

**ORDINANCE NO. 07-09**

AN ORDINANCE TO ADOPT EROSION CONTROL

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**AN ORDINANCE FOR THE TOWN OF EAGLE RELATING TO THE CONTROL OF  
CONSTRUCTION SITE EROSION RESULTING FROM LAND DISTURBING  
CONSTRUCTION ACTIVITIES**

**FOREWORD**

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

The Town Board of the Town of Eagle does hereby ordain that Ordinance 90-8 of the Town of Eagle is repealed and recreate as follows:

## **S.01 AUTHORITY**

- (1) This ordinance is adopted under the authority granted by 60.627, Wis. Stats. Except as otherwise specified in s. 60.627 Wis. Stats., s. 60.62 Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Town Board designates the Town Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
  - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
  - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

## **S.02 FINDINGS OF FACT**

The Town Board finds that uncontrolled stormwater runoff and construction site erosion from land development land disturbing activity has a significant impact upon waters and airborne particulate concentrations of the state in the Town of Eagle.

## **S.03 PURPOSE**

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish

and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, by minimizing the amount of sediment and other pollutants carried by runoff, wind, or discharged from land disturbing construction activity to waters of the state in the Town of Eagle.

#### **S.04 APPLICABILITY AND JURISDICTION**

##### **(1) APPLICABILITY.**

(a) This ordinance applies to all land disturbing construction activities. A permit is required for all land disturbing construction activities that meet any of the following, except as provided under sub. (b):

1. Disturbs a total land surface area of 3,000 square feet or more.
2. Involves excavation or filling, or a combination of excavation and filling, in excess of 400 cubic yards of material.
3. One and two-family residential building construction.
4. Involves the laying, repairing, replacing, or enlarging of an underground utility, pipe or other facility, for a distance of 100 feet or more.
5. Is a land disturbing activity, regardless of size, that the Town Engineer determines is likely to cause an adverse impact to an environmentally sensitive area or other property, or may violate any other erosion control standard set forth in this ordinance. Site plans and plan of operations for the Upland Conservancy District in the Town Zoning Ordinance.

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

1. 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.
2. Transportation facilities of projects administered by the Wisconsin Department of Transportation, except transportation facility projects that are

part of a larger plan of development such as local roads within a residential or industrial development.

3. Nonpoint discharges from silviculture activities.
4. Placement of underground pipe or other utility that is plowed or bored into the ground outside areas of channelized runoff.

(c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites of any size that, in the opinion of the Town Engineer, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property, environmentally sensitive areas or public safety.

(d) If any area within this jurisdiction is annexed by a city or village after May 5, 1992, the provisions of this ordinance apply and shall be enforced after annexation by the annexing city or village unless any of the following occurs:

1. The city or village enacts, administers and enforces an ordinance for the annexed area that complies with the minimum standards established by the Wisconsin Department of Natural Resources and is at least as restrictive as this ordinance, as determined by the Town Engineer; or
2. After annexation, the city or village requests that this ordinance, as it applies to the annexed area, continues to be in effect and enforced by the Town Engineer and the Town Engineer agrees to enforce the ordinance.

(2) **EXCLUSIONS.**

This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

**S.05 DEFINITIONS**

- (1) "Applicant" means any person or entity holding fee title to the property or their representative. The applicant shall become the "permit holder" once a permit is issued. The applicant shall sign the initial permit application form in accordance with subs. (a) through (e) below, after which the applicant may provide the Town Engineer written authorization for others to serve as the applicant's representative:
  - (a) In the case of a corporation, by a principal executive officer of at least the level of vice president or by the officer's authorized representative having overall responsibility for the operation of the site for which a permit is sought.
  - (b) In the case of a limited liability company, by a member or manager.
  - (c) In the case of a partnership, by the general partner.
  - (d) In the case of a sole proprietorship, by the proprietor.
  - (e) For a unit of government, by a principal executive officer, ranking elected official or other duly authorized representative.
- (2) "Agricultural facilities and practices" has the meaning in s. 281.16(1), Wis. Stats.
- (3) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.
- (4) "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.
- (5) "Business day" means a day the office of the Town Engineer is routinely and customarily open for business.
- (6) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (7) "Construction site" means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.
- (8) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

