

CHAPTER 17 EROSION CONTROL

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CHAPTER 17 EROSION CONTROL

SECTION 17.01 Authority.

This Chapter is adopted pursuant to the guidelines in Sec. 59.693, Wis. Stats.

SECTION 17.02 Findings and Purpose.

- (a) **Findings.** The Village Board finds runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the State and the Village of Arlington. Further, the Village Board finds that land uses have significantly contributed to the process of soil erosion, runoff, and sediment deposition in waters located within or near the Village.
- (b) **Purpose.** The purpose of this Chapter is to control and, if possible, prevent soil erosion and minimize water runoff increases and thereby, preserve the natural resources, control floods, and prevent impairment of dams and reservoirs, protect the quality of public waters and wetlands, prevent property damage, preserve wildlife, protect the tax base and protect and promote the health, safety and general welfare of the people of the Village of Arlington by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams and wetlands.

SECTION 17.03 Applicability of Regulations and Exclusions.

- (a) **Scope of Coverage.** This Chapter applies to land disturbing and land developing activities on land within the boundaries and jurisdiction of the Village of Arlington and the public and private lands subject to extraterritorial review under Ch. 236, Wis. Stats. The erosion control requirements of the State Uniform Dwelling Code are adopted herein by reference, and shall be complied with when activities regulated by this Chapter occur.
- (b) This Chapter shall be interpreted in conjunction with the Village Zoning and Land Division Ordinances and the Village Building Code. Where the provisions of this Chapter are contrary to the provisions of the Zoning, Land Division or Building Code, the more restrictive provision shall apply.
- (c) **Exclusions.** The following activities are generally excluded under this Chapter:
 - (1) State funded or conducted construction or state funded or conducted activities that are subject to the State Site Erosion Control and Stormwater Runoff Plan. State funded or conducted construction activities must meet the requirements contained in the "State Plan for the Control of Construction Erosion and Stormwater Runoff", which contains similar requirements as contained in this Chapter, as a minimum.
 - (2) Agricultural land uses as defined in this Chapter and quarries, except where the Village Board, Plan Commission, Village Engineer or Building Inspector determine that erosion or runoff from such agricultural or quarry

uses is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.

- (3) Small land disturbing activities such as gardens, minor landscaping modifications and minor repair of sidewalks, paths or driveways, except where the Village Board, Plan Commission, Village Engineer or Building Inspector determine that erosion or runoff is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.

SECTION 17.04 Definitions.

- (a) **Agricultural Land Use.** Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
- (b) **Board of Appeals.** The Board of Zoning Appeals as established by Section 13.84 of the Code of Ordinances.
- (c) **Building Inspector.** The Village of Arlington Building Inspector.
- (d) **Commercial Land Use.** Use of land for the retail or wholesale sale of goods or services.
- (e) **Control Measure.** A practice or combination of practices to control erosion and attendant pollution.
- (f) **Control Plan.** A written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this Chapter submitted by the applicant for review and approval by the Village Engineer.
- (g) **Erosion.** The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
- (h) **Existing Grade.** The vertical location of the existing ground surface prior to excavation or filling.
- (i) **Fill.** Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved to a new location and shall include the conditions resulting therefrom.
- (j) **Grading.** Altering the elevation of the land surface by stripping, excavating, filling, stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
- (k) **Land Development Activity.** The construction of buildings, roads, parking lots, paved storage areas and similar facilities.
- (l) **Land Disturbing Activity.** Any change to the land surface which may result in soil erosion, sedimentation or increase in water runoff, including but not limited to tilling, removal of vegetative cover, removal or stockpiling of soil, grading, excavating, livestock grazing and filling of land.
- (m) **Land Disturbing Construction Activity.** Any man-made change of the land surface including removing vegetation cover, excavating, filling and grading but not including, agricultural land uses such as planting, growing, cultivating and

- harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.
- (n) **Landowner.** Any person holding title to or having any interest in land.
 - (o) **Land Treatment Measures.** Structural or vegetative practices (including fencing) used to control erosion, sediment and water runoff.
 - (p) **Land User.** Any person who uses land collectively or individually as owner, operator, lessor or renter, or who occupies land by providing work or service that requires alteration of the land, or any person who has made other arrangements with a landowner which gives them the right and/or responsibility for use of the land.
 - (q) **Major Land Disturbing Activities.** Those activities where the land disturbing activity covers one or more acres, where a certified survey map or subdivision (as defined by Chapter 236 Wis. Stats.) is created, or where the Village Board, Plan Commission, Village Engineer or Building Inspector determines that special circumstances due to topography, proximity to watercourses or relation to sensitive environmental area make the disturbance a major one.
 - (r) **Minor Land Disturbing Activities.** Those activities where the land disturbance covers less than one (1) acre and the activities do not otherwise fall within the definition of major land disturbing activities.
 - (s) **Parcel.** All contiguous lands under the ownership or control of a land owner or land user.
 - (t) **Peak Flow.** The maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.
 - (u) **Person.** Any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government or any combination thereof.
 - (v) **Public Lands.** All lands owned or controlled by any unit of government.
 - (w) **Runoff.** Includes, but is not limited to, ice or water flowing over the ground surface.
 - (x) **Sediment.** Solid material, mineral or organic, that is in suspension, is being transported to, or has been moved from, its site of origin by air, water, gravity or ice and has come to rest or has been deposited on the earth's surface at another location.
 - (y) **Sedimentation.** The transportation and deposition of sediment that may ultimately degrade water quality by the presence of suspended solid particles, derived from soils by erosion or discharged into surface waters from other sources, or the deposition of water-borne sediments in stream channels, lakes, reservoirs, or on floodplains, usually resulting from a decrease in the velocity of the water flow.
 - (z) **Site.** The entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.
 - (aa) **Soil Loss.** Soil removed from a given site by land disturbing activities or by the forces of erosion, and redeposited at another site.
 - (bb) **Storm Frequency.** The average period of time during which a storm of a given duration and intensity can be expected to be equaled or exceeded.

- (cc) **Storm Sewer.** A closed conduit for conducting collected storm water.
- (dd) **Storm water Runoff.** The waters derived from rains falling within a tributary drainage basin, flowing over the ground surface or collected in a water drainage system.
- (ee) **Structural Measures.** Land treatments intended to prevent erosion, sediment or runoff that include, but are not limited to, gully control structures, grass waterways, riprap, detention basins or ponds, sediment basins or ponds, flood retention dams, diversions, and lining channels with rock concrete or other materials. Contour strip cropping is not considered a structural measure under this Chapter.
- (ff) **Water Drainage Facility.** Any element in a water drainage system which is made or improved.
- (gg) **Water Drainage System.** All facilities used for conducting runoff to, through or from a drainage area to the point of final outlet including, but not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, reservoirs, detention basins or ponds, storm sewers, streets, and pumping stations.
- (hh) **Working Day.** Monday, Tuesday, Wednesday, Thursday or Friday, excluding, however, any such day officially observed by the Village of Arlington as a legal holiday. Also referred to as “business day”.

SECTION 17.05 Design Criteria, Standards and Specifications for Control Measures.

All control measures required by this Chapter shall be measured based on accepted design criteria, standards and specifications periodically established by the United States Soil Conservation Service, Wisconsin Department of Natural Resources or otherwise identified as acceptable by the Building Inspector or Village Engineer. Where design criteria, standards or specifications conflict, the most restrictive provisions shall apply. Stormwater run-off rate control facilities shall be constructed that will keep the post-development peak run-off rate for a 100-year 24-hour storm to the pre-development level whenever 20,000 square feet or more of new impervious area is created. The criteria used for this measurement shall be determined by the Village Engineer.

SECTION 17.06 Required Control of Erosion and Pollutants During Land Disturbances and Development.

- (a) **Applicability.** This Section applies to the following sites of land development activity or land disturbing activities:
 - (1) Those requiring certified survey map, subdivision or land division plat approval under Village of Arlington land division ordinances.
 - (2) Those involving the construction of buildings or other improvements on lots of approved certified surveys, land division plats or subdivision plats.

