

Chapter 73

CONSTRUCTION SITE EROSION CONTROL

GENERAL REFERENCES

Driveways – See Ch. 97.

Nonmetallic mining – See Ch. 182.

Natural and archaeological resource preservation – See Ch. 194.

Stormwater management – See Ch. 297

Subdivision of land – See Ch. 308

Zoning – See Ch. 375.

§ 73-1 Authority.

- A. This ordinance is adopted by the Town of Scott under the authority granted by Wis. Stats. § 60.627. This ordinance supersedes all conflicting and contradictory stormwater management regulations previously enacted under Wis. Stats. § 60.62, that relate to construction site erosion control. Except as specifically provided for in Wis. Stats. § 60.62 applies to this chapter and to any amendments to this chapter.
- B. The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the Town Board.
- C. The Town Board hereby designates the Zoning Administrator or designee to have the administrative authority to administer and enforce the provisions of this chapter.
- D. The requirements of this ordinance do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
 - (1) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.

- (2) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

§ 73-2 Findings of Fact.

The Town Board finds that uncontrolled stormwater runoff from land disturbing construction activity has a significant detrimental impact upon water resources and the health, safety, and general welfare of the Town. Specifically, uncontrolled runoff can:

- A. Degrade physical stream habitat by increasing stream bank erosion, increasing streambed scour, diminishing groundwater recharge, diminishing stream base flows, and increasing stream temperature.
- B. Diminish the capacity of lakes and streams to support fish, aquatic life, recreational and water supply uses by increasing pollutant loading of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens and other urban pollutants.
- C. Alter wetland communities by changing wetland hydrology and by increasing pollutant loads.
- D. Reduce the quality of groundwater by increasing pollutant loads.
- E. Threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways and other minor drainage facilities.
- F. Threaten public health, safety, property and general welfare by increasing major flood peaks and volumes.
- G. Undermine floodplain management efforts by increasing the incidence and levels of flooding.
- H. Diminish the public enjoyment of natural resources.

§73-3 Purpose.

- A. PURPOSE. The purpose of this chapter is to set forth stormwater requirements and criteria that will prevent and control water pollution and diminish the threats to public health, safety, welfare, and aquatic life due to runoff of stormwater from land disturbing construction activity. Specific purposes are to:
 - (1) Further the maintenance of safe and healthful conditions.
 - (2) Prevent and control the adverse effects of storm water; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.

- (3) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

§73-4 Definitions.

- A. **ADMINISTRATIVE AUTHORITY.** The governmental employee designated by the Town to administer this ordinance. The Zoning Administrator has been designated to have the authority to administer this ordinance pursuant to § 73-1C.
- B. **AGRICULTURAL FACILITY AND PRACTICES.** Has the meaning in s. 281.16(1), Wis. Stats.
- C. **AVERAGE ANNUAL RAINFALL.** Means a calendar year of precipitation, excluding snow, which is considered typical.
- D. **BEST MANAGEMENT PRACTICE or BMP.** Structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in stormwater runoff to waters of the state.
- E. **BUSINESS DAY.** A day that offices of the Town are routinely and customarily open for business.
- F. **CEASE AND DESIST ORDER.** A Town order to halt land-developing activity that is being conducted without the required permit.
- G. **COMMON PLAN OF DEVELOPMENT OR SALE.** All lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property or a single lot where multiple separate and distinct land developing activities may take place at different times and on different schedules.
- H. **CONSTRUCTION SITE.** 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 where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.
- I. **DIVISION OF LAND.** The creation from one parcel of two or more parcels or building sites of 1.5 or fewer acres each in areas where such creation occurs at one time or through the successive divisions within a 5 year period.
- J. **EROSION.** The process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- K. **EROSION AND SEDIMENT CONTROL PLAN.** A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments

during construction.

