

## Chapter NR 152

### Appendix A

## MODEL CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL ORDINANCE

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**Note to Users:** The “Users” in this document are the municipalities that use this guidance in developing their ordinances. “Note to Users” appears in italics throughout these model ordinances and should not be included in the final ordinance. This model ordinance includes the use of brackets [ ] around phrases that are to be filled in by the municipality. For example, the phrase [administering authority] is frequently used. Where the municipality chooses to have the ordinance administered by the City Engineer, the phrase [administering authority] should be replaced by “City Engineer.” In a few places, the model ordinance includes phrases in brackets that are underlined [\_\_\_\_\_]. In these cases, one of the underlined phrases should be selected verbatim. For example, if the phrase includes statutory citations, several underlined choices may be given such as [59.693, 60.627, 61.354, or 62.234]. A county would replace the phrase in brackets with “59.693,” since that is the appropriate citation for a county to use. Some sections and subsections are optional for users to include in the ordinance and will be identified as such in a “Note to Users.” An asterisk ( \* ) denotes subsequent numbering and references to numbered sections or subsections that would be affected by exclusion of the optional text.

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**Note to Users:** An asterisk ( \* ) denotes subsequent numbering and references to numbered sections or subsections that would be affected by exclusion of the optional text.

**MODEL CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL ORDINANCE****AN ORDINANCE TO CREATE CHAPTER [NUMBER] OF THE [CODE OR ORDINANCE] OF THE [NAME OF MUNICIPALITY] RELATING TO THE CONTROL OF CONSTRUCTION SITE EROSION AND SEDIMENTATION RESULTING FROM LAND DISTURBING CONSTRUCTION ACTIVITIES****FOREWORD.**

Use of this ordinance will foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in sub. III and IV of ch. NR 151, Wis. Adm. Code.

The [governing body (town board of supervisors, county board of supervisors, city council, village board of trustees, or village council)] of the [name of municipality] does hereby ordain that Chapter [number] of the [code or ordinance] of the [name of municipality] is created to read as follows:

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## [CHAPTER]

## CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL

## S. 01 AUTHORITY.

- (1) This ordinance is adopted under the authority granted by s. [\[59.693 \(for counties\); 60.627 \(for towns\); 61.354 \(for villages\); or 62.234 \(for cities\)\]](#), Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. [\[59.69, 60.62, 61.35, or 62.23\]](#), Wis. Stats., that relate to construction site erosion and sediment control. Except as otherwise specified in s. [\[59.693, 60.627, 61.354, or 62.234\]](#), Wis. Stats., s. [\[59.69, 60.62, 61.35, or 62.23\]](#), Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

**Note to Users:** *There may be instances when this ordinance does not supersede other ordinances relating to construction erosion control previously adopted by the governing body.*

- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the [governing body].
- (3) The [governing body] hereby designates the [administering authority] to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not preempt more stringent erosion and sediment control requirements that may be imposed by any of the following:
- (a) Wisconsin Department of Natural Resources administrative rules, permits, or approvals, including those authorized under ss. [281.16](#) and [283.33](#), Wis. Stats.
  - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. [NR 151.004](#), Wis. Adm. Code.

## S. 02 FINDINGS OF FACT.

The [governing body] acknowledges that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in [name of municipality].

## S. 03 PURPOSE.

It is the purpose of this ordinance to maintain safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish, and aquatic life; control building sites, placement of structures, and land uses; preserve ground cover and scenic beauty; and promote sound economic growth by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the [name of municipality].

## S. 04 APPLICABILITY AND JURISDICTION.

## (1) APPLICABILITY.

- (a) Except as provided under par. (b), this ordinance applies to any construction site as defined under S. 05 (6).
- (b) This ordinance does not apply to any of the following:
  1. Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.

**Note to Users:** *Transportation facility projects directed and supervised by the Wisconsin Department of Transportation are not subject to this ordinance. Notwithstanding this ordinance, a municipality is required to comply with the construction site transportation facility performance standards in subch. [IV of ch. NR 151](#), Wis. Adm. Code, for its own transportation-related projects. If a municipality has regulatory authority over the activities of another local unit of government, it may be appropriate to include the construction site transportation facility perfor-*

mance standards in ss. [NR 151.225 \(3\)](#) and [151.23 \(4m\)](#), Wis. Adm. Code, in its ordinance if those types of projects occur.

2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under ch. 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
  3. Nonpoint discharges from agricultural facilities and practices.
  4. Nonpoint discharges from silviculture activities.
  5. Routine maintenance for project sites that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.
- (c) Notwithstanding the applicability requirements in par. (a), this ordinance applies to construction sites of any size that, as determined by the [administering authority], are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, or that increases water pollution by scouring or transporting of particulate.

