

ORDINANCE FOR EROSION CONTROL ON
SITES WITH LAND DISTURBING ACTIVITIES

WHEREAS, the Board of Commissioners of Spencer County has been advised of increasing *erosion* and sedimentation incidents at building and development sites within Spencer County,

WHEREAS, uncontrolled *erosion* and sedimentation constitute a threat to the health, safety and welfare of the residents of Spencer County; and

WHEREAS, I.C.36-1-4-11 authorizes the Board of Commissioners of Spencer County to establish reasonable regulations for the protection of the health and property of its residents;

BE IT HEREBY ORDAINED by the Board of Commissioners of Spencer County, as follows:

Section 1 Authority

This ordinance is adopted under the authority granted by Indiana Code S36-1-4-11, S36-7-4, and all acts supplemental and amendatory thereto. This authority provides for the administration, enforcement and amendment of this ordinance for controlling soil *erosion* in Spencer County.

Section 2 Findings and Purpose

1. The Spencer County Board of Commissioners finds that soil *erosion* resulting from *land disturbing activities* causes a significant amount of sediment and other pollutants to be transported off-site to locations including, but not limited to, ditches, streams, wetlands, lakes, and reservoirs.
2. The purpose of this ordinance is to conserve the natural resources; to protect the quality of air and water, and to protect and promote the health, safety and welfare of people, to the extent practicable by minimizing the amount of *sediment* and other pollutants, resulting from soil *erosion* due to *land disturbing activities*, from being transported offsite to adjacent public or private lands including ditches, streams, lakes, wetlands, and reservoirs. Measures taken to control *erosion* and sedimentation should assure that *sediment* is not transported off of a *site* by 25 year storm events or events of less severity.

Section 3 Applicability

This ordinance applies to all *land disturbing activities* on land within the boundaries and jurisdiction of Spencer County. *Agricultural Land Disturbing Activities*, as defined in Section 4, item 2, are exempt from the requirements of this ordinance.

This ordinance applies to the following *sites* with *land disturbing activities*:

1. Those involving the construction of industrial, commercial, residential, agricultural, institutional or other buildings.
Or
2. Those involving grading, removal of protective ground cover or vegetation, excavation, stockpiling, land filling, or other *land disturbing activity*.

This ordinance does not preclude the owner of the *site* from being required to secure all necessary local, state and federal permits.

Section 4 Definitions

1. "Administering authority" means the Spencer County Board of Commissioners or its designated representatives.
2. "Agricultural land disturbing activities" means the disturbance of land for the production of animal or plant life, including forestry, pasturing and/or yarding of livestock, and planting, growing, cultivating, and harvesting crops for human or livestock consumption and for which a Conservation Farm Plan has been approved by SWCD and is being implemented. This definition does not include the construction of farm facilities such as dwellings, barns, sheds or other structures which are therefore not exempt.
3. "Erosion control measure" means a practice or a combination of practices to control *erosion* and resulting sedimentation.
4. "Erosion control plan" means the written erosion control measures designed to meet the requirements of this ordinance as outlined in Section 8.
5. "Erosion" means the detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.
6. "Land disturbing activity" means any man-made change of the land surface, including removing vegetative cover, excavating, stockpiling, land filling, transporting, and grading.
7. "Runoff" means the portion of precipitation from such sources as rainfall, snow melt, or irrigation water that flows over the ground surface.

8. "Sediment" is solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from *site* of origin.
9. "Site" means the entire area included in the legal description of the land on which *land disturbing activity* has been proposed or occurs.
10. "SWCD" means the Spencer County Soil and Water Conservation District, a subdivision of state government charged with the responsibility of establishing programs and setting policy to protect the natural resources within Spencer County.
11. "Working Day" means a calendar day, exclusive of Saturdays, Sundays, and county recognized holidays.

Section 5 General Principles

The following principles apply to all *land disturbing activities* within Spencer County and should be considered in planning and engaging in those activities in compliance with this ordinance:

1. To minimize the potential for soil *erosion*, development should fit the topography and soils of the *site*. Areas with steep slopes where deep cuts and fills may be required should be avoided wherever possible, and natural contours should be followed as closely as possible.
2. Natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to watercourses and lakes also should be left undisturbed wherever possible.
3. All activities on a *site* should be conducted in a logical sequence so that the smallest practical area of land will be exposed for the shortest practical period of time during development.
4. Provision should be made to accommodate the increased *runoff* caused by changed soil and surface conditions (impervious areas) during and after development.
5. Length and steepness of slopes should be minimized to reduce *erosion* potential.

