

APPENDIX A: MODEL CONSTRUCTION SITE EROSION CONTROL ZONING ORDINANCE

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MODEL CONSTRUCTION SITE EROSION CONTROL ZONING ORDINANCE

Note to Users: *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 the county to use.*

AN ORDINANCE TO CREATE CHAPTER [NUMBER] OF THE [CODE OR ORDINANCE] OF THE [NAME OF MUNICIPALITY] RELATING TO THE CONTROL OF CONSTRUCTION SITE EROSION RESULTING FROM LAND DISTURBING CONSTRUCTION ACTIVITIES

FOREWORD.

The intent of this ordinance is to require use of best management practices to reduce the amount of sediment and other pollutants resulting from land disturbing construction activities on sites that do not include the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce in s. COMM 21.125 or COMM 50.115, Wis. Adm. Code. Use of this ordinance will foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of ch. NR 151, Wis. Adm. Code.

The [governing body] 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:

[CHAPTER]
CONSTRUCTION SITE EROSION

S.01 AUTHORITY.

- (1) This ordinance is adopted under the authority granted by [s. 59.693, Wis. Stats., for counties; s. 60.627, Wis. Stats., for towns; s. 61.354, Wis. Stats., for villages; s. 62.234, Wis. Stats., for cities]. 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 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.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same 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 pre-empt 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] finds 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 further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; 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) This ordinance applies to the following land disturbing construction activities except as provided under sub. (b):

1. A construction site, which has 5 or more acres of land disturbing construction activity.
2. A construction site, which has one or more acres of land disturbing construction activity after March 10, 2003.

Note to Users: The 5- and 1-acre land disturbance thresholds are consistent with state and federal laws regarding applicability of construction site erosion control permits.

(b) This ordinance does not apply to the following:

1. Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce under s. COMM 21.125 or COMM 50.115, Wis. Adm. Code.
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 chapter 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 under 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 paragraph (a), this ordinance applies to construction sites of any size that, in the opinion of 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, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

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

(2) JURISDICTION.

This ordinance applies to [land disturbing construction activity on construction sites located 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 will be 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., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

Note to Users: The Wisconsin Department of Transportation (WisDOT) has entered into a memorandum of understanding with the Wisconsin Department of Natural Resources that satisfies s. 281.33 (2), Wis. Stats., such that activities directed and supervised by WisDOT are exempt from this model ordinance.

S.05 DEFINITIONS.

- (1) “Administering authority” means a governmental employee, or a regional planning commission empowered under s. [59.693; 60.627; 61.354; 62.234], Wis. Stats., that is designated by the

[governing body] to administer this ordinance.

- (2) "Agricultural facilities and practices " has the meaning in s. 281.16(1), Wis. Stats.
- (3) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.
- (4) "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.
- (5) "Business day" means a day the office of the [administering authority] is routinely and customarily open for business.
- (6) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (7) "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 where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.
- (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 where such creation occurs at one time or through the successive partition within a 5 year period.
- (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.
- (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) "Governing body" means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.
- (14) "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.
- (15) "MEP" or "maximum extent practicable" means a level of implementing best management

practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

- (16) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (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 any entity holding fee title to the property or performing services to meet the performance standards 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) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
 - (a) Is designed or used for collecting water or conveying runoff.
 - (b) Is not part of a combined sewer system.
 - (c) Is not draining to a storm water treatment device or system.
 - (d) Discharges directly or indirectly to waters of the state.
- (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] which 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) "Waters of the state" has the meaning given in s. 281.01 (18), Wis. Stats.

S.06 TECHNICAL STANDARDS.

- (1) DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:
 - (a) Applicable design criteria, standards and specifications identified in the *Wisconsin Construction Site Best Management Practice Handbook*, WDNR Pub. WR-222 November 1993 Revision.
 - (b) Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
 - (c) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to 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 which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion. A design storm can be statistically calculated to provide an equivalent R factor as an average annual calculation.

- (2) OTHER STANDARDS. Other technical standards not identified or developed in sub. (1), may be used provided that the methods have been approved by the [administering authority].

