

## CHAPTER 32

### EROSION CONTROL

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Chapter 32 Board Action

*Adopted December 20, 2011 as part of Village Incorporation*

Chapter 32 Re-Created, April 10, 2017, Ordinance No. 2017-O-03

### **32.1 AUTHORITY**

- (1) This ordinance is adopted by the Village of Bloomfield under the authority granted by s.61.354, Wis. Stats. This ordinance supersedes all provisions of an ordinance previously enacted under s. 61.35, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s. 61.354, Wis. Stats. S.61.35 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 Village of Bloomfield hereby designates the Village Building Inspector 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.

### **32.2 FINDINGS OF FACT**

The Village of Bloomfield acknowledges that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in The Village of Bloomfield.

### **32.3 PURPOSE**

- (1) 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 Village of Bloomfield

- (2) These goals shall be accomplished by insuring land disturbing activities are consistent with village conservation standards and minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing activities, and construction-sites to lakes, streams, channels, ditches, ponds, wetlands and other watercourses of the village and by preventing flooding on adjacent land.
- (3) It is the intent of this article to establish standards, plan and permit requirements and procedures for land disturbing and land developing activities to minimize the amount of sediment and other pollutants carried in runoff or discharged to waters of the state in the village or to adjacent properties.
- (4) This article is intended to meet the following construction site and sediment erosion control regulatory requirements:
  - (a) Subchapter III of NR 151, of the Administrative Code, Construction Site Performance Standard for New Development.
  - (b) NR 216 of the Wis. Administrative Code.
  - (c) Chapter SPS 360 of the Wisconsin Administrative Code.
  - (d) NR 115, of the Administrative Code, Wisconsin's Shoreland Management Program.
- (5) This article is intended to establish conservation standards, plan and permit requirements and procedures for, vegetation removal, and the construction of ponds and retaining walls, when required to meet village conservation standards in the following Village Ordinances:
  - (a) Chapter 27 of the Village Code of Ordinances.
  - (b) Chapter 18 of the Village Code of Ordinances.

#### **32.4. APPLICABILITY AND JURISDICTION**

- (1) APPLICABILITY.
  - (a) Except as provided under par. (b), this ordinance applies to any construction site as defined under **S. 32.5 (7)**.
  - (b) Exemptions:
    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. Transportation facility projects directed and supervised by Wisconsin Department of Transportation are not subject to this ordinance. Notwithstanding this ordinance, The Village is required to comply with the construction site transportation facility performance standards in subch. IV of NR 151, Wis. Adm. Code, for its own transportation-related projects.

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 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 Village of Bloomfield, 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.

(2) JURISDICTION.

This ordinance applies to land disturbing construction activities on lands within the boundaries and jurisdiction of the Village of Bloomfield, as well as all lands located within the extraterritorial plat approval jurisdiction of the Village, even if plat approval is not involved.

(3) EXCLUSIONS.

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

**32.5. DEFINITIONS**

For the purposes of this Chapter, the following words have the following meanings:

(1) "Adequate sod, or self-sustaining vegetative cover" means maintenance of sufficient vegetation types and densities such that the physical integrity of the streambank or lakeshore is preserved. Self-sustaining vegetative cover includes grasses, forbs, sedges and duff layers of fallen leaves and woody debris.

(2) "Administering authority" means a governmental employee, or a regional planning commission empowered under s. 61.354 Wis. Stats., that is designated by the Village of Bloomfield to administer this ordinance.

(3) "Agricultural facilities and practices" means a structure associated with an agricultural practice. Practices include beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; and vegetable raising.

(4) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

(5) "Business day" means a day the office of the Village of Bloomfield 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 or in violation of a permit issued by the Village of Bloomfield.

(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. 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.

(8) "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall

(9) "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.

(10) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

(11) "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.

(12) "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.

(13) "Gross aggregate area" means the total area, in acres, of all land located within the interior property boundary containing a proposed land development, redevelopment, or property subdivision activity.

(14) "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.

(15) "Governing body" means town board of supervisors, county board of supervisors, city council, village board of trustees or village council

(16) "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.

(17) "Landowner" means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.

(18) "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 section 32.55 of this ordinance.

