

# **SOIL EROSION AND SEDIMENT CONTROL REGULATIONS**

**A NEW HAVEN CITY PLAN PUBLICATION**

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**SECTION 1: TITLE, AUTHORITY AND PURPOSE****1.1 Title.**

These Regulations shall be known as the "Soil Erosion and Sediment Control Regulations of the City of New Haven, Connecticut," and are herein referred to as "the SESC Regulations".

**1.2 Authority.**

The SESC Regulations have been prepared and are adopted in accordance with the provisions of Public Act 83-388, entitled "An Act Concerning Soil Erosion and Sediment Control", and Sections 8-2 and 8-25 of the Connecticut General Statutes, as amended. The Board of Aldermen of the City of New Haven by Ordinance authorized the City Plan Commission to adopt and administer Soil Erosion and Sediment Control Regulations on **June 16, 1993**.

**1.3 Purpose.**

The purpose of soil erosion and sediment control is to minimize land form change that occurs as a result of development; to preserve the nature of a site; to sustain aesthetic, recreational and fish and wildlife habitat and values; to maintain the capability of soil to support vegetation; to reduce sediment entering water bodies and sewers; and to conserve and protect the water, land, air, and other environmental resources of the City.

**SECTION 2: DEFINITIONS****2.1 Definition of Terms.**

Certain words, terms, and phrases used in these SESC Regulations shall have the meanings presented in this section. All words used in the present tense include the future tense, and the word "used" shall be deemed to include "designed, intended, or arranged to be used". Words not defined in this Section shall be as defined in the most current edition of Webster's New World Dictionary, College Edition.

**2.1.01 Agricultural Activities** - Cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including livestock, or the operation, management, conservation, improvement, or maintenance of a farm and its buildings, tools, and equipment.

**2.1.02 Approval** - A signed, written document constituting a finding by the City Plan Commission that a soil erosion and sediment control (SESC) complies with the applicable requirements of these SESC Regulations.

**2.1.03 Commission** - The City Plan Commission of New Haven, Connecticut, or its designated agent.

**2.1.04 County Soil and Water Conservation District** - The New Haven County Soil and Water Conservation District established under section 22a-315(a) of the General Statutes of the State of Connecticut.

**2.1.05 Date of Receipt** - The day of the next regularly scheduled meeting of the Commission immediately following the day of submission of an Application to the Commission, provided such meeting is no earlier than three (3) business days after submission, or thirty-five (35) calendar days after such submission, whichever is sooner (Sec. 8-7d, C.G.S.).

**2.1.06 Days** - As required by Section 1-21(b) of the Connecticut General Statute all times specified in the SESC Regulations are in workdays.

**2.1.07 Development** - Includes, but shall not be limited to, any construction or grading activities to improved or unimproved real property.

**2.1.08 Disturbed Area** - An area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.

**2.1.09 Erosion** - The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

- 2.1.10 Forestry** - An on-going commercial forestry operation.
- 2.1.11 Grading** - Any excavating, grubbing, filling (including hydraulic fill), removal, or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.
- 2.1.12 Inspection** - The periodic review of sediment and erosion control measures required by the approved SESC Plan.
- 2.1.13 Sediment** - Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.
- 2.1.14 Soil** - Any unconsolidated mineral or organic material of any origin.
- 2.1.15 Soil Erosion and Sediment Control (SESC) Plan** - A clear delineation of specific measures that minimize or eliminate soil erosion and sedimentation resulting from development. Such plan shall include, but is not limited to, an application form, a narrative, and a map or maps. The narrative shall describe the project, the schedule of major activities on the land, the application of conservation practices, design criteria, construction details and the maintenance program for any erosion and sediment control facilities that are installed. The map(s) shall show topography, cleared and graded areas, proposed area alterations map(s) and the location of and detailed information concerning erosion and sediment measures and facilities.

### SECTION 3: ACTIVITIES REQUIRING APPROVED SESC PLAN

#### 3.1 Approval or Exemption Required.

No SESC permit shall be issued for a building, use or structure unless the building, use or structure is exempted in accord with the provisions of section 4 of these SESC Regulations, or has been reviewed and approved in writing by the Commission in accordance with the provisions of the SESC Regulations.

#### 3.2 When Plan is Required.

A SESC Plan shall be submitted with any application for development when:

- 3.2.1** The site of such development is one-half acre or more, unless exempted in Section 4 of these regulations, or when in the course of development:
- 3.2.2** More than 30% of the total lot area will be regraded by more than two (2) feet; or
- 3.2.3** More than 800 cubic yards of soil and rock will be moved, removed or added.