**Note to Users:** *The municipality may want to consider separate legal authority to address situations when persons other than the responsible party destroy or render ineffective Best Management Practices (BMPs) constructed to meet the performance standards of this ordinance.*

(2) JURISDICTION.

This ordinance applies to [land disturbing construction activity on lands within the boundaries and jurisdiction of the [name of municipality]];

or

[land disturbing construction activities on lands within the boundaries and jurisdiction of the [name of municipality], as well as the extraterritorial division of land subject to an ordinance enacted pursuant to s. [236.45 \(2\)](#) and [\(3\)](#), Wis. Stats.];

or

[land disturbing construction activities on lands within the boundaries and jurisdiction of the [name of municipality], as well as all lands located within the extraterritorial plat approval jurisdiction of [name of municipality], even if plat approval is not involved].

**Note to Users:** *These options differ in the amount of land area covered by this ordinance and may have ramifications for enforcement authority. For counties, the first option is the only option since counties do not have extraterritorial authority. Under s. [59.693 \(10\)](#), Wis. Stats., if a county ordinance exists at the time of annexation, then the municipal ordinance must be at least as restrictive as the county ordinance.*

(3) EXCLUSIONS.

This ordinance is not applicable to activities conducted by a state agency, as defined under s. [227.01 \(1\)](#), Wis. Stats.

**S. 045 SUBDIVISION AND NUMBERING OF THIS ORDINANCE; WORD USAGE**

- (1) This ordinance is divided into sections designated by boldface numerals and abbreviated “S.”. Sections may be divided into subsections designated by numerals in parentheses and abbreviated “sub.”. Subsections may be divided into paragraphs designated by lower case letters in parentheses and abbreviated “(par.)”. Paragraphs may be divided into subdivisions designated by numerals followed by a period and abbreviated “subd.”. Subdivisions may be further subdivided into paragraphs designated by lower case letters followed by a period and those paragraphs may lowercase Roman numerals, which are abbreviated in the form “subd. 1. a.” and “subd. 1. a. i.”, respectively. Reference to a “section,” “subsection,” “paragraph,” or “subdivision” includes all divisions of the referenced section, subsection, paragraph, or subdivision.
- (2) The singular includes the plural, and the plural includes the singular. The present tense of a verb includes the future when applicable. The future perfect tense includes past and future tenses.

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**S. 05 DEFINITIONS.** In this ordinance:

- (1) “Administering authority” means a governmental employee, or a regional planning commission empowered under s. [59.693, 60.627, 61.354, or 62.234], Wis. Stats., that is designated by the [governing body] to administer this ordinance.
- (2) “Agricultural facilities and practices” has the meaning given in s. 281.16 (1), Wis. Stats.
- (3) “Best management practice” or “BMP” means structural or non-structural measures, practices, techniques, or devices employed to avoid or minimize soil, sediment, or pollutants carried in runoff to waters of the state.
- (4) “Business day” means a day the office of the [administering authority] is routinely and customarily open for business.
- (5) “Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the [administering authority].
- (6) “Construction site” means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale when multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.
- (7) “Design storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (8)\* “Division of land” means the creation from one parcel of [number] or more parcels or building sites of [number] or fewer acres each in area when such creation occurs at one time or through the successive partition within a 5-year period.

**Note to Users:** *This definition is only needed depending on the type of jurisdiction selected under S. 04 (2) above.*

- (9) “Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice, or gravity.
- (10) “Erosion and sediment control plan” means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.
- (11)\* “Extraterritorial” means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

**Note to Users:** *This definition is only needed depending on the type of jurisdiction selected under S. 04 (2) above.*

- (12) “Final stabilization” means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.
- (13) “Land disturbing construction activity” means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. “Land disturbing construction activity” includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling, and grading activities.
- (14) “Landowner” means any person holding fee title, an easement or other interest in property that allows the person to undertake cropping, livestock management, land disturbing construction activity, or maintenance of storm water BMPs on the property.
- (15) “Maximum extent practicable” means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with S. 055 of this ordinance.
- (16) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

