

ORDINANCE NO. O-06-67**AN ORDINANCE ESTABLISHING REQUIREMENTS AND STANDARDS AND FOR EXCAVATION PLAN APPROVAL; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES:**

WHEREAS; excavations into hillsides may result in an undesirable impact upon the landscape along with an increase in storm water runoff and a change in drainage patterns; create a significant potential for sediment and loose soil material being carried into the waterways and streets; and may result in unstable and continually eroding slopes. These potential problems may result in the creation of a nuisance and potential safety hazard, and;

WHEREAS; it has become necessary to require the implementation of control measures to regulate, establish standards and manage such activities;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

Section 1: Excavation Plan Approval Required: That any person engaging in excavation into a hillside or sloped area (ground slope is steeper than 4 feet horizontal to 1 foot vertical) where the maximum vertical height of the excavation exceeds 5 feet for single family construction or 10 feet for non single family construction, an excavation plan must be submitted for approval. The height of the excavation is computed by determining the maximum difference in elevation between the natural ground elevation and the foundation elevation along a rectangular envelope around the outside limits of the building. The following activities are not required to obtain an excavation plan approval:

1. Excavation below the natural ground surface where the slope is flatter than 4 feet horizontal to 1 foot vertical. The natural ground slope is based on the minimum slope computed between natural ground elevations along a rectangular envelope around the outside limits of the building.
2. The following activities are specifically excluded from the requirements of this Ordinance:
 - a) Farming, livestock operations and gardening activities.
 - b) Emergency street, storm drainage or utility repairs.
 - c) Excavation and fill for installation and repair of utilities and appurtenances.
 - d) Permitted landfill operations.
 - e) Street and drainage construction being performed by or for the City of Conway.
 - f) Work by or for the Arkansas State Highway and Transportation Department.

Section 2: Submission Requirements for Excavation Plan Review: Persons requiring a "Excavation Plan Approval" as described in Section 1 of this Ordinance shall apply for a permit to the City of Conway, City Engineer (100 East Robins St. Conway, Arkansas 72032). The City Engineer may approve, disapprove or approve the permit with conditions. Denial of a permit may be appealed to the Mayor. The permit application shall include the following:

1. Name, address and phone number of property owner, person making application and contractor performing the work.

2. Describe the excavation activity and proposed goal of the activity.
3. Provide the estimated area impacted by work and volume of material to be hauled from the site.
4. The time period that the excavation or fill work will be underway along with the proposed completion date. *For long term projects the completion date may be extended upon notification of the applicant*
5. Proposed haul route for the trucks hauling the material from the site.
6. A plan shall be submitted showing project location, boundary of property, grading plan showing existing ground surface and proposed finished surface elevations and a drainage plan showing existing surface and finished surface runoff volume and path. The plan shall show the surface conditions for a distance of 20 feet beyond the boundary of the property and shall show any existing structures within 50 feet of the property. The plan shall show the trees on the site that are to be removed and to remain.
7. Storm water pollution prevention permit *as required by the Arkansas Department of Environmental Quality or the City of Conway.*
8. Include payment for permit fee as described herein.

Section 3: Design Standards for Excavation: The plans for the excavation and fill permit shall address the following items:

1. The excavation into the slope shall be only for the building structure that is to be located on the site. All slope areas (areas greater than 4 feet horizontal to 1 foot vertical) beyond the limits of the building shall be restored to the natural ground shape and slope. The building shall appear as though it is inset in the slope with no change in the landscape beyond the limits of the building.
2. The excavation and grading for parking areas, entrance drives, outside storage areas or other site features shall fit the natural terrain or be designed to utilize the building excavation to transition to the finished surface different from the original ground.
3. The site should not have exposed cut slopes and should not have exposed retaining walls.
4. The general guideline for the plan is to minimize the impact on the natural appearance of hillside area by the proposed construction.
5. Provisions for the prevention of sediments from the site entering the storm water system, the tracking of material from the site onto the city streets and the loss of material from the site by blowing dust are critical elements in the review of the permit application. These items shall be specifically addressed in any plan submitted and properly implemented prior to commencement of work and maintained throughout the excavation activity. The measures shall be fully maintained until the site has been stabilized in accordance with the Storm Water Pollution Prevention Plan.

Section 4: Permit Fee: A *one time* fee in the amount of \$100 plus \$50 per acre of site with a maximum fee of \$500 shall be submitted with the permit application. *The permit shall continue until the work is completed.*

Section 5: Enforcement and Violation: The provisions of this ordinance may be enforced by the Code Enforcement Officer, the City Engineer or Building Inspector. The following are considered a violation of this ordinance:

1. A person performing excavation or fill activity without an approved "Excavation Plan" and being required to obtain a permit as detailed in Section 1 of this Ordinance.
2. A person performing excavation and fill activity and not complying the approved plan or approved subdivision development plans.
3. If an activity is in violation of the provisions of this Ordinance, the City of Conway's appointed representative shall issue a "cease and desist" order for all construction activities on the site until the appropriate corrective action measures are implemented to bring the work into compliance and provisions are made to prevent additional violations. The City's approval of construction, building permits, payments, release of payments or bonds and final approvals shall also be withheld or revoked until a violation is corrected and appropriate sediment control measures are in place.

Section 6: That any violation of this ordinance shall be considered an offense punishable by a fine of not less than \$100 nor more than \$2,500 and each day of violation may be considered a separate offense.

Section 7: That all ordinances in conflict herewith are hereby repealed to the extent of that conflict.


Section 8: That this ordinance is necessary for the protection of the public peace, health and safety, and an emergency is hereby declared to exist, and this ordinance shall be in full force and effect from and after its passage and approval.

PASSED this 23rd day of May, 2006.

Approved:


Mayor Tab Townsell

Attest:


Michael O. Garrett
City Clerk/Treasurer