- L. **EXTRATERRITORIAL.** The unincorporated area within 3 miles of the corporate limits of a first, second or third class city, or within 1.5 miles of a fourth class city or village.
- M. **FINAL STABILIZATION.** When 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.
- N. **LAND DISTURBING CONSTRUCTION ACTIVITY.** Any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into the water of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling, and grading activities.
- O. **MEP or Maximum Extent Practicable.** A level of implementing best management practices in order to achieve a performance standard specified in this chapter 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
- P. **PERFORMANCE STANDARD.** A narrative or measurable number specifying the minimum acceptable outcome for a facility of practice.
- Q. **PERMIT.** A written authorization made by the Town to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.
- R. **POLLUTANT.** The meaning given in s 283.01(13), Wis. Stats.
- S. **POLLUTION.** The meaning given in s. 281.01(10), Wis. Stats.
- T. **RESPONSIBLE PARTY.** Any person or entity holding fee title to the property or other person or entity contracted or obligated by agreement to implement and maintain post-construction stormwater Best Management Practices.
- U. **RUNOFF.** Storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- V. **SEDIMENT.** Setttable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- W. **SILVICULTURE.** Activities including tree nursery operations, tree harvesting operations, reforestation, tree thinning, prescribed burning, and pest and fire control. Clearing and

grubbing of an area of a construction site is not silviculture activity.

- X. SITE. The entire portion included in the legal description of the land on which the land disturbing construction activity is proposed to take place.
- Y. STOP WORK ORDER. An order issued by the Town that requires that all construction activity on the site be stopped immediately.
- Z. TECHNICAL STANDARD. A document that specifies design predicted performance and operation and maintenance specifications for a material, device or method.
- AA. WATERS OF THE STATE. Any channel, ditch, stream, lake, or other body of water determined to be under State of Wisconsin authority as defined in Wis. Stats. § 281.01(18).

§ 73-5. Applicability and Jurisdiction.

- A. APPLICABILITY. This ordinance applies to any construction site as defined under §73-4. G.
- B. EXEMPTIONS. A site that meets any of the following is exempt from the requirements of this chapter:
 - (1) Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.

Note to Users: Transportation facility projects directed and supervised by the Wisconsin Department of Transportation are not subject to this ordinance. Notwithstanding this ordinance, a municipality is required to comply with the construction site transportation facility performance standards in subch. IV of NR 151, Wis. Adm. Code, for its own transportation-related projects.

- (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 facilities and practices.
 - (4) Nonpoint discharges from silviculture activities.
 - (5) Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- C. JURISDICTION. This ordinance applies to land disturbing construction activities on lands within the boundaries and jurisdiction of the Town of Scott.

- D. Notwithstanding the applicability requirements in paragraph A, this ordinance applies to construction sites of any size that, in the opinion of the Town, 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.
- E. 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.

§73-6 Applicability of Maximum Extent Practicable.

Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the Town's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interest such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

§73-7 Technical Standards.

- A. 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:
 - (1) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.
 - (2) 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. OTHER STANDARDS. Other technical standards not identified or developed in section A, may be used provided that the methods have been approved by the Town.

§73-8 Performance Standards for Construction Sites Under One Acre.

- A. RESPONSIBLE PARTY. The responsible party shall comply with this section.
- B. EROSION AND SEDIMENT CONTROL PRACTICES. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

- (1) The deposition of soil from being tracked onto streets by vehicles.
- (2) The discharge of sediment from disturbed areas into on-site storm water inlets.
- (3) The discharge of sediment from disturbed areas into adjacent waters of the state.
- (4) The discharge of sediment from drainage ways that flow off the site.
- (5) The discharge of sediment by dewatering activities.
- (6) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
- (7) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period.

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 subdivision.

- C. LOCATION. The BMPs shall be located so that treatment occurs before runoff enters waters of the state.
- D. IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:
- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
 - (2) Erosion and sediment control practices shall be maintained until final stabilization.
 - (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (4) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
 - (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

§73-9 Performance Standards for Construction Sites One Acre or More. .

- A. RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with § 73-11 that incorporates the requirements of this section.

- B. PLAN. A written erosion and sediment control plan shall be developed in accordance with § 73-11 and implemented for each construction site.
- C. REQUIREMENTS. The erosion and sediment control plan shall meet the following minimum requirements to the maximum extent practicable:
- (1) Erosion and Sediment Control Practices. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
 - (a) The deposition of soil from being tracked onto streets by vehicles.
 - (b) The discharge of sediment from disturbed areas into on-site storm water inlets.
 - (c) The discharge of sediment from disturbed areas into adjacent water of the state.
 - (d) The discharge of sediment from drainage ways that flow off the site.
 - (e) The discharge of sediment by dewatering activities.
 - (f) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 - (g) The discharge of sediment from erosive flows at outlets and in downstream channels.
 - (h) The transport of runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. 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 subdivision.
 - (i) The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
 - (2) Sediment Performance Standards. In addition to the erosion and sediment control practices under section (1), the following erosion and sediment control practices shall be employed:
 - (a) BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of sediment load carried in runoff from initial grading to final stabilization.
 - (b) No person shall be required to employ more BMPs than are needed to meet a

performance standard in order to comply with the maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.