(19) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(20) "Permit" means a written authorization made by the Village of Bloomfield to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(21) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.

(22) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.

(23) "Responsible party" means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement. "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.

(24) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

(25) "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.

(26) "Site" means the entire area included in the legal

description of the land on which the land disturbing construction activity occurred.

(27) "Stop work order" means an order issued by the Village of Bloomfield which requires that all construction activity on the site be stopped.

(28) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(29) "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 Department pursuant to s. 281.33, Wis. Stats.

(30) "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.

### **32.55 MAXIMUM EXTENT PRACTICABLE**

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the Village Engineer'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 consider 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.



### **32.6. 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 subchapter V of chapter 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.
- (3) Technical standards and methods approved by the Village.

### **32.7. PERFORMANCE STANDARDS FOR CONSTRUCTION SITES UNDER ONE ACRE.**

- (1) RESPONSIBLE PARTY. The responsible party shall comply with this section.
- (2) STORM 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. 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

**32.8. 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. 32.10.
- (2) EROSION AND SEDIMENT CONTROL PLAN. A written site-specific erosion and sediment control plan shall be developed in accordance with S. 32.10 of this ordinance and implemented for each construction site.
- (3) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The erosion and sediment control plan required under sub. (2) shall include 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 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 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.
- (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 in accordance with the erosion and sediment control plan developed in 32.8 (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

**32.9. 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 Village.
- (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. 32.10, and shall pay an application fee to the Village in the amount specified in S. 32.11. By submitting an application, the applicant is authorizing the village and its designated representatives 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 Village 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 30 business days of the receipt of a complete permit application, as required by sub. (2), the Village 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 Village shall issue the permit.
  - (c) If the permit application or erosion and sediment control plan is disapproved, the Village shall state in writing the reasons for disapproval.
  - (d) The Village may request additional information from the applicant. If additional information is submitted, the Village shall have 30 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 Village to inform the permit applicant of a decision within 30 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 Village 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:
- (a) Notify the Village within 48 hours of commencing any land disturbing construction activity.
  - (b) Notify the Village of completion of any BMPs within 14 days after their installation.
  - (c) Obtain permission in writing from the Village prior to any modification pursuant to S. 32.10 (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 which 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 Village and its designated representatives 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. 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 Village in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in S. 32.7 or S. 32.8.
- (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

Village may grant one or more extensions not to exceed 180 days cumulatively. The Village 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.

**32.10. EROSION AND SEDIMENT CONTROL PLAN, STATEMENT AND AMENDMENTS**

- (1) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under S. 32.4 (1)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Village. 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 Village.
- (b) The erosion and sediment control plan shall be designed to meet the performance standards in S. 32.7, S. 32.8\* 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. 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 construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological

- Service 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. 32.8 (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 where available.
  8. 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 two 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 which will be vegetated following land disturbing construction activities.
  8. Area(s) and location(s) 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(s) 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, 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 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 Village, 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.
- (3) EROSION AND SEDIMENT CONTROL PLAN AMENDMENTS. The applicant shall amend the erosion and sediment control 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 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 Village notifies the applicant of changes needed in the erosion and sediment control plan.

### **32.11. FEE SCHEDULE**

- (1) The permit application fees referred to in this article shall be established by the village board of trustees, in a fee schedule and may, from time to time, be modified. The processing fees shall be related to costs involved in processing permit applications, reviewing plan, conducting inspections, and documentation. A schedule of the fees shall be available for review at the village hall or on the village website.
- (2) A double permit fee shall be assessed, if land disturbing or construction activities commence before a permit is applied for and issued. Such double fee shall not release the applicant from full compliance with this article nor from prosecution for violation of this article.

- (3) A permit extension fee is required if the landowner or the responsible party has not completed final site stabilization and desires to continue land disturbing construction activities beyond the expiration date of the permit.
- (4) Plan amendment or revision fee. A plan amendment or revision fee is required, if the landowner or responsible party amends or revises any component of the erosion and sediment control plan after the village has completed the initial review, and approved the plan.