- (9) “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.
- (10) “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.
- (11) “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.
- (12) “Governing body” means town board of supervisors.
- (13) “Impervious surface” means a surface through which rainfall does not infiltrate. Rooftops, sidewalks, parking lots and street surfaces are examples of impervious surfaces. Typical gravel driveways shall be considered impervious unless specifically designed to encourage infiltration.
- (14) “Infiltration” means the process by which rainfall or surface runoff percolates or penetrates into the underlying soil.
- (15) “Land disturbing construction activity” means all man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (16) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance that has been approved by the Town. In determining when MEP has been achieved, the Town shall take into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in meeting the performance standards and may vary based on the performance standard and site conditions.
- (17) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

- (17) “Permit” means a written authorization made by the Building Inspector to the responsible party to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- (18) “Pervious surface” means a surface that infiltrates rainfall during a portion of the design rainfall event. Lawns, fields and woodlands are examples of pervious surfaces.
- (19) “Pollutant” as per s. 283.01 (13), Wis. Stats., means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.
- (20) “Pollution” as per s. 281.01 (10), Wis. Stats., means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.
- (21) “Responsible party” means any person or entity holding fee title to the property or acting as the owners representative, including any person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMP’s and other approved elements of erosion control under this ordinance.
- (22) “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.
- (23) “Sediment” means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (24) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
  - (a) Is designed or used for collecting water or conveying runoff.
  - (b) Is not part of a combined sewer system.
  - (c) Is not draining to a storm water treatment device or system.
  - (d) Discharges directly or indirectly to waters of the state.
- (25) “Site” means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.
- (26) “Stop work order” means an order issued by the Building Inspector which requires that all construction activity on the site be stopped.

- (27) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (28) "Town" means Town of Eagle and its staff and consultants.
- (29) "Waters of the state" has the meaning given in s. 281.01 (18), Wis. Stats.
- (30) "Wetlands" means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.
- (31) "Woodland" means an area where a grouping of 10 or more trees exist that have trunk diameters of at least 4 inches at four feet above the ground surface. The boundaries of a woodland shall be defined by the canopy, commonly referred to as the "drip line".

## **S.06 TECHNICAL STANDARDS**

- (1) DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:
  - (a) Applicable design criteria, standards and specifications identified in the latest edition of *Wisconsin Construction Site Best Management Practice Handbook*, and *Wisconsin Stormwater Manual* as published and amended from time-to-time by the State of Wisconsin Department of Natural Resources.
  - (b) Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code. These design guidance and technical standards supersede the standards of (1)(a) of the subsection.
  - (c) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.
  - (d) Section 5 of Chapter 10 of the Wisconsin Department of Transportation, Facilities Development Manual and portions of the FDM referenced in Chapter 13 by Chapter

10. Procedure 10-5-35 should be used to apply the erosion and sediment control devices given a specific set of parameters.

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

**S.07 PERFORMANCE STANDARDS**

- (1) RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with S.09, that incorporates the requirements of this section.

- (2) PLAN. A written plan shall be developed in accordance with S.09 and implemented for each construction site. The plan shall describe how the permit holder and other responsible party will minimize, to the maximum extent practicable, soil erosion and the transport of sediment from land disturbing activities to waters of the state or other property. To satisfy the requirements of this section, an erosion control plan shall, to the maximum extent practicable, adhere to the following guiding principles.

- (a) Propose grading that best fits the predevelopment terrain of the site, avoiding steep slopes, wetlands, floodplains and environmental corridors.
- (b) Minimize, through project phasing and construction sequencing, the time the disturbed soil surface is exposed to erosive forces.
- (c) Minimize soil compaction, the loss of trees and other natural vegetation and the size of the disturbed area at any one time.
- (d) Locate erosion control BMPs prior to runoff leaving the site or entering waters of the state and outside of wetlands, floodplains, primary or secondary environmental corridors or isolated natural areas.
- (e) Emphasize the use of BMPs that prevent soil detachment and transport over those aimed to reduce soil deposition (sedimentation) or repair erosion damage.

