

EROSION CONTROL ORDINANCE

Section I. Title/Purpose. This Ordinance is entitled “Erosion Control Ordinance.” The purpose of this Ordinance is as follows:

To promote the safety, health and general welfare by regulating construction site erosion in the Town of Shelby.

To establish a permit requirement for excavation, and establish guidelines and procedures for issuing permits.

Section II. Authority. This Ordinance is adopted under the authority granted by Sections 60.10 (2)(c), 60.62 and 61.35, Wis. Stats.

Section III. Findings and Purpose.

A. Findings.

1. The Town Board finds runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the state and this town.

2. The Town Board finds that the La Crosse Sewer Service Area Plan prohibits sanitary sewer being run to residences constructed on sites with slopes in excess of 20 percent. The Town of Shelby has been provided an exemption allowing sanitary sewer to be run to residences constructed on sites with a slope of greater than 20 percent but less than 30 percent, provided the Town has an acceptable erosion control plan in place.

B. Purpose.

It is the purpose of this Ordinance to preserve the natural resources; to control on-site and off-site erosion caused by development, construction, land leveling and any other action which may cause soil erosion; to protect the quality of the waters of the state and the Town of Shelby; 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.

Section IV. Applicability of Ordinance. This Ordinance applies to land developing activities and land disturbance activities on lands within the boundaries

and jurisdictions of the Town of Shelby. This Ordinance does not apply to agricultural land use within the boundaries and jurisdictions of the Town of Shelby.

Section V. Definitions.

- A. "Access road development" means any excavation or filling for the construction of roads and trails where access is needed for public or private use.
- B. "Agricultural land use" means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing of yarding of livestock.
- C. "Control measure" means a control measure used to meet the requirements of this Ordinance and a practice or combination of practices to control erosion and attendant pollution.
- D. "Control plan" means a written description and/or plan map containing the number, locations, sizes, and other pertinent information about soil and water erosion control measures designed to meet the requirements of this Ordinance submitted by the applicant for review and acceptance by the Plan Administrator.
- 5. "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
- F. "Inactive" means no land disturbance or construction related activity is occurring.
- G. "Land developing activity" means the construction of buildings, roads, parking lots, paved storage areas and similar facilities.
- H. "Land disturbance activity" means any man-made change of the land surface including removing protective cover to expose the soil, excavating, filling, grading, construction of buildings, roads, parking lots and similar facilities, but not including agricultural land uses.
- I. "Landowner" means any person having fee title ownership of the land.
- J. "Land user" means any person operating, leasing, renting, or having made other arrangements by which the landowner authorizes the use of their land.

K. "Perennial waters" means the springs, rivers, lakes, ponds, and wetlands of the County lasting or continuing throughout the year and includes the navigable waters as defined in the La Crosse County Shore land Zoning Ordinance.

L. "Percent slope" means the grade of the land determined by the vertical rise or fall in feet per horizontal length in feet measured perpendicular to the existing land contour and expressed as a percentage.

M. "Plan Administrator" means the individual appointed by the Shelby Town Board to administer the plan. This includes the issuance of permits, revocation of permits, issuance of stop-work orders and any other measures necessary to enforce this Ordinance.

N. "Pollutant control requirements" means control measures used to meet the requirements of Section VII.

O. "Runoff" means the rainfall, snowmelt, or irrigation water flowing over the ground surface.

P. "Site" means the entire area on which the land developing activity or land disturbance activity is proposed in the permit application.

Q. "Stabilize" means to make the site steadfast or firm, minimizing soil movement.

R. "Wetland" means those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and which have soils indicative of wet conditions and indicated on County wetland inventory maps.

Section VI. Design Criteria, Standards & Specifications for Control Measures. 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 Plan Administrator.

Section VII. Maintenance of Control Measures. All control measures, permanent or otherwise, necessary to meet the requirements of this Ordinance shall be maintained by the land user or landowner to ensure adequate performance and to prevent nuisance conditions.

