

CHAPTER 29

CONSTRUCTION SITE EROSION CONTROL

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29.01 AUTHORITY

- (A) This ordinance is adopted by the City of Manitowoc (hereinafter referred to as the “City”) under the authority granted by section 62.234 Wis. Stats. This ordinance, and any amendments thereto, supersedes all conflicting

and contradictory soil erosion regulations previously enacted under section 62.234 Wis. Stats., and section 62.23 Wis. Stats.

- (B) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City.
- (C) The City hereby designates the Director of Public Works as the administering authority to administer and enforce the provisions of this ordinance.
- (D) The requirements of this ordinance shall not pre-empt more stringent soil erosion requirements that may be imposed by the Wisconsin Pollutant Discharge Elimination System (hereinafter referred to as “WPDES”) Stormwater Permits issued by the Department of Natural Resources under section 147.021 Wis. Stats, or any other state or federal regulatory requirements.

29.02 FINDINGS OF FACT AND PURPOSE

- (A) Finding of Fact. The City finds runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the State and this City.
- (B) Purpose. It is the purpose of this ordinance to preserve natural resources; to protect the quality of the waters of the State and the City; 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.

29.03 APPLICABILITY OF ORDINANCE

This ordinance applies to land disturbing and land developing activities on lands as defined in section 29.05(A) of this ordinance within the boundaries and jurisdiction of the City and optionally, the public and private lands subject to extraterritorial review under chapter 236 and section 62.23, Wis. Stats.

29.04 DEFINITIONS

- (A) “Agricultural land use” means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
- (B) “Best Management Practices” (hereinafter referred to as “BMP”) means those practices as described in the most current edition of the “Wisconsin Construction Best Management Handbook” or as otherwise set by the Director of Public Works.
- (C) “City” means the City of Manitowoc, Wisconsin
- (D) “Commercial land use” means use of land for retail, wholesale, personal services, or industrial services.
- (E) “Construction site control measure” means a control measure used to meet the requirements of Section 29.07(2) of this ordinance or otherwise improve the site with respect to erosion control.
- (F) “Control measure” means a practice or combination of practices to control erosion and attendant pollution.
- (G) “Control plan” means a written description of the number, location, size, 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 Director of Public Works.
- (H) “Director of Public Works” means the City of Manitowoc Director of Public Works or his/her designee.
- (I) “Drainage Way” means any natural or artificial watercourse, trench, channel, ditch, swale or similar depression into which surface water flows.
- (J) “Erosion” means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.
- (K) “Land developing activity” means the construction of buildings, roads, parking lots, storage areas and similar facilities.

- (L) “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 of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.
- (M) “Landowner” means any person or entity holding title to, or having an interest in land.
- (N) “Land user” means any person or entity operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his/her land.
- (O) “Runoff” means the rainfall, snowmelt, or irrigation water flowing over the ground surface.
- (P) “Site” means the entire area included in the legal description of the land on which the land disturbing or land development activity is proposed.

29.05 EROSION CONTROL

- (A) Applicability
 - (1) This ordinance applies to the following types of land development or land disturbing activities.
 - (a) Building on lots in subdivisions, on certified survey map property, on existing lots of record or on unplatted lands.
 - (b) Grading, removal of protective ground cover or vegetation, excavation, land filling, scraping or other land disturbing activity affecting a surface of two thousand (2,000) square feet or more.
 - (c) Excavation and/or filling two hundred (200) cubic yards or more of ground, sand, other excavation or fill material.
 - (d) Street highway, road or bridge construction, enlargement, relocation or reconstruction.

- (e) Laying, repairing, replacing or enlarging of an underground pipe, wire, cable or facility for a distance of three hundred (300) feet or more.
 - (f) Disturbing slopes greater than twelve (12) percent grade.
 - (g) Other activities that pose an erosion or water pollution risk as determined by the Director of Public Works.
 - (2) Notwithstanding the provisions of Section 29.05(A)(1)(a) through (g) this Ordinance does not apply to single and two family home construction sites that are governed under the Uniform Dwelling Code requirements for erosion control and are constructed under a Permit issued by the City of Manitowoc Building Inspection Department.
- (B) Erosion control permit application.
- (1) General requirements. No person may commence a land disturbing activity defined under section 29.05(A)(1) of this ordinance without the landowner or his representative first receiving an approved erosion control permit from the Director of Public Works.
 - (2) Requirements for plan preparers. If submitted simultaneously the erosion control application and plan will be reviewed as part of the site plan or subdivision review process. All site plan applications as specified in S. 15.37 (2) (a) (b) of the City of Manitowoc Municipal Code shall include an erosion control permit application and erosion control plan prepared by a person who holds one of the following:
 - (a) A registration\license issued by the Department of Regulation and Licensing in one of the following categories;
 1. Architect;
 2. Professional engineer;
 3. Land surveyor; or
 4. Landscape architect.

