

CHAPTER 23
EROSION CONTROL

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23.01 AUTHORITY

- 1) This ordinance is adopted under the authority granted by Sec. 61.354, Wisconsin Statutes.

Adopted April 17, 2001, Ordinance No. 229

23.02 FINDINGS AND PURPOSE.

1) FINDINGS

- (a) The Town Board of the Town of Delavan finds that runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the State and the Town.

2) PURPOSE

- (a) It is the purpose of this ordinance to preserve the natural resources, to protect the quality of the waters of the State and the Town of Delavan, and to protect and promote the health, safety and welfare of the people, to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams and wetlands.

Adopted April 17, 2001, Ordinance No. 229

23.03 APPLICABILITY OF ORDINANCE

- 1) This ordinance applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the Town of Delavan and, optionally, any public or private lands subject to extraterritorial review. All State funded or conducted construction is exempt from this ordinance.

Adopted April 17, 2001, Ordinance No. 229

23.04 DEFINITIONS

- 1) **AGRICULTURAL LAND USE** means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing of livestock.
- 2) **COMMERCIAL LAND USE** means use of land for retail or wholesale of goods or services.
- 3) **CONSTRUCTION SITE CONTROL MEASURE** means a control measure used

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to meet the requirement of Section 23.07(2) of this Municipal Code.

- 4) **CONTROL MEASURE** means a practice or combination of practices to control erosion and attendant pollution.
- 5) **CONTROL PLAN** means a written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this ordinance submitted by the applicant for review and approval by the building inspector.
- 6) **EROSION** means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
- 7) **LAND DEVELOPING ACTIVITY** means the construction of buildings, roads, parking lots, paved storage areas and similar facilities.
- 8) **LAND DISTURBING CONSTRUCTION ACTIVITY** means any man-made change of the land surface including removing vegetative cover, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting crops, growing and tending of gardens, harvesting of trees and landscaping modifications.
- 9) **LANDOWNER** means any person holding title to or having interest in land.
- 10) **LAND USER** means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.
- 11) **RUNOFF** means the rainfall, snowmelt or irrigation water flowing over the ground surface.
- 12) **SET OF ONE (1) YEAR DESIGN STORMS** means the following rain intensities and rain volumes or corresponding values specific to the community for the storm durations of 0.5, 1, 2, 3, 6, 12 and 24 hours that occur approximately once per year. The following typical characteristics of these one (1) year storms for most of Wisconsin are as follows:

Storm Duration (Hours)	Average Rain Intensity (Inches/Hour)	Total Rain (Inches)
0.5	1.8	0.9
1	1.1	1.1
2	0.7	1.3
3	0.5	1.5
6	0.3	1.7

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12	0.2	2.0
24	0.1	2.3

- 13) **SITE** means 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.

Adopted April 17, 2001, Ordinance No. 229

23.05 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR CONTROL MEASURES

- 1) All control measures required to comply with this ordinance shall meet the design criteria, standards and specifications for the control measures based on accepted design criteria, standards and specifications identified by the building inspector (See "DNR Wisconsin Construction Site Best Management Practice Handbook").

Adopted April 17, 2001, Ordinance No. 229

23.06 MAINTENANCE OF CONTROL MEASURES

- 1) All sedimentation basins and other control measures necessary to meet the requirements of this ordinance 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 (See "DNR Wisconsin Construction Site Best Management Practice Handbook").

Adopted April 17, 2001, Ordinance No. 229

23.07 CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBANCE AND DEVELOPMENT

1) APPLICABILITY

- (a) This section applies to the following sites of land development or land disturbing activities, pursuant to Sec. 281.33(3), Wisconsin Statutes:

- i. Those requiring subdivision plat approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved

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- subdivision plats.
- ii. Those requiring certified survey approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved certified surveys.
 - iii. 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.
 - iv. 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.
 - v. Those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.
 - vi. Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of three-hundred (300') feet or more.

2) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS

- (a) The following requirements shall be met on all sites described in Subsection 1).

- (b) **SIDE DEWATERING**

- i. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, up-flow chambers, hydro-cyclones, swirl concentrators or other appropriate controls designed and used to remove particles of one-hundred (100) microns or greater for the highest dewatering pump rate. If the water is demonstrated to have no particles greater than one-hundred (100) microns during dewatering operations, then no control is needed before discharge, except as determined by the Building Inspector. Water may not be discharged in a manner that causes erosion of the site or receiving channels.