Section VIII. Control of Erosion and Pollutants During Land Disturbance Activities.

A. Applicability. This section applies to any of the following sites.

1. Those requiring subdivision plat approval or certified survey plats.
2. Those involving the construction of or addition onto any type of building. This includes but is not limited to houses, garages, commercial, agricultural, industrial or institutional buildings.
3. Those involving land development activities or land disturbance activities affecting a surface area of 1,000 square feet or more.
4. Those involving excavation or filling or a combination of excavation and filling affecting 100 cubic yards or more of dirt, sand or other excavation or fill material.
5. Those involving road or bridge construction, enlargements, relocation, road ditch maintenance or reconstruction.
6. Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 100 feet or more.

B. Erosion and Other Pollutant Control Requirements.

The following requirements shall be met on all sites described in Section VIII.A.:

1. Site de-watering. Water pumped from a site shall be treated in accordance with the control measures specified in the "Wisconsin Construction Site Best Management Practice Handbook." Water may not be discharged in a manner that causes erosion or sedimentation of the site or receiving channels.
2. Waste and material disposal. All waste and unused building materials including, but not limited to, garbage, debris, cleaning 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 roads, access drives and parking areas of sufficient width and length to minimize sediment tracking onto public or private roadways. Any sediment reaching a public or private road shall be removed

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by street cleaning, not flushing, before the end of each workday.

4. Drain inlet protection. All storm drain inlets shall be protected with straw bales, filter fabric, or equivalent barriers until the site has been stabilized.

5. Site erosion control. Site erosion control shall be attained by the following:

a. All land developing activities and land disturbance shall be planned and implemented to best fit the terrain, minimize exposed area, and retain as much existing vegetation as possible.

b. With the exception of those areas identified in the control plan, all disturbed ground not established to final grade within fourteen (14) days of the initial land developing or land disturbance activities, or left inactive for fourteen (14) days shall be stabilized by temporary or permanent seeding, sodding or equivalent control measures. Seeding should be completed within twenty-four (24) hours of final grading. In areas determined to be environmentally sensitive by the Plan Administrator, authority is granted to require immediate re-vegetation and erosion control measures. If temporary seeding is used, a permanent cover shall also be used as part of final site stabilization. Variances may be granted by the Plan Administrator due to any delay beyond the control of the landowner or land user.

c. All land developing and land disturbance activities on the site shall be conducted in a logical sequence in accordance with the control plan to minimize the area of bare soil exposed at one time.

d. Cuts and fills shall be planned and constructed to minimize the length and steepness of slopes.

e. Channels and other concentrated flow areas shall be properly designed and constructed to control runoff within and from the site in a manner that will not erode the conveyance and receiving channels.

f. Sediment shall be contained on site through the use of filter fabric fences, straw bale fences, sediment basins or other methods approved by acceptance of the erosion control plan.

g. Earth storage piles should be located no closer than 25 feet from drainage channels or roadways and no closer than 100 feet from perennial waters or wetlands.

h. Earth storage piles located closer than 25 feet to a roadway or drainage channel or located closer than 100 feet to perennial waters and wetlands shall require silt fences or other suitable means if left more than five (5) days. Earth storage piles located on slopes of 12 percent or greater shall meet the requirements of Section VII.B.5.b. above or runoff shall be contained within a silt fence or other approved measure.

Section IX. Permits and Control Plans. No landowner or land users may commence a land development or land disturbance activity subject to this Ordinance without an erosion control permit. A landowner or land user shall apply for a permit and submit a control plan to the Administrator. The Administrator will review the plan and approve the plan once all permit and ordinance requirements are met. An application for a permit, or submission of a control plan authorizes representatives of/and the Plan Administrator to enter the site to obtain information required for the review of the control plan.