### SECTION 4: EXEMPTIONS

#### 4.1 Single Family Dwelling Exempt.

Construction of a single family detached dwelling that is not part of a subdivision or larger development of land shall be exempt, provided that there is no grading or excavation on the lot more than four (4) feet beyond the perimeter of the dwelling itself. It is the intent of these Regulations **not** to allow a fragmented parcel-by-parcel development of a subdivision without required erosion and sediment control provisions.

#### 4.2 Existing Activities Exempt.

Any regulated activity legally existing as of the effective date of these SESC Regulations shall be exempt therefrom and permitted to continue within any time limits previously established provided that no new or additional regulated activity requiring Approval under these Regulations is conducted after the effective date without such Approval. If originally approved time limits expire before completion (not including any extensions of such time limits), approval shall be required for remaining work unless such extensions were approved prior to the effective date of these Regulations.

#### 4.3 Defined Agricultural Activities Exempt.

The following agricultural activities are exempt from these SESC Regulations:

**4.3.1** Cultivation of the soil, d airying, forestry, raising or harvesting any agricultural or horticultural commodity, including livestock; or

**4.3.2** Operation, maintenance, conservation, improvement, or management of a farm and its buildings, tools, and equipment.

**4.4 Determination of Exempt Activities.**

The Commission or a designated agent thereof shall have the power to determine if an activity is exempt from the SESC Regulations. Such determination shall be in writing and a file of exemptions shall be maintained.

**4.5 Written Determination of Exemption.**

For the convenience of an applicant, lender, seller, buyer, or other interested party, a written determination of exempt activity may be requested. Such written request shall be accompanied by a fee payable to the City of New Have in accord with Section 17-22 of the Code of Ordinances.

**SECTION 5: SESC PLAN REQUIREMENTS**

**5.1 SESC Plan.**

When any person intends to conduct an activity that is not specifically exempted in these regulations a Soil Erosion and Sediment Control Plan (herein after "SESC Plan") shall be filed. The SESC Plan shall include an application form, a narrative, and a map, as described below.

**5.2 Application Form.**

The application for SESC Plan review shall be on a form provided by the Commission. The Commission may prescribe such forms, contents, and rules as it deems necessary for the filing of SESC Plans and other matters not specified in the SESC Regulations. All Application Forms shall include the following information:

- The applicant's name, address and telephone number; and
- The owner's name (if applicant is not property owner), home and business address, telephone number(s) and written consent to the proposed activity set forth in the application; and
- Applicant's legal interest in the land (i.e., owner, option holder); and
- The geographical location of the property which is to be affected by the proposed activity (Tax Assessor's Map(s), Block(s) and Parcel number(s) of the subject property or properties).
- Certification that the applicant is familiar with all the information provided in the Application and is aware of the penalties for obtaining a permit through deception or through inaccurate or misleading information;
- Authorization for the members and agents of the Commission, the City Engineer and the Office of Building Inspection and Enforcement to inspect the property at reasonable times, both before and after a finding has been issued.

**5.3 Narrative.**

A narrative shall be filed which describes provisions to adequately control erosion and sedimentation and reduce the danger from storm water runoff, both on and off site during and after construction based on the best available technology. Such principles, methods and practices necessary for approval are found in the Connecticut Guidelines for Soil Erosion and Sediment Control (1988 or latest edition). Alternative principles, methods and practices may be used with prior Commission approval, if recommended by the City Engineer. Emphasis shall be placed on prevention of erosion and vegetative or non-structural control measures. The narrative may be included on the site plan map(s), and shall describe the development, including the schedule for grading and construction activities, with:

- Start and completion dates; and
- Sequence of grading and construction activities; and
- Phasing of project, if applicable; and
- Sequence for installation and/or application of SESC measures; and
- Sequence for final stabilization of the project site.
- The construction details for proposed SESC measures and storm water management facilities.
- The installation and/or application procedures for proposed SESC measures and storm water management facilities.
- The operations and daily maintenance program for proposed SESC measures and storm water management facilities.
- The individual responsible for monitoring control measures, with office address and telephone number(s) for 24 hour a day contact.
- Provisions for contingency plans if unforeseen erosion or sedimentation problems arise, including emergency situations caused by storms.
- Any features of the site which may be particularly vulnerable to erosion, such as ridge tops, swales, and soil types and control measures specific to these features shall be noted (soil types may be found in the soil survey of New Haven County).