Section 6 Design Criteria, Standards and Specifications for Erosion Control Measures

All *erosion control measures*, including, but not limited to, those required to comply with this ordinance shall meet the design criteria, standards, and specifications for *erosion*

control measures outlined in the "Indiana Handbook for Erosion Control in Developing Areas" published by the Indiana Department of Natural Resources, as supplemented or revised, and/or the Natural Resource Conservation Service Field Office Technical Guide as either or both are applicable.

Section 7 Erosion and Sediment Control Requirements

The following requirements shall be met on all sites.

1. Appropriate *erosion control measures* shall be installed prior to any *land disturbing activity* and thereafter whenever necessary.
2. Sediment-laden water flowing from the *site* shall be detained by *erosion control measures* appropriate to minimize sedimentation.
3. Water shall not be discharged from the *site* in a manner that causes *erosion* at or downstream of the point of discharge.
4. All access to disturbed *sites* that cross a natural watercourse, ditch, drainage easement, or swale/channel shall have a culvert of appropriate *size* or low water crossing which does not impede the flow of water.
5. Wastes or unused building materials, including but not limited to garbage, debris, cleaning wastes, wastewater, toxic materials, and hazardous substances, shall not be carried by *runoff* from a *site*. All wastes shall be disposed of in a proper manner.
6. Soil being tracked from a *site* onto public or private roadways shall be minimized. This can be accomplished initially by a temporary gravel construction entrance, in addition to a well planned layout of roads, access drives, and parking areas.
7. Public or private roadways shall be kept cleared of accumulated sediment. Bulk clearing of *sediment* shall not include flushing the area with water. Accumulated *sediment* shall be returned to the point of origin in a timely fashion not to exceed twenty four (24) hours.
8. All storm drain inlets shall be protected against sedimentation with barriers meeting accepted criteria, standards, and specifications as specified in Section Six (6).
9. *Runoff* passing through a *site* from adjacent areas should be controlled by diverting it around disturbed areas within the site where practical. Diverted *runoff* shall be conveyed in a manner that will not erode the channel and receiving areas. Alternatively, the existing channel may be left undisturbed or improved to prevent *erosion* or sedimentation from occurring.

10. Drainage ways and swales shall be designed and adequately protected so that their final gradients and resultant velocities will not cause channel or outlet scouring.
11. All disturbed ground left inactive for seven or more days shall be stabilized by seeding, sodding, mulching, covering, or by other equivalent *erosion control measures*.
12. During the entire period of *land disturbing activity* at a *site*, the owner of the *site* shall maintain *erosion control measures* necessary to meet the requirements of this ordinance until the entire *site* is stabilized.

Section 8 Content Requirements of Erosion Control Plans

Projects that will disturb five (5) acres or more of the site shall have a written *erosion control plan* that meets the following requirements:

1. A map of existing *site* conditions in adequate detail to show the *site* and adjacent areas, including:
 - A. *Site* boundaries and adjacent lands which accurately identify the *site* location
 - B. Lakes, streams, channels, ditches, wetlands and other water courses on and near the *site*
 - C. One hundred (100) year flood plains, floodway fringes, and flood ways
 - D. Map showing the location of the predominant soil types as identified by the Spencer County Soil Survey, or as determined by a certified professional soil scientist
 - E. Delineation of vegetative cover, such as grass, weeds, brush and trees
 - F. Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the *site*
 - G. Locations and dimensions of utilities, structures, roads, highways, and paving
 - H. *Site* topography at a contour interval appropriate to indicate drainage patterns
2. A *site* construction plan including:
 - A. Locations and dimensions of all proposed *land disturbing activities*

- B. Locations and dimensions of soil stockpiles and borrow areas
 - C. Locations and dimensions of all *erosion control measures* in compliance with the design criteria as specified above in Section 6
 - D. Sequence of construction, including each *land disturbing activity* and the installation of *erosion control measures*
3. A plan of final *site* conditions on the same scale as the existing *site* map showing proposed *site* changes.
 4. The *Erosion Control Plan* shall be submitted to the Spencer County Board of Commissioners or its designated representative for review.