- (3) Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of four thousand (4,000) square feet or more.
 - (4) Those involving excavation or filling or a combination of excavation and filling affecting four hundred (400) cubic yards or more of dirt, sand or other excavation or fill material.
 - (5) Those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.
 - (6) Those involving the laying, repairing, replacing, inspecting or enlarging of an underground pipe or facility for a distance of three hundred (300) feet or more.
 - (7) Those sites involving the changing, enlargement, dredging or other alteration to any watercourse, waterway and/or wetlands.
 - (8) Those other situations where the Village Engineer, at the request of the Plan Commission or Village Board, determine that erosion or runoff is likely to occur unless control measures are taken.
- (b) **Minimum Erosion and Runoff Control Standards to be Met.** At a minimum, the erosion and runoff control standards listed below must be met on all sites described in Subsection (a) above. Additional or more stringent control standards may be required in those situations where the Village Engineer determines that special circumstances due to topography, proximity to watercourses or environmentally sensitive areas justify additional or more stringent controls. The permittee is responsible for obtaining compliance with the required standards. In cases where no permit has been issued, the landowner is responsible for obtaining compliance with the required standards:
- (1) **Site De-Watering.** Water pumped from the site shall be treated by temporary sedimentation basins or other appropriate control measures. Such sedimentation basins shall have a depth of at least three (3) feet, be surrounded by snowfence or equivalent barrier and have sufficient surface area to provide a surface settling rate of not more than one thousand five hundred (1,500) gallons per square foot per day at the highest dewatering pumping rate. Water may not be discharged in a manner that causes erosion at the site, a neighboring parcel, or the bed or banks of the receiving water.
 - (2) **Waste and Material Disposal.** All waste and unused building materials (including garbage, debris, cleaning wastes, animal wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed and not allowed to be carried by runoff into a receiving channel or storm sewer system.
 - (3) **Tracking.** Each site shall have a three (3) inch graveled entrance pad of sufficient width and length to prevent sediment from being tracked into public or private roadways. Sediment reaching a public or private road shall be removed by street cleaning (not hydraulic flushing) before the end of each workday.

- (4) **Drain Inlet Protection.** All storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications.
- (5) **Channelized Runoff.** Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas.
- (6) **Sequenced Activities.** All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time and the amount of soil leaving the site.
- (7) **Stabilized Disturbed Ground.**
 - a. All disturbed ground and soil or dirt storage piles shall be contained on the site by filter barriers or other suitable means. The containment measures shall remain in place until the site is adequately stabilized. All disturbed ground left inactive for seven (7) or more days shall be stabilized by seeding or sodding (only available prior to September 15th) or by mulching, filter barriers or covering, or other equivalent control measure.
 - b. For sites with more than ten (10) acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent (1%) of the area draining to the basin and at least three (3) feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three (3) feet. The basin shall be designed to trap sediment greater than fifteen (15) microns in size, based on the set of one (1) year design storms having durations from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
 - c. For sites with less than ten (10) acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.
- (8) **Filter Fences or Straw Bales on Slopes.** Filter fences, straw bales, or equivalent control measures shall be placed continuously along all sideslope and downslope sides of the site where deemed appropriate by the Village Engineer. If a channel or area of concentrated runoff passes through the site, filter fence shall be placed continuously along the channel edges to reduce sediment reaching the channel.
- (9) **Soil Storage Piles.** Any soil or dirt storage pile containing more than ten (10) cubic yards of material shall not be located with a downslope drainage length of less than twenty-five (25) feet to a roadway or drainage channel. If remaining for more than seven (7) days, it shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles

which will be in existence for less than seven (7) days shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than twenty-five (25) feet of a roadway or drainage channel must be covered with tarps or suitable alternative control if exposed for more than seven (7) days, and the storm drain inlets must be protected with straw bales or other appropriate filtering barriers.