- (3) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The plan required under sub. (2) shall include the following:

- (a) BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph.
- (b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
- (c) The Town will recognize other methods for determining compliance with the 80% sediment reduction goal once they are standardized through the procedures under subchapter V of chapter NR 151, Wisconsin Administrative Code.
- (d) The following applicable minimum requirements shall be addressed in erosion and sediment control plans to the maximum extent practicable and are subject to enforcement by the Town.
  - 1. Access Drives and Tracking. Provide access drive(s) for construction vehicles that minimize tracking of soil off site, using BMPs such as stone tracking pads, tire washing or grates. Minimize runoff and sediment from adjacent areas from flowing down or eroding the access drive.
  - 2. Diversion of Upslope Runoff. Divert excess runoff from upslope land, rooftops or other surfaces, if practicable, using BMPs such as earthen diversion berms, silt fence and downspout extenders. Prevent erosion of the flow path and the outlet.
  - 3. Inlet Protection. Protect inlets to storm drains, culverts and other storm water conveyance systems from siltation until the site is stabilized.
  - 4. Soil Stockpiles. Locate soil stockpiles away from channelized flow and no closer than 25 feet from roads, ditches, lakes, streams, ponds, wetlands or environmental corridors, unless otherwise approved by the Town Engineer. Control sediment from soil stockpiles. Any soil stockpile that remains for more than 30 days shall be stabilized.

5. Cut and Fill Slopes. Minimize the length and steepness of proposed cut and fill slopes and stabilize them as soon as practicable.
6. Channel Flow. Trap sediment in channelized flow before discharge from the site, using BMPS such as sediment traps and sediment basins. Stabilize open channels as soon as practicable.
7. Outlet Protection. Protect outlets from erosion during site dewatering and storm water conveyance, including velocity dissipation at pipe outfalls or open channels entering or leaving a storm water management facility.
8. Overland Flow. Trap sediment in overland flow before discharge from the site, using BMPs such as silt fence and vegetative filter strips.
9. Site Dewatering. Treat pumped water to remove sediment prior to discharge from the site, using BMPs such as sediment basins and portable sediment tanks.
10. Dust Control. Prevent excessive dust from leaving the construction site through construction phasing and timely stabilization or the use of BMPs such as site watering and mulch – especially with very dry or fine sandy soils.
11. Topsoil Application. Save existing topsoil and reapply a minimum of 4 inches to all disturbed areas for final stabilization, unless otherwise approved by the Town Engineer, such as for temporary seeding or storm water infiltration BMPs. If adequate topsoil does not exist on the site to meet this requirement, it shall be imported.
12. Waste Material. Recycle or properly dispose all waste and unused building materials in a timely manner. Control runoff from waste materials until they are removed or reused.
13. Sediment Cleanup. By the end of each workday, clean up all off-site sediment deposits or tracked soil that originated from the permitted site. Flushing shall not be allowed unless runoff is treated before discharge from the site.
14. Final Site Stabilization. All previous cropland areas where land disturbing activities will not be occurring under the proposed grading plans, shall be stabilized within 30 days of permit issuance. Stabilize all disturbed areas

within 7 days of final grading and topsoil application. Land disturbed construction activity larger than 10 acres shall be treated in stages as final grading is completed in each stage. Any soil erosion that occurs after final grading or the application of stabilization measures must be repaired and the stabilization work redone.

15. Temporary Site Stabilization. Any disturbed area that remains inactive for greater than 7 days shall be stabilized with temporary stabilization measures such as soil treatment, temporary seeding or mulching. For purposes of this subsection, “inactive” means that no site grading, landscaping or utility work is occurring on the site and that precipitation events are not limiting these activities. Frozen soils do not exclude the site from this requirement.
16. Removal of Practices. Remove all temporary BMPs such as silt fences, ditch checks and sediment traps as soon as all disturbed areas have been stabilized upon approval by the Town.
17. Site Drainage. Site drainage plans shall comply with S.09.

(e) The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

(4) LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

(5) ALTERNATE REQUIREMENTS. The Town Engineer may establish storm water management requirements more stringent than those set forth in this section if the Town Engineer determines that an added level of protection is needed to protect an environmentally sensitive resource or other property, or to address a change made during plan implementation.