A. Control Plan Contents. Required contents of control plans will depend on the slope of the land proposed for the land developing activity or land disturbance activity, amount of land to be disturbed, and proximity of the proposed land developing activity or land disturbance activity to streams, rivers, lakes and wetlands.

1. Category A. A "Standard Erosion Control Plan for Minor Land Disturbances" may be submitted in lieu of a more detailed plan on land slopes less than 12 percent if all of the following conditions are met:

- a. 20,000 sq. ft. of land or less will be disturbed;
- b. 1,000 cu. yds. or less of excavation and/or filling will occur;
- c. Land developing activities and land disturbance activities will not occur within 100 feet of perennial waters and wetlands; and
- d. Final grades will be no steeper than 3 horizontal to 1 vertical unit of measure.

B. Category A control plan shall contain the following:

1. Site sketch of the site and short narrative indicating the following:
 - Location of disturbance along with buildings
 - Approximate property boundaries
 - Location of all control measures necessary to meet the requirements of this ordinance
 - Proposed schedule indicating sequence of development and installation of control measures
 - Provisions for maintenance of erosion control measures.

2. Category B. Category B control plans are required for land developing activities or land disturbance activities on slopes less than 12 percent where any of the above conditions of Section IX.A.1. can not be met. Category B plans will also be required for land developing activities or land disturbance activities on slopes of 12 percent or greater but less than 20 percent where the conditions of Section IX.A.1. can be met. A Category B control plan shall contain the following:
 - a. A sketch of the existing site conditions indicating the following:
 - (1) Approximate property boundaries and adjacent lands which accurately identify property location;
 - (2) Perennial waters, wetlands, channels, ditches and other water courses on, and immediately adjacent to the site;
 - (3) Existing ground cover;
 - (4) Approximate locations of, and distances to storm- water drainage systems and natural drainage patterns on and immediately adjacent to the site; and
 - (5) Approximate locations and dimensions of utilities, structures, roads highways and paving.

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b. A sketch of the site and a short narrative indicating the following:

- (1) Location and dimensions of all proposed land developing or land disturbances, including drive-ways, buildings, waste disposal systems and utility construction;
- (2) Locations and dimensions of all temporary earth stockpiles;
- (3) Locations and dimensions of all control measures necessary to meet the requirements of this Ordinance;
- (4) Proposed development schedule indicating the sequence of development and installation of control measures and anticipated starting date.
- (5) Provisions for maintenance of erosion control measures.

3. Category C. Category C control plans are required for land developing activities or land disturbance activities on slopes of 12 percent or greater but less than 20 percent where the conditions of Section IX.A.1. can not be met. Category C control plans are also required for all land developing activities or land disturbance activities where slopes are 20 percent or greater. Category C control plans shall contain the following:

a. Property map showing boundaries of the entire parcel and the approximate location within that parcel of the proposed land developing activity or land disturbance activity.

b. A map of existing site conditions at a scale of at least 1" = 100' unless a larger scale is determined to be necessary by the Plan Administrator, indicating the following:

- (1) Site boundaries and adjacent lands which accurately identify the site;
- (2) Perennial waters, wetlands, channels, ditches and other water courses on and immediately adjacent to the site;
- (3) Location of predominant soil types;

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- (4) Existing ground cover;
 - (5) Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site;
 - (6) Location and dimensions of utilities, structures, roads, highways and paving.
 - (7) Site topography at a contour interval not to exceed two feet unless other intervals are determined adequate by the Plan Administrator. Sufficient survey points to determine significant changes in slope should be provided.
- c. A plan of final site conditions on the same scale as the existing site map showing the site changes.
- d. A site development plan indicating the following:
- (1) Locations and dimensions of all proposed land developing or land disturbances;
 - (2) Locations and dimensions of all temporary earth stockpiles;
 - (3) Locations and dimensions of all control measures necessary to meet the requirements of this Ordinance;
 - (4) Proposed development schedule indicating the sequence of development and installation of control measures and anticipated starting date;
 - (5) Provisions of maintenance of the control measure;
 - (6) Provisions for maintenance of permanent control measures and water management practices;
 - (7) Drawings, including cross sections and profiles, necessary to determine extent of cuts and fills and finished grades.

