

CHAPTER XXXIII

CONSTRUCTION SITE EROSION CONTROL

- 33.01 Authority
- 33.02 Findings and Purpose
- 33.03 Applicability of Ordinance
- 33.04 Definitions
- 33.05 Design Criteria, Standards and Specifications for Control Measures
- 33.06 Maintenance of Control Measures
- 33.07 Control of Erosion and Pollutants During Land Disturbance and
Development
- 33.08 Permit Application, Control Plan, and Permit Issuance
- 33.09 Inspection
- 33.10 Enforcement
- 33.11 Appeals

33.01 AUTHORITY. This ordinance is adopted under the authority granted by Sec. 61.354, Wis. Stats.

33.02 FINDINGS AND PURPOSE. (1) **FINDINGS.** The Village Board finds that runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the state and this village and particularly to Elkhart Lake.

(2) **PURPOSE.** It is the purpose of this ordinance to preserve the natural resources; to protect the quality of the waters of the state and the Village of Elkhart Lake and Elkhart Lake itself; 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 Elkhart Lake or other bodies of water within the jurisdiction of the Village of Elkhart Lake.

33.03 APPLICABILITY OF ORDINANCE. This ordinance applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the Village of Elkhart Lake. All state funded or conducted construction is exempt from this ordinance.

33.04 DEFINITIONS. (1) "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.

(2) "Commercial land use" means use of land for the retail or wholesale sale of goods or services.

(3) "Construction site control measure" means a control measure used to meet the requirements of sec. 33.07(2).

(4) "Control measure" means a practice or combination of practices to control erosion and attendant pollution.

(5) "Control plan" means a written description of the number, locations, sizes 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 Elkhart Lake Plan Commission.

(6) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.

(7) "Land developing activity" means the construction of buildings, roads, parking lots, paved storage areas and similar facilities.

(8) "Land disturbing construction activity" means any man-made 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; harvesting of trees; and landscaping modifications.

(9) "Landowner" means any person holding title to or having an interest in land.

(10) "Land user" means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

(11) "Runoff" means the rainfall, snowmelt, or irrigation water flowing over the ground surface.

(12) "Set of one year design storms" means the following rain intensities and rain volumes or corresponding values specific to the community for the storm durations of .05, 1, 2, 3, 6, 12 and 24 hours that occur approximately once per year.

storm duration (hours)	average rain intensity (inches/hour)	total rain (inches)
0	1.8	0.9
1	1.1	1.1
2	0.7	1.3
3	0.5	1.5
6	0.3	1.7
12	0.2	2.0
24	0.1	2.3

(13) "Site" means the entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.

33.05 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR CONTROL MEASURES. All control measures required to comply with this ordinance shall meet the design criteria, standards and specifications for the control measures based on accepted design criteria, standards and specifications identified by the Elkhart Lake Plan Commission.

33.06 MAINTENANCE OF CONTROL MEASURES. All sedimentation basins and other control measures necessary to meet the requirements of this ordinance shall be maintained by the applicant or subsequent landowner 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.

33.07 CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBANCE AND DEVELOPMENT. (1) **APPLICABILITY.** This section applies to the following sites of land development or land disturbing activities:

(a) Those requiring a subdivision plat approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved subdivision plats.

(b) Those requiring a certified survey approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved certified surveys.

(c) Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of 4,000 square feet or more.

(d) Those involving excavation or filling or a combination of excavation and filling affecting 400 cubic yards or more of dirt, sand or other excavation or fill material.

(e) Those involving street, highway, road, or bridge construction, enlargement, relocation or reconstruction.

(f) Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300 feet or more.

(2) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS.

The following requirements shall be met on all sites described in sub. (1).

(a) Site dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upslope chambers, hydro-cyclones, swirl concentrators, or other appropriate controls designed and used to remove particles of 100 microns or greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than 100 microns during dewatering operations, then no control is needed before discharge, except as determined by the Elkhart Lake Plan Commission. Water may not be discharged in a manner that causes erosion of the site or receiving channels.

(b) 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 and not allowed to be carried by runoff into a receiving channel or storm sewer system.

(c) 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 (not flushing) before the end of each workday.

(d) Drain inlet protection. Inlets shall be protected with a straw or equivalent barrier meeting accepted standards and specifications. All storm drain bale, filter fabric, design criteria.

(e) Site erosion control. The following criteria (1. through 5.) apply only to land development or land disturbing 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 33.07(2)(e)3.c. Sheetflow 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 ft./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 anyone time.

3. Runoff from the entire disturbed area on the site shall be controlled by meeting either subpar. a. and b. or a. and c.

a. All disturbed ground left inactive for seven or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering, or other equivalent control measure.

b. For sites with ten acres or more disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of one year design storms having durations 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.

c. For sites with less than ten acres disturbed at one time, filter fences, straw bales, or equivalent control measures 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.

4. Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. If remaining for more than seven days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than seven 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 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control if exposed for more than seven days, and the storm-drain inlets must be protected with straw bale or other appropriate filtering barriers.

33.08 PERMIT APPLICATION, CONTROL PLAN, AND PERMIT ISSUANCE. No landowner or land user may commence a land disturbance or land development activity subject to this ordinance without receiving prior approval of a control plan for the site and a permit from the Elkhart Lake Plan Commission. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this ordinance shall submit an application for a permit and a control plan and pay an application fee to the Clerk for the Village of Elkhart Lake. By submitting an application, the applicant is authorizing the Elkhart Lake Building Inspector or any other employee or agent of the Village of Elkhart Lake designated by the Elkhart Lake Plan Commission or the Village Board of Trustees to enter the site to obtain information required for the review of the control plan.

