

CHAPTER 159

CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL

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159.01 **PURPOSE.** It is the purpose of this chapter to establish requirements through a permit process to assure that any land disturbing activity is identified. In addition, construction sites that may cause adverse impacts to water quality, such as, but not limited to, building materials, concrete truck washout, chemicals solid waste and sanitary waste shall be subject to the provisions of this ordinance. The applicant shall provide and maintain measures to prevent pollution of private and public property by practice of proper soil erosion and sediment control to prevent or minimize water quality impacts.

159.02 **DEFINITIONS.** For the purposes of this chapter terms used shall be defined as follows:

1. "NPDES" means the National Pollutant Discharge Elimination System managed by the State of Iowa Department of Natural Resources.
2. "COSESCO" means the Construction Site Erosion and Sediment Control managed by the City of Robins.
3. "Enforcement Officer" means the City Engineer, Building Official or their authorized representative.
4. "SWPPP" means Storm Water Pollution Prevention Plan.

159.03 LANDS TO WHICH CHAPTER APPLIES

1. If the total disturbed area of the site is one acre or more, or the disturbed area of the site is less than one acre but part of a larger common plan of development that will disturb one acre or more, the applicant will be required to obtain a COSESCO permit from the City and a NPDES General Permit #2 from the Iowa Department of Natural Resources (IDNR). Application requirements in subsection 159.04.1-6 of this ordinance.
2. If the total disturbed area of the site is less than one acre, the applicant will not be required to obtain a COSESCO permit from the City when a site plan is submitted with a Building Permit application. The site plan shall identify erosion control measures that shall include, but are not limited to:
 - a. graveled access
 - b. silt fence; or filter sock along the perimeter of developed land.
 - c. inlet protection
 - d. temporary seeding and or mulch
3. If the total disturbed area of the site is less than one acre, and not part of improvements associated with a building permit, the applicant will be required to obtain a COSESCO permit from the City. Application requirements are defined in subsection 159.04.7.

159.04 REQUIREMENTS FOR COSESCO PERMIT AND FEES

1. An applicant in possession of a State NPDES General Permit #2 issued by the IDNR shall immediately submit to the City full copies of the materials described below as a basis for the City to determine issuance of a City COSESCO Permit:
 - a. applicant's plans, specifications and supporting materials previously submitted to the IDNR in support of applicant's application for the State NPDES General Permit #2;
 - b. applicant's authorizations issued pursuant to applicant's State NPDES General Permit #2; and
 - c. a Storm Water Pollution Prevention Plan (SWPPP) prepared in accordance with this ordinance.
2. Every SWPPP submitted to the City in support of an application for a City COSESCO Permit:

- a. shall comply with all current minimum mandatory requirements for SWPPPs promulgated by the IDNR in connection with issuance of a State NPDES General Permit #2; and
 - b. shall, if the applicant is required by law to file a Joint Application Form, PROTECTING IOWA WATERS, IOWA DEPARTMENT OF NATURAL RESOURCES AND U.S. ARMY CORPS OF ENGINEERS, comply with all mandatory minimum requirements pertaining to such applications; and
 - c. shall comply with all other applicable state or federal permit requirements in existence at the time of application; and
 - d. shall be prepared by a licensed professional engineer or landscape architect or a professional in erosion and sediment control or a representative of the local Soil and Water Conservation District, credentials shall be in a manner acceptable to the City; and
 - e. shall include within the SWPPP a signed and dated certification by the person preparing the SWPPP that the SWPPP complies with all requirements of this ordinance.
3. In addition to the SWPPP requirements stated in subparagraph 159.04.2 which constitute minimum mandatory requirements imposed by the United States Environmental Protection Agency NPDES Permit Program, every SWPPP submitted to the City in support of an application for a City COSESCO Permit shall comply with standard design criteria identified in the Cedar Rapids Metropolitan Area Engineering Design Standards Manual, as adopted by resolution by the Robins City Council, including but not limited to design, location, and phased implementation of effective, practicable storm water pollution prevention measures, and shall also:
 - a. assure that stockpiles of soil or other materials subject to erosion by wind or water are covered, vegetated, or otherwise effectively protected from erosion and sedimentation in accordance with the amount of time the material will be on site and the manner of its proposed use; no stockpiling is allowed in the street; and
 - b. assure that all temporary erosion and sediment controls shall not be removed until the City has determined that the site has been permanently stabilized; and
 - c. assure that all disturbed sites be permanently stabilized with 70% perennial cover as measured by the USDA line transect method; and

