

Ordinance No. 42

Site Erosion Control

The intent of this article 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 disturbance activities.

This article is adopted under the authority granted by Wis. Stats 62.234. (code 1971, ss 10-8.1)

The Village Board of the Village of Superior, 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 rights-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 discharged from construction sites to lakes, streams and wet lands.

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 means a practice or combination of practices to control erosion and attendant pollution.

BPM handbook means the most recent edition of the Department of Natural Resources Wisconsin Construction Best Management Practices Handbook.

Village Personnel or authorized personnel mean 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 water, wind, 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 best management practices designed to meet requirements of this article.

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

Land disturbing activities means any manmade change of the land surface including removing vegetation 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.

Landowner means any person holding title to or having an interest inland.

Runoff means the rainfall, snow melt, de-watering or irrigation water flowing over the ground surface.

Site means the entire area included in the legal description of the parcel or other 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 measure.

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.

Working Day means a calendar day, except Saturdays, Sundays and city recognized legal holidays.

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. MAINTNENANCE 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 as 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 filing or other land disturbing activity;
4. those involving excavation or filling or a combination of excavating and filling affecting 400 cubic yards or more of dirt, sand or other excavation or fill material;
5. those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction;

6. those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300 feet or more, and
 7. those involving grading, removal of protective ground cover or vegetation, excavation, demolition, 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 runoff 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 appropriate best management practice specified in the BMP handbook.
 4. *Drain inlet protection.* All storm drain inlets shall be protected with a straw bale, 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 workday. All other off-site sediment deposits occurring as a result of construction activities shall be cleaned up by the end of the workday.
 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, 24 hour storm as defined in the BMP handbook. Diverted runoff shall be conveyed in a manner that will not erode the 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)1 and 2 or (b) (6)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 mulching, sodding, covering with tarps, or equivalent best management practices. If temporary seeding is used, a permanent cover shall also be required as part of the final site stabilization. Seeding or sodding shall be conducted as specified in the BMP handbook or by the building inspector. Variances from the requirements of this subsection may be granted by the building inspector 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 basins shall be constructed. Each 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 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.
- (d). Sites with slopes of 12 percent or more may require additional or different controls than listed in paragraph (b) (6) c of this section. Requirements for such slopes shall be as specified by the director of public works or his or her designees.
- (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 bale 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 means, the director of public works or his or her designee may require additional or different best management practices for piles located closer than 25 feet to a road, lake, stream, wetland or drainage channel.
- (f). When the disturbed area has been stabilized by permanent vegetation or other means, temporary best management practices such as filter fabric fences, straw bales, and sediment tarps 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 a control plan and pay an application fee to the building inspector. By submitting an application, the applicant is authorizing the Board or other agent authorized by the Village 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, wet lands, channels, ditches and other watercourses on and immediately adjacent to 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, direction 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; and
- (9) Name, address and daytime telephone number of the applicant and the person Responsible for maintenance of best management practices.

(b) *Plan if 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 requirements of this article;
- (5) Provisions for maintenance of best management practices during construction; and
- (6) Description of vegetation and other materials to be used to stabilize the site including a schedule for installation and maintenance.

Section 9. CONTENT of EROSION CONTROL PLAN STATEMENT for LAND DEVELOPMENT and LAND DISTURBING ACTIVITIES COVERING LESS THAN ONE ACRE.

An erosion control plan statement (with simple map) shall be submitted to briefly describe:

- (1) Property boundaries and area to be disturbed;
- (2) Direction of slopes before and after development;
- (3) Existing and proposed buildings and other improvements;
- (4) Size of up-slope drainage areas;
- (5) Development schedule;
- (6) Best management practices necessary to meet the requirements of this article;
- (7) Description of vegetation and other materials to be used to stabilize the site including a schedule for installation and maintenance; and
- (8) 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, control plan, and fee, the public works department shall review the application, control plan to determine if the requirements of this article are met. The public works department may request comments from other agencies. If the requirements of this article are met, the public works department shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the public works department 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 public works department shall again determine if the plan meets the requirements of this article. If the plan is disapproved, the public works department shall inform the applicant in writing of the reasons for disapproval.
- (b) Erosion control plans for sites of less than one acre of land development or land disturbing activity. Within 20 working days of receipt of the application, control plan statement, and fee, the public works department shall review the application and control plan statement to determine if requirements of this article are met. The public works department may request comments from other staff or agencies. If requirements of this article are met, the public works department shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the public works department 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 public works department shall again determine if the plan meets the requirements of this article. If the plan is disapproved, the public works department shall inform the applicant in writing of the reasons 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 public works department may extend the period one or more times for up to an additional 180 days. The public works department 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, irrevocable letter of credit, in an appropriate amount, or cash escrow to guarantee a good faith execution of the approved erosion control plan and any permit conditions.
- (c) *Permit Conditions.* All control permits shall require the permittee to:
 - (1) Notify the public works department within two working days of commencing any land development and land disturbing activity;
 - (2) Notify the public works department of completion of any best management practices within the next working day after their installation;
 - (3) Obtain permission in writing from the public works department 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;
 - (7) Inspect the best management practices after each rain or 0.5 inch or more and at least once each week and make needed repairs;
 - (8) Allow Village personnel or other agents authorized by the Village 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; and
 - (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 public works department 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; or
 - (3) The conditions of the permit are not being met.

- (b) *Revocation of Permit.* Of the permittee does not cease the activity or comply with the erosion control plan or permit conditions within 24 hours, the building inspector 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 building inspector may request the Village attorney to obtain a cease and desist order.
- (d) *Retraction of stop-work order or revocation of permit.* The building inspector may retract the stop-work order or the erosion control permit revocation.
- (e) *Notice of intent.* After posting a stop-work order, the building inspector may issue a notice of intent to the permittee or landowner or land user of the Village intent to perform work necessary to comply with this article. Village personnel or other agents authorized by the Village Board 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 Village personnel or other authorized agents 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. 66.0703.
- (g) *Violations.* 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 Zoning Board of Appeals:
 - (1) Shall hear and decide appeals where it is alleged that there is error in any order decision or determination made by the public works department or building inspector in administering this article;
 - (2) Upon appeal, may authorize variances from 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 the article will result in unnecessary hardship; and
 - (3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (b) *Who may appeal.* Appeals to the zoning board of appeals may be taken by any aggrieved person or by any officer, department, and board of bureau of the Village affected by any decision of the public works department of building inspector.

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 control plans, conducting site inspections and administering the erosion control program.

This Ordinance shall take effect according to State Statute #61.32 and upon its passage and publication as provided by law.

VILLAGE OF SUPERIOR

By: *Alex P. Grymala*
Alex P. Grymala - President

ATTEST: *Marsha K. Wick*
Marsha K. Wick- Clerk/Treasurer

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Site Erosion
Control

Date Passed: January 10, 2008
Date Published: January 11, 2008

Erosion Control Permit Fees

Land Disturbance Area	Fee
< 1 Acres	\$50
1-5 Acres	\$75
> 5 Acres	\$175

Stormwater Management Plan Permit Fees

Land Disturbance Area	Fee
< 1 Acres	\$0 (No Stormwater Management Plan Required)
1-5 Acres	\$25 + Plan review costs at current hourly rate
> 5 Acres	\$25 + Plan review costs at current hourly rate