#### **5.4 Map.**

A Map or Maps shall be filed to accompany the application required in the SESC Regulations. No Map shall be deemed complete unless it shall be in such form and contain such information as the Commission deems necessary for a fair and full determination of the issues. A site visit and field report may be deemed necessary. The Map(s) shall include, at a minimum, the following information:

- A site plan map(s). The suggested scale of the map is 1 inch = 40 feet with 1 foot contour intervals, but may be more or less detailed to meet specific site needs.
- A north arrow, street names, scale, date prepared, and name of preparer.
- Location of the proposed development and adjacent properties, including all buildings within 25 feet of the property line.
- Existing and proposed topography showing 1 foot contours, including flood zones, wetlands, watercourses, water bodies, and soil types if pertinent.
- Existing vegetation and natural resources on the site including major trees and proposed changes.
- Existing structures on the project site, including but not limited to paving, fencing, buildings, and archaeological sites.
- Proposed alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines.
- Location of and design details for all proposed SESC measures and storm water management facilities over the period of construction.
- The construction details for proposed SESC measures and storm water management facilities.
- The Commission may require map preparation by a Connecticut licensed engineer

#### **5.5 A-2 Survey May Be Required.**

The Commission may require a Type A-2 survey.

#### **5.6 Additional Information May Be Required.**

Any other information deemed necessary and appropriate by the applicant or requested by the Commission or its designated agent shall be included in the Plan.

**5.7 Information Binding.**

All information submitted for review in the SESC Plan shall be considered factual, or in the case of an anticipated activity, binding. A failure of the applicant or any agents thereof to provide correct information or to conduct development activities within the levels anticipated in the approved SESC Plan shall be sufficient grounds for the revocation of any approval under the SESC Regulations and/or for penalties to be imposed. Each day of violation or deception shall be considered as a separate offense.

**5.8 Classification and Filing Fee.**

Each SESC Plan application submitted to the Commission for Approval shall be accompanied by a fee payable to the City of New Haven in accord with Section 17-22 of the Code of Ordinances.

**5.8.1** Staff may determine the filing fee based upon the anticipated level of disturbance as determined from a preliminary staff review of submitted materials. A SESC Plan application shall be classified as Class A (Minimal Impact); Class B (Significant Impact); or Class C (Significant Public Effect, Public Hearing Required).

**5.8.2** An Applicant may appeal the classification to the Commission, which shall make a final determination of Application Class as it may deem appropriate upon a review of the submitted materials, and may adjust the fee in accord with Schedule of Fees of Section 17-22 of the Code of Ordinances.

**5.9 Changes Require Filing of Plan Amendment.**

Any and all proposed substantive changes in the development activity relevant to the approved SESC Plan shall be submitted to the Commission as Amendments to the Plan. The City Engineer shall review proposed changes to the approved SESC Plan and return comments to the Commission within fifteen (15) days of receipt of the referral. Amendments shall be approved or denied by the Commission in writing within thirty-five (35) days of the receipt of the Amendments unless a public hearing has been scheduled. Substantive changes shall not commence until written notification of approval is received from the Commission.

**SECTION 6: MINIMUM ACCEPTABLE CONTROL STANDARDS****6.1 Minimum Standards for Individual Control Measures.**

The Connecticut Guidelines for Soil Erosion and Sediment Control (1988 or latest edition) shall be the standard. The Commission may grant exceptions when requested by the applicant, if the City Engineer presents and recommends technically sound reasons. SESC Plans shall result in a development that minimizes erosion and sedimentation during construction; is stabilized and protected from erosion when completed; and does not cause off-site erosion and/or sedimentation.

**6.2 Determination of Peak Flow Rates and Volumes Of Runoff.**

The appropriate method from the Connecticut Guidelines for Soil Erosion and Sediment Control (1988 or latest edition) shall be used unless an alternative method is approved by the Commission, following the favorable recommendation of the City Engineer.

**SECTION 7: ISSUANCE OF FINDING****7.1 Issuance of Finding Required.**

The City Plan Commission shall make a finding of Approval if the SESC Plan as filed, or with conditions of approval it may impose, complies with the requirements and objectives of these SESC Regulations, or Denial if the development proposal does not comply with these SESC Regulations. A finding of approval, approval with conditions, or denial shall be made in writing within sixty-five (65) days of the date of Commission receipt of the completed SESC Plan.

