

Construction Site Erosion Control Ordinance

The intent of this ordinance is to require erosion control best management practices that will reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbing activities. This article applies to all land development and land disturbing activities. This article is adopted under the authority granted by the Wis. Stats 62.234. (code 1971, ss 10-8.1)

The Village Board of the Village of Oliver, Douglas County, Wisconsin, does ordain as follows:

Section 1. Findings and Purpose:

The Board finds runoff from construction sites can carry a significant amount of sediment and other pollutants to the waters and right-of-ways of the Village. It is the purpose of this article to preserve the natural resources; to protect the quality of the waters of the Village; 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 discharge from construction sites to lakes, streams and wetlands.

Section 2. Applicability of Ordinance:

This article applies to land development and land disturbing activities on lands within the boundaries and jurisdiction of the Village.

Section 3 DEFINITIONS:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Agricultural land use” means use of land for the planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

“Best management practice” or “BMP” means a practice or combination of practices to control erosion and attend pollution.

“BMP Handbook” refers to the Wisconsin Department of Natural Resources Technical Standards which can be found at (<http://dnr.wi.gov/runoff/stormwater/techstds.htm>).

“Village Personnel or authorized agent” means employees of the Village authorized by the Board to implement provisions of this section of the village code.

“Erosion” means the detachment and movement of soil, sediment or rock fragments by the action of wind, water, ice or gravity.

“Erosion control plan or erosion control plan statement” means a written description of the number, locations, sizes and other pertinent information about BMPs designed to meet requirements of this article.

“Land development activity” means the construction or demolitions of buildings, roads, parking lots, paved storage areas and similar facilities.

“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; and harvesting of trees.

“*Land User*” means any person operating, leasing, renting, or having made other arrangements with the land owner by which the landowner authorizes use of his or her land.

“*Land owner*” means any person holding title to or having an interest in land.

“*Runoff*” means storm water or precipitation including rain, snow or ice melt, dewatering, irrigation or similar water that moves on the land surface via sheet or channelized flow.

“*Site*” means the entire area included in the legal description of the parcel or land division on which the land development or land disturbing activity is proposed in the permit application.

“*Stabilize*” means to make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel or other measures.

“*Waters of the state*” means all lakes, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the state or its jurisdiction, and as given in s. 281.01 (18), Wis. Stats.

“*Working Days*” means a calendar day, except Saturdays, Sundays and Village recognized legal holidays, all days that the Village Clerk/Treasurer holds office hours.

Section 4 Design Criteria, Standards and Specifications for Best Management Practices:

All best management practices required to comply with this article shall meet the design criteria, standards and specifications set forth in the BMP Handbook, or adopted by the Village Board.

Section 5 Maintenance of Best Management Practices:

All best management practices necessary to comply with the requirements of this article shall be maintained by the applicant or subsequent landowner during the period of land disturbance and development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions. The standards for maintenance of best management practices shall be set forth in the BMP Handbook or adopted by the Village Board.

Section 6 Control of Erosion and Pollutants During Development and Land Disturbing Activities:

A. Applicability-This section applies to the following sites of land development or land disturbing activities:

1. those requiring a subdivision plat approval
2. those requiring a certified survey approval
3. those involving grading, removal of protective ground cover or vegetation, demolition, excavation, land filling or other land disturbing activity
4. those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction and
5. those involving grading, removal of protective ground cover or vegetation, excavation, demolitions, land filling or other land disturbing activity on slopes of 12 percent or more.

B. Erosion and other pollutant control requirements – The following requirements shall be met on all sites described in subsection A of this section

1. Site dewatering. Water pumped from the site shall be treated by sediment basins or other appropriate best management practices specified in the BMP handbook. Water may

not be discharged in a manner that causes erosion by the site, adjacent sites or receiving channels.

2. Waste and material disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, waste water, toxic materials or hazardous materials) shall be properly disposed of and not allowed to be carried off-site by run-off or wind.

3. Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning before the end of each workday. Flushing may not be used unless sediment will be controlled by a sediment basin or other best management practice specified in the BMP handbook.

4. Drain inlet protection. All storm drain inlets shall be protected with straw bales, filter fabric, or equivalent barrier as specified in the BMP handbook or approved by the Board or their designee.

5. Sediment cleanup. All off-site sediment deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site sediment deposits occurring as a result of construction activities shall be cleaned up by the end of the working day.

6. Site erosion control. The following criteria, subsections (b)(6) (a) through (b) (6) (e), apply only to land development or land disturbing activities that result in runoff leaving the site.

(a) 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. Sheet flow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas unless shown to have resultant runoff velocities of less than 0.5 foot/second across the disturbed area for the ten-year, 25 hours storm as defined in the BMP handbook. Diverted runoff shall be conveyed in a manner that will not erode that conveyance and receiving channels. For allowable velocities types of channels, soil conservation services guidelines shall be followed.

(b) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

(c) Runoff from the entire disturbed area on the site shall be controlled by meeting either subsections (b)(6)(c)1 and 2 or (b)(6)(c)1 and 3 of this section.

1. All disturbed ground left inactive for seven or more days shall be stabilized by temporary or permanent seeding, temporary or permanent seeding and mulch, sodding, covering with tarps, polymer application or equivalent best management practices. If temporary seeding is used, a permanent cover shall also be required as a part of the final stabilization. Seeding or sodding shall be conducted as specified in the BMP handbook or by the Village staff or their authorized agent. Variances from the requirements of this subsection may be granted by the Village staff or their authorized agent upon application, but only if the failure to comply is due to extended periods

of rain or other construction delays beyond the control of the responsible party.

2. For sites with ten or more acres disturbed at one time, or if a channel originates in the disturbed area, one or more sediment basin shall be designed and constructed as specified in the BMP handbook.
3. For sites with less than ten acres disturbed at one time, filter fences, straw bales, or equivalent best management practices shall be placed along all side-slope and down slope side 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.

(d) Sites with slopes of 12 percent or more may require additional or different controls that listed in paragraph (b)(6)(c) of this section. Requirements for such slopes shall be as specified by the Village staff or their authorized agent.

(e) Wherever possible, soil or dirt storage piles shall be located 25 feet from any down-sloped road, lake, stream, wetland or drainage channel. Straw bales or filter fabric fences shall be placed on the down slope side of the piles. If remaining for more than 30 days, piles shall be stabilized by mulching, vegetative cover, tarps or other mean, the Village staff or their authorized agent may require additional or different best management practices for piles located closer than 25 feet to a road, lake, stream, wetland or drainage channel. In no case shall storage occur in any lake, stream, wetland or drainage channel.

(f) When disturbed areas have been stabilized by permanent vegetation, which has been established and provides good cover, or other means, such as riprap or pavement, the temporary best management practices such as filter fabric fences, straw bales and sediment traps shall be removed.

Section 7 Permit Application, Erosion Control Plan and Permit Insurance:

No landowner or land user may commence a land development or land disturbing activity subject to this article without receiving prior approval of an erosion control plan for the site and a permit from the Village. At least one landowner or land user controlling the site and desiring to undertake a land development or land disturbing activity subject to this article shall submit an application for an erosion control permit and an erosion control plan and pay an application fee to the Village. By submitting an application, the applicant is authorizing the Board or their authorized agent to enter the site to obtain information required for the review of the erosion control plan.