## **S.08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES**

- (1) **PERMIT REQUIRED.** No responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Building Inspector.
  
- (2) **PERMIT APPLICATION AND FEES.** At least one responsible party desiring to undertake a land disturbing construction activity subject to this ordinance shall submit to the Town Clerk an application for a permit and an erosion and sediment control plan that meets the requirements of S.09 and shall pay an application fee as determined from time to time by the Town Board to the Town Clerk. By submitting an application, the applicant is authorizing the Town Board, Building Inspector and Town Engineer to enter the site to obtain information required for the review of the erosion and sediment control plan and the Town to distribute the submittal to the Town Engineer and Building Inspector.
  
- (3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** Building Inspector shall review any all one-family and Two-family residential permit application that is submitted with an erosion and sediment control plan, and the required fee. The Town Engineer shall review all other permit applications that are submitted with an erosion and sediment control plan and the required fee. E-mail transmittals will not be considered a permit application or additional information submission. The following approval procedure shall be used:
  - (a) Within 20 business days of the receipt of a complete permit application, as required by sub. (2), the Building Inspector shall inform the applicant whether the application and plan are approved, approve with conditions or disapproved based on the requirements of this ordinance.
  - (b) If the permit application and plan are approved or approve with conditions, the Building Inspector shall issue the permit.
  - (c) If the permit application or plan is not approved, the Building Inspector shall state in writing the reasons for disapproval.
  - (d) The Building Inspector and Town Engineer may request additional information from the applicant. If additional information is submitted, the Building Inspector and

Town Engineer shall have 10 business days from the date the additional information is received to inform the applicant that the plan is either approved, approve with conditions, or disapproved.

- (4) **SURETY BOND.** As a condition of approval and issuance of the permit, the Building Inspector or Town Engineer may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.
  
- (5) **PERMIT REQUIREMENTS.** All permits shall require the responsible party to:
  - (a) Notify the Building Inspector and Town Engineer within 48 hours of commencing any land disturbing construction activity.
  - (b) Notify the Building Inspector of completion of any BMPs within 14 days after their installation.
  - (c) Obtain permission in writing from the Building Inspector or Town Engineer, whichever has authority prior to any modification pursuant to S.09(3) of the erosion and sediment control plan.
  - (d) Install all BMPs as identified in the approved erosion and sediment control plan.
  - (e) Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
  - (f) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log that is available to Town Officials.
  - (g) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more during active construction periods, and at least once each week, make needed repairs within 24 hours, unless the Town Engineer approves a longer period due to weather conditions, or upon notification by the Town and document the findings of the inspections and repairs in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site. The erosion control log shall be available to the Town Officials.

- (h) Allow the Town Board, Building Inspector and Town Engineer to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan at the construction site.
  
- (6) PERMIT CONDITIONS. Permits issued under this section may include conditions established by the Building Inspector and/or Town Engineer in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in S.07.
  
- (7) PERMIT DURATION. Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Building Inspector or Town Engineer may extend the period one or more times for up to an additional 180 days. The Building Inspector and Town Engineer may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.
  
- (8) MAINTENANCE. The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

**S.09 EROSION AND SEDIMENT CONTROL PLANS, STATEMENT, AND AMENDMENTS**

- (1) EROSION AND SEDIMENT CONTROL PLAN FOR SITES OF ALL ONE-FAMILY AND TWO-FAMILY RESIDENTIAL CONSTRUCTION PROJECTS.
  - (a) An erosion and sediment control plan shall be prepared and submitted to the Town Clerk in triplicate who shall distribute it to the Building Inspector.
  - (b) Provide a narrative describing the proposed land disturbing activity, construction timeline and sequencing, temporary BMPs to be used to minimize off-site impacts during the construction phase, how the plan meets the guiding principles under

S.07(2) above and proposed methods to stabilize the site following construction in accordance with the requirements of this ordinance.

