

CHAPTER 29

CONSTRUCTION SITE EROSION CONTROL

29.01	Authority
29.02	Findings of Fact and Purpose
29.03	Applicability and Jurisdiction
29.04	Definitions
29.05	Technical Standards
29.06	Performance Standards
29.07	Permitting Requirements, Procedures and Fees
29.08	Erosion and Sediment Control Plan
29.09	Maintenance of Best Management Practices
29.10	Inspection
29.11	Enforcement
29.12	Appeals
29.13	Severability
29.14	Fees

29.01 AUTHORITY

- (1) 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.

- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City.
- (3) The City hereby designates the Director of Public Works as the administering authority to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance shall not preempt 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.

29.02 FINDINGS OF FACT AND PURPOSE

- (1) **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.
- (2) **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 AND JURISDICTION

- (1) **APPLICABILITY**
 - (c) This ordinance applies to the following types of land development or land disturbing construction activities except as provided

under sub. (b):

1. Building on lots in subdivisions, on certified survey map property, on existing lots of record or on unplatted lands.
4. Grading, removal of protective ground cover or vegetation, excavation, land filling, scraping or other land disturbing construction activity affecting a surface of two thousand (2,000) square feet or more.
5. Excavation and/or filling two hundred (200) cubic yards or more of ground, sand, other excavation or fill material.
6. Street highway, road or bridge construction, enlargement, relocation or reconstruction.
7. Laying, repairing, replacing or enlarging of an underground pipe, wire, cable or other facility for a distance of three hundred (300) feet or more.
8. Disturbing slopes greater than twelve (12) percent grade.

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

1. Land disturbing construction activity that includes the construction of 1- and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance. These construction sites are regulated by the Wisconsin Department of Commerce under s. COMM 21.125 Wis. Adm. Code.
2. 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.

3. Nonpoint discharges from agricultural activity areas.
4. Nonpoint discharges from silviculture activities.
5. Mill and crush operations.

(c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites of any size that, in the opinion of the Administering Authority, 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 or public safety.

(2) JURISDICTION

This ordinance applies to land disturbing construction activity on construction sites and land developing activities located within the boundaries and jurisdiction of the City of Manitowoc

(3) 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.

29.04 DEFINITIONS

- (1) "Administering Authority" means the City's Director of Public Works, or his/her designee to administer this ordinance.
- (2) "Agricultural activity area" means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.
- (3) "Agricultural production area" means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.
- (4) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.
- (5) "Best Management Practices" or "BMP" structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants in runoff to waters of the state.
- (6) "Business day" means a day which offices of the City are routinely and customarily open for business.
- (7) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

- (8) "City" means the City of Manitowoc, Wisconsin.
- (9) "Commercial land use" means use of land for retail, wholesale, personal services, or industrial services.
- (10) "Common plan of development or sale" means all lands included within the boundary of a certified survey map or subdivision plat created for the development or sale of property, where multiple, separate, and distinct land developing activities may take place at different times and on different schedules.
- (11) "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.
- (12) "Development" means residential, commercial, industrial, institutional, or other land uses and associated roads.
- (13) "Director of Public Works" means the City of Manitowoc Director of Public Works or his/her designee.
- (14) "Division of land" means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5 year period.
- (15) "Drainage Way" means any natural or artificial watercourse, trench, channel, ditch, swale or similar depression into which surface water flows.
- (16) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.
- (17) "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.

- (18) "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.
- (19) "Land developing activity" means the construction of buildings, roads, parking lots, storage areas and similar facilities.
- (20) "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.
- (21) "Landowner" means any person or entity holding title to, or having an interest in land.
- (22) "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.
- (23) "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes 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 the way to meet the performance standards and may vary based on the performance standard and site conditions.
- (24) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

- (25) "Permit" means a written authorization made by the Administering Authority to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to water of the state.
- (26) "Pollutant" has the meaning given in s. 283.01 (13), Wis. Stats.
- (27) "Pollution" has the meaning given in s. 281.01 (10), Wis. Stats.
- (28) "Protective area" has the meaning given in 28.06(5) of the City of Manitowoc Post-Construction Storm Water Management Ordinance.
- (29) "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.
- (30) "Runoff" means stormwater or precipitation including rain, snow, or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (31) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (32) "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.

- (33) "Site" means the entire area included in the legal description of the land on which the land disturbing or land development activity is proposed.
- (34) "Stop work order" means an order issued by the Director of Public Works which requires that all construction activity on the site be stopped.
- (35) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (36) "Waters of the state" has the meaning given in s. 281.01 (18), Wis. Stats."

29.05 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) 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.
 - (b) 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.
- (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 Administering Authority.