Section 8 Content of the Erosion Control Plan for Land Development and Land Disturbing Activities Covering One or More Acres:

- (A) Existing Site Map – A map of existing site conditions on a scale of at least one inch equals 100 feet showing the site and immediately adjacent areas extending at least 200 feet in each direction:
 - (1) Site Boundaries and adjacent lands which accurately identify site location

- (2) Lakes, streams, wetlands, channels, ditches and other watercourses on and within 500 feet of the site
 - (3) 100-year floodplains, flood fringes and floodways
 - (4) Location of the predominant soil types
 - (5) Vegetative cover
 - (6) Location and dimensions of storm water drainage systems and natural drainage patterns on and immediately adjacent to the site and the size, slope and land cover of up-slope drainage areas, peak discharge, velocities, directions and destination of flows
 - (7) Locations and dimensions of utilities, structures, roads, highways and paving
 - (8) Site topography at a contour interval not to exceed two feet
 - (9) Name, address and daytime telephone number of the applicant and the person responsible for maintenance of best management practices.
- (B) Plan of final site conditions – A plan of final site conditions on the same scale as the existing site map showing the site changes.
- (C) Site construction plan – A site construction plan including:
- (1) Locations and dimensions of all proposed land development and land disturbing activities
 - (2) Locations and dimensions of all temporary soil or dirt stockpiles
 - (3) Locations and dimensions of all best management practices necessary to meet the requirements of this article
 - (4) Schedule of anticipated starting and completion date of each land development or land disturbing activity including the installation of best management practices needed to meet the requirements of this article
 - (5) Provisions for maintenance of best management practices during construction
 - (6) Description of vegetation and other materials to be used to stabilize the site including a schedule for installation and maintenance. The description should at a minimum include seed type, seed application rate, mulch type, mulch method, mulch application rate, fertilizer type and fertilizer application rate.

Section 9 Content of the Erosion Control Plan for Land Development and Land Disturbing Activities Covering Less Than One Acre:

- (A) An erosion control plan/statement (with a simple map) shall be submitted to briefly describe:
- (1) Property boundaries and area to be disturbed
 - (2) Lakes, streams, wetlands, channels, ditches and other watercourses on and within 500 feet of the site
 - (3) Direction of slopes before and after development
 - (4) Existing and proposed buildings and other improvements
 - (5) Size of up-slope drainage areas
 - (6) Development schedule
 - (7) Best Management practices necessary to meet the requirements of this article
 - (8) Description of vegetation and other materials to be used to stabilize the site including a schedule of installation and maintenance
 - (9) Name, address and daytime telephone number of the applicant and the person responsible for maintenance of best management practices.

Section 10 Review of Erosion Control Plans:

- (A) Erosion control plans for sites of one or more acres of land development or land disturbing activity. Within 30 working days of receipt of the application, erosion control plan and fee the Village staff or their authorized agent shall review the application and the erosion control plan to determine if the requirements of this article are met. The reviewer may request comments from other staff or agencies. If the requirements of this article are met the reviewer shall approve the plan, inform the applicant and the Village Board and the permit will be issued. If the conditions are not met the reviewer shall inform the applicant in writing and may either require needed information or disapprove the plan. Within 30 working days of receipt of needed information the reviewer shall again determine if the plan meets the requirements of this article. If the plan is disapproved the reviewer shall inform the applicant in writing of the reason for disapproval.
- (B) Erosion control plans for sites less than one acre of land development or land disturbing activity. Within 20 working days of receipt of the application, erosion control plan and fee the Village staff or their authorized agent shall review the application and the erosion control plan to determine if the requirements of this article are met. The reviewer may request comments from other staff or agencies. If the requirements of this article are met the reviewer shall approve the plan, inform the applicant and the Village Board and the permit will be issued. If the conditions are not met the reviewer shall inform the applicant in writing and may either require needed information or disapprove the plan. Within 20 working days of receipt of needed information the reviewer shall again determine if the plan meets the requirements of this article. If the plan is disapproved the reviewer shall inform the applicant in writing of the reason for disapproval.
- (C) No fill permit shall be issued for a site subject to this article without an erosion control permit.