- d. identify methods to prevent sediment damage to adjacent properties and sensitive environmental areas such as water bodies, plant communities, rare, threatened and/or endangered species habitat, wildlife corridors, green ways, etc.; and
 - e. provide for design and construction methods to stabilize steep or long continuous slopes; and,
 - f. include measures to control the quantity and quality of storm water leaving a site before, during and after construction; and
 - g. provide for stabilization of all waterways and outlets; and,
 - h. protect storm sewer infrastructure from sediment loading/plugging; and
 - i. specify precautions to be taken to contain sediment when working in or crossing water bodies; and
 - j. assure stabilization of disturbed areas, including utility construction areas, as soon as possible; and
- k. protect outlying roads from sediment and mud from construction activities, including tracking; and
- l. provide for disposal of collected sediment and floating debris.
4. Issuance by the City of a City COSESCO Permit shall be a condition precedent for the issuance of a City building permit or Site Plan approval, when required.
5. For so long as a construction site is subject to a State NPDES General Permit #2 or a City COSESCO Permit, the applicant shall provide the City with current information as follows:
- a. The name, address and telephone number of the person on site designated by the owner who is knowledgeable and experienced in erosion and sediment control and who will oversee compliance with the State NPDES General Permit #2 and the City COSESCO Permit;
 - b. The name(s), address(es) and telephone number(s) of the contractor(s) and/or subcontractors(s) that will implement each erosion and sediment control measure identified in the SWPPP.
 - c. Applicant's failure to provide current information shall constitute a violation of this ordinance.
6. Developers can transfer State NPDES General Permit #2 and the City COSESCO Permit responsibility to homebuilders, new lot owners, contractors and subcontractors. Transferees must agree to the transfer in writing, must agree to fulfill all obligations of the SWPPP, the State

NPDES General Permit #2 and the City COSESCO Permit. Absent such written confirmation of transfer of obligations, the developer remains responsible for compliance on any lot that has been sold. A developer shall notify the City of any application to the IDNR for release of any property from a General Permit #2 pursuant to 567 IAC 64.6(6) or any similar successor provision.

a. City COSESCO Permit transfer fee is payable upon submission before approval of the transfer is granted by the Enforcement Officer. Transfer fee is as defined in the BUILDING PERMIT and INSPECTION FEE SCHEDULE as adopted by resolution by the Robins City Council.

b. Inspection of the site will be conducted and found to be in compliance before a transfer of the City COSESCO Permit is approved.

7. Application Procedure for a City COSESCO Permit.

- a. Applications, and Transfer Requests for City COSESCO Permits shall be made on forms approved by the City, which may be obtained from the office of the City Clerk.
- b. An applicant for a City COSESCO Permit shall pay an application and inspection fee at the time of application. The amount of this fee is prescribed in the BUILDING PERMIT and INSPECTION FEE SCHEDULE as adopted by resolution by the Robins City Council.
- c. The City COSESCO Permit shall be subject to the regulations of Chapter 155 of this Code of Ordinances that dictate the Building Permit time lines of validity, expiration and renewal. A renewal fee is prescribed in the BUILDING PERMIT and INSPECTION FEE SCHEDULE as adopted by resolution by the Robins City Council.
- d. Upon receipt of an application for a City COSESCO Permit, the City shall either find that the application complies with this ordinance and issue a City COSESCO Permit in accordance with this ordinance, or that the application fails to comply with this ordinance, in which case the City shall provide a report identifying non-compliant elements of the application.
- e. Issuance by the City of a City COSESCO Permit shall be a condition precedent for the issuance of a City building permit or site plan approval, when required.

159.05 TERMINATION OF A CITY COSESCO PERMIT. Application for termination of a City COSESCO Permit shall be made in the following manner:

1. The applicant shall either:
 - a. present a written request and a copy of the Notice of Discontinuation for sites that require a NPDES General Permit #2 to the Enforcement Officer upon establishment of permanent erosion control measures, or
 - b. make a verbal request for sites that do not require a NPDES General Permit #2 to the Enforcement Officer upon establishment of permanent erosion control measures.
2. The Enforcement Officer shall conduct a final inspection of the site and notify the applicant if the termination request is approved by
 - a. returning an approved copy of written request
 - b. sign off on the Inspection Report Record and issue a temporary or final Certificate of Occupancy as applicable.
 - c. Issue a notice of approval if not part of the building permit process.
3. If the termination request is not approved,
 - a. the Enforcement Officer shall provide the applicant a written report identifying non-compliant elements of the site and
 - b. the applicant shall be charged a re-inspection fee as adopted by resolution by the Robins City Council and
 - c. this termination request procedure shall be repeated until all elements are found to be in compliance.

159.06 AUTHORITY FOR INSPECTIONS. The Enforcement Officer, bearing proper identification or credentials shall be permitted to enter all properties for the purpose of inspection in accordance with the provisions of this Code of Ordinances. While performing the necessary work on private properties, the Enforcement Officer shall observe all safety rules applicable to the location.

159.07 INSPECTION & ENFORCEMENT PROCEDURES FOR CITY COSESCO PERMITS. The Enforcement Officer shall conduct all inspections required under this ordinance.