- (b) Erosion control permits for projects that do not require subdivision or site plan approval need not meet the requirements of section 29.05(B)(2) of this ordinance.
- (3) Application process
 - (a) A completed application, accompanied by an erosion control plan, all accompanying documents and exhibits required and permit fees shall be filed with the Director of Public Works. When part of a site plan or a subdivision review, the application shall be filed with the City Planner. The fee schedule for such permits shall be on file in the Office of the City Clerk.
 - (b) Within ten (10) business days after receipt of the application under (3)(a), the Director of Public Works shall review the plan to determine if the requirements of the ordinance have been met.
 - (c) If permit conditions are not met, the Director of Public Works shall notify the applicant in writing with the reasons for disapproval and corrective measures. Within seven (7) business days after resubmittal, the Director of Public Works shall either approve the plan or again notify the applicant of denial. If no response is given by the Director of Public Works, a plan shall be deemed denied.
- (4) Permits. The permit shall be valid for the length of time indicated on the permit
- (5) Surety bond. As a condition of permit approval and issuance, the Director of Public Works 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 conditions attached to the permit.

- (6) Permit conditions. All permits shall require the permittee to:
- (a) Notify the Director of Public Works within forty-eight (48) hours or two (2) business days of commencing any land disturbing or land development activity.
 - (b) Notify the Director of Public Works of completion of any erosion control measures within three (3) business days after completion.
 - (c) Obtain permission in writing from the Director of Public Works prior to modifying the erosion control plan.
 - (d) Install all erosion control measures as identified in the approved erosion control plan
 - (e) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities.
 - (f) Maintain all on and off-site stormwater drainage systems as identified on the erosion control plan.
 - (g) Repair any erosion control system installed in accordance with the erosion control plan.
 - (h) Inspect the constructed erosion control measures after each rain of 0.5 inches or more, and at least once each week and make needed repairs. Records shall be kept by the permittee and shall be provided for inspection immediately upon request.
 - (i) Allow the Director of Public Works to enter the site for the purpose of inspecting compliance with the erosion control plan or for performing any work necessary to bring the site into compliance with the erosion control plan.
 - (j) Maintain a copy of the approved erosion control plan on the site.

- (7) Street Opening Permit. Work within the public right-of-way shall also require a street opening permit pursuant to Section 7.12.

29.06 EROSION CONTROL PLAN

- (A) Erosion control plan. A scaled erosion control plan for sites of more than one (1) acre shall accompany an erosion control permit application and shall include, at a minimum, the following items.

- (1) Existing site map.
 - (a) Site boundaries and adjacent lands which accurately identify site location;
 - (b) Lakes, streams, wetlands, channels, drainage ways, ditches and other water courses on the site and adjacent lands;
 - (c) Location of the one hundred (100) year floodplain including flood fringe, floodway and flood storage (if applicable);
 - (d) Location and general identification of the vegetative cover;
 - (e) Location and dimension of on and off-site stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site and the size, slope and land cover of the up slope drainage areas;
 - (f) Location and dimensions of utilities, structures, roadways, highways and paving;
 - (g) Site topography at a contour interval not to exceed two (2) feet except that for slopes greater than twenty (20) percent, a five (5) foot contour is acceptable. A copy of an approved subdivision drainage plan for a lot in question is an acceptable site topography survey for one (1) or two (2) family homes
 - (h) Location and delineation of the predominant soil types.