(1) **CONTENT OF THE CONTROL PLAN FOR LAND DISTURBING ACTIVITIES COVERING ONE ACRE OR MORE.** Existing site map. A map of existing site conditions on a scale of at least 1 inch equals 100 feet showing the site and immediately adjacent areas:

1. Site boundaries and adjacent lands which accurately identify site location;
2. Lakes, streams, wetlands, channels, ditches and other water courses 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;
7. Locations and dimensions of utilities, structures, roads, highways, and paving; and
8. Site topography at a contour interval not to exceed five feet.

(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 disturbing activities;

2. Locations and dimensions of all temporary soil or dirt stockpiles;
3. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this ordinance;
4. Schedule of anticipated starting and completion date of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of this ordinance; and
5. Provisions for maintenance of the construction site control measures during construction.

(2) CONTENT OF CONTROL PLAN STATEMENT FOR LAND DISTURBING ACTIVITIES COVERING LESS THAN ONE ACRE, BUT MEETING THE APPLICABILITY REQUIREMENTS STATED IN 33.07(1).

- (a) An erosion control plan statement (with simple map) shall be submitted to briefly describe the site and erosion controls (including the site development schedule) that will be used to meet the requirements of the ordinance.

(3) REVIEW OF CONTROL PLAN. Within 45 days of receipt of the application, control plan, (or control plan statement) and fee, the Elkhart Lake Plan Commission shall review the application and control plan to determine if the requirements of this ordinance are met. The Plan Commission shall thereupon recommend approval of the plan to the Village Board of Trustees. The Village Board of Trustees shall thereupon approve the plan, inform the applicant and issue the permit. If the requirements are not met, the Elkhart Lake Plan Commission shall inform the applicant in writing and may either require needed information or disapprove the plan. Within 30 days of receipt of needed information, the Elkhart Lake Plan Commission shall again determine if the plan meets the requirements of this ordinance and shall submit its recommendations to the Village Board of Trustees. If the plan is disapproved, the Elkhart Lake Village Board of Trustees shall inform the applicant in writing of the reasons for the disapproval.

(4) PERMITS. (a) Duration. Permits 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 Elkhart Lake Plan Commission, or if designated by them, the Elkhart Lake Building Inspector, may extend the period one or more times for up to an additional 180 days. The Elkhart Lake Plan Commission may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this ordinance.

- (b) Surety bond. As a condition of approval and issuance of the permit, the Elkhart Lake Plan Commission may require the applicant to deposit a surety bond

or irrevocable letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions.

(c) Permit conditions. All permits shall require the permittee to:

1. Notify the Elkhart Lake Building Inspector within 48 hours of commencing any land disturbing activity;
2. Notify the Elkhart Lake Building Inspector of completion of any control measures within 14 days after their installation;
3. Obtain permission in writing from the Elkhart Lake Plan Commission prior to modifying the control plan;
4. Install all control measures as identified in the approved control plan;
5. Maintain all road drainage systems, storm water drainage systems, control measures and other facilities identified in the control plan;
6. Repair any situation or erosion damage to adjoining surfaces and drainageways resulting from land developing or disturbing activities;
7. Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs;
8. Allow the Elkhart Lake Plan Commission or its designee, the Elkhart Lake Building Inspector, to enter the site -for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan; and
9. Keep a copy of the control plan on the site.

33.09 INSPECTION. The Elkhart Lake Plan Commission or its designee, the Elkhart Lake Building Inspector, shall inspect construction sites at least once a month during the period starting March 1 and ending October 31 and at least two times during the period starting November 1 and ending February 28 to ensure compliance with the control plan. If land disturbing or land development activities are being carried out without a permit, the Elkhart Lake Building Inspector shall enter the land pursuant to the provisions of Sec. 66.122 and 66.123, Wis. Stats.

33.10 ENFORCEMENT. (1) The Elkhart Lake Plan Commission or its designee, the Elkhart Lake Building Inspector, 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;

- (b) The 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 ten days, the Elkhart Lake Plan Commission or its designee, the Elkhart Lake Building Inspector, may revoke the permit.

(3) If the landowner or land user where no permit has been issued does not cease the activity within ten days, the Elkhart Lake Plan Commission or its designee, the Elkhart Lake Building Inspector, may request the village attorney to obtain a cease and desist order.

(4) The Elkhart Lake Plan Commission or the Board of Appeals may retract the stop-work order or the revocation.

(5) Ten days after posting a stop-work order, the Elkhart Lake Plan Commission or agents appointed by it may issue a notice of intent to the permittee or landowner or land user of the Plan Commission's intent to perform work necessary to comply with this ordinance. The Plan Commission may go on the land and through its agents commence the work after 14 days from issuing the notice of intent. The costs of the work performed by the Village of Elkhart Lake plus interest at the rate authorized by the Village Board of Trustees shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Sec. 66.60(16), Wis. Stats.

(6) Any person violating any of the provisions of this ordinance shall be subject to a forfeiture of not less than \$50 nor more than \$500 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

(7) Compliance with the provisions of this ordinance may also be enforced by injunction.

33.11 APPEALS. (1) BOARD OF APPEALS. Appeals created pursuant to sec. 16.07 of the Zoning Ordinance pursuant to Sec. 62.23(7)(e) Wis. Stats.: The Board of Elkhart Lake and 68.11,

(a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Elkhart Lake Plan Commission or its designee, the Elkhart Lake Building Inspector, in administering this ordinance;

(b) Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and

(c) Shall use the rules, procedures, duties and power authorized by statute in hearing and deciding appeals and authorizing variances.

(2) WHO MAY APPEAL. Appeals to the Board of Appeals may be taken by any aggrieved person or by any officer, department, board or bureau of the Village of Elkhart Lake affected by any decision of the Elkhart Lake Plan Commission or its designee, the Elkhart Lake Building Inspector.