

## Title 15 – Chapter 3

# Erosion and Stormwater Runoff Control

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### Sec. 15-3-1 Title.

This Chapter shall be known, cited and referred to as the “Erosion and Stormwater Runoff Control Ordinance”.

### Sec. 15-3-2 Finding and Declaration of Purpose.

The Town finds that urbanizing land uses have accelerated the process of soil erosion, runoff and sediment deposition in the waters of the Town of Oshkosh. Therefore, it is declared to be the purpose of this Chapter to control and prevent soil erosion and minimize stormwater runoff increases and thereby to preserve the natural resources, control floods and prevent impairment of dams and reservoirs, protect the quality of public waters, protect wildlife, protect the tax base and protect and promote the health, safety and general welfare of the people of the Town of Oshkosh.

### Sec. 15-3-3 General Provisions.

- (a) **Applicability.** This Chapter applies to the use of lands within the incorporated boundaries of the Town of Oshkosh.
- (b) **Severability of Provisions.** If any section, provision or portion of this Chapter is judged unconstitutional or invalid by a court, the remainder of this Chapter shall not be affected thereby.
- (c) **Performance Time Requirement.** All action required in this Chapter shall be conducted as soon as possible as determined by the Administrative Authority.

## Sec. 15-3-4 Definitions.

For the purpose of this Chapter, certain words used herein are defined as follows:

- (a) **Administrative Authority.** Means the governmental employee designated by the Town Board to administer this Chapter and includes any other governmental employees who are supervised by the said administrator, for the implementation and enforcement of this Chapter.
- (b) **Agricultural Land Uses.** Means alterations or disturbances of the land used for the production of food and fiber.
- (c) **Cease and Desist Order.** Is a means of giving notice to the permittee or violator that the Administrative Authority believes that the permittee or violator has violated one (1) or more provisions of this Chapter. Notice is given by posting upon the lands where the disturbing activity occurs, one (1) or more copies of a poster so stating the violation by mailing a copy of this poster by certified mail to the permittee or violator at the address shown on the permit or to the violator at any address of record.
- (d) **Town.** Means the Town of Oshkosh Town Board.
- (e) **Control Plan (Erosion and Sediment Control Plan and Runoff Control Plan).** Is a plan approved by the Administrative Authority, of methods for controlling soil erosion, surface water runoff and sediment deposition caused by or resulting from land-disturbing activities.
- (f) **Detention Storage.** Is the temporary detaining or storage of stormwater in reservoirs, under predetermined and controlled conditions, with the rate of discharge therefrom regulated by installed devices.
- (g) **Erosion (Soil Erosion).** Is the detachment and movement of soil or rock fragments by water, wind, ice and gravity.
- (h) **Existing Grade.** Means the vertical location of the existing ground surface prior to excavating or filling.
- (i) **Grading.** Is altering the elevation of the land surface by stripping, excavating, filling, stockpiling of solid materials or any combination thereof and shall include the land from which the material was removed or upon which it was placed.
- (j) **Land-Disturbing Activities or Uses.** Any land changes which may result in soil erosion, sedimentation and/or the increase in runoff, including, but not limited to, filling, removal of ground cover, grading, excavating and filling of land, except that the term shall not include such minor land-disturbing activities as home gardens and repair and maintenance of private roads. Additionally, this term does not include agricultural land uses and wildlife plantings.
- (k) **Land in Its Natural Undeveloped State.** Shall mean land which has runoff characteristics equivalent to runoff curve number (CN) 70, as used in the runoff methodology promulgated by the United States Soil Conservation Service National Engineering Handbook.
- (l) **Land Treatment Measures.** Structural or vegetative practices, or combinations of both, used to control erosion and sediment production, including areas to be protected by fencing.

- (m) **Peak Flow.** The maximum rate of flow of water at a given point in a channel, watercourse or conduit resulting from a predetermined storm or flood.
- (n) **Public Lands.** All government owned lands which are subject to regulation by the Town; including but not limited to:
  - (1) All lands owned or controlled by the Town.
  - (2) All lands which are owned by another unit of government.
- (o) **Runoff.** The portion of rainfall, melted snow or irrigation water that flows across the ground surface.
- (p) **Sediment.** Solid material, both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by air, water or ice and has come to rest on the earth's surface at a different site.
- (q) **Sedimentation.** The transportation and deposition of sediment.
- (r) **Soil Loss.** Soil moved from a given site because of land-disturbing activities or by the forces of erosion and redeposited at another site on land or in a body of water.
- (s) **Stormwater Runoff.** The portion of rainfall that reaches a stream, lake, channel, storm, sewer, street or other improvement during or soon after a storm.
- (t) **Structural Measures.** Works of improvement for land stabilization to prevent erosion, sediment or runoff.
- (u) **Storm Frequency.** The average period of time which a storm of a given duration and intensity can be expected to be equaled or exceeded.