Erosion control - 1 and 2-family residences, and residential add. less than 1 acre of land disturbance	\$175.00
Erosion control - Permit renewal	1/2 of original Fees not to exceed \$1000.00
Erosion control - Decks/post holes only (open deck/fence)	\$50.00
Erosion control - Excavation/decks/patios and post hole additions with roof 10,000 or less sq. ft. of land disturbance	\$100.00
Erosion control - In ground swimming pool greater than 10,000 sq. ft. of land disturbance	\$150.00 plus \$0.005/sq.ft disturbed
Erosion control - Landscaping w/ structures, retaining walls or stairways greater than 10,000 sq. ft. of land disturbance	\$150.00 plus \$0.005/sq.ft. disturbed
Erosion control - Retaining walls or stairways 10,000 or less sq. ft. of land disturbance	\$150.00
Erosion control - Storage structures, garages, accessory structures, etc.	\$150.00
Erosion control - Swimming pool 10,000 or less sq. ft. of land disturbance	\$150.00
Erosion control - Waterfront- Decks/post holes only (open deck/fence)	\$100.00
Erosion control - Waterfront - Landscaping w/structures, retaining walls or stairways greater than 10,000 sq. ft. of land disturbance	\$300.00 and \$0.005/sq.ft. disturbed

Erosion control - Waterfront - Retaining walls or stairways/shoreyard landscaping 10,000 or less sq. ft. of land disturbance	\$225.00
Erosion control - Waterfront - Storage structures, garages, boathouses. accessory structures, etc.	\$225.00
Erosion control - Waterfront - Swimming pool 10,000 or less sq. ft. of land disturbance	\$225.00
Erosion control - Waterfront - Swimming pool greater than 10,000 sq. ft. of land disturbance	\$300.00 plus \$0.005/sq.ft. disturbed
Erosion control - Waterfront 1 and 2-family residences, residential add. less than 1 acre of land disturbance	\$300.00 and \$50.00 for each accessory building included with application
Erosion control - Waterfront excavated/decks/patios 10,000 or less sq. ft. of land disturbance and/or post hole additions with roof	\$225.00
Erosion control and Stormwater - Multi-family residential greater than 2 units	\$100.00/unit plus \$0.005/sq.ft. disturbed
Erosion control - Revisions	1/2 of original Fees not to exceed \$1000.00
Erosion control Revisions - Waterfront	1/2 of original Fees not to exceed \$1000.00
Erosion control - Waterfront - Multi-family residential greater than 2 units	\$225.00/unit and \$0.005/sq.ft. disturbed
Erosion control with storm water - greater than 1 acre of land disturbance for 1 and 2 family residential construction	\$300.00 plus \$0.005/sq.ft. disturbed
Erosion control with Stormwater - greater than 1 acre of land disturbance 1 and 2 family residential construction - Waterfront	\$325.00 and \$0.005/sq.ft. disturbed

Commercial/Institutional Project	\$175.00 Less than 2500 sq.ft. - \$200.00 plus \$0.005 sq.ft over 10,000 sq.ft.
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Land disturbing activities, no structures, Subdivision development and others	\$150.00 Less than 10,000 sq.ft. \$150.00 plus \$0.005 sq.ft over 10,000 sq.ft.
Subdivision development and others	\$100.00 plus \$0.005/sq.ft. disturbed
Pond Construction/Pond Maintenance	\$150.00 plus \$0.005/sq.ft. disturbed
Vegetation removal/tree cutting permits	\$150.00
Vegetation removal - shoreyard mitigation	\$150.00
Vegetation removal - restoration/compliance review fee	\$600.00

Compliance Inspection Fee	\$100.00/Inspection
Ordinance Citation Forfeiture	\$663.00 for Each Offense
Citation Inspection Fee	\$200.00/visit

**32.12. INSPECTION**

If land disturbing construction activities are occurring without a permit required by this ordinance, the Village may enter the land pursuant to the provisions of ss. 66.0119 (1), (2), and (3), Wis. Stats.

**32.13. ENFORCEMENT**

(1) The Village 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 such as if 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 erosion and sediment control plan or if the actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.

