

ORDINANCE NO. 2727NS

AN ORDINANCE OF THE CITY OF SHAWNEE, OKLAHOMA AMENDING CHAPTER 22 [PLANNING AND DEVELOPMENT], ARTICLE I [IN GENERAL], OF THE CITY CODE, ESTABLISHING A LAND DISTURBANCE PERMIT; PROVIDING FOR SEVERABILITY, CODIFICATION, REPEALER, AND EMERGENCY CLAUSE.

WHEREAS, the Code of Ordinances of the City of Shawnee must be amended from time to time to comply with the laws of the State of Oklahoma and the Charter of the City of Shawnee; and

WHEREAS, it is the intent of the City Commission in enacting this ordinance, to provide for, and protect the public health, safety, and welfare of the City of Shawnee, Oklahoma;

WHEREAS, it is the intent of the City Commission to establish a land disturbance permit;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION FOR THE CITY OF SHAWNEE, POTTAWATTOMIE COUNTY, STATE OF OKLAHOMA AS FOLLOWS:

SECTION I: That Chapter 22 [Planning and Development], Article I [In General], Section 22-3 is hereby adopted as follows:

Section 22-3. Adoption of a land disturbance permit.

No person shall conduct, allow or permit land disturbing activity, whether temporary or permanent, on any premises within The City of Shawnee until a land disturbing permit has been issued by the permitting office allowing such activity pursuant to the provisions of this article. Such permit shall be available for inspection by the inspector, or inspector's representative, on the job site at all times during which land disturbing activities are in progress. Such permit shall be required in addition to any building permit or other permit required by the Code for the site.

Section 22-3.1 General land disturbing activity

All land disturbing activities shall be in compliance with and permitted under this division of this article. Application must be applied for under the "Oklahoma General OPDES Permit for Stormwater Discharged Associated with Construction Activity." If a General OPDES Permit is applied for, a copy of the Notice of Intent (NOI) must be sent to the Manager of the Stormwater Quality Management Division. To seek coverage under the Oklahoma Department of Environmental Quality General Permit, the NOI must be submitted to the following address:

Oklahoma Department of Environmental Quality - Water Quality Division
P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677.

Section 22-3.2 Regulations

- a. For purposes of this article, the phrase "land disturbing activity" is defined as follows:
Land disturbing activity - Any land change which may result in soil erosion from water and wind and the movement of sediments into community waters or onto lands and roadways within the community, including, but not limited to, clearing, dredging, grading, excavating, transporting, stockpiling, mining, and filling of land, except that the term shall not include the following:
 - 1. Such minor land disturbing activities as home gardens and individual home landscaping, home repairs, home maintenance work, and other related activities which result in minor soil erosion;
 - 2. The construction of single-family residences when built separately on lots less than one acre not within a subdivision or which have been recorded in the ODEQ office of Water Quality Division, and have been issued building permits; provided that excavation is limited to trenches for the foundation, basements, service and sewer connections, and minor grading for driveways, yard areas and sidewalks, with no offsite discharge of pollutants;

3. Individual service and sewer connections for single-or two-family residences;
4. Agricultural practices involving the establishment, cultivation or harvesting of products of the field or orchard, preparing and planting of pasture land, forestry land management practices including harvesting, farm ponds, dairy operations, and livestock and poultry management practices, and the construction of farm buildings;
5. Any project carried out under the technical supervision of the Soil Conservation Service of the United States Department of Agriculture;
6. Installation, maintenance and repair of any underground public utility lines when such activity occurs on an existing hard-surface road, street or sidewalk, provided the activity maintains pollution control and is confined to the area of the road, street or sidewalk which is hard-surfaced and a street, curb, gutter, or sidewalk permit has been obtained; and
7. Construction, repair or rebuilding of tracks of a railroad company;

These activities may be undertaken without a permit; however, the persons conducting these excluded activities shall remain responsible for otherwise conducting those activities in accordance with the provisions of this article and other applicable laws including responsibility for controlling sedimentation and runoff.

Section 22-3.3 Permit

- a. Any application for the issuance of a land disturbing permit under this article shall include the following:
 1. name of applicant;
 2. business or residence address of applicant;
 3. name and address of owner of subject property;
 4. address and legal description of subject property;
 5. name and address of the contractor and any subcontractor(s) who shall perform the land disturbing activity and who shall implement the erosion and sediment control plan;
 6. a statement setting forth the nature, extent, and purpose of the land disturbing activity including the size of the area for which the permit shall be applicable and a schedule for the starting and completion dates of the land disturbing activity.
 7. a copy of the NOI and Erosion and Sediment Control Plan.
- b. Each application for a land disturbing permit shall be accompanied by a map or plat of the premises showing the present contour lines and the proposed contour lines resulting from the land disturbing activity in relation to all parts of the premises and the properties immediately adjacent thereto and in relation to all abutting street grades and elevations; such map or plat shall show all existing drainage facilities and the proposed permanent disposition of surface waters upon completion of the land disturbing activity.
- c. Each application for a land disturbing permit shall be accompanied by an erosion and sediment control plan which shall accurately describe the potential for soil erosion and sedimentation problems resulting from the land disturbing activity and shall explain and illustrate the measures which are to be taken to control these problems. The length and complexity of the plan is to be commensurate with the size of the project, severity of the site condition, and the potential for off-site damage; the plan shall contain a description of the existing site conditions, a description of adjacent topographical features, a description of soil types and characteristics of the area, potential problems of soil erosion and sedimentation, stabilization specifications, stormwater management considerations, a time schedule for completion of the land disturbing activity and for maintenance after completion of the project, clearing and grading limits, and all other information needed to accurately depict solutions to potential soil erosion and sedimentation problems. Any erosion and sediment control plan must be reviewed for record by the engineering office

prior to the issuance of the land-disturbing permit. The land-disturbing permit shall be issued within 30 days upon arrival of the plan.

