

**CITY OF BUFFALO
ORDINANCE NO. 403**

An Ordinance Establishing Chapter 15 of Title VI of the Municipal Code of the City of Buffalo relating to Construction Site Erosion and Sediment Control.

WHEREAS, it is necessary to amend the Buffalo Municipal Code to reflect changes in rules concerning Construction Site Erosion and Sediment Control,

THEREFORE, be it resolved that the following amendments are to be made to the Buffalo Municipal Code:

SECTION 6.15.101 PURPOSE AND INTENT

- A) The National Pollutant Discharge Elimination System (NPDES) permit program administered by the Iowa Department of Natural Resources (IDNR) requires that agencies meeting certain demographic and environmental criteria obtain from the IDNR a NPDES permit for the discharge of storm water from a separate storm sewer system. The City of Buffalo has been issued such a permit.
- B) The NPDES program requires individuals who desire to conduct earth disturbing activities related to construction on one (1) acre of land or more, to submit an application to the IDNR for a NPDES General Permit #2 for storm water discharge associated with industrial activity for construction activities.
- C) As a condition of the City's permit, the City is obligated to undertake primary responsibility for administration and enforcement of the NPDES program by adopting a procedure to be followed by all General Permit #2 applicants.
 - 1) Any person, firm, sole proprietorship, partnership, corporation, agency, or political entity required by law or administrative rule to apply to the IDNR for a NPDES General Permit #2 shall also be required to obtain from the City a Construction Site Erosion and Sediment Control (COSESCO) permit in addition to the NPDES General Permit #2.
 - 2) The City shall have the primary responsibility for inspection, monitoring, and enforcement of both the NPDES General Permit #2 and the COSESCO permit.
- D) No state or federal government funds have been made available to defray the costs of the City's administration and enforcement of the NPDES permit program. Pursuant these governmental mandates, the city must fund the permit program.
- E) The purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the City of Buffalo. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in City of Buffalo.

SECTION 6.15.102 DEFINITIONS

Certified Contractor: A person who has received training and is licensed to inspect and maintain erosion and sediment control practices.

Clearing: Any activity that removes the vegetative surface cover.

Drainage Way: Any channel that conveys surface runoff throughout the site.

Erosion Control: A measure that prevents erosion.

Site-Specific Storm Water Pollution Prevention Plan (SWPPP): A set of plans prepared by or under the direction of a licensed professional engineer indicating the specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

Grading: Excavation or fill of material, including the resulting conditions thereof.

Perimeter Control: A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

Phasing: Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

Sediment Control: Measures that prevent eroded sediment from leaving the site.

Site: A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

Construction Site Erosion and Sediment Control (COSESCO) permit: A permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

Stabilization: The use of practices that prevent exposed soil from eroding.

Start of Construction: The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

Watercourse: Any body of water, including, but not limited to lakes, ponds, rivers, streams, and bodies of water delineated by the City of Buffalo.

Waterway: A channel that directs surface runoff to a watercourse or to the public storm drain.

SECTION 6.15.103 PERMITS AND SUPPORTING DOCUMENTATION

- A) No person shall be granted a (COSESCO) permit for land-disturbing activity that would require the uncovering of *one (1) acre or more* without the approval of a SWPPP by the Buffalo Public Works Department, or its designated agent.
- B) No (COSESCO) permit is required for the following activities:
 - 1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - 2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- C) Applications for COSESCO permits shall be made on forms approved by the City and available at City Hall and the Public Works Department.
- D) Applicants will be charged a fee of fifty dollars (\$50) for processing.
- E) An applicant who has applied for a NPDES permit #2 through submittal of a Notice of Intent (NOI) to the IDNR, shall subsequently submit to the City copies of the following materials as a basis for the City to issue a COSESCO permit.
 - 1) Applicant's NPDES General Permit #2 NOI.
 - 2) The site-specific storm water pollution prevention plan (SWPPP).