- (c) The conditions of the permit are not being met.
- (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 Village may revoke the permit.
- (3) If the responsible party, where no permit has been issued or the permit has been revoked, does not cease the activity after being notified by the Village, or if a responsible party violates a stop work order posted under sub. (1), the Village may request the village attorney to obtain a cease and desist order in any court with jurisdiction.
  - (1) The Village may retract the stop work order issued under sub. (1) or the permit revocation under sub. (2).
  - (2) After posting a stop work order under sub. (1), the Village may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Village 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 Village, plus interest at the rate authorized by Village 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.
- (4) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$10.00 nor more than \$5000.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

- (5) 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.

#### **32.14. POND REGULATIONS**

- (1) Pond construction and pond maintenance require a land disturbance erosion and sediment control permit and if applicable, a zoning permit. Land disturbance, erosion and sediment control permit applications and plans are reviewed by the village. Pond design, construction and maintenance must be consistent with village conservation standards and the following criteria:
- (a) Ponds proposed to be constructed in wetlands must meet conservation standards for wetland enhancement, wetland restoration, wetland wildlife habitat management, or other conservation practice standards approved by the village. Shallow wildlife ponds have a maximum depth of four feet with eight to one side slopes and do not provide for more than 20 percent open water within a wetland. Wildlife ponds may not be constructed across a wetland boundary with a deeper portion proposed outside of the wetland. Wildlife ponds may not have a significant adverse effect on the natural hydrologic water regime, existing unique plant wetland flora and fauna, of a wetland area and must be a wetland enhancement.
  - (b) Pond construction and maintenance in uplands and agricultural lands are not required to meet specific dimensional limitations or requirements, but shall incorporate safety features, consistent with village construction standards.
  - (c) Spoils excavated for pond construction or pond maintenance may not be disposed of in any village regulated wetland area, floodplain or within any shoreyard, as determined by the village.
  - (d) If a pond is proposed to be constructed in a floodplain area, the applicant must demonstrate that the project restores or

improves functional values, including increasing flood and storm water storage, maintaining groundwater recharge-discharge, enhancing fisheries and wildlife habitat, improving filtration or storage of sediments, nutrients, and toxins, improving shoreline protection against erosion, and any additional wetland functional values. The enhancement of functional values of a floodplain may not be conducted as part of mitigation for loss of wetlands.

- (e) Spoils from pond construction may not be hauled off- site or sold without obtaining proper zoning and conditional use approval or land disturbance permit and plan approval.
  - (f) The applicant must obtain conditional use approval for placing fill in the floodplain.
  - (g) The land owner or the responsible party must obtain all approvals required by the state department of natural resources, U.S. Army Corps of Engineers and local agencies prior to commencing pond construction within the village.
  - (h) Site specific guidelines may be established during the review and approval process which is more restrictive based on unique characteristics of project site.
- (2) Pond construction permit requirements, application procedures and fees and plan requirements.
- (a) Permit required. No person shall commence pond construction or pond maintenance, subject to this article without receiving prior approval and obtaining a land disturbance/erosion and sediment control permit for pond construction from the village.
  - (b) Permit application and fees. Prior to undertaking a land disturbing activity for the construction of pond maintenance subject to this ordinance, the landowner or responsible party shall submit an application for a permit and submit a pond construction plan, construction site erosion and sediment control plan that meets the requirements of section 32-10 of this article and shall pay



an application fee, referenced in section 32-11 of this article. By submitting an application, the applicant is authorizing the village and its authorized representatives to enter the site to obtain information required for the review of the project plan

- (c) The pond construction plan shall be prepared and submitted to the village and include the following information:
1. A project site plan map, drawn to scale with the following information and details:
    - A. Location and dimensions of all planned land disturbing activities, including the location of any spoil spreading.
    - B. The location of any lake, stream, channel, ditch, pond, wetland, waterway or 100-year floodplain line near the project site.
    - C. Location of property boundaries to insure proposed pond is set-back from the property line.
    - D. Location and direction of drainage patterns flowing onto or through the project site.
    - E. Site grading plan, showing the existing and proposed contours and elevations of the pond and spoil spreading areas.
    - F. The project site construction access roadway.
    - G. If the proposed pond is an embankment pond, show the location and elevation of the embankment and the locations and elevations of the inlet and outlet of the principal and emergency spillways, if planned.
    - H. Location of all construction site erosion and sediment control practices necessary during pond construction, pond maintenance or spoil spreading activities, consistent with section 32-10 of this article.
    - I. Methods to handle, store, de-water and transport spoil material.
  2. Pond construction details, specifications, and design documentation, including, but not limited to:
    - A. Soil boring logs, if required.
    - B. Cross-sections of planned pond excavation.
    - C. If pond is constructed using an embankment, the following details must be prepared and submitted:

- D. Design computations.
- E. Profiles along centerline of embankment.
- F. Cross-sections along principal and emergency spillway.
- G. Pond lining specifications, if used.
- H. Material and construction specifications for excavation, fill, conduits, pipes or other materials used for pond construction.