- (c) **Special Circumstances.** The control standards set forth in this Chapter are intended to apply to a typical development site. When land disturbing and/or development activity is proposed for a site with extraordinary features, the Plan Commission may recommend to the Village Board that it require additional and/or more restrictive control standards and measures before any control plan is approved or permit issued. Extraordinary sites include, but are not limited to, sites where land disturbing or development activities are proposed to occur on slopes of more than twenty percent (20%) grade in designated floodplain, wetland, or conservancy areas or in environmental corridor areas identified in the Village Comprehensive Plan.
- (d) **Erosion and Runoff Control by Public Dedication of Water Runoff Control.** The Village Board may require dedication of water runoff control measures. When such dedication is required, the dedicated land may also be utilized for parkland and for recreational use. Once dedicated and accepted, the Village of Arlington shall maintain the runoff control measures as necessary to adhere to this Chapter and any other application. The potential costs of maintaining proposed runoff control measures will be among the criteria considered in either accepting or rejecting an entire "Erosion and Runoff Control Plan" for the areas and determining whether or not to require dedication to the Village of Arlington of any runoff control measures. In the event that the Village of Arlington does not require dedication of any water runoff control measures, the continued maintenance of such measures shall be assured through such means as deed restrictions, easements or a contract with the Village of Arlington.

SECTION 17.07 Maintenance of Control Measures.

All sedimentation basins and other control measures necessary to meet the requirements of this Chapter shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.

SECTION 17.08 Permit Application, Control Plan, and Permit Issuance.

- (a) **Permit Application.** No landowner or land user, including the Village of Arlington, may commence a land development activity, land disturbing activity or land disturbing construction activity subject to this Chapter without receiving prior approval of a control plan for the site and a permit from the Village Engineer.

Erosion control on individual home sites shall be administered by the Building Inspector as prescribed by the State Uniform Dwelling Code. At least one (1) landowner or land user controlling or using the site and desiring to undertake a land disturbing or land development activity subject to this Chapter shall submit an application for a permit and a control plan and pay an application fee to the Village Clerk. By submitting an application, the applicant is authorizing the Building Inspector, Village Engineer and other designated Village officials to enter the site to obtain information required for a review of the control plan.

(b) **Content of the Control Plan for Land Disturbing Activities.** Except as provided in (d) below, the control plan for land disturbing activities shall contain the following:

(1) **Existing Site Map.** A map of existing site conditions on a scale of at least one (1) inch equals one hundred (100) feet showing the site and the following:

- a. Boundaries of abutting lands which accurately identify on the abutting property;
- b. Lakes, streams, wetlands, channels, ditches and other water courses on and immediately adjacent to the site. (Note: The local unit of government should identify sensitive local waters that may need to be further addressed by the control plan.);
- c. 100 year floodplains, flood fringes and floodways;
- d. Vegetative cover;
- e. Location and dimensions of stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site;
- f. Locations and dimensions of utilities, structures, roads, highways, and paving; and
- g. Site topography at a contour interval not to exceed five (5) feet.

(2) **Plan of Final Site Conditions.** A plan of final site conditions on the same scale as the existing site map showing the site changes.

(3) **Site Construction Plan.** A site construction plan including:

- a. Locations and dimensions of all proposed land disturbing activities;
- b. Locations and dimensions of all temporary soil or dirt stockpiles;
- c. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this Chapter;
- d. Schedule of anticipated starting and completion date of each land disturbing or land development activity including the installation of construction site control measures needed to meet the requirements of this Chapter; and provisions of maintenance of the construction site control measures during construction.
- e. Provisions of maintenance of the construction site control measures during construction.

(c) **Emergency Situations.** Notwithstanding the above, a private landowner or the Village of Arlington may commence land disturbing activity without an approved control plan where immediate action is necessary in order to respond to an

existing or threatened emergency situation. When such emergency activity is undertaken, care will be taken to comply with the erosion and runoff control standards set forth in this Chapter to the fullest extent practicable under the circumstances. The Building Inspector or Village Engineer shall be notified by the private landowner within three (3) hours after commencing such land disturbing activities under this Section.