1. Applicant shall notify the City when all initial erosion control measures required by applicant's SWPPP have been accomplished on-site.
2. Sites that require a COSESCO Permit and a NPDES Permit #2 shall require the City to conduct an inspection for the purpose of determining compliance with this ordinance at least once per calendar quarter. Within a reasonable time thereafter the Enforcement Officer shall provide a written report to the applicant identifying any non-compliance issues found. The applicant shall immediately commence corrective action and shall complete such corrective action within seventy-two (72) hours of receiving the City's report. Failure to take corrective action in a timely manner shall constitute a violation of this ordinance.
3. The enforcement official shall issue a Stop Work order to terminate activities due to failure by the applicant to implement or maintain pollution control measures. Construction shall not occur on the site at any time when the City has identified conditions of non-compliance.
4. Construction activities undertaken by an applicant prior to resolution of all discrepancies specified in the written report shall constitute a violation of this ordinance and may provide cause for the City to report violations of NPDES Permit #2 to the Iowa Department of Natural Resources.
5. All fines and fees must be paid before final platting is approved if appropriate, or any Certificates of Occupancy temporary or final are released.

159.08 MONITORING PROCEDURES FOR CITY COSESCO PERMITS.

Upon issuance of a City COSESCO Permit, an applicant has an absolute duty to monitor site conditions and to report to the Enforcement Officer any change of circumstances or site conditions. The applicant shall be responsible to know what change of circumstances or site conditions pose a risk of storm water discharge in a manner inconsistent with applicant's SWPPP, State NPDES General Permit #2 and/or City COSESCO Permit.

1. The applicant shall make such report to the Enforcement Officer immediately but in any event within twenty-four (24) hours of the change of circumstances or site conditions.
2. Failure to make a timely report shall constitute a violation of this ordinance.
3. Any third party may also report to the City site conditions which the third party reasonably believes pose a risk of storm water discharge in a manner inconsistent with applicant's SWPPP, State NPDES General

Permit #2 and/or City COSESCO Permit. Any concerned third party should contact the City at the storm water hotline telephone number identified on the City's website.

4. Upon receiving a report pursuant to the previous subsections, the Enforcement Officer shall conduct an inspection of the site as soon as reasonably possible and thereafter shall provide the applicant with a report identifying the conditions of non-compliance. The applicant shall immediately commence corrective action and shall complete such corrective action within seventy-two (72) hours of receiving the City's report. Failure to take corrective action in a timely manner shall constitute a violation of this ordinance, whereupon the Enforcement Officer shall immediately commence enforcement actions specified in subsection 159.09 Penalties.
5. The Enforcement Officer may conduct at least one unannounced inspection during the course of construction to monitor compliance with the State NPDES General Permit #2 and the City COSESCO Permit. If the inspection discloses any significant non-compliance, the Enforcement Officer shall provide the applicant with a report of non-compliance and may notify the IDNR. The applicant shall immediately commence corrective action and shall complete such corrective action within seventy-two (72) hours of receiving the City's report. Failure to take corrective action in a timely manner shall constitute a violation of this ordinance, whereupon the Enforcement Officer shall immediately commence penalty actions specified in subsection 159.09 Penalties.

159.09 PENALTIES. Violation of any provision of this ordinance may be enforced by civil action including an action for injunctive relief. The Enforcement Officer upon the advice of the City Attorney shall undertake enforcement pursuant to this section.

1. Violation of any provision of this ordinance may also be enforced as a municipal infraction within the meaning of Chapter 3 Municipal Infractions, pursuant to the City's Code of Ordinance.
2. Violation of any provision of this ordinance which causes damage to any party due to failure of the applicant to provide or maintain erosion control measures the applicant shall be responsible to restore the affected area to its original state. The City of Robins shall assess additional fees to the applicant on a time and material basis for any and all cleanup conducted by the City to correct these areas to original state.

159.10 LIMITS OF LIABILITY. The City of Robins shall not be responsible for the direct or indirect consequences to the applicant or any third parties for non-compliant conditions undetected or detected by inspection.

159.11 APPEAL The applicant may address administrative decisions by staff and enforcement actions of the Enforcement Officer by submitting an appeal to the Robins Building Board of Appeals pursuant to the following rules:

1. The appeal must be filed in writing with the city clerk within five (5) business days of the decision or enforcement action.
2. The written appeal shall specify in detail the action appealed from, the errors allegedly made by the Enforcement Officer giving rise to the appeal, a written summary of all oral and written testimony the applicant intends to introduce at the hearing, including the names and addresses of all witnesses the applicant intends to call, copies of all documents the applicant intends to introduce at the hearing, and the relief requested.
 - a. The City Clerk shall notify the applicant and the Enforcement Officer by ordinary mail, and shall give public notice in accordance with Chapter 21, Iowa Code, of the date, time and place for the regular or special meeting of the Robins Building Board of Appeals at which the hearing on the appeal shall occur. The hearing shall be scheduled for a date not less than four (4) nor more than twenty (20) days after the filing of the appeal. The rules of evidence and procedure, and the standard of proof to be applied, shall be the same as provided by Chapter 17A, Code of Iowa. The applicant may be represented by counsel at the applicant's expense. The Enforcement Officer may be represented by the city attorney or by an attorney designated by the City Council at City expense.