- 3) Applicant's plans, specifications, and supporting data, if not already part of the NOI submittal, to include any information regarding concentrations of storm water pollutants if known, and not already required to be submitted.
- F) Every SWPPP submitted to the City in support of an application for COSESCO permit shall have the following:
- 1) A statement that the plan meets all current minimum mandatory requirements of the IDNR for SWPPPs in connection with the issuance of a NPDES General Permit #2, as stated in the summary guidance for the permit.
 - 2) A statement that the plan complies with the minimum mandatory requirements of the Joint Application Form, "Protecting Iowa Waters", Iowa Department of Natural Resources, and the US Army Corps of Engineers.
 - 3) A certification by the person preparing the SWPPP, that the plan complies with all other applicable state or federal permit requirements in existence at the time of application and all requirements of this ordinance.
- G) Issuance of a COSESCO permit shall be a condition precedent for the issuance of a building permit for that site or development.
- H) For the duration of the time that the construction site is subject to the NPDES General Permit #2 and the COSESCO permit, the applicant shall provide to the City, and keep current, the following:
- 1) The name, address, and telephone number of the person designated by the applicant to oversee compliance with the NPDES General Permit #2 and the COSESCO Permit.
 - 2) The name, address, and telephone number of the individual or firm responsible for the installation and maintenance of each Erosion and Sediment Control measure delineated in the SWPPP.
- I) If the applicant for the NPDES General Permit #2 and the COSESCO permit is not the same individual as the owner/builder on the site, then the applicant has the option to include the owner/builder as a co-permittee. Co-permittees have the same obligations and responsibilities as the original applicant. Absent written confirmation of transfer of responsibility signed by both the parties and provided to the City at the office of the enforcement official, the original applicant remains obligated and responsible for permit compliance on any parcel of the site, whether the parcel has been sold or not.

SECTION 6.15.104 REVIEW AND APPROVAL

- A) Buffalo Public Works Department, or its designated agent will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within 30 days after receiving an application, Buffalo Public Works Department, or its designated agent shall, in writing:
- 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) Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

- B) Failure of the Buffalo Public Works Department, or its designated agent to act on an original or revised application within 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 Buffalo Public Works Department, or its designated agent. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Buffalo Public Works Department, or its designated agent.

SECTION 6.15.105 SITE-SPECIFIC STORM WATER POLLUTION PREVENTION PLAN

- A) The Site-Specific Storm Water Pollution Prevention Plan (SWPPP) shall include the following:
- 1) A natural resources map identifying soils, forest cover, and resources protected under other chapters of this code. This map should be at a scale no smaller than 1"=100'.
 - 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 local regulation 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.
- B) Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 4 of this regulation, may be authorized by the Buffalo Public Works Department, or its designated agent by written authorization to the permittee, and shall include
- 1) Major amendments of the erosion and sediment control plan submitted to Buffalo Public Works Department, or its designated agent
 - 2) Field modifications of a minor nature

SECTION 6.15.106 DESIGN REQUIREMENTS

- A) Grading, erosion control practices, sediment control practices, and waterway crossings shall be adequate to prevent transportation of sediment from the site to the satisfaction of Buffalo Public Works Department, or its designated agent. Cut and fill slopes shall be *no greater than 2:1*, except as approved by the Buffalo Public Works Department, or its designated agent to meet other community or environmental objectives.

- B) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code. Clearing techniques that retain natural vegetation and drainage patterns shall be used to the satisfaction of the Buffalo Public Works Department, or its designated agent.
- C) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- D) Phasing shall be required on all sites disturbing greater than 30 acres, with the size of each phase to be established at plan review and as approved by the Buffalo Public Works Department, or its designated agent
- E) Erosion control requirements shall include the following:
 - 1) Soil stabilization shall be completed within *five days* of clearing or inactivity in construction.
 - 2) If seeding or another vegetative erosion control method is used, it shall become established within *two weeks* or the Buffalo Public Works Department, or its designated agent may require the site to be reseeded or a non-vegetative option employed.
 - 3) Soil stockpiles must be stabilized or covered at the end of each workday.
 - 4) 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.
 - 5) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
 - 6) Techniques that divert upland runoff past disturbed slopes shall be employed.
- F) Sediment controls requirements shall include
 - 1) Settling basins, sediment traps, or tanks and perimeter controls.
 - 2) Settling basins that are designed in a manner that allows adaptation to provide long term stormwater management, if required by the Buffalo Public Works Department, or its designated agent
 - 3) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls
- G) Waterway and watercourse protection requirements shall include
 - 1) A temporary stream crossing installed and approved if a wet watercourse will be crossed regularly during construction
 - 2) Stabilization of the watercourse channel before, during, and after any in-channel work
 - 3) All on-site stormwater conveyance channels
 - 4) Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.
- H) Construction site access requirements shall include
 - 1) a temporary access road provided at all sites
 - 2) other measures required by the Buffalo Public Works Department, or its designated agent in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains

SECTION 6.15.107 INSPECTION

- A) The Buffalo Public Works Department or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the SWPPP as approved. Plans

for grading, stripping, excavating, and filling work bearing the stamp of approval of the Buffalo Public Works Department, or its designated agent shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the Buffalo Public Works Department, or its designated agent at least two working days before the following:

- 1) Start of construction
 - 2) Installation of sediment and erosion measures
 - 3) Completion of site clearing
 - 4) Completion of rough grading
 - 5) Completion of final grading
 - 6) Close of the construction season
 - 7) Completion of final landscaping
- B) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved SWPPP(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Buffalo Public Works Department, or its designated agent at the time interval specified in the approved permit.
- C) The Buffalo Public Works Department, or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under Section B.
- D) The applicant will notify the enforcement official in writing when all measures required by the applicant's SWPPP have been accomplished, whereupon, the enforcement official shall provide the applicant with a written response indicating compliance with the SWPPP or a list of conditions of non-compliance. This response shall be provided within one work week of receipt of the applicant's notification to the City. Upon receipt of the conditions of non-compliance, the applicant will take immediate action to correct items of concern and shall complete actions within forty-eight (48) hours.
- E) Construction shall not occur on the site at any time when the City has identified conditions of non-compliance.
- F) The City shall not be responsible for the direct or indirect consequences to the applicant, or any third parties, for any non-compliant conditions undetected by the inspection process, nor shall the inspection be deemed any guarantee by the city that the work performed is in conformance with the requirements of City, State, or Federal law.

SECTION 6.13.108 TERMINATION OF A COSESCO PERMIT

- A) Within 30 days after final stabilization at the construction site, as defined by the IDNR in its General Permit #2, the owner (permittee) shall submit a Notice of Termination to the Buffalo Public Works Department, or its designated agent. The notice shall contain the following information:
- 1) The name and address of the owner (permittee) to whom the permit was issued.
 - 2) The permit authorization number.
 - 3) The date the construction site reached final stabilization.

- 4) A certification that the disturbed soils have been finally stabilized and temporary sediment control devices will be removed at an appropriate time. The permittee will acknowledge that he/she is no longer authorized to discharge storm water associated with construction at this site.

SECTION 6.13.109 ENFORCEMENT

- A) Violation of any provision of this ordinance may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the City shall be entitled to recover its legal fees and costs from a person who is determined by a court of competent jurisdiction to have violated this ordinance.
- B) Violation of any provision of this ordinance may also be enforced as a municipal infraction within the meaning of Iowa Code 364.22. The schedule of fines are as follows:

- 1) Schedule of violations

Type I:	First offense	\$100
	Second offence	\$250
	Third and subsequent offence	\$500
Type II:	First offense	\$250
	Second and subsequent offense	\$500

- 2) Definition of offenses

Type I

- 1) Failure to control off-site tracking of soils
- 2) Failure to implement storm water pollution prevention controls as designated in SWPPP
- 3) Failure to maintain storm water pollution prevention controls

Type II

- 1) Operating without a COSESCO permit
- 2) Discharging excessive amounts of sediment
- 3) Failure to comply with a written directive issued by the City Engineer, Director of Public Works, or the enforcement official designated by the City

- C) Enforcement pursuant to this section shall be undertaken by the enforcement official upon the advice and consent of the City Attorney.

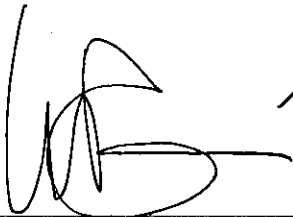
SECTION 6.13.110 SEVERABILITY

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.

SECTION 6.13.111 ADOPTION OF ORDINANCE

This ordinance shall be in full force and effect the date of passage and adoption. All prior ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED AND ADOPTED this 8th day of May 2006.



William Bowers, City Clerk



John Carson, Mayor

Date of First Reading:	3/13/2006
Date of Second Reading:	4/10/2006
Date of Third Reading:	5/8/2006
Date of Publication:	5/15/2006