- d. At any time the City representative, determines that an erosion and sediment control plan does not comply with the provisions of this article, the City shall notify the applicant in writing of all deficiencies within said plan.
- e. The Permit shall expire at one (1) year after it is issued if the permitted activity has not commenced. Permits on ongoing project shall be reviewed at least once every year for compliance with the permitting office.

Section 22-3.4 Sediment and Erosion Control

- a. Stripping of vegetation, re-grading and other development activities shall be conducted so as to minimize erosion. Clearing and grubbing must be held to the minimum necessary for grading and equipment operation. Pre-construction vegetative ground cover shall not be destroyed, removed or disturbed more than 20 calendar days prior to grading or earth moving. Construction must be sequenced to minimize the exposure time of cleared surface area;
- b. Property owners shall be responsible, upon completion of land disturbing activities, for leaving slopes so that they will not erode. Such methods should include re-vegetation, sodding, mulching, rip-rapping, or guniting. Regardless of the method used, the objective will be to leave the site erosion-free and maintenance-free as practicable;
- c. Whenever feasible, natural vegetation shall be retained, protected, and supplemented;
- d. Stabilization measures shall be initiated within 14 days after the construction activity in that portion of the site has temporarily or permanently ceased unless earth disturbing activities on a portion of the site will be resumed within 21 days, temporary stabilization measures do not have to be initiated on that portion of the site. Stabilization measures must be in accordance with standards approved by the Director or designee. Permittee must diligently continue and maintain such stabilization measures until a Notice of Termination has been accepted by the Director or designee;
- e. A permanent vegetative cover shall be established on disturbed areas not otherwise permanently stabilized;
- f. To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps or similar measures until the disturbed area is stabilized;
- g. Neighboring persons and property shall be protected from damage or loss resulting from excessive stormwater runoff, soil erosion or deposition upon property or public streets of water transported silt and debris. Adjacent property owners shall be protected from land devaluation due to exposed bare banks;
- h. Controlled construction entrance/exit shall be maintained in a condition that will prevent tracking or flowing of sediment onto the public right-of-way;
- i. Erosion and sediment control measures must be in place and functional before earth moving operations begin, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the workday, but must be replaced at the end of the workday;
- j. Structural controls shall be designed and maintained as required to prevent pollution. All surface water flowing toward the construction area shall, to the extent practicable, be diverted by using berms, channels, or sediment traps as necessary. Erosion and sediment control measures shall be designed according to the size and slope of disturbed or drainage areas, to detain runoff and trap sediment. Discharges from sediment basins and traps must be through a pipe or lined channel so that the discharge does not cause erosion. Muddy water to be pumped from excavation and work areas must be held in settling basins or treated by filtration prior to its discharge into surface waters where practicable. Waters must be discharged through a pipe or lined channel so that the discharge does not cause erosion and sedimentation;

- k. All control measures shall be inspected, and repaired as necessary, bi-weekly in dry periods and within 24 hours after any rainfall of 0.5 inches within a 24-hour period. During prolonged rainfall, daily inspections and repairing is necessary. The permittee shall maintain record of such inspections and repairs;
- l. A specific individual shall be designated to be responsible for erosion and sediment controls on each site;
- m. There shall be no distinctly visible floating scum, oil or other matter contained in the stormwater discharge. The stormwater discharge must not cause an objectionable color contrast in the receiving water. The stormwater discharge must result in no materials in concentrations sufficient to be hazardous or otherwise detrimental to humans, livestock, wildlife, plant life, or fish and aquatic life in the receiving stream; and
- n. When the land disturbing activity is finished and stable, perennial vegetation has been established on all remaining exposed soil, the permittee shall notify the Manager of these facts and submit a Notice of Termination (NOT) of the permit issued under this section. The Manager shall then provide a final inspection of the site within 20 days after receipt of such notice, and, when advisable, may require additional measures to stabilize the soil and prevent erosion. If such requirements are given by letter, the permittee shall continue to be covered by this provision of this section, until a request for termination of the permit has been accepted by the Manager.

SECTION II: Severability. The provisions of this ordinance are severable and, if any sentence, provision, or other part of this Ordinance shall be held invalid, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this ordinance.

SECTION III: Codification. This Ordinance shall be codified in the City Municipal Code, and the codifier is authorized to set out the Ordinance, as a whole, as appropriate

SECTION IV: Repealer. All sections, subsections, clauses, and sentences of existing law in conflict with this ordinance, are repealed.

SECTION V: Emergency. It being immediately necessary for the preservation of the peace, health, safety and public good of the City of Shawnee, Oklahoma and the inhabitants thereof that the provisions of this Ordinance be put into full force and effect, an emergency is hereby declared to exist, by reason whereof, this ordinance shall take effect and be in full force and effect after its passage, as provided by law.

PASSED AND APPROVED this ____ day of September, 2021.

ED BOLT, MAYOR

ATTEST:
(SEAL)

LISA LASYONE, CITY CLERK

PASSED AND APPROVED and the emergency clause voted on separately this _____
_____ day of September, 2021.

ED BOLT, MAYOR

ATTEST:
(SEAL)

LISA LASYONE, CITY CLERK

Approved as to form and legality this _____ day of September, 2021.

JOSEPH M. VORNDRAN
CITY ATTORNEY