- (c) 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 60 feet per inch and at a contour interval not to exceed two feet, when one foot contours are not available.
    - 1. Existing topography, buildings, vegetative cover, natural and engineered drainage systems, roads and surface waters with respect to the property lines. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown.
    - 2. Drainage patterns and approximate slopes anticipated after major grading activities.
    - 3. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
  - (d) Provide the name, address and daytime phone number of the person(s) charged with installing and maintaining all best management practices.
  - (e) For underground utility installations, the plans must delineate where utilities will be installed, show the location of the open cut and topography in the area, and list the total lineal feet to be installed and the lineal feet that will be done by open cut.
  - (f) Provide any other information for one-family and two family residential construction projects as required by Comm 21.125, Wisconsin Administrative Code.
  - (g) Provide any other information deemed necessary by the Building Inspector to ensure compliance with the requirements of this ordinance.
- (2) **EROSION AND SEDIMENT CONTROL PLAN FOR SITES OTHER THAN ONE-FAMILY AND TWO-FAMILY RESIDENTIAL.**
- (a) An erosion and sediment control plan shall be prepared and submitted to the Town Clerk in triplicate who shall distribute to the Town Engineer.

- (b) The erosion and sediment control plan shall be designed to meet the performance standards in S.07 and other requirements of this ordinance.
- (c) The erosion and sediment control plan shall include a narrative addressing how the plan meets the guiding principles under S.07(2) above and the pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan narrative shall include, at a minimum, the following information:
  - 1. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
  - 2. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
  - 3. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
  - 4. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
  - 5. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.
  - 6. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
  - 7. Existing data describing the surface soil as well as subsoils.
  - 8. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.

9. Name of the receiving water from the United States Geological Service 7.5 minute series topographic maps.
- (d) The erosion and sediment control plan narrative shall also include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The narrative shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:
1. The Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
  2. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the Town Engineer, structural measures shall be installed on upland soils.
  3. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
  4. Trapping of sediment in channelized flow.
  5. Staging construction to limit bare areas subject to erosion.
  6. Protection of downslope drainage inlets where they occur.
  7. Minimization of tracking at all sites.
  8. Clean up of off-site sediment deposits.
  9. Proper disposal of building and waste materials at all sites.
  10. Stabilization of drainage ways.
  11. Control of soil erosion from dirt stockpiles.
  12. Installation of permanent stabilization practices as soon as possible after final grading.
  13. Minimization of dust to the maximum extent practicable.

14. 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
- (e) The erosion and sediment control plan shall include an existing site map(s), no larger than 22"x34", to include the following items and shall be at a scale not greater than 60 feet per inch and at a contour interval not to exceed one foot.
1. North arrow, graphic scale, date, name and contact information for the project engineer or planner and designation of source documents for all map features.
  2. 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.
  3. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
  4. Site topography at a minimum contour interval of one foot.
  5. Site boundaries and adjacent lands which accurately identify site locations.
  6. Location of natural drainage patterns on the site and immediately adjacent to the site, and the size, slope, and land cover of the upslope and downslope drainage areas, including peak discharge, velocities, direction and destination of flows.
  7. Locations and dimensions of utilities, structures, roads highways and paving.
  8. All woodland areas, those proposed to be lost or transplanted during construction and acres or numbers of each. For woodlands proposed to be lost, show individual trees larger than eight (8) inches in diameter that are located within twenty (20) feet of proposed grading boundaries.
- (f) The erosion and sediment control plan shall include a proposed site map(s), no larger than 22"x34", to include the following items and shall be at a scale not greater than 60 feet per inch and at a contour interval not to exceed one foot

1. North arrow, graphic scale, date, name and contact information for the project engineer or planner and designation of source documents for all map features.
2. Locations and dimensions of all proposed land disturbing and land development activities, including building envelopes.
3. Proposed site topography at a minimum contour interval of one foot, proposed percent slope for all open channels and side slopes, and all proposed runoff discharge points from the site.
4. Locations and dimensions of all best management practices necessary to meet the requirements of this ordinance.
  - a. Temporary access drive and specified surface material and minimum depth.
  - b. Temporary flow diversion device for upslope or roof runoff until site is stabilized.
  - c. Temporary sediment trapping devices for site perimeter and inlets to culverts and storm drains.
  - d. Temporary settling basin or other BMP to be used for site dewatering during utility or other subsurface work.
  - e. Temporary soil stockpile sites indicating setbacks from nearby water resources or environmental corridors and the proposed erosion protection methods.
  - f. Final stabilization measures for open channels and erosion protection for pipe and channel inlets, outlets and emergency spillways.
5. Schedule of anticipated starting and completion date of each land disturbing or land development activity including the installation of site best management practices needed to meet the requirements of this ordinance.
6. Provisions for maintenance of the best management practices during construction.
7. Description of vegetation and other materials to be used to stabilize the site including a schedule for installation and maintenance.