- (c) **WASTE AND MATERIAL DISPOSAL**

- i. All waste and unused building materials including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials shall be properly

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disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system.

(d) **TRACKING**

- i. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning ("Not Flushing") before the end of each workday.

(e) **DRAIN INLET PROTECTION**

- i. All storm drain inlets shall be protected with a straw bale, filter fabric or equivalent barrier meeting accepted design criteria, standards and specifications.

(f) **SITE EROSION CONTROL**

- i. The following criteria apply only to land development or land disturbing activities that result in runoff leaving the site:
 1. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in Section 23.07 2) (f) (i) (3)(c). Sheet flow runoff from adjacent areas greater than ten-thousand (10,000) square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than one-half (1/2) foot section across the disturbed area for the set of one (1) year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
 2. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one (1) time.
 3. Runoff from the entire disturbed area on the site shall be controlled by satisfying both Subsections a and b or a and c.

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- a. All disturbed ground left inactive for seven (7) or more days shall be stabilized by seeding or sod (only available prior to September 15th) or by mulching, covering or other equivalent control measure.
 - b. For sites with ten (10) or more acres disturbed at one (1) time or if a channel originates in the disturbed area, one (1) or more sedimentation basins shall be constructed. Each sedimentation basin shall have 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 one-half to twenty four (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 (1) time, filter fences, straw bales or equivalent control measures shall be placed along all side slopes and down slope 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.
4. Any soil or dirt storage piles containing more than ten (10) cubic yards of material shall not be located with a down slope drainage length of less than twenty-five (25') feet from a roadway or drainage channel. If remaining for more than seven (7) days, they shall be stabilized by mulching, vegetative cover, traps or other means. Erosion from piles which will be in existence for less than

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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 from 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 shall be protected with straw bales or other appropriate filtering barriers.

Adopted April 17, 2001, Ordinance No. 229

23.08 PERMIT APPLICATION, CONTROL PLAN AND PERMIT ISSUANCE

1) No landowner or land user may commence a land disturbance or land development activity subject to this ordinance without receiving prior approval of an erosion control plan for the site and a permit from the building inspector. At least one (1) landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this ordinance shall submit an application for a permit and a control plan and pay an application fee to the building inspector. By submitting an application, the applicant is authorizing the building inspector to enter the site to obtain information required for the review of the control plan.

2) CONTENT OF THE CONTROL PLAN FOR LAND DISTURBING ACTIVITIES COVERING MORE THAN ONE (1) ACRE

(a) EXISTING SITE MAP

i. A map of existing site conditions shall be submitted to the building inspector on a scale of at least one (1") inch equals one-hundred (100') feet showing the site and immediately adjacent areas, to include minimally, the following:

1. Site boundaries and adjacent lands which accurately identify site location.
2. Lakes, streams, wetlands, channels, ditches and other water courses on and immediately adjacent to site.
3. One-hundred (100) year floodplains, flood fringes and floodways.

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4. Location of the predominant soil types.
5. Vegetative cover.
6. Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site.
7. Locations and dimensions of utilities, structures, roads, highways and paving.
8. Site topography at a contour interval not to exceed five (5') feet.

(b) **PLAN OF FINAL SITE CONDITIONS**

- i. A plan of final site conditions on the same scale as the existing site map showing the site changes.

3) SITE CONSTRUCTION PLAN

- (a) A site construction plan shall include minimally all of the following:
 - i. Locations and dimensions of all proposed land disturbing activities.
 - ii. Locations and dimensions of all temporary soil or dirt stockpiles.
 - iii. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this ordinance.
 - iv. Schedule of anticipated starting and completion date of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of this ordinance.
 - v. Provisions for maintenance of the construction site control measures during construction.

4) CONTENT OF CONTROL PLAN STATEMENT FOR LAND DISTURBING ACTIVITIES COVERING LESS THAN ONE ACRE

- (a) An erosion control plan statement (with sample map) shall be submitted to briefly describe the site and erosion controls (including the site development schedule) that will be used to meet the requirements of the ordinance.