- (c) If BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion control plan shall include written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

(3) Preventive Measures. The erosion and sediment control plan shall incorporate all the following:

- (a) Maintenance of existing vegetation, especially adjacent to surface waters of the state.
- (b) Minimization of soil compaction and preservation of topsoil.
- (c) Minimization of land disturbing construction activity on slopes of 20 percent or more.
- (d) Development of a spill prevention and response procedures.

D. LOCATION. The Best Management Practices used to comply with this section shall be located prior to runoff entering waters of the state.

E. IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:

- (1) Erosion and sediment control practices shall be constructed and installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan.
- (2) Erosion and sediment control practices shall be maintained until final stabilization.
- (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (4) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
- (5) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

§73-10 Permitting Requirements, Procedures and Fees.

- A. PERMIT REQUIRED. No landowner or other person or entity may undertake a land disturbing construction activity subject to this chapter without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Zoning Administrator prior to commencing the proposed activity.
- B. PERMIT APPLICATION AND FEE. Unless specifically exempted by this chapter, any landowner or other person or entity desiring a permit shall submit to the Zoning Administrator a permit application.
- (1) Unless otherwise exempted by this chapter, a permit application must be accompanied by the following in order for the permit application to be considered by the Zoning Administrator:
 - (a) a stormwater management plan;
 - (b) a maintenance plan and a maintenance agreement;
 - (c) any easements which may be required over downstream property;
 - (d) a copy of plans and specifications for all stormwater facilities;
 - (e) a non-refundable permit administration fee; and
 - (f) performance security, if applicable by § 73-10 (D).
 - (2) Review fees shall be those incurred by the Town and billed to the applicant for actual expenses charged to the Town by its consultants to review the erosion and sediment control plan and administrative costs incurred by the Town.
 - (3) By submitting an application, the applicant is authorizing the Town to enter the site to obtain information required for the review of the erosion and sediment control plan.
- C. REVIEW AND APPROVAL OF PERMIT APPLICATION. The Zoning Administrator shall review any permit application that is submitted with an erosion and sediment control plan and the required fee. The following procedure shall apply:
- (1) Within 30 business days of the receipt of a complete permit application, including all documents as required by § 73-10B.(1), the Zoning Administrator shall inform the applicant whether the application, erosion and sediment control plan and other required documents are approved or disapproved. The Zoning Administrator shall base the decision on requirements set forth in §§ 73-8, 73-9 and 73-11 of this chapter.

- (2) If the permit application and erosion and sediment control plan, and other documents are approved, the Zoning Administrator shall issue the permit.
- (3) If the permit application and erosion and sediment control plan and other documents are disapproved, the Town shall state in writing the reasons for disapproval and the applicant may revise the application and other documents.
- (4) If additional information is submitted by the applicant, the Zoning Administrator shall have 30 business days from the date the additional information is received to inform the applicant that the application, erosion and sediment control plan and other documents are either approved or disapproved.
- (5) Failure by the Zoning Administrator to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed approval of the submittal. Upon notice to the applicant prior to expiration of the 30 business day period, the Zoning Administrator may extend the time for review of the application beyond 30 business days for complex projects.

D. SURETY BOND. As a condition of approval and issuance of the permit, the Zoning Administrator may require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

E. PERMIT REQUIREMENTS. All permits shall require the responsible party to:

- (1) Notify the Zoning Administrator within 48 hours of commencing any land disturbing construction activity.
- (2) Notify the Zoning Administrator of completion of any Best Management Practices within 10 business days after their installation.
- (3) Obtain permission in writing from the Zoning Administrator prior to any modification pursuant to § 73-11 of the erosion and sediment control plan.
- (4) Install all Best Management Practices as identified in the approved erosion and sediment control plan.
- (5) Maintain all road drainage systems, stormwater drainage systems, Best Management Practices and other facilities identified in the erosion and sediment control plan.
- (6) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in weekly inspection reports.
- (7) 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 and sediment

control Best Management Practices 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 and sediment control Best Management Practice implementation and maintenance performed; and a description of the present phase of land disturbing construction activity at the construction site.