- (2) Site construction plan. A scaled site construction plan that includes, at a minimum the following:
 - (a) Location of all proposed land disturbing activities or land developing activities;
 - (b) Locations and dimensions of all site erosion control measures necessary to meet the requirements of this ordinance;
 - (c) A signed written statement on the face of the plan identifying the land owner or land use owner as the party responsible to maintain site erosion control measures during construction;
 - (d) Temporary seeding and/or mulching measures during the project time frame and final vegetation or other ground cover plan upon completion of the project.
 - (e) Location of on-site soil stockpiles.
- (3) Plan of final site conditions. A plan of final site conditions at the same scale as the existing site map showing the site changes.
- (B) Content of erosion control plan sites of one (1) or less acres. The erosion control plan for sites of one (1) acre or less in area shall detail the location of existing and proposed dwellings, other buildings and other improvements with respect to the property lines. The erosion control plan shall show the direction of slopes on the site and the size of the up slope drainage areas, and shall indicate all temporary BMPs. Other BMPs shall be implemented during land disturbing activities, as necessary.
- (C) Erosion control plan design criteria, standards and specifications. All erosion control measures required as part of an erosion control plan shall comply with the design criteria, standards and specifications for erosion control based on accepted design criteria standards and specifications identified in the most recent edition of the Department of Natural Resources Wisconsin Construction Site BMP Handbook and as may be required by the Director of Public Works. The following standards shall be required as erosion control design elements:

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- (1) Site dewatering. Water pumped from the site shall be treated by

temporary sedimentation basins or other appropriate controls designed for the highest dewatering pumping rate. Water may not be discharged in a manner that causes erosion of the site or receiving channels.

- (2) Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of, and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- (3) Tracking. Each site shall have a tracking pad installed in accordance with the City's specifications to prevent sediment from being tracked on to public or private roadways. Any sediment reaching a public or private road shall be removed before the end of each workday. Flushing may not be used unless approved by the Director of Public Works.
- (4) Drain inlet protection. All on-site storm drain inlets and the impacted downstream inlets shall be protected with straw bales, filter fabric or equivalent barrier as approved by the Director of Public Works.
- (5) Sediment cleanup. All off-site sediment deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday.
- (6) Channelized and sheet flow drainage. Channelized and sheet flow runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
- (7) Disturbance timing. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any point in time. Existing vegetation shall be maintained as long as possible.
- (8) Projects over one (1) acre. When any project involves more than one acre of land, disturbed soil to be left inactive for more than

fourteen (14) calendar days shall be stabilized by mulching, temporary seeding, sodding, covering with tarps, or equivalent control measures approved by the Director of Public Works. Seeding may only be used from April 1st to October 15th of any year, unless this restriction is waived by the Director of Public Works. If temporary seeding is used, a permanent cover shall also be required as part of the final site stabilization.

- (9) Erosion control measures. Runoff from the entire disturbed area on the site shall be controlled by meeting one (1) of the following:
- (a) For a site with ten (10) or more acres disturbed at one time, or if a channel originates in the disturbed area, one (1) or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one (1) percent of the area draining to the basin, and at least three (3) feet of depth, shall be constructed in accordance with accepted design specifications identified in the latest edition of the Department of Natural Resources Wisconsin Construction Site BMP Handbook.

Sediment shall be removed to maintain a depth of three (3) feet. The basin discharge rate shall be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

All disturbed ground left inactive for more than fourteen (14) calendar days shall be stabilized by mulching, temporary or permanent seeding, sodding, covering with tarps or equivalent control measures approved by the Director of Public Works. Seeding and sodding may only be used from April 1st to October 15th of any year, unless this restriction is waived by the Director of Public Works. If temporary seeding is used, a permanent cover shall also be required as part of the final site stabilization.

- (b) For sites with less than ten (10) acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all side slope and down slope sides on a site. If a channel or area of concentrated runoff passes through or

adjacent to the site, filter fences shall be placed along the channel edges.

