subject to seepage or spring flow?
7. Show elevation of normal water level in all proposed and natural outlets.
8. Include profile below outlet for a sufficient distance to indicate the natural gradient of the accepting natural outlet and/or stream channel.
9. Cross-section and profile of existing stream channels where applicable.

IV. Estimated Schedule and Phasing of Development of the Site.

Phase	I	Stripping 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 Kendall County Soil and Water Conservation District for approval shall show all the erosion and sediment control measures needed to provide protection throughout all the phases of construction listed above. These plans shall also include any offsite borrow and spoil areas, sewer lines, utility lines, haul and access roads, etc.

- A. Start of clearing.
- 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 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 by providing for permanent stabilization of these areas as soon after grading as possible. Include seeding mixes and rates, types of sod, seedbed preparation, seeding dates, lime and fertilizer application, temporary seedings, if needed, mulching, etc.

- G. Include details of all structural sediment control measures.
- H. Computations for sediment basins.
- V. Professional Engineer's Recommendations For clearing, grubbing, stripping, keying, and undercutting for the acceptance fo fill, and allowable slope angle for cut and fill slopes, erosions control during both the construction and the life of the facility, location, utilization, and restoration or borrow or spoil areas.