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- (17) “Permit” means a written authorization made by the [administering authority] to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (18) “Pollutant” has the meaning given in s. 283.01 (13), Wis. Stats.
- (19) “Pollution” has the meaning given in s. 281.01 (10), Wis. Stats.
- (20) “Responsible party” means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.
- (21) “Runoff” means storm water or precipitation including rain, snow, or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (22) “Sediment” means settleable solid material that is transported by runoff, suspended within runoff, or deposited by runoff away from its original location.
- (23) “Silviculture activity” means activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a “silviculture activity.”
- (24) “Site” means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- (25) “Stop work order” means an order issued by the [administering authority] that requires that all construction activity on the site be stopped.
- (26) “Technical standard” means a document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method.
- (27) “Transportation facility” means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes, such as harbor improvements under s. 85.095 (1) (b), Wis. Stats. “Transportation facility” does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Wisconsin Department of Natural Resources pursuant to s. 281.33, Wis. Stats.
- (28) “Waters of the state” includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems, and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.
- (29) “Wis. Adm. Code” means the Wisconsin Administrative Code, published under s. 35.93, Wis. Stats.
- (30) “Wis. Stats.” means the Wisconsin Statutes published under s. 35.18 of the Wisconsin Statutes.

#### S. 055 APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE.

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the [administering authority]’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

#### S. 06 TECHNICAL STANDARDS.

All BMPs required for compliance with this ordinance shall meet design criteria, standards, and specifications based on any of the following:

- (1) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subch. V of ch. NR 151, Wis. Adm. Code.
- (2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

**Note to Users:** *The USLE and its successors RUSLE and RUSLE2, utilize an R factor that has been developed under s. 35.93, Stats. Updated on the first day of each month. Entire code is always current. The Register date on each page is the date the chapter was last published.*

oped to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion.

- (3) Technical standards and methods approved by the [administering authority].

**Note to Users:** *The following section, S. 07, “Performance Standards for Construction Sites Under One Acre,” is optional.*

**S. 07 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES UNDER ONE ACRE.**

- (1) RESPONSIBLE PARTY. The responsible party shall comply with this section.
- (2) EROSION AND SEDIMENT CONTROL PRACTICES. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
- (a) The deposition of soil from being tracked onto streets by vehicles.
  - (b) The discharge of sediment from disturbed areas into on-site storm water inlets.
  - (c) The discharge of sediment from disturbed areas into adjacent waters of the state.
  - (d) The discharge of sediment from drainage ways that flow off the site.
  - (e) The discharge of sediment by dewatering activities.
  - (f) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
  - (g) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
- (3) LOCATION. The BMPs shall be located so that treatment occurs before runoff enters waters of the state.
- (4) IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:
- (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
  - (b) Erosion and sediment control practices shall be maintained until final stabilization.
  - (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
  - (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
  - (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

**S. 08\* PERFORMANCE STANDARDS FOR CONSTRUCTION SITES OF ONE ACRE OR MORE.**

- (1) RESPONSIBLE PARTY. The responsible party shall comply with this section and implement the erosion and sediment control plan developed in accordance with S. 10\*.
- (2) EROSION AND SEDIMENT CONTROL PLAN. A written site-specific erosion and sediment control plan shall be developed in accordance with S. 10\* of this ordinance and implemented for each construction site.
- Note to Users:** *The written plan may be that specified within s. NR 216.46, Wis. Adm. Code, the erosion and sediment control portion of a construction plan or other plan.*
- (3) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The erosion and sediment control plan required under sub. (2) shall include all of the following:
- (a) *EROSION AND SEDIMENT CONTROL PRACTICES.* Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

1. The deposition of soil from being tracked onto streets by vehicles.
2. The discharge of sediment from disturbed areas into on-site storm water inlets.
3. The discharge of sediment from disturbed areas into adjacent waters of the state.
4. The discharge of sediment from drainage ways that flow off the site.
5. The discharge of sediment by dewatering activities.
6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
7. The discharge of sediment from erosive flows at outlets and in downstream channels.
8. The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
9. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.

(b) **SEDIMENT PERFORMANCE STANDARDS.** In addition to the erosion and sediment control practices under par. (a), the following erosion and sediment control practices shall be employed:

1. BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
2. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
3. Notwithstanding subd. 1., if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

(c) **PREVENTIVE MEASURES.** The erosion and sediment control plan shall incorporate all of the following:

1. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
2. Minimization of soil compaction and preservation of topsoil.
3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
4. Development of spill prevention and response procedures.

(d) **LOCATION.** The BMPs used to comply with this section shall be located so that treatment occurs before runoff enters waters of the state.