### **Sec. 15-3-5 Land-Disturbing Activities Subject to Erosion, Sediment, Onsite Detention and Runoff Control.**

- (a) **General Requirement.** Any owner, occupant or user who undertakes, commences or performs land-disturbing activities; or who permits another person to do the same, on land subject to this Section, shall be subject to this Chapter.
- (b) **Land-Disturbing Activities Subject to Erosion and Sediment Control.** Activities on public lands and on all private lands shall be subject to this Chapter, if:
  - (1) An area of four thousand (4,000) square feet or greater will be disturbed resulting in the loss or removal of protective ground cover or vegetation.
  - (2) Excavation, fill, or any combination thereof, will exceed four hundred (400) cubic yards.
  - (3) Any public (federal, state or local) street, road or highway is to be constructed, enlarged, relocated or substantially reconstructed.
  - (4) Any use by a unit of government or by public or private utilities in which underground pipe or facilities will be laid, repaired, replaced or enlarged for a distance over three hundred (300) feet.
  - (2) There is a subdivision of land as defined in the Subdivision Regulations of the Town of Oshkosh.
- (c) **Land-Disturbing Activities Subject to On-Site Detention and Runoff Control.** Activities on public lands and on all private lands shall be subject to this Chapter if:

- (1) The activity will be a residential development having a gross aggregate area of five (5) acres or more.
  - (2) The activity will be a residential development on less than five (5) acres and more than three (3) acres, having fifty percent (50%) or more of the area as impervious surfaces.
  - (3) The activity will be a development, other than residential, having a gross aggregate area of three (3) acres or more.
  - (4) In the opinion of the Administrative Authority, the runoff from the activity will exceed the safe capacity of the existing drainage facilities and/or receiving water body; or cause undue channel erosion; or increase water pollution by scour and transport of particles; or endanger the downstream property.
- (d) **Compliance With This Section.** The owner, occupant or user shall be in compliance with this Section if the procedure of Section 15-3-8 is followed.

### **Sec. 15-3-6      Erosion and Sedimentation Control Regulations for Any Land Whether Otherwise Subject to This Chapter or Not.**

Any person, firm or corporation who causes or permits erosion, sediment deposits, tracking or dropping of dirt on adjacent land, public streets or bodies of water from any land, whether otherwise subject to this Chapter or not, shall be deemed in violation of this Chapter and subject to the penalties provided in Section 15-3-9.

### **Sec. 15-3-7      Standards and Criteria.**

- (a) **Standard for Erosion and Sediment Control for Land-Disturbing Activities.** Plans will not be approved nor permits issued unless erosion and sedimentation leaving the site during and after the land disturbance will not exceed that which would have eroded if the land had been left in its undisturbed state and/or are controlled in accordance with established procedures, including but not limited to, "Minimizing Erosion in Urbanizing Areas" or other technical guidelines as developed by the County Soil and Water Conservation District in cooperation with the U.S. Department of Agriculture, Soil Conservation Service.
- (b) **Standards for On-Site Detention and Runoff Control for Land-Disturbing Activities.** Activities subject to on site detention and runoff control regulation under this Chapter shall comply with the following standards:
  - (1) The peak runoff rate after the proposed activities shall not be greater than the peak rate which would have resulted from the same storm event occurring over the site with the land in its natural undeveloped condition for storms of twenty-four (24) hours duration and recurrence intervals of two (2), five (5), ten (10), twenty-five (25), fifty (50) and one hundred (100) years.

- (2) Where on-site detention is used for runoff control, the detention facilities shall safely contain and/or safely pass the runoff of a one hundred (100) year storm of any duration.
- (3) Determination of on-site detention volumes shall be computed by established procedures equivalent to and calibrated against that procedure promulgated by the United States Soil Conservation Service in its National Engineering Handbook or the technical publication entitled, "Urban Hydrology for Small Watershed, TR-55", and accepted by the Town Engineer.
- (c) **Standard for Tracking.** For plan approval and issuance of a permit there must be adequate provisions to prevent the tracking or dropping of dirt or other materials from the site onto any public or private street.
- (d) **Design Criteria, Engineering Standards and General Principals.**
  - (1) The applicant, for a permit, may employ structural or nonstructural measures necessary to achieve all applicable standards set out in this ordinance. However, these measures accepted design criteria and engineering standards.
  - (2) The following general principles shall be used when evaluating control plans and granting permits under this Chapter.
    - (a) The smallest area of land shall be exposed for the shortest period of any given time during development.
    - (b) The rough grading of the lot shall include backfilling the basement and all excess earth shall be hauled off the lot.
    - (c) Accommodation of the increased runoff caused by changed soil and surface conditions during and after development.
    - (d) Permanent, final plant covering or structures shall be installed prior to final acceptance.
    - (e) The plan of development shall relate to the topography and soils of the site so that the lowest potential for erosion is created.
    - (f) Natural plant covering shall be retained and protected and shall be deemed a dominating factor in developing the site and temporary vegetation, mulching or other cover shall be used to protect the area exposed during the land-disturbing activity.