8. Location and dimensions of stormwater management measures, including, but not limited to post development peak flows, drainage system dimensions and computations.
  9. Provide certification of all computations, designs and final construction by a registered professional engineer licensed in the State of Wisconsin.
- (g) A professional engineer, licensed in the State of Wisconsin, shall stamp and sign a statement approving all designs and certifying that they have read the requirements of this ordinance and that, to the best of their knowledge, the submitted plans comply with the requirements.
  - (h) Provide any other information deemed necessary by the Town Engineer to ensure compliance with the requirements of this ordinance.
- (3) **AMENDMENTS.** The applicant shall amend the plan if any of the following occur:
- (a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
  - (b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
  - (c) The Building Inspector or Town Engineer notifies the applicant of changes needed in the plan.

## **S.10 FEE SCHEDULE**

The fees referred to in other sections of this ordinance shall be established by the Town Board and may from time to time be modified by motion. A schedule of the fees established by the Town Board shall be available for review in the Clerk's Office of the Town of Eagle.

## **S.11 INSPECTION**

The Building Inspector or Town Engineer, as the plan review authority is delegated in S.09, shall inspect any construction site that holds a permit under this ordinance at least once a month during

the period starting March 1 and ending October 31 and at least 2 times during the period starting November 1 and ending February 28 to ensure compliance with the approved sediment and erosion control plan.

## **S.12 ENFORCEMENT**

- (1) The Building Inspector may post a stop-work order if any of the following occurs:
  - (a) Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit or in violation of permit or ordinance.
  - (b) The erosion and sediment control plan is not being implemented per the approved plan.
  - (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 Building Inspector may revoke the permit.
- (3) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Building Inspector, Town Engineer or their designate, or if a responsible party violates a stop-work order posted under sub. (1), the Building Inspector or Town Engineer may request the town attorney to obtain a cease and desist order in any court with jurisdiction.
- (4) The Building Inspector or the Town Board may retract the stop-work order issued under sub. (1) or the permit revocation under sub. (2).
- (5) After posting a stop-work order under sub. (1), the Building Inspector or Town Engineer may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this ordinance. The Town 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 Building Inspector and/or Town Engineer or other authorize Town designate, plus interest at

the rate authorized by the Town Board shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subch. VII of ch. 66, Wis. Stats.

- (6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$50 but not more than \$500 and the costs of prosecution for each violation and default of surety bond. Each day a violation exists shall constitute a separate offense. Failure to pay the forfeiture may result in a term at the County Jail.
- (7) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

### **S.13 APPEALS**

- (1) **TOWN BOARD.** The Town Board shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Building Inspector or Town Engineer in administering this ordinance except for cease and desist orders obtained under S.12 (3).
  - (b) Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship not due to appellants own making; and
  - (c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (2) **WHO MAY APPEAL.** Appeals to the Town Board may be taken by any aggrieved person or by any office, department, board, or bureau of the Town of Eagle affected by any decision of the Building Inspector or Town Engineer.

**S.14 SEVERABILITY**

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

**S.15 EFFECTIVE DATE**

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Town Board of the Town of Eagle on the 19<sup>th</sup> day of December, 2007.

Adopted on motion of Supervisor Davis, seconded by Supervisor Malek on the 19 day of December, 2007.

Approved:

\_\_\_\_\_  
Robert Kwiatkowski, Town Chairman

Attest:

\_\_\_\_\_  
Eileen Houk, Town Clerk

Ayes 5 Noes 0 Absent 0