S.07 PERFORMANCE STANDARDS.

- (1) RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with S. 09, that incorporates the requirements of this section.
- (2) PLAN. A written plan shall be developed in accordance with S. 09 and implemented for each construction site.

Note to Users: The written plan may be that specified within s. NR 216.46, the erosion control portion of a construction plan or other plan.

- (3) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The plan required under sub. (2) shall include the following:
 - (a) BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no

sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

Note to Users: Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V. of ch. NR 151, Wis. Adm. Code, may be used to calculate sediment reduction.

- (b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
 - (c) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:
 - 1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
 - 2. Prevent the discharge of sediment as part of site de-watering.
 - 3. Protect the separate storm drain inlet structure from receiving sediment.
 - (d) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. 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 paragraph.
- (4) LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering 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.

- (5) ALTERNATE REQUIREMENTS. The [administering authority] may establish storm water management requirements more stringent than those set forth in this section if the [administering authority] determines that an added level of protection is needed for sensitive resources.

S.08 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. At least one responsible party desiring to 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.09 and shall pay an application fee of [amount] to the [administering authority]. 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) REVIEW AND APPROVAL OF PERMIT APPLICATION. The [administering authority] shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. 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 plan are approved or disapproved based on the requirements of this ordinance.
 - (b) If the permit application and plan are approved, the [administering authority] shall issue the permit.
 - (c) If the permit application or 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 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 control plan and any permit conditions.

- (5) PERMIT REQUIREMENTS. All permits shall require the responsible party to:
- (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.09(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, stormwater 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 erosion control log.
 - (g) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week, make needed repairs and document the findings of the inspections in a site erosion control log with 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 control plan. 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), where needed to assure compliance with the performance standards in S.07.
- (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 extend the period one or more times for up to an additional 180 days. The [administering authority] may require additional BMPs as a condition of the 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.09 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.

(1) EROSION AND SEDIMENT CONTROL PLAN.

- (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 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, the following items:
 - 1. The name(s) and address(es) 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 site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
 - 3. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
 - 4. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
 - 5. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.
 - 6. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
 - 7. Existing data describing the surface soil as well as subsoils.
 - 8. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
 - 9. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- (d) The erosion and sediment control plan shall include a site map. The site map shall include 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 plan.
 6. Location of areas where stabilization practices will be employed.
 7. Areas which will be vegetated following construction.
 8. Areal extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
 9. Locations of all surface waters and wetlands within one mile of the construction site.
 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 controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:
1. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where 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. Unless otherwise specifically approved in writing by the [administering authority], structural measures shall be installed on upland soils.
 3. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
 4. Trapping of sediment in channelized flow.
 5. Staging construction to limit bare areas subject to erosion.
 6. Protection of downslope drainage inlets where they occur.
 7. Minimization of tracking at all sites.
 8. Clean up of off-site sediment deposits.
 9. Proper disposal of building and waste materials at all sites.

10. Stabilization of drainage ways.
 11. Control of soil erosion from dirt stockpiles.
 12. Installation of permanent stabilization practices as soon as possible after final grading.
 13. 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 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 outlined in the *Wisconsin Construction Site Best Management Practice Handbook* (WDNR Pub. WR-222 November 1993 Revision).

- (2) **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 control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.
- (3) **AMENDMENTS.** The applicant shall amend the plan if any of the following occur:
- (a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
 - (b) The actions required by the 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 plan.

S.10 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.11 INSPECTION.

If land disturbing construction activities are being carried out without a permit required by this ordinance, the [administering authority] may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.

S.12 ENFORCEMENT.

- (1) The [administering authority] may post a stop-work order if any of the following occurs:
 - (a) Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit.
 - (b) The erosion and sediment control plan is not being implemented in a good faith manner.
 - (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 during the period starting March 1 and ending October 31 and at least 2 times during the period starting November 1 and ending February 28 to ensure compliance with the approved sediment and erosion 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, where no permit has been issued, 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, or the board of appeals or 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.13 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 where 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.12 (3).
 - (b) Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where 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.14 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.15 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].