## **Sec. 15-3-8 Application and Issuance of Permits.**

- (a) **Permit Required; Procedure and Fee.**
  - (1) Unless specifically excluded by this Chapter, no owner, occupant or user may undertake an activity subject to this Chapter without receiving a permit. Each owner, occupant or user desiring to undertake a regulated activity subject to this Chapter shall submit an application for a permit together with the appropriate fee. The permit fee schedule is One Dollar (\$1.00) per one thousand square feet of gross lot area to be developed.
  - (2) Exceptions to this requirement are as follows:

- (a) No permit fee shall be assessed against public lands unless those public lands are being developed for private purposes.
  - (b) The Town may enter into an agreement with public or private utilities and governmental agencies to waive the need for a permit for each individual activity, if they will agree to follow this Chapter.
  - (c) Any subdivision of land as defined by the Subdivision Regulations of the Town of Oshkosh shall pay a permit fee of Twenty-Five Dollars (\$25.00), plus reimburse the Town for the actual costs sustained, for administration of this Chapter related to the subdivision, in lieu of the permit fee of One Dollar (\$1.00) per one thousand (1,000) square feet for a gross lot area to be developed.
- (b) **Control Plan Required.**
  - (1) Unless specifically exempted by this Chapter, every applicant for a permit shall submit a plan to control erosion, sedimentation and runoff which would result from the proposed activity.
  - (2) Permit applicants are exempted from the requirement of the submission of a control plan if the proposed activity is on one (1) acre or less of land, and the permit devices and to implement all the control techniques which are necessary to meet all applicable standards in Section 15-3-7 of this Chapter.
- (c) **Contents of the Control Plan.** The Control Plan required by Section 15-3-8(b) shall contain such information needed to determine soil erosion, sedimentation and runoff control:
  - (1) A map of the site location showing the location of the predominant soil types.
  - (2) A topographic map of the site location, including the contiguous properties, existing drainage patterns and watercourses affected by the proposed development of the site and the existing vegetative cover.
  - (3) A plan of the site showing:
    - (a) Name, address and telephone number of the occupant and party responsible for maintaining erosion control.
    - (b) Limits of natural floodplain(s), based on a one hundred (100) year flood, if any.
    - (c) A timing schedule indicating the anticipated starting and completion dates of the development sequence.
    - (d) Proposed topography of the site location with a maximum of two (2) foot contour intervals showing:
      - 1. Location of activity, disturbance of protective cover, any additional structure on the site, areas to be seeded or mulched, areas to be vegetatively stabilized and areas to be left undisturbed.
      - 2. Elevations, dimensions, location of all activities including where topsoil will be stockpiled.
      - 3. The finished grade, stated in feet horizontal to feet vertical, of cut and fill slopes.
      - 4. Kinds of utilities and areas of installation, including special erosion control practices for utility installation.

5. Paved and covered areas in square feet or to scale on a plan map.
  6. Makeup of surface soil (upper six (6) inches) on areas not covered by buildings, structures or pavement.
  7. Kind of cover on areas not covered by buildings, structures or pavement.
- (e) Plans and hydraulic computations for all structural or nonstructural measures or other protective devices to be constructed in connection with the proposed work showing:
1. Estimated rate of discharge in cubic feet per second at all structural or nonstructural measures and at the point of discharge from the site location for the two (2) through one hundred (100) year frequency storm event after development.
  2. Estimated rate of discharge in cubic feet per second from the site for the two (2) through one hundred (100) year frequency storm event prior to development.
  3. Provisions to carry runoff to the nearest adequate outlet.
  4. Design computations and applicable assumptions for all structural measures for erosion and sediment pollution control and water management. Volume and velocity of flow must be given for all surface water conveyance measures and pipe outfalls.
  5. Provisions for perpetual maintenance of control facilities including easements.
  6. Seeding mixtures and rates, lime and fertilizer application rates and kind and quantity of mulching for both temporary and permanent vegetative control measures.
- (4) Methods to prevent tracking of soil off the site of activity.
- (d) **Review of Application.**
- (1) The Administrative Authority shall review all permit applications accompanied by the control plan, if required, and the appropriate fee and shall determine if measures are adequate to meet all the applicable standards as set out in Section 15-3-7. The determination shall be done within ten (10) workdays from the receipt. The applicant will be informed in writing whether the control plan is approved, disapproved and modified or if additional information is required. Failure to render a written decision within ten (10) workdays shall be deemed to mean approval of the plan, as submitted and the applicant may proceed as if a permit has been issued.
  - (2) In the event that the plan is disapproved, and the applicant may resubmit a new control plan or may appeal the Administrative Authority's decision as provided in Section 15-3-10. No additional permit fee is required.
- (e) **Permit; Conditions.** All permits under this Chapter shall be issued subject to the following conditions and requirements:
- (1) All land disturbances will be done pursuant to the approved control plan.
  - (2) The permittee gives two (2) working days notice in advance of the start of any activity.