29.06 PERFORMANCE STANDARDS

- (1) **RESPONSIBLE PARTY.** The responsible party shall implement an erosion and sediment control plan, developed in accordance with 29.08 that incorporates the requirements of this section.
- (2) **PLAN.** A written erosion and sediment control plan shall be developed in accordance with 29.08 and implemented for each construction site.
- (3) **REQUIREMENTS.** The erosion and sediment control plan shall meet the following minimum requirements to the maximum extent practicable.
 - (a) BMPS shall be designed, installed and maintained to control total suspended solids carried in runoff from the construction site as follows.
 1. For construction sites with 1 acre or greater of land disturbing construction activity, reduce the total suspended solids load by 80%, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.
 2. For construction sites with less than 1 acre of land disturbing construction activity, reduce the total suspended solids load using BMPs from the Wisconsin Department of Natural Resources Technical Standards. These sites are not required to satisfy a numeric performance

standard.

3. Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V. of ch. NR 151, Wis. Adm. Code, may be used to calculate sediment reduction.
- (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) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:
1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces. Each site shall have a tracking pad installed in accordance with the City's standard specifications. 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.
 2. Prevent the discharge of sediment as part of site de-watering. Water pumped from the site shall be treated by temporary sedimentation basins or other appropriate controls for the highest dewatering pumping rate. Dewatering must also comply with WDNR rules. Water may not be discharged in a manner that causes erosion of the site or receiving channels.
 3. Protect the separate storm drain inlet structure from receiving sediment.

- (d) The use, storage and disposal of building materials, debris, garbage, chemicals, cement, concrete truck washout, litter, sanitary waste, toxic materials, hazardous materials, cleaning wastes, and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into storm sewers and 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 provided they have appropriate permits.
- (e) The use, storage and disposal of building materials, debris, garbage, chemicals, cement, concrete truck washout, litter, sanitary waste, toxic materials, hazardous materials, cleaning wastes, and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into storm sewers and 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 provided they have appropriate permits.
- (f) Site Erosion Control. The following criteria apply only to land development or land-disturbing construction activities that result in runoff leaving the site:
1. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in par. 3.(iii). Sheetflow runoff from adjacent areas greater than 10,000 sq. ft. in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5'/sec. across the disturbed area for the set of one year design storms. Diverted runoff shall be conveyed in a manner that will

not erode the conveyance and receiving channels.

2. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time. Existing vegetation shall be maintained as long as possible.

3. Runoff from the entire disturbed area on the site shall be controlled by meeting either sub. (i) and (ii) or (i) and (iii) and WDNR Technical Standards, which ever is more restrictive.

(i) All disturbed ground left inactive for 14 or more days shall be stabilized by mulching, temporary or permanent seeding, sodding, covering with tarps, or equivalent BMPs. Seeding and sodding may only be used from April 1st to October 15th of any year. If temporary seeding is used, a permanent cover shall also be required as part of the final site stabilization.

(ii) For sites with 10 or more acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Sedimentation basins shall be designed, constructed and maintained per WDNR Technical Standards. At a minimum each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least 3' of depth. Sediment shall be removed to maintain a depth of 3'. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of 1-year design storms having duration from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the

discharge channel or the receiving water.

(iii) For sites with less than 10 acres disturbed at one time, filter fences, straw bales, or equivalent BMPs shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.

(iv) Runoff from sites or slopes of 12% or more may require additional or different control methods which are not listed in 3. above.

(g) Any soil or dirt storage piles containing more than 10 cu. yds. of material should not be located with a down slope drainage length of less than 25' to a roadway or drainage channel. If remaining for 15 days or more, the piles shall be stabilized by mulching, vegetative cover, tarps, or other means. Erosion from piles which will be in existence for less than 14 days shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction, soil or dirt storage piles located closer than 25' of a roadway or drainage channel must be covered with tarps or suitable alternative control. The storm drain inlets must be protected with straw bale or other appropriate filtering barriers.

(4) LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state or regional storm water treatment facilities.

(5) ALTERNATE REQUIREMENTS. The Administering Authority may establish requirements more stringent than those set forth in this section if the Administering Authority determines that an added level of protection is needed for sensitive resources.

29.07 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

- (1) **PERMIT REQUIRED.** No landowner, land user or 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 Director of Public Works.
- (2) **PERMIT APPLICATION AND FEE.** At least one responsible party desiring to undertake a land disturbing construction activity or land developing activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of 29.08 and shall pay an application fee as shown in the Fee Schedule to the Administering Authority. By submitting an application, the applicant is authorizing the Administering Authority to enter the site to obtain information required for the review of the erosion and sediment control plan.
- (3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The Administering Authority shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

 - (a) Within 10 business days of the receipt of a complete permit application, as required by sub. (2), the Administering Authority shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.
 - (b) If the permit application and plan are approved, the Administering Authority shall issue the permit.
 - (c) If the permit application or plan is disapproved, the Administering Authority shall state in writing the reasons for disapproval.
 - (d) The Administering Authority may request additional information from the applicant. If additional information is submitted, the

Administering Authority shall have 7 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.

(e) Failure by the Administering Authority to inform the permit applicant of a decision within 7 business days, a plan shall be deemed denied.