C. Slope Restrictions. The Town of Shelby has determined that land development activities and land disturbance activities on slopes in excess of 30 percent create an erosion hazard and that the potential for offsite damage to public and private property warrants protection of these environmentally sensitive areas. Land development activities and land disturbance activities regulated by this Ordinance on slopes greater than 30 percent are limited to the following:

1. Access road developments for non residential purposes where a County erosion control plan has been submitted and a County permit has been granted.
2. Access road developments for residential purposes where a Category C control plan has been submitted and a permit has been granted.
3. Quarry operations where a Category C control plan has been submitted and a permit has been granted.

D. Review of Control Plan. Within thirty (30) days of receipt of the application, control plan and fee, the Plan Administrator shall review the application and control plan to determine if the requirements of this Ordinance are met. The Plan Administrator may request comments from other departments or agencies. If the requirements of this Ordinance are met, the Plan Administrator shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the Plan Administrator shall inform the applicant in writing and may either request needed information or disapprove the plan. Within thirty (30) days of receipt of the requested information, the Plan Administrator shall again determine if the plan meets the requirements of this Ordinance. If the plan is disapproved, the Plan Administrator shall inform the applicant in writing of the reasons for the disapproval. If an applicant disagrees with the decision of the Plan Administrator relative to the issuance of a permit or the requirement of a project, an appeal may be made, in writing, to the Shelby Town Board. The Board shall conduct a hearing on the appeal, after consideration of the evidence presented, the Board will issue a final decision.

E. Permits

1. Duration. Permits shall be valid for one year. The Plan Administrator may extend any permit one or more times for up to an additional one hundred eighty (180) days. The Plan Administrator may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this Ordinance.

2. Surety bond. As a condition of approval and issuance of the permit, the Plan Administrator may require the applicant to deposit a surety bond or irrevocable letter of credit in an amount determined by the Plan Administrator to guarantee a good faith execution of the approved control plan and any permit conditions. The requiring of a bond is at the discretion of the Plan Administrator as the site and circumstances require.

3. Permit conditions. All permits shall require the landowner or land user to:

a. Notify the Plan Administrator at least forty-eight (48) hours prior to commencing any land development activity or land disturbance activity;

b. Install and maintain all control measures as identified in the control plan;

c. Obtain permission from the Plan Administrator prior to modifying the control plan;

d. Repair any siltation or erosion damage to adjoining areas, resulting from land development activities or land disturbance activities;

e. Keep a copy of the control plan on the site.

f. Notify the Plan Administrator within forty-eight (48) hours of completion of the land developing or land disturbance activity; and

g. Allow the Plan Administrator 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.

4. Indemnification. The recipient of a permit agrees to indemnify and hold harmless the Town of Shelby, its employees, agents or officers from any cost, and/or liability resulting in the issuing of a permit or incurred as a result of the violation of the ordinance. Any costs of clean up or cost of administrating the plan may be charged back to the subject property, Per 66.60/Wis. Statutes.

5. Previous compliance. Permits may be denied to individuals who have not previously followed the provisions of

this Ordinance or who have not followed good erosion control measures on prior projects.

6. Season restrictions. No permits shall be issued between October 15 and the time in the spring when the Town lifts its road bans, for plans where slopes are greater than 10%. Exceptions to this restriction may be allowed by the Town Board if good cause is shown. The Board, if allowing an exception, may require additional erosion control measures and/or a more defined time table for the erosion control plan.

Section X. Inspection.

A. The Plan Administrator shall inspect construction sites at least once a month during the period starting March 1 and ending October 31 and at least two times during the period starting November 1 and ending February 28 to ensure compliance with the control plan.