- 7.2 Extension of Time for Approval.** The applicant may consent to one or more extensions of any period specified herein, provided that the total extension of all such periods shall not be for longer than sixty-five (65) days, or may withdraw the application.
- 7.3 Referral to County Soil and Water Conservation District.** Following receipt of an Application a copy of any SESC Plan submitted to the municipality may be referred to the County Soil and Water Conservation District for review. The District may make recommendations concerning such plan, provided such review shall be completed within fifteen (15) days of the receipt of the Plan.
- 7.4 Referral to City Engineer.** Following receipt of an Application a copy of the SESC Plan may be referred to the City Engineer, who may return comments on the plan to the Commission within fifteen (15) days of receipt of the Plan. Such comments shall be advisory only.
- 7.5 Optional Referrals.** The Commission may forward a copy of the development proposal to any other commission or review agency or consultant for review and comment.
- 7.6 Public Hearing May be Required.** The Commission may, at its discretion, hold Public Hearings.
- 7.6.1 Notice if Public Hearing Required.** Notice of a public hearing shall be published at intervals of not less than two (2) days, the first not more than fifteen (15) days and not fewer than ten (10) days, and the last not less than two (2) days before the date set for the hearing in a newspaper having a substantial circulation in the town where the site is located. Notices of hearings shall be sent to the applicant at the address provided.
- 7.6.2 Notices by Applicant if Public Hearing Required.** An applicant shall give written notice to adjacent owners of record within 200 feet, not less than seven (7) work days prior to the public hearing of the Commission. A copy of the mailing list and notice shall be filed with the City Plan Commission.
- 7.6.3 Public Inspection of Documents.** All applications, maps, and documents relating to a public hearing shall be open for public inspection in the City Plan Department not less than fifteen (15) days prior to the day of the public hearing.
- 7.6.4 Hearing Continuation.** Where possible, public hearings shall be completed in a single session. However, the public hearing may be continued (to a date certain) where necessary for the full development of the evidence, or for the full and adequate participation of the parties, or for such other substantial purposes. In no case shall continuances be used as a device for delay.
- 7.6.5 Completion of Hearing.** The public hearing must be scheduled within sixty-five (65) days of receipt of the application and shall be completed within thirty-five (35) days of its commencement. Action shall be taken on applications within sixty-five (65) days after completion of the public hearing. All times specified are in workdays, per Sec. 1-21(b), C.G.S.

## **SECTION 8: CONDITIONS OF PLAN APPROVAL**

### **8.1 Standard and Optional Conditions of Approval.**

The Commission may establish such conditions of approval as binding requirements for an SESC Plan as it deems necessary to fulfill the purposes of these Regulations. In addition the following conditions shall apply to all approved SESC Plans.

**8.2 Performance Sureties.**

The Commission may require a performance bond with sureties or other binding financial instrument in an amount and in a form approved by the Commission as a condition of approval of the Plan, and may cover corrective measures, if required. The bond and sureties shall be conditioned on compliance with all provisions of these Regulations and conditions of approval of the Plan.

**8.3 Public Liability Insurance Certification.**

The applicant may be required to certify that he or she has public insurance against liability which might result from the proposed operation or use covering any and all damages which might occur within one (1) year of completion of such operations, in an amount to be determined by the Commission commensurate with projected operation and the potential for damage on or off site.

**8.4 City Held Harmless.**

The Applicant shall hold the City of New Haven harmless from damages arising out of the regulated activities.

**8.5 Start of Work.**

Site development shall not begin unless the SESC Plan is approved and those control measures and facilities in the SESC Plan scheduled for installation prior to site development are installed and functional.

**8.6 Contractors to be Informed.**

The Approved SESC Plan soil erosion and sediment control measures and facilities shall be installed as scheduled and all contractors shall be made aware of the requirements of the approved SESC Plan and shall work in accordance with its provisions.

**8.7 Measures Required to be Maintained.**

All control measures and facilities shall be maintained in effective condition to ensure compliance with the approved SESC Plan.

**SECTION 9: INSPECTION****9.1 Site Inspection May Be Required for Approved SESC Plan.**

Site inspections may be made by the Commission during development to ensure compliance with the approved SESC Plan. A site inspector shall determine that control measures and facilities are properly performed or installed and maintained throughout the construction period. The applicant, or an agent thereof, shall have the approved SESC Plan document readily available at the job site and shall make the document available for inspection upon request.

**9.2 Reports Required in Five Working Days.**

Written staff reports of inspections shall be submitted to the Commission within five (5) working days of such inspection.

**9.3 Applicant Report.**

The Commission may require the applicant to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the approved SESC Plan and are being operated and maintained.

**9.4 Additional Control Measures.**

If, upon inspection of the site, the site inspector determines that the control measures in place are not adequate to control erosion, additional measures may be required to be installed within a reasonable time limit as determined by the inspector. Any such request for additional control measures shall be made in writing and shall be brought to the attention of the Commission within five (5) working days of the inspection.