**Note to Users:** *While regional treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.*

(4) **IMPLEMENTATION.** The BMPs used to comply with this section shall be implemented as follows:

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- (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in S. 08\* (2).
- (b) Erosion and sediment control practices shall be maintained until final stabilization.
- (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
- (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

**S. 09\* PERMITTING REQUIREMENTS, PROCEDURES, AND FEES.**

- (1) **PERMIT REQUIRED.** No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the [administering authority].
- (2) **PERMIT APPLICATION AND FEES.** The responsible party that will undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of S. 10\*, and shall pay an application fee to the [administering authority] in the amount specified in S. 11\*. By submitting an application, the applicant is authorizing the [administering authority] to enter the site to obtain information required for the review of the erosion and sediment control plan.
- (3) **PERMIT APPLICATION REVIEW AND APPROVAL.** The [administering authority] shall review any permit application that is submitted with an erosion and sediment control plan and the required fee. All of the following approval procedure shall be used:
  - (a) Within [number] business days of the receipt of a complete permit application, as required by sub. (2), the [administering authority] shall inform the applicant whether the application and erosion and sediment control plan are approved or disapproved based on the requirements of this ordinance.
  - (b) If the permit application and erosion and sediment control plan are approved, the [administering authority] shall issue the permit.
  - (c) If the permit application or erosion and sediment control plan is disapproved, the [administering authority] shall state in writing the reasons for disapproval.
  - (d) The [administering authority] may request additional information from the applicant. If additional information is submitted, the [administering authority] shall have [number] business days from the date the additional information is received to inform the applicant that the erosion and sediment control plan is either approved or disapproved.
  - (e) Failure by the [administering authority] to inform the permit applicant of a decision within [number] business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (4) **SURETY BOND.** As a condition of approval and issuance of the permit, the [administering authority] may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion and sediment control plan and any permit conditions.
- (5) **PERMIT REQUIREMENTS.** All permits shall require the responsible party to do all of the following:
  - (a) Notify the [administering authority] within 48 hours of commencing any land disturbing construction activity.
  - (b) Notify the [administering authority] of completion of any BMPs within 14 days after their installation.
  - (c) Obtain permission in writing from the [administering authority] prior to any modification pursuant to S. 10\* (3) of the erosion and sediment control plan.

- (d) Install all BMPs as identified in the approved erosion and sediment control plan.
  - (e) Maintain all road drainage systems, storm water drainage systems, BMPs, and other facilities identified in the erosion and sediment control plan.
  - (f) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site inspection log.
  - (g) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more that results in runoff during active construction periods and at least once each week. Make needed repairs and install additional BMPs as necessary, and document these activities in an inspection log that also includes the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
  - (h) Allow the [administering authority] to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the erosion and sediment control plan.
  - (i) Keep a copy of the erosion and sediment control plan at the construction site.
- (6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by [administering authority] in addition to the requirements set forth in sub. (5), when needed to assure compliance with the performance standards in S. 07\* or S. 08\*.
- (7) PERMIT DURATION. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The [administering authority] may grant one or more extensions not to exceed 180 days cumulatively. The [administering authority] may require additional BMPs as a condition of an extension if they are necessary to meet the requirements of this ordinance.
- (8) MAINTENANCE. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

**S. 10\* EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.**

- (1) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under S. 04 (1)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the [administering authority]. The erosion and sediment control plan statement shall briefly describe the site, the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the erosion and sediment control plan statement.
- (2) EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS.
- (a) An erosion and sediment control plan shall be prepared and submitted to the [administering authority].
  - (b) The erosion and sediment control plan shall be designed to meet the performance standards in S. 07\*, S. 08\*, and other requirements of this ordinance.
  - (c) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, all of the following items:
    1. Names and addresses of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
    2. Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological Survey 7.5 minute series topographic map.
    3. Description of the intended sequence of major land disturbing construction activities for major portions of the construction 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.

4. Estimates of the total area of the construction site and the total area of the construction site that is expected to be disturbed by land disturbing construction activities.
5. Calculations to show the compliance with the performance standard in S. 08 (3)(b)1.
6. Existing data describing the surface soil as well as subsoils.
7. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information when available.
8. Name of the immediate named receiving water from the United States Geological Survey 7.5 minute series topographic maps.

(d) The erosion and sediment control plan shall include a site map. The site map shall include all of the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet:

1. Existing topography, vegetative cover, natural and engineered drainage systems, roads, and surface waters. Lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes, and floodways shall also be shown.
2. Boundaries of the construction site.
3. Drainage patterns and approximate slopes anticipated after major grading activities.
4. Areas of soil disturbance.
5. Location of major structural and non-structural controls identified in the erosion and sediment control plan.
6. Location of areas where stabilization BMPs will be employed.
7. Areas that will be vegetated following land disturbing construction activities.
8. Areas and locations of wetland on the construction site, and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
9. Areas used for infiltration of post-construction storm water runoff.
10. An alphanumeric or equivalent grid overlying the entire construction site map.