(4) **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 and sediment control plan and any conditions attached to the permit.

(5) **PERMIT REQUIREMENTS.** 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 BMPs within three (3) business days after completion.

(c) Obtain permission in writing from the Director of Public Works prior to modifying the erosion and sediment control plan.

(d) Install all BMPs as identified in the approved erosion and sediment 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 and sediment control plan.

(g) Repair any erosion control system installed

in accordance with the erosion and sediment control plan.

- (h) Conduct construction site inspections at least once per week and within 24 hours after a precipitation event of 0.5 inches or greater. Repair or replace erosion control BMPs as necessary within 24 hours of an inspection or notification that repair or replacement is needed. Maintain, at the construction site, weekly written reports of all inspections. Weekly inspection reports shall include all of the following: date, time and location of the construction site inspection; the name of individual who performed the inspection; an assessment of the condition of erosion and sediment controls; a description of any erosion control BMP implementation and maintenance performed; and a description of the present phase of land disturbing construction activity at the construction site.
 - (i) Allow the Director of Public Works or his/her designee 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 erosion and sediment control plan.
 - (j) Keep a copy of the erosion and sediment control plan, storm water management plan, amendments, weekly inspection reports, and permit at the construction site until permit coverage is terminated.
 - (k) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.
- (6) **PERMIT CONDITIONS.** Permits issued under this section may include conditions established by Administering Authority in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in 29.06.

- (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 Administering Authority may extend the period one or more times for up to an additional 180 days. The Administering Authority 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.
- (9) **ALTERNATE REQUIREMENTS.** The Administering Authority may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.
- (10) **FINAL STABILIZATION.** Upon final stabilization and vegetation of disturbed areas, the best management practices shall be removed.
- (11) **STREET OPENING PERMIT.** Work within the public right-of-way shall also require a street opening permit pursuant to Section 7.12."

29.08 EROSION AND SEDIMENT CONTROL PLAN

- (1) **EROSION AND SEDIMENT CONTROL PLAN.** A scaled erosion and sediment control plan shall accompany an erosion control permit application and shall include, at a minimum, the following items.
 - (a) Name, address and telephone number of the landowner and responsible parties.
 - (b) A legal description of the property proposed to be developed.
 - (c) Existing site map.

1. Site boundaries and adjacent lands which accurately identify site location;
2. Lakes, streams, wetlands, channels, drainage ways, ditches and other water courses on the site and adjacent lands;
3. Location of the one hundred (100) year floodplain including flood fringe, floodway and flood storage (if applicable);
4. Location and general identification of the vegetative cover;
5. 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;
6. Location and dimensions of utilities, structures, roadways, highways and paving;
7. 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
8. Location and delineation of the predominant soil types.

(d) **SITE CONSTRUCTION PLAN.** A scaled site construction plan that includes, at a minimum the following:

1. Location of all proposed land disturbing activities or land developing activities;

2. Locations and dimensions of all site erosion and sediment control BMPs necessary to meet the requirements of this ordinance;
 3. 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 and sediment control BMPs during construction;
 4. Temporary seeding and/or mulching measures during the project time frame and final vegetation or other ground cover plan upon completion of the project.
 5. Location of on-site soil stockpiles.
- (e) **PLAN OF FINAL SITE CONDITIONS.** A plan of final site conditions at the same scale as the existing site map showing the site changes.
- (f) **EROSION AND SEDIMENT 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):
1. Clearing and grubbing for those areas necessary for installation of erosion controls;
 2. Construction of erosion controls;
 3. Remaining interior site clearing and grubbing;
 4. Road grading;
 5. Grading the remainder of the site;

6. Utility installation and whether of not storm drains will be used or blocked during construction;
7. Building , parking lot and site construction;
8. Final grading, landscaping or stabilization; and
9. Removal of controls

(g) **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.

29.09 MAINTENANCE OF BEST MANAGEMENT PRACTICES

All sedimentation basins and other BMPs 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.

29.10 INSPECTION

- (1) 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.

29.11 ENFORCEMENT

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

 - (a) Any land disturbing or land developing activity regulated under this ordinance is being undertaken without a permit; or
 - (b) The erosion control plan is not being implemented in a good faith manner; or
 - (c) The conditions of the permit are not being met.
- (2) If the permittee does not cease the activity or comply with the control plan or permit conditions within twenty four (24) hours after receipt of a written notice from the City, the Director of Public Works may revoke the permit.
- (3) 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.
- (4) 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.
- (5) 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.

- (6) No building occupancy permit may be issued if there is an outstanding issue of noncompliance of any provision herein.
- (7) No building permit may be issued in any subdivision when the subdivision is not in compliance with the requirements of this chapter.

29.12 APPEALS

- (1) **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.
- (2) **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.
- (3) **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.

29.13 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.

29.14 FEES

Fees referred to in this ordinance shall be established by resolution of the Common Council.