- (3) Project construction schedule and sequencing plan, including the anticipated starting date of each phase of construction, including the installation of erosion and sediment control measures and final site restoration, for the pond construction or maintenance and the spoil spreading areas.
- (4) A site restoration, vegetation and landscaping plan for the pond site and the spoil disposal areas, describing the seeding mixture and rate, erosion control matting specifications, mulching type and application rate and any special planting.
- (5) Project narrative describing the purpose and intent of the pond construction or maintenance and the type of equipment that will be used.
- (6) A pond maintenance plan, specifying inspection and maintenance tasks and intervals.

**32.15. RETAINING WALL REGULATIONS**

- (1) When land disturbing activities associated with the construction or reconstruction of retaining walls or terraces are regulated by the village zoning department, pursuant to chapter 27-22 of the Village Code of Ordinances and subject to this article, the following requirements apply:
  - (a) Only the minimum excavation necessary for the installation of retaining walls for stabilization of the natural slopes will be authorized.
  - (b) All retaining walls must meet village setback requirements, if applicable.
  - (c) All retaining walls constructed for slope stabilization with a height greater than four feet, shall be designed and certified by a professional engineer licensed in the state, unless pre-engineered products are used and installation complies with manufacturer's specifications.
  - (d) No change in the existing topography of any

land shall be made which would result in increasing any slope greater than three feet horizontal to one foot vertical.

- (e) New retaining walls and terracing proposed within the shoreyard setback area, as referenced in section 27-22 of the Village Code of Ordinances, will only be authorized where the landowner or responsible party can successfully prove to the village or the department of natural resources, with an engineering report prepared in accordance with section 32-43(c), there is a current erosion problem that cannot be remedied or repaired by re-sloping and re-vegetation of the area or the use of other means and methods consistent with natural shoreline aesthetics.
  - (f) Retaining walls, when authorized in the shoreyard setback, will be shielded with vegetation if site conditions are suitable for establishing vegetation.
- (2) Permit required. No person shall commence land disturbance activities for retaining wall construction or replacement, subject to this article, without receiving prior approval and obtaining a land disturbance, erosion and sediment control from the village.
- (3) Permit application and fees. Prior to undertaking a land disturbing activity for the construction or reconstruction of retaining walls, subject to this ordinance, the landowner or responsible party shall submit an application for a permit on a form provided by the village, a permit application fee, a retaining wall construction plan, a construction site erosion control and sediment control plan that meets the requirements of section 32-10, and an engineer's report, as referenced in section 32-15(3) prepared by a professional engineer, licensed in the state, certifying that construction or reconstruction of a retaining wall meets the requirements in section 32-15(a)(5).
- (4) Engineering report. New construction of retaining walls within the shoreyard setback will not be authorized, unless a professional engineer, licensed in the State of Wisconsin has conducted an on-site inspection and evaluation, considered the site conditions, limitations and

opportunities, documented and certified the following findings:

- (a) A slope erosion or failure analysis, including field surveys and exploration, indicates an erosion problem is present on the site.
- (b) The cause of the slope erosion or failure.
- (c) The re-sloping and re-vegetation options considered, including the use of erosion control matting and other geo- textile remedies.
- (d) A construction plan and construction details for the retaining wall, if determined and to be the only remedy for the documented erosion problem