Projects that will disturb less than five (5) acres shall be exempt from the above provisions of Section 8, but shall comply with the other requirements of this ordinance. Upon failure of such a project to so comply, the Spencer County Board of Commissioners, or its designated representative, may enforce this ordinance as hereinafter stated.

Section 9 Review of Erosion Control Plans

The Spencer County Board of Commissioners, or its designated representative, shall promptly review the *erosion control plan* for projects that will disturb five (5) acres or more to determine whether the requirements of this ordinance have been met. In addition, the Spencer County *SWCD*, or its representative, will review the *plan* and provide the Spencer County Board of Commissioners, or its designated representative, with comments on the *plan*.

For projects that disturb less than five (5) acres and do not comply with the requirements of this ordinance, the Spencer County Board of Commissioners, or its designated representative, at its discretion, may require the owner of the *site* to submit a written *erosion control plan* for its review. If the requirements of Section 8 are not met, the owner of the *site* may be so informed in writing and may be required to submit additional information. Failure to comply with the above requirement may result in the enforcement actions set forth below in Section 10.

Section 10 Enforcement, Inspections, Violations, and Penalties

When an *erosion control* incident is reported in writing to Spencer County or its agents, the procedures set out below will be followed.

1. The Spencer County Board of Commissioners, or its designated representative, is authorized to enter the *site* for the purpose of investigating non-compliance reports and for verifying compliance with this ordinance and any *erosion control plan*, or for performing any work necessary to bring the *site* into compliance with this

ordinance. If entry is denied by the owner of the *site*, a court order may be sought and obtained to permit such entry upon the *site*.

2. The *site* will be inspected and if it is found to not be in compliance then recommendations will be made in writing and mailed or delivered to the owner of the *site* or his agent.
3. A second inspection will be conducted no sooner than ten (10) *working days* after recommendations have been made to determine compliance or non-compliance. If the *site* is found to be in compliance, no further enforcement action will be taken.
4. If, after the second *site* inspection continued non-compliance is found, the Spencer County Board of Commissioners, or its designated representative, will issue a non-compliance citation to the owner of the *site*. The civil penalty for the citation will be no less than One Hundred Dollars (\$100.00) and no more than One Thousand Dollars (\$1,000.00). If the penalty is not paid within thirty (30) calendar days after the citation has been issued, a lawsuit concerning the citation will be filed against the owner of the *site* in the Spencer County Circuit Court (Small Claims Division) and any penalty imposed by the Court shall include court costs and a reasonable attorney's fee.
5. A third inspection will be conducted no sooner than five (5) *working days* after the citation has been issued to determine compliance. If the *site* is found to be in compliance, no further enforcement action will be taken.
6. If, after the third *site* inspection continued non-compliance is found, a stop work order for the non-compliance *site* will be issued, and Spencer County may contract to have the recommended corrective measures completed at the expense of the owner of the *site*.
7. If it is necessary for Spencer County to contract to have the recommended corrective measures completed as a result of a violation of this ordinance, the owner of the *site* shall, following written notice, pay the cost of any such work performed within ten (10) days from the date of such notice. If the owner of the *site* does not pay the cost of such work within ten (10) days from the date of written notice to pay, Spencer County shall pay the contractor who performed the work, and all costs incurred by Spencer County shall be entered on the tax duplicate for the property on which the non-compliance *site* is located, and the total amount of liability shall be subject to interest, penalty and collection in the same manner as all other special assessments.
8. Any stop work order issued pursuant to this ordinance shall not be rescinded until all recommended corrective measures have been completed, all penalties, court costs, and attorney fees imposed on the owner of the *site* have been paid, and

either the contractor employed by Spencer County has been paid by the owner of the site or Spencer County has been reimbursed for all its expended costs.

This ordinance shall be in full force and effect on and after the date that it is adopted by a majority vote of the Commissioners and signed by its President.

Dated this 15 day of June, 1999.

BOARD OF COMMISSIONERS OF
SPENCER COUNTY

Martina L. Dunaway
Don Ringer
Chris A. Koberling

ATTEST:

Doris K. Hughes
Spencer County Auditor