- (d) **Minor Land Disturbing Activities-Content of Control Plan Statement.** For minor land disturbing activities, an erosion control plan (with simple map) shall be submitted to briefly describe the site and erosion controls (including the site development schedule). These documents will be used to meet the requirements of this Chapter.
- (e) **Review of Major and Minor Land Disturbing Control Plans.**
 - (1) **Major Land Disturbing Activities.** Within forty-five (45) days of receipt of a completed control plan, the Village Engineer shall determine if the requirements of this Chapter are met. The applicant shall be informed, in writing, of the reasons for rejection or conditions of approval.
 - (2) **Minor Land Disturbing Activities.** Control plan statements for minor land disturbing activities shall be reviewed by the Building Inspector for compliance with this Chapter. The Building Inspector shall approve, reject or conditionally approve the plan within the same number of working days as required for issuance of a building permit, but in no event more than ten (10) working days after receipt of the completed control plan statement. If the control plan statement is rejected or conditionally approved, the applicant shall be informed, in writing, of the reasons for rejection or conditions of approval.
- (f) **Permits.**
 - (1) **Duration.** Permits shall be valid for a period of one hundred eighty (180) days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Building Inspector or Village Engineer, as applicable, may extend the period one or more times for up to an additional one hundred eighty (180) days. The Building Inspector or Village Engineer may require additional control measures as a condition of the extension if necessary to meet the requirements of this Chapter.
 - (2) **Permit Fees - Major Land Disturbing Activities.** The application fee for a major land disturbing activity permit shall be as determined by Resolution of the Village Board. In addition to this fee, before any permit is issued, the applicant shall agree to pay the actual engineering fees or expenses incurred by the Village of Arlington in connection with review of the control plan and the engineering fees or expenses estimated to be incurred for on-site inspection during the project. These additional charges shall be determined by the Village Engineer and the applicant may be required to enter into a separate agreement with the Village to ensure payment of these fees and expenses.

- (3) **Permit Fees - Minor Land Disturbing Activities.** The application fee for a minor land disturbing activity permit shall be as determined by Resolution of the Village Board, except where a building permit fee is paid in connection with the same activity, then a fee as determined by the Village Board shall be paid in order to obtain the necessary land disturbing activity permit.
- (g) **Permit Requirements - Major Land Disturbing Activity.** All Major Land Disturbing Activity Permits shall require the permittee to do at least the following:
- (1) The applicant shall provide the Village of Arlington, prior to issuance of the permit, an irrevocable letter of credit to the Village of Arlington in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of all required control measures as determined by the Village Engineer. The security deposited shall guarantee that all required control measures will be taken or installed according to the approved plan. The security shall remain in full force for the entire period of the permit unless released earlier by the Village of Arlington. The Village of Arlington shall have the right to draw upon the security for the purposes of obtaining compliance with the approved Control Plan as it deems necessary. If the erosion and runoff control requirements of this Chapter are included as part of plat or certified survey map conditions of approval, then security for performance of the control requirements may be included as part of the overall security required for installation of improvements under this Code of Ordinances.
 - (2) Contact the Village Engineer upon completion of any control measures and at least two (2) working days prior to commencing any land disturbing activity.
 - (3) Obtain written permission from the Village Engineer prior to modifying the Control Plan. The permittee is authorized to install only those modifications that comply with the terms of this Chapter.
 - (4) Install all control measures as identified in the Control Plan.
 - (5) Maintain all control measures as identified in the Control Plan.
 - (6) Repair any damage to adjoining surfaces and drainageways resulting from any land development or land disturbing activities on the permitted site.
 - (7) Inspect the control measures after each rain of 0.5 inches or more and make needed repairs immediately.
 - (8) Allow the Village Engineer, or other designated Village officials to enter the site for the purpose of inspecting for compliance with the Control Plan or for performing any work necessary to bring the site into compliance with the Control Plan and this Chapter.
 - (9) Keep a copy of the approved Control Plan on site.
- (h) **Permit Requirements - Minor Land Disturbing Activity.** All Minor Land Disturbing Activity Permits shall require the permittee to:
- (1) Obtain permission in writing from the Building Inspector prior to modifying the Control Plan. The permittee is authorized to install only those modifications that comply with the terms of this Chapter.