- (10) Steep slope condition. Sites with slopes of twelve (12) percent or more shall require use of additional BMPs. (eg. erosion mat)
- (11) Soil or material storage piles. No soil or material storage piles containing more than ten (10) cubic yards of material shall be located with a down slope drainage length of less than twenty-five (25) feet to a roadway ditch or drainage channel. The storage piles shall be stabilized by mulching, vegetative cover, tarps or other means if remaining fourteen (14) or more calendar days. Erosion shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction, soil or material storage piles located closer than twenty-five (25) feet to a roadway or drainage way shall be covered with tarps or suitable alternative control. The storm drain inlets shall be protected with straw bales or other appropriate filtering barriers.
- (12) Erosion control sequence plan. A chronological sequence of activities describing the relationship between the implementation and maintenance of controls, including temporary or permanent stabilization and the various stages or phases of earth disturbance and construction shall be furnished with the application. The sequence of construction shall, at minimum, include a schedule and time frame for the following activities (as applicable):
 - (a) Clearing and grubbing for those areas necessary for installation of erosion controls;
 - (b) Construction of erosion controls;
 - (c) Remaining interior site clearing and grubbing;
 - (d) Road grading;
 - (e) Grading the remainder of the site;
 - (f) Utility installation and whether or not storm drains will be used or blocked during construction;

- (g) Building , parking lot and site construction;
- (h) Final grading, landscaping or stabilization; and
- (i) Removal of controls

- (13) Permit termination notice. The Director of Public Works shall issue an Erosion Control Termination Notice when disturbed areas have been stabilized by permanent vegetation or other means acceptable to the Director of Public Works. Such notice shall be granted within three (3) working days of the Director of Public Works receiving a written request by the permittee.

29.07 MAINTENANCE OF CONTROL MEASURES

All sedimentation basins and other control measures necessary to meet the requirements of this ordinance shall be maintained by the permittee 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 until a termination is granted.

29.08 INSPECTION

- (A) The Director of Public Works shall inspect construction sites weekly and after storm events greater than 0.5 inches during the period starting March 1st and ending October 31st and at least two (2) times during the period starting November 1st and ending the last day of February to ensure compliance with the control plan.

If land disturbing or land development activities are being carried out without a permit, the Director of Public Works shall enter the land pursuant to the provisions of sections 66.0119 and section 66.0119(3) Wis. Stats.

29.09 ENFORCEMENT

- (A) The Director of Public Works may post a stop-work order if:

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- (1) Any land disturbing or land developing activity regulated under

this ordinance is being undertaken without a permit; or

- (2) The erosion control plan is not being implemented in a good faith manner; or
 - (3) The conditions of the permit are not being met.
- (B) If the permittee does not cease the activity or comply with the control plan or permit conditions within twenty four (24) hours after receipt of a written notice from the City, the Director of Public Works may revoke the permit.
- (C) If no erosion control permit has been issued for land disturbing activity, and the property owner or their contractor has been notified of the ordinance violation in writing but does not cease the activity within twenty-four (24) hours, the Director of Public Works may request the City's Attorney to obtain a cease and desist order or other injunctive relief.
- (D) If the permittee fails to comply with conditions of the Erosion Control Permit, the City may perform work necessary to comply with this ordinance. Any costs incurred by the City, plus interest, may be billed to the permittee. In the event a permittee fails to pay the amount due, the City Finance Department may enter the amount due on the tax rolls, and collect as a special charge against the property pursuant to section 66.0627, Wisconsin Statutes.
- (E) In addition to costs incurred through enforcement of section 29.09 (D) of this ordinance, compliance with the provisions of this ordinance may also be enforced through a forfeiture of not less than \$100 per day nor more than \$500 per offense together with the cost of prosecution. Each day that the violation exists shall constitute a separate offense.
- (F) No building occupancy permit may be issued if there is an outstanding issue of noncompliance of any provision herein.
- (G) No building permit may be issued in any subdivision when the subdivision is not in compliance with the requirements of this chapter.

29.10 APPEALS

- (A) BOARD OF APPEALS. The Zoning Board of Appeals (Board), created under section 15.55 of the City's Municipal Code shall hear and decide appeals and disputes where it is alleged that there is error in any order, decision or determination made by the Director of Public Works in administering the ordinance. The Board shall use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals.
- (B) WHO MAY APPEAL. Any officer, department, board or bureau of the City or any aggrieved applicant affected by any decision on the Director of Public Works may appeal to the Board.
- (C) FEES. The fee schedule for an appeal shall be as set for all matters coming to the Board of Appeals as indicated in Chapter 15.

29.11 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.

29.12 FEES

- (A) In general. Fees referred to in this ordinance shall be established by resolution of the Common Council in a fee schedule and may, from time to time, be modified by the Common Council and shall be on file with the office of the City Clerk.