**32.16. CONSERVATION STANDARDS FOR VEGETATION REMOVAL.**

- (1) Village conservation standards include those applicable design criteria, standards and specifications for a soil and water conservation practice or a system of practices. Conservation standards establish the minimum level of acceptable quality for planning and site assessment, performance, design, installation, operation and maintenance for land and water conservation and management practices. Conservation standards may reference companion documents for design and construction methods, testing procedures, construction and material specifications and other criteria necessary to ensure the appropriate design, installation and maintenance of a conservation practices.
- (2) Conservation practice standards include those contained in:
  - (a) Subchapter V of ch. NR 151, Wis. Adm. Code.
  - (b) Section IV of the Field Office Technical Guide, Technical Notes and Field Office Manuals published by the USDA Natural Resource Conservation Service.
  - (c) Other technical standards and specifications adopted by the State Standards Oversight Council, other state or local agencies or organizations, the Wisconsin Department of Natural Resources, the Wisconsin Department of Transportation, the University of Wisconsin Cooperative Extension Service, the Southeastern Wisconsin Regional Planning Commission or the Center for Watershed Protection and approved by the village.

(3) If the Village determines if a proposed vegetation removal activity requires a permit and conservation plan approval, pursuant to chapter 27 of the Village Code of Ordinances, the landowner or the responsible party shall prepare and submit a conservation plan to the village for approval. A conservation plan for vegetation removal activities includes site plan maps, narratives, drawings, job sheets or other instructions and details of the treatment area(s). The following information or documents are the minimum requirements for the preparation of a conservation plan for an area proposed for removal of vegetation.

- (a) Description of the intended purpose of the proposed vegetation removal, (ex. water view or access corridor, manage noxious weeds and woody plants, restore natural plant community balance, etc.) and the method of treatment, (ex. manual removal, chemical treatment, biological treatment, controlled burn).
- (b) A scaled site maps showing the location (s) of the proposed vegetation removal, (treatment area). Mark and label, the 35-foot line from the ordinary high water mark of the body of water, if present. Identify and label stairways, pathways, piers or other structures, if present on the parcel. Show areas to be left undisturbed.
- (c) Existing species description (by scientific name), distribution and count, transect line location and number and description of the targeted tree, shrub and forb species to be cut and cleared.
- (d) Photographs of the project site.
- (e) Describe and include instructions for the proposed treatment methods:
  1. Type(s) of equipment used.
  2. Schedule and sequence of treatment tasks and procedures.
  3. Herbicide name, if used, rate of application, date of application, mixing instruction, (if applicable reference to label instructions).
  4. Biological agent, (if used) timing, duration and intensity of grazing or browsing, requirements when using insects or plants as control agents.
  5. A prescribed burn plan, if proposed, complying with village conservation standards.
- (f) Identify methods and locations for the

- disposal of cut vegetation.
- (g) On a site plan map, locate and label access sites to the treatment areas on the project site plan. If a new permanent or temporary driveway or project access road is proposed, follow permit application instructions for a driveway/roadway permit.
  - (h) On a site plan map, locate and label all erosion and sediment control best management practices to be used on the treatment area, these methods can include, mulching, filter fabric fencing, geo-textile covering or matting.
  - (i) Replanting plan.
    - 1. Replanting location(s) shown on a scaled site plan.
    - 2. Listing by species (by scientific name) density, and maturity
    - 3. Planting methods, including site preparation instructions,
    - 4. Mulching or matting specifications
    - 5. Planting schedule.
    - 6. Care and handling of plant materials
    - 7. Watering or irrigation plan.
- (4) Evaluation and maintenance plan. Include a narrative to ensure that sufficient monitoring and maintenance of the treatment area is undertaken and spot treatment or re-treatment is conducted.
- (5) Treatment areas with severe or limiting site conditions, such slope, soils, or wetness, may require additional site planning information and considerations.
- (6) Vegetation removal activities, if regulated by the village zoning ordinance, cannot commence without approval of a conservation plan by the village.
- (7) If the zoning division determines that a proposed vegetation removal project requires a conservation plan approved the village, the landowner or the responsible party will prepare and submit a conservation plan complying with the standards and plan requirements contained in section 32-16.
- (8) The conservation plan will be submitted with the zoning permit application with the application fee, pursuant to section 32-11 of the Village Code of Ordinances. Within 30

days of receipt of the conservation plan, the village will determine if the plan meets requirements of this article and will issue a conservation plan approval letter. The conservation plan approval may include conditions that may be binding with the zoning permit approval.