**SECTION 10: ENFORCEMENT****10.1 Delegation of Enforcement.**

The Commission or a designated agent thereof, such as the Zoning Enforcement Officer or staff of the City Plan Department or City Engineer, shall have the power to enforce these Regulations.

**10.2 New Plan May Be Required.**

If it is determined that an approved plan as implemented is not properly controlling soil erosion and sediment generation, submission of a new SESC Plan for review may be required.

**10.3 Violation if Plan Not Filed.**

Any person engaged in development activities who fails to file a SESC Plan in accordance with these SESC Regulations, or who conducts a development activity except in accordance with provisions of an approved SESC Plan shall be deemed in violation of these SESC Regulations.

**10.4 Violation Penalties.**

Any person who commits, takes part in, or assists in any violation of any provisions of these SESC Regulations shall be subject to all applicable penalties. The Superior Court of the State of Connecticut, in any action brought by the Commission, the City of New Haven, or any person, shall have jurisdiction to restrain a continuing violation of these SESC Regulations or to issue orders directing that the violation be corrected or removed.

**10.5 Written Orders for Violations.**

Should any person be found to be in violation of these SESC Regulations, a written Order may be issued by certified mail to that person to correct the facility or condition causing the violation. Within ten (10) days of its decision, the Commission shall notify the person of an opportunity to be heard and show cause why the Order should not remain in effect at the next regularly scheduled Commission meeting.

**10.6 Administrative Hearing for Violations.**

Within ten (10) days of the completion of the administrative hearing the Commission shall notify the person by certified mail that the original Order remains in effect, has been revised, or has been withdrawn. All notices of Orders, administrative hearings, and final decisions of the Commission shall be published in a daily newspaper having a substantial general circulation in the municipality. The original Order is in effect upon issuance and remains in effect until the Commission affirms, revises or withdraws the Order.

**SECTION 11: DURATION OF APPROVAL; LAPSE OF APPROVAL; RENEWAL; TRANSFERABILITY; AND REVOCATION.**

**11.1. Duration of Approval.** An approved plan is valid for a period of one (1) year after the date of decision. Upon petition of the applicant, the Commission may, at its sole discretion, grant the applicant an additional one (1) year of approval as part of its decision.

**11.2. Lapse of Approval.** Consistent with Section 62.D., the Zoning Enforcement Officer shall determine the status of an approval and make a determination if the approval is valid or if approval has lapsed.

**11.3. Renewal.** An approved plan may be renewed by the City Plan Commission if it is determined that findings made and conditions imposed on the original approval still apply. Applications for renewal shall be made in writing between not less than thirty (30) nor more than sixty (60) days prior to the lapse of the original approval. Upon timely application, a renewal may be granted after the expiration. An extension under this section shall be granted one time only and for a period of time of up to a maximum of one (1) year.

**11.4. Transferability.** The validity of an approval shall not be affected by changes in ownership unless made a condition of approval.

**11.5. Revocation.** Pursuant to Section 62, the Zoning Enforcement Officer may revoke a plan approval and/or any permit(s) associated with an approved plan that is exercised in violation of said approval.

#### **SECTION 12: APPEALS**

Any applicant aggrieved by the decision may take an appeal in accordance with any applicable provisions of the Connecticut General Statutes.

#### **SECTION 13: OTHER PERMITS AND LICENSES**

Nothing in these SESC Regulations shall obviate any requirement for the applicant to obtain any other assent, permit or license required by law or regulation of the Government of the United States, the State of Connecticut or any political subdivision thereof. The obtaining of such assents, permits, or licenses is solely the responsibility of the applicant.

#### **SECTION 14: VALIDITY AND SEPARABILITY**

If any section, subsection, sentence, or portion of these SESC Regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of these SESC Regulations.

#### **SECTION 15: FEES**

Each SESC Plan submitted to the Commission for Approval shall be accompanied by a fee payable to the City of New Haven in accord with Section 17-22 of the Code of Ordinances of the City of New Haven.

#### **SECTION 16: EFFECTIVE DATE**

The SESC Regulations shall become effective after adoption by the Board of Aldermen and upon filing notice thereof with the Office of the City/Town Clerk, New Haven, Connecticut.

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If any section, subsection, sentence, or portion of these Regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this Regulation.

**BE IT FURTHER ORDAINED** that said these Soil Erosion and Sediment Control Regulations shall take immediate effect upon passage.

Enacted by the New Haven City Plan Commission on **June 16, 1993** by a roll call of 5 Ayes and 0 Noes. Amended by the New Haven City Plan Commission on June 16, 2004 (CPC #1352-02).