- (2) Install all control measurers as identified in the approved Control Plan.
- (3) Maintain all control measures as identified in the Control Plan.
- (4) Repair any damage to adjoining surfaces and drainageways resulting from any land developing or disturbing activities on the permitted site.
- (5) Inspect the control measures after each rain of 0.5 inches or more and make needed repairs immediately.
- (6) Allow the Building Inspector or other designated Village officials to enter the site for the purpose of inspecting for compliance with the Control Plan or for performing any work necessary to bring the site into compliance with the Control Plan and this Chapter.

SECTION 17.09 Inspection.

- (a) The Village Engineer or other designated Village official shall inspect all Major Land Disturbing activities in order to ensure compliance with the Control Plan and permit.
- (b) In the case of Minor Land Disturbing activities, the Building Inspector shall inspect sites in order to ensure compliance with the Control Plan and permit.
- (c) If the land disturbing or land development activities are being carried out without a valid permit, Village inspection officials may enter the land in question pursuant to the special inspection warrant provisions of Sections 66.0119(1)(2) and 66.0119(3), Wis. Stats.

SECTION 17.10 Enforcement.

- (a) **Violations.**
 - (1) No land development activities or land disturbing activities within the scope of this Chapter may occur without full compliance with the provisions of this Chapter. Any person who violates or fails to comply with any provision of this Chapter is subject to the enforcement and penalty provisions contained herein.
 - (2) No person engaged in land development activities or land disturbing activities under this Chapter shall permit or allow dirt or other debris from such activities to be deposited on a public right-of-way. Such debris and/or dirt shall be removed from public right-of-ways at the end of each work day. In addition to issuance of a citation to violators of this Chapter, the Village of Arlington may perform necessary cleanup work. The cost of work shall be billed to the landowner or permittee; upon failure to pay the amount due, the Village Clerk shall enter the amount due on the tax rolls and collect as a special charge against the property pursuant to Sec. 66.0627, Wis. Stats.
- (b) **Enforcement.** The following enforcement actions, or any combination thereof, may be taken in case of a violation of this Chapter:

- (1) **Citation.** Pursuant to authority granted in Section 1.09 of the Village of Arlington Code of Ordinances, the Building Inspector is empowered to issue citations for violations of this Chapter.
- (2) **Stop Work Order.**
 - a. A stop work order may be issued by the Building Inspector, or their authorized agents, after an inspection if:
 1. Any land disturbing or land developing activity regulated under this Chapter is being undertaken without a permit;
 2. The Control Plan is not being implemented in a good faith manner.
 3. The conditions of the Permit are not being met.
 - b. Stop work orders may be retracted when compliance with the Chapter is obtained. The Village Board, or its designee has the authority to retract a stop work order for major land disturbing activities; the Building Inspector or their designees, may retract stop work orders on minor land disturbing activities.
- (3) **Revocation of Permit.** Where a stop work order has been issued in order to obtain compliance with a Control Plan, the Village Board may revoke the permit if the permittee does not cease the illegal activity or obtain compliance with the control plan or permit conditions within the compliance time designated by the Building Inspector.
- (4) **Village to Perform Work.** Upon failure of the landowner, land user or permittee to fully comply with the requirements of this Chapter within the designated compliance time, the Village may issue by regular mail a notice of intent to the permittee, landowner or land user of the Village's intent to perform work necessary to comply with this Chapter. After 10 days from the date of mailing, the Village Building Inspector and/or other designated Village officials or agents, as determined by the Village Board, may go on the land and commence the work. The cost of the work performed by the Village, plus interest, shall be billed to the permittee or the landowner or may be recovered out of any security posted for such purpose. In the event a permittee or landowner otherwise fails to pay the amount due, the Village Clerk shall enter the amount due on the tax rolls and collect as a special charge against the property pursuant to Sec. 66.0627, Wis. Stats.
- (5) **Injunction and Other Judicial Remedies.** Compliance with the provisions of this Chapter may also be obtained by the Village Board authorizing the Village Attorney to commence appropriate action to enjoin violations, compel compliance, or pursue other appropriate judicial relief. If the Village initiates an action pursuant to this subsection, the permittee shall pay all reasonable attorney fees incurred by the Village in prosecuting the action.
- (6) **Private Remedies Preserved.** These enforcement provisions are not intended in any way to restrict or limit the rights of private parties to pursue

whatever private legal remedies they may have available as a result of any erosion, sediment or water runoff.