B. If any land development activity or land disturbance activity is being carried out without a permit and control plan, the Plan Administrator shall enter the land to implement enforcement provisions of Sections 66.122 and 66.123, Wis. Stats.

Section XI. Enforcement and Penalties.

A. A landowner or land user who commences a land development activity or land disturbance activity subject to this ordinance without a permit is in violation of this Ordinance and subject to the penalty portion of this Ordinance. A landowner or land user who does not follow the approval control plan or fails to follow instructions provided by the Plan Administrator is in violation and subject to a penalty.

B. Stop Work Order.

1. The Plan Administrator or designee may post a Stop Work Order for the following:

Any land development activity or land disturbance activity regulated under this Ordinance is being undertaken without a permit.

The control plan is not being implemented as approved.

The conditions of the permit are not being met.

2. If the applicant does not cease the land developing activity or land disturbance activity and comply with the control plan or permit conditions within forty-eight (48) hours after posting the

stop-work order, the Plan Administrator shall revoke the permit.

3. Where no permit has been issued and a stop-work order has been posted, the Plan Administrator shall request the district attorney to obtain a cease and desist order, or any other form of injunction relief as needed.

4. After consulting the Town Board, the Plan Administrator may retract the stop-work order or the revocation.

5. After posting a stop-work order, the Plan Administrator may issue a notice of intent to the landowner and land user, if applicable, of the Town's intent to perform work necessary to comply with this Ordinance.

6. The Town may go on the site and commence the work ten (10) days after issuing the notice of intent. Exceptions may be granted in emergency situations where the potential for severe offsite damage warrants immediate attention. The cost of the work performed by the Town, plus interest, at the rate authorized by the Town Board, shall be billed to the landowner. In the event a landowner fails to pay the amount due: (1) the Town Clerk shall satisfy the debt through the surety bond or irrevocable letter of credit established pursuant to Section VIII.D.2; or (2) the Town Clerk shall enter the amount due on the tax rolls and collect as a special charge against the property pursuant to Section 66.60, Wis. Stats.

C. In the event that any land developing activity or land disturbance activity encroaches upon, causes erosion upon or affects any area of the site in excess of 30 percent slope, the site and all improvements on the site shall not be connected to the Town of Shelby sanitary sewer.

D. Any person violating any of the provisions of this Ordinance shall be subject to a forfeiture of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00) and the costs of prosecution, including attorneys fees for each violation. Each day a violation exists shall constitute a separate offense.

In the event a landowner fails to pay the amount due, the Town Clerk shall collect the amount of the forfeiture and costs of prosecution from the surety bond or irrevocable letter of credit established pursuant to Section VIII.D.2.

E. Compliance with the provisions of this Ordinance may also be enforced by injunction.

Section XII. Conflicting Ordinances. The provision of this Ordinance shall prevail over any previous ordinances of the Town of Shelby that are or may be in conflict therewith.

Section XIII. Fees. Control plan fees will be established by the Plan Administrator, subject to approval by the Town Board. Only one fee per each control plan submitted may be charged. Any person who violates, disobeys or refuses to comply with or who resists the enforcement of any provisions of this Ordinance shall, upon conviction, be subject to a forfeiture of One Hundred Fifty Dollars (\$150.00) for each such offense.

Section XIV. Severability. The provisions of this Ordinance shall be deemed severable, and it is expressly declared that the Town Board would have passed the provisions of this Ordinance irrespective of whether one or more provisions may be declared invalid, and if any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of the Ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section V. Effective Date. This Ordinance shall take effect upon passage and publication. The provisions of this Ordinance shall prevail over any previous Ordinances of the Town of Shelby that are or may be in conflict therewith.

Date passed: June 14, 2010

Lynnetta P. Kopp, Town Chair

Kathleen S. Kistner, Town Supervisor

John O. Zahn, Town Supervisor

ATTEST:

Catherine Brott, Town Clerk