Section 11 Erosion Control Permits:

- (A) Duration – Erosion control permits shall be valid for a period of 180 days from the date of issuance. The Village Board may extend the period one or more times for up to an additional 180 days. The Village Board may require additional best management practices as a condition of the extension if they are necessary to meet the requirements of this article.
- (B) Surety Bond – As a condition of approval and issuance of the permit the Village may require the applicant to deposit a surety bond or irrevocable letter of credit in an appropriate amount not less than \$1000 or cash escrow to guarantee a good faith execution of the approved erosion control plan and any permit conditions.
- (C) Permit Conditions – All erosion control permits shall require the permittee to:
 - (1) Notify the Village Board within two days of commencing any land development and land disturbing activity
 - (2) Notify the Village Board of completion of any best management practices within the next working day after their installation
 - (3) Obtain permission in writing from the Village Board prior to modifying the erosion control plan

- (4) Install all best management practices as identified in the approved erosion control plan
- (5) Maintain all road drainage systems, storm water drainage systems, best management practices and other facilities identified in the erosion control plan
- (6) Repair any situation or erosion damage to adjoining surfaces and drainage ways resulting from land development or land disturbing activities within 24 hours
- (7) Inspect the best management practices after each rainfall of 0.5 inches or more and at least once each week and make needed repairs within 24 hours
- (8) Allow Village personnel or their authorized agent 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
- (9) Keep a copy of the erosion control plan on the site.

Section 12 Inspection:

If land development or land disturbing activities are being carried out without a permit, Village personnel may enter the land pursuant to the provisions of Wis. Stats. 66.0119..

Section 13 Enforcement:

- (A) Notice of Violation: stop work order. The Village Board may issue a notice of violation or post a stop-work order or both if:
 - (1) any land development or land disturbing activity regulated under this article is being undertaken without an erosion control permit
 - (2) the erosion control plan is not being implemented in a good faith manner
 - (3) the conditions of the permit are not being met.
- (B) Revocation of Permit. If the permittee does not cease the activity or comply with the erosion control plan or permit conditions within 24 hours of the notice the Village Board or their authorized agent may revoke the erosion control permit.
- (C) Cease and desist order. If the landowner or land user, where no erosion control permit has been issued, does not cease the activity within 24 hours the Village Board may request the Village attorney to obtain a cease and desist order.
- (D) Retraction of stop-work order or revocation of permit. The Village Board or their authorized agent may retract the stop-work order or the erosion control permit revocation.
- (E) Notice of Intent. After posting a stop-work order the Village Board or their authorized agent may issue a notice of intent to the permittee or landowner or land user of the Village's intent to perform work necessary to comply with this article. Village personnel or other authorized agents may go on the land and commence the work three working days after the notice of intent is mailed or served.
- (F) Cost. If the cost of work performed by the Village personnel or authorized agent plus interest at the rate approved by the Village Board exceeds the amount deposited in the irrevocable letter of credit, surety bond or cash escrow the remainder shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due the Village Treasurer shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Wis. Stats. 660703.

- (G) Violation. Any person violating any provisions of this article shall be subject to a forfeiture of not less than \$50.00 nor more than \$1,000.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
- (H) Enforcement. Compliance with the provisions of this article may also be enforced by injunction, citation, abatement or nuisances or other appropriate and available remedy.

Section 14 APPEALS:


- (A) Board of Appeals. The Village Board of Appeals:
- (1) Shall hear and decide appeals where it is alleged that there is an error in any order, decision or determination made by the village staf or their authorized agent in administering this article.
 - (2) Upon appeal, may authorize variances frfom the provisions of this article which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of this article will result in unnecessary hardship
 - (3) Shall use the rules, procedures, duties and powers authorized by statutes in hearing and deciding appeals and authorizing variances.
- (B) Who may appeal. Appeals to the Village Board may be taken by any aggrieved person or by any officer or department of the Village affected by any decision of the Village Board or their authorized agent.

Section 15 Fees:

Fees referred to in this article shall be established by the Village Board in a fee schedule and may from time to time be modified by Village Board resolution. Fees shall be related to costs involved in handling permit applications, reviewing erosion control plans, conducting site inspections and administering and enforcing the erosion control program.

Section 16 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 Village Board of the Village of Oliver on the 26th day of March, 2008.

Approved: 
Attested _____
Published on [27th day of March 2008].