**32.17. SPECIAL EVENTS, PUBLIC ASSEMBLIES AND MASS GATHERINGS**

- (1) **APPLICABILITY:** This article shall apply to all public gatherings, rallies, assemblies or festivals, at which attendance is greater than 5,000 persons.
- (2) **Application; notice and hearing.** Any property owner or person having a contractual interest in any land in the village may file an application for a special sanitary permit. If more than one event is scheduled in a calendar year, an annual permit may be applied for. Except as provided in (c), the application shall be filed with the director of the land use and resource management department at least 30 days in advance of the date of the scheduled event or the first scheduled event of a series, on forms furnished by him and shall include the following:
  - (a) Names and addresses of the applicant, owner of the site, promoter or sponsor of the gathering.
  - (b) Description of the site by metes and bounds or other legal description, address of the site, type and date or dates of proposed gathering and proposed method of operation, maximum number of persons to attend such gatherings and any special or unusual conditions anticipated.
  - (c) Plat of survey to a scale of one inch equals 100 feet prepared by a registered land surveyor showing the location, boundaries, dimensions, type, elevations and size of the following: subject site, soil mapping unit lines, existing or proposed wells, building, fences, woods, streams, lakes or watercourses, as well as the vertical contour interval two feet above the high water level.
  - (d) Fee receipt from the village clerk in the amount of \$2000.00 for a Concert and Event in excess of 5,000 persons.
- (3) Upon receipt of the completed application the executive committee shall call a public hearing thereon. Notice of the time and place of the hearing shall be given by publication in the village of a class 1 notice under Wis.

Stats. ch. 985. A copy of such notice shall be sent by first class mail. The hearing shall be conducted in accordance with the rules of the executive committee. After the hearing the committee shall, if it finds that the standards set forth in section 32-17(5) have been or will be met, direct the director of the land use and resource management department to issue a special sanitary permit and may attach such conditions thereto as are reasonably necessary to insure compliance with, and fulfill the purposes of, this article, including a limitation on the number of persons permitted to attend an event and the imposition of an additional fee based on the estimated actual cost to the village of policing and inspecting the premises and of enforcing the conditions attached to the permit.

- (4) DETERMINATION BY VILLAGE BOARD: The executive committee shall make a finding based on evidence presented at the hearing of the number of persons expected to attend the event. Such findings shall be final and conclusive on the applicant for the purpose of determining the applicability of those standards set forth in this article which are dependent upon the number of persons attending the event.
- (5) SANITARY FACILITIES: Adequate sanitary facilities shall be provided in full compliance with this article. Unsanitary, unsealed or open types of portable toilets, outdoor toilets, privies or cesspools are prohibited except that sanitary privies may be permitted provided they are constructed as watertight vault-type privies in accordance with the Wisconsin Administrative Code, and further provided that flush-type toilets shall be provided for any gathering in excess of 10,000 persons. The number of water closets, urinals and lavatories shall be in full compliance with Chapter SPS 377 of the Wisconsin Administrative Code, or other applicable codes. The use of sanitary privies or sanitary portable toilets may be allowed if approved by the village board.
- (6) MEDICAL FACILITIES: Physicians and nurses licensed to practice in the state shall be present in sufficient numbers to provide the average medical care enjoyed by residents of the state for the maximum number of people to be assembled, together with an enclosed first aid station or stations where medical treatment may be rendered. At least one emergency ambulance shall be available for use at all times.



- (7) SOLID WASTE DISPOSAL: Adequate refuse containers shall be available to prevent accumulation of solid waste, garbage and rubbish on the ground.
- (8) PERMIT REQUIRED: No person shall conduct a public gathering, rally, assembly or festival at which attendance is greater than 5,000 persons without first having obtained a special sanitary permit.

**32.18. APPEALS**

- (1) BOARD OF APPEALS. The board of appeals, created pursuant to section [number] of the Village ordinances pursuant to s. 62.23 (7)(e), Wis. Stats., shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Village in administering this ordinance. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.
- (2) WHO MAY APPEAL. Appeals to the Board of Adjustment may be taken by any aggrieved person or any office or department of the village affected by any decision of the village zoning department.

**32.19. SEVERABILITY**

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