- (c) **Penalties.** In addition to any other remedies pursuant to this Section, any person violating any provision of this Chapter shall be subject to a forfeiture as provided in Section 1.06 of the Village Code. Each day a violation exists shall constitute a separate offense. Before commencing a forfeiture action, the Village of Arlington shall issue a written warning to the person believed to be violating the Chapter, granting the person two (2) working days in which to remedy the violation and avoid the commencement of a forfeiture action.

SECTION 17.11 Appeals; Variances.

(a) Appeal or Variance Requests.

- (1) **By Applicant or Permittee.** Any aggrieved applicant, permittee, land owner or land user may appeal any order, decision, determination or inaction of the Village of Arlington in administering or enforcing this Chapter, or may apply for a variance from the requirements of this Chapter. A filing fee as determined by the Village Board shall accompany the appeal or variance requests. Appeal or variance requests shall be submitted in writing, state the grounds for the appeal or variance request, and be filed with the Village Clerk. Publication and other associated costs will be in addition to this fee and paid by the applicant.
- (2) **Appeal by Citizens.**
- (a) An appeal of any order, decision, determination or inaction of the Village of Arlington in administering or enforcing this Chapter may be commenced upon the petition signed by eighty percent (80%) of the adult residents of the Village residing within two hundred (200) feet of the site, along with a fee as determined by the Village Board.
- (b) The appeal must be filed with the Village Clerk and shall state written grounds for the appeal. A copy of any citizen appeal shall be delivered or mailed to the applicant or permittee by the Village Clerk within five (5) business days of its filing with the Village of Arlington. The filing of a citizen appeal, by itself, does not prohibit the commencement or continuation of any work or activity.
- (3) **Appeal Deadline.** Appeals by applicants, permittees or citizens must be filed within forty-five (45) days of the order, decision, determination or inaction being appealed.
- (4) **Multiple Appeals Prohibited.** Once an appeal has been filed on a matter, no other appeal on the same order, decision, determination or inaction will be allowed. The Board of Appeals shall consolidate appeals wherever possible to avoid a multiplicity of appeal proceedings and to hasten the final resolution of a matter. The Board of Appeals may allow additional parties to join a pending appeal where appropriate and where such addition will not delay the proceedings.

- (b) **Authority.**
- (1) **Authority to Grant Variances.** The Board of Appeals shall decide all variance requests in accordance with the provisions of this Chapter. The Board of Appeals shall only grant such variances from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Chapter is impracticable or otherwise unreasonable or demonstrated to be unnecessary. Such variances may be granted only when the Board of Appeals has been presented with satisfactory proof that the variance will achieve compliance results comparable to those set forth in this Chapter.
 - (2) **Appeals.** The Board of Appeals shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by Village officials in administering this Chapter. The Board of Appeals shall use the rules, procedures, duties and powers authorized by Village of Arlington, ordinance and statute for the Board of Appeals in hearing and deciding appeals and authorizing variances. The Board of Appeals shall hear and decide within thirty (30) days of receipt of the written request and payment of the appeal fee, unless an extension agreed upon by the Appellant and Board of Appeals. The procedures utilized by the Board of Appeals shall be as prescribed in the Village Zoning Code.
- (c) **Enforcement Not Stayed.** The filing of an appeal or variance does not preclude the Village of Arlington from commencing or continuing any of the enforcement actions set forth herein or a forfeiture proceeding set forth in this Chapter unless the Village Board specifically agrees to stay such enforcements.