(e) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, all of the following minimum requirements:

1. Description of interim and permanent stabilization practices, including a BMP implementation schedule. The erosion and sediment control plan shall ensure that existing vegetation is preserved when attainable and that disturbed portions of the site are stabilized.
2. Description of structural practices to divert flow away from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from the site. Un-

less otherwise specifically approved in writing by the [administering authority], structural measures shall be installed on upland soils.

3. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
  4. Trapping of sediment in channelized flow.
  5. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
  6. Protection of downslope drainage inlets where they occur.
  7. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
  8. Clean up of off-site sediment deposits.
  9. Proper disposal of building and waste material.
  10. Stabilization of drainage ways.
  11. Installation of permanent stabilization practices as soon as possible after final grading.
  12. Minimization of dust to the maximum extent practicable.
- (f) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

**Note to Users:** *The erosion and sediment plan requirements of this subsection will meet the erosion control plan requirements of s. NR 216.46, Wis. Adm. Code, when prepared in accordance with good engineering practices and the design criteria, standards, and specifications published by the Wisconsin Department of Natural Resources under subch. V of ch. NR 151, Wis. Adm. Code.*

- (3) **EROSION AND SEDIMENT CONTROL PLAN AMENDMENTS.** The applicant shall amend the erosion and sediment control plan if any of the following occurs:
- (a) There is a change in design, construction, operation, or maintenance at the site that has the reasonable potential for the discharge of pollutants to waters of the state and that has not otherwise been addressed in the erosion and sediment control plan.
  - (b) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
  - (c) The [administering authority] notifies the applicant of changes needed in the erosion and sediment control plan.

#### S. 11\* FEE SCHEDULE.

The fees referred to in other sections of this ordinance shall be established by the [administering authority] and may from time to time be modified by resolution. A schedule of the fees established by the [administering authority] shall be available for review in [location].

#### S. 12\* INSPECTION.

If land disturbing construction activities are occurring without a permit required by this ordinance, the [administering authority] may enter the land pursuant to the provisions of ss. 66.0119, Wis. Stats.

#### S. 13\* ENFORCEMENT.

- (1) The [administering authority] may post a stop work order if any of the following occurs:

- (a) Land disturbing construction activity regulated under this ordinance is occurring without a permit.
- (b) The erosion and sediment control plan is not being implemented in good faith.
- (c) The conditions of the permit are not being met.

**Note to Users:** *The [administering authority] should inspect any construction site that holds a permit under this chapter at least once a month between March 1 and October 31, and at least 2 times between November 1 and February 28 to ensure compliance with the approved erosion and sediment control plan.*

- (2) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the [administering authority] may revoke the permit.
- (3) If the responsible party, when no permit has been issued or the permit has been revoked, does not cease the activity after being notified by the [administering authority], or if a responsible party violates a stop work order posted under sub. (1), the [administering authority] may request the [district attorney, city attorney, town attorney, village attorney or county corporation counsel] to obtain a cease and desist order in any court with jurisdiction.
- (4) The [administering authority, board of appeals, or board of adjustment] may retract the stop work order issued under sub. (1) or the permit revocation under sub. (2).
- (5) After posting a stop work order under sub. (1), the [administering authority] may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The [administering authority] may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the [administering authority], plus interest at the rate authorized by [administrative authority] shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.
- (6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than [amount] nor more than [amount] and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- (7) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

**Note to Users:** *Injunctive orders are authorized pursuant to s. 59.69 (11), 61.35, or 62.23 (8), Wis. Stats., for counties, villages and towns with village powers, and cities respectively.*

#### S. 14\* APPEALS.

- (1) BOARD OF [APPEALS or ADJUSTMENT]. The board of [appeals or adjustment] created pursuant to section [number] of the [county's, town's, city's or village's] ordinance pursuant to s. [59.694, 60.65, 61.354 (4) (b) or 62.23 (7) (e)], Wis. Stats.:
  - (a) Shall hear and decide appeals when it is alleged that there is error in any order, decision or determination made by the [administering authority] in administering this ordinance except for cease and desist orders obtained under S. 13\* (3);
  - (b) May authorize, upon appeal, variances from the provisions of this ordinance that are not contrary to the public interest and when owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
  - (c) Shall use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (2) WHO MAY APPEAL. Appeals to the board of [appeals or adjustment] may be taken by any aggrieved person or by any office, department, board, or bureau of the [name of municipality] affected by any decision of the [administering authority].

**S. 15\* SEVERABILITY.**

If a court of competent jurisdiction judges any section, clause, provision, or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and not be affected by such judgment.

**S. 16\* EFFECTIVE DATE.**

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the [governing body] of the [name of municipality] on the [number] day of [month], [year].

Approved: \_\_\_\_\_

Attested: \_\_\_\_\_

Published on [day, month, and year].