- (3) The permittee shall file a notice within ten (10) days after completion of land-disturbing activities.
  - (4) Approval in writing must be obtained prior to any modifications to the approved control plan.
  - (5) The permittee shall be responsible for maintaining all proposed public roads, road right-of-ways, streets, runoff and drainage facilities and drainageways as specified in the approved plan until they are accepted and become the responsibility of the Town.
  - (6) The permittee shall be responsible, at permittee's expense, for repairing any damage to all adjoining surfaces and drainageways caused by runoff and/or sedimentation resulting from permittee's activities.
  - (7) The permittee shall provide and install at permittee's expense all drainage, runoff control and erosion control improvements as required by this Chapter and the approved control plan and shall provide perpetual maintenance on all these private control facilities.
  - (8) No portion of the land which is disturbed will be allowed to remain uncovered for greater than two (2) weeks after notice is given that the activity is completed.
  - (9) The permittee agrees to permit the Administrative Authority to enter onto the land regulated under this Chapter for the purpose of inspecting for compliance with the approved control plan and permit.
  - (10) The permittee authorizes the Administrative Authority to perform any work or operations necessary to bring the condition of the lands into conformity with the approved control plan and further consents to the Town collecting the total of the costs and expenses of such work and operating as a special charge against the property for current services rendered as provided by law.
- (f) **Permit Duration.** Permits issued under this Chapter shall be valid for a period of six (6) months from the date of issuance. The Administrative Authority is authorized to extend the expiration date of the permit. The Administrative Authority is authorized to modify the plans to prevent any increase in sedimentation, erosion or runoff resulting from any extension.

### **Sec. 15-3-9      Violations.**

- (a) **Penalties.** Any person, firm, company or corporation, either owner or occupant of the premises, who fails to comply with any of the provisions of this Chapter shall be subject to a forfeiture as provided in Section 1-1-6. Each day that a violation exists or continues shall constitute a separate offense.
- (b) **Enforcement by Injunction.** Compliance with the provisions of this Chapter may also be enforced by injunctive order at the suit of the Town of Oshkosh.
- (c) **Performance of Work by the Administrative Authority.** Where it is found that any of the provisions of this Chapter are not being observed on particular lands, the Administrative Authority is hereby authorized to require the owner, occupant or user to perform the work or land treatment measures within ten (10) working



days and to order that if the owner, occupant or user fails to perform, the Administrative Authority may go on the land and bring the condition of said lands into conformity with the requirements of this Chapter and recover the costs and expenses thereof from the owner. In the event that the owner fails to pay the amount due, it shall be collected as a special charge for current services rendered upon the property as provided by law.

## **Sec. 15-3-10 Appeals.**

- (a) **Authority.** The Town Board shall:
  - (1) Hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Administrative Authority in administering this Chapter.
  - (2) Authorize upon appeal in specific cases such variances from the terms of this Chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Chapter will result in unnecessary hardship, so that the spirit of this Chapter shall be observed, public safety and welfare secured and substantial justice done. Such variance may be granted to two (2) or more property owners, including governmental agencies who submit one (1) runoff control plan for two (2) or more parcels of land. In the event it is in the interest of the Town of Oshkosh to participate with another property owner(s) in a runoff control plan and contribute available storm water detention capacity, or construct storm water detention on Town lands, the other participant(s) shall reimburse the Town an amount equal to the value of the Town lands used but not less than the fair market value of unimproved lands plus the estimated construction cost of the detention capacity that would have been required of the other participant(s) to serve their lands in order to comply with this Chapter.
- (b) **Procedure.** The rules, procedures, duties and powers of the Town Board shall apply to appeals under this Chapter.
- (c) **Who May Appeal.** Appeals may be taken by any person, firm or corporation aggrieved or by an officer, department, board or commission of the Town of Oshkosh affected by the order, requirement, decision or determination made by the Administrative Authority. For the purpose of this Chapter, “aggrieved person” shall include applicants and property owners who own land which is subject to the Chapter.