5) REVIEW OF CONTROL PLAN

- (a) Within forty-five (45) days of receipt of the
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application, control plan, (or control plan statement) and fee, the building inspector shall review the application and control plan to determine if the requirements of this ordinance are met. The building inspector may request comments from other departments or agencies. If the requirements of this ordinance are met, the building inspector shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the building inspector shall inform the applicant in writing and may either require needed information or disapprove the plan. Within thirty (30) days of receipt of needed information, building inspector shall again determine if the plan meets the requirements of this ordinance. If the plan is disapproved, the building inspector shall inform the applicant in writing of the reasons for the disapproval.

6) PERMITS

(a) DURATION

- i. 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 may extend the period one (1) or more times for up to an additional one-hundred-eighty (180) days. The building inspector may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this ordinance.

(b) SURETY BOND

- i. As a condition of approval and issuance of the permit, the building inspector may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions.

(c) PERMIT CONDITIONS

- i. All permittee's shall be required to perform the following:

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1. Notify the building inspector within forty-eight (48) hours of commencing any land disturbing activity.
2. Notify the building inspector of completion of any control measures within fourteen (14) days after their installation.
3. Obtain permission in writing from the building inspector prior to modifying the control plan.
4. Install all control measures as identified in the approved control plan.
5. Maintain all road drainage systems, storm water drainage systems, control measures and other facilities identified in the control plan.
6. Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land developing or disturbing activities.
7. Inspect the construction control measures after each rain of one-half (1/2) inch or more and at least once each week and make needed repairs.
8. Allow the building inspector to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.
9. Keep a copy of the control plan on the site.

Adopted April 17, 2001, Ordinance No. 229

23.09 INSPECTION

- 1) The building inspector shall inspect construction sites at least once a month during the period starting March 1 and ending October 31 and at least two (2) times during the period starting November 1 and ending February 28 to ensure compliance with the control plan. If land disturbing or land development activities are being carried out without a permit, the building inspector shall enter the land pursuant to Sections 66.1341 and 66.0119, Wisconsin Statutes.

Adopted April 17, 2001, Ordinance No. 229

23.10 ENFORCEMENT

- 1) The building inspector may post a stop-work order if:

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- (a) Any land disturbing or land developing activity regulated under this ordinance is being undertaken without a permit; or
 - (b) The control plan is not being implemented in a good faith manner; or
 - (c) The conditions of the permit are not being met.
- 2) If the permittee does not cease the activity or comply with the control plan or permit conditions within ten (10) days, the building inspector may revoke any permit issued by the Town.
 - 3) If the landowner or land user where no permit has been issued does not cease the activity within ten (10) days, the building inspector may request the Town Attorney to obtain a cease and desist order.
 - 4) The building inspector or the Town of Delavan Plan Commission may retract the stop-work order or the revocation.
 - 5) Ten (10) days after posting a stop-work order, the building inspector may issue a notice of intent to the permittee, landowner or land user of the building inspector's intent to perform work necessary to comply with this ordinance. The Building Inspector may go on the land and cause the work to be commenced after fourteen (14) days from issuing the notice of intent. The costs of the work performed by the building inspector plus interest at the rate of twelve percent (12%) per annum shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the Town Clerk shall enter the amount due on the tax rolls and collect as a special charge against the property pursuant to Sec. 66.703(2), Wisconsin Statutes.
 - 6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five-hundred dollars (\$500) and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
 - 7) Compliance with the provisions of this ordinance may also be enforced by injunction or other civil remedy as may be deemed appropriate by the Town.

Adopted April 17, 2001, Ordinance No. 229

23.11 APPEALS

1) PLAN COMMISSION

- (a) The Plan Commission for the Town of Delavan shall act as a board of appeals pursuant to this ordinance,

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shall be governed by the provisions of Section 62.23(7)(e), Wisconsin Statutes, and shall:

- (b) Hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the building inspector in administering this ordinance; and
- (c) Be empowered to authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
- (d) Use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

2) WHO MAY APPEAL

- (a) Appeals to the Plan Commission relating to this Chapter may be taken by any aggrieved person or by any office, department, board or bureau of the town affected by any decision of the building inspector.

Adopted April 17, 2001, Ordinance No. 229

23.12 FEES

- 1) The applicant shall pay a permit fee of seventy-five dollars (\$75) for the first one-half (1/2) acre plus fifty dollars (\$50) for each additional one-half (1/2) acre or portion thereof.

Adopted April 17, 2001, Ordinance No. 229