- (8) Allow the Zoning Administrator 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 control plan. Keep a copy of the erosion and sediment control plan, stormwater management plan, amendments, weekly inspection reports, and permit at the construction site until permit coverage is terminated.
- (9) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.

F. **PERMIT CONDITIONS.** All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter shall be deemed to have accepted these conditions. The Zoning Administrator may suspend or revoke a permit for violation of a permit condition upon written notification to the permittee. An action by the Zoning Administrator to suspend or revoke this permit may be appealed in accordance with § 73-15 of this chapter.

G. **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 Town may extend the period one or more times for up to an additional 180 days. The Town may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

H. **MAINTENANCE.** The responsible party throughout the duration of the construction activities shall maintain all Best Management Practices necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

§ 73-11 Erosion and Sediment Control Plans.

A. **PLAN REQUIREMENTS.** The erosion and sediment control plan shall be designed to meet the performance standards required under § 73-8 and 73-9 of this chapter and shall contain the following:

- (1) Name, address and phone number for the landowner, the developer, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The applicant shall also include start and end dates for construction.

- (2) Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a topographic map.
- (3) A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
- (4) Total area of the site and total area of the construction site that is expected to be disturbed by construction activities.
- (5) Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.
- (6) Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
- (7) Existing data describing the surface soil as well as subsoils.
- (8) Depth to groundwater, as indicated by Natural resources Conservation Service soil information where available.
- (9) Name of the immediate named receiving water.
- (10) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed five feet.
 - (a) Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
 - (b) Boundaries of the construction site.
 - (c) Drainage patterns and approximate slopes anticipated after major grading activities.
 - (d) Areas of soil disturbance.
 - (e) Location of major structural and non-structural controls identified on the plan.
 - (f) Location of areas where stabilization practices will be employed.
 - (g) Areas which will be vegetated following construction.

- (h) Area and location of wetland on the construction acreage on the site and locations where storm water is discharged into a surface water or wetland.
 - (i) An alphanumeric or equivalent grid overlying the entire construction site map.
- (11) Each erosion control and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching water of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion control shall include, when appropriate, the following minimum requirements:
- (a) Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
 - (b) Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site, unless otherwise specifically approved in writing by the Town, structural measures shall be installed on upland soils.
 - (c) Management of overland flow at all sites, unless otherwise controlled by outfall controls.
 - (d) Trapping of sediment in channelized flow.
 - (e) Staging construction to limit bare areas subject to erosion.
 - (f) Protection of downslope drainage inlets where they occur.
 - (g) Minimization of tracking at all sites.
 - (h) Clean up of off-site sediment deposits.
 - (i) Proper disposal of building and waste materials at all sites.
 - (j) Stabilization of drainage ways.
 - (k) Control of soil erosion from dirt stockpiles.
 - (l) Installation of permanent stabilization practices as soon as possible after final grading.
 - (m) Minimization of dust to the maximum extent practicable.
- (12) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to

provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

B. **EROSION AND SEDIMENT CONTROL PLAN STATEMENT.** For each construction site identified under § 73-5A, an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Zoning Administrator. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

- (1) **AMENDMENTS.** The applicant shall amend the plan if any of the following occur:
 - (a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
 - (b) The actions required by the plan fail to reduce the impacts of pollutants
 - (c) The Zoning Administrator notifies the applicant of changes needed in the plan.

§73-12 Fee Schedule.

A. The fees referred to in other sections of this ordinance shall be established by the Zoning Administrator and may from time to time be modified by resolution. A schedule of the fees established by the Zoning Administrator shall be available for review in the Town Hall.

§73-13 Inspection.

A. If land disturbing construction activities are being carried out without a permit required by this ordinance, the Zoning Administrator may enter the land pursuant to the provisions of Wis. Stats. §§ 66.0119(1), (2), and (3).

§73-14 Enforcement and Penalties.

- A. The Zoning Administrator may post a stop-work order if any of the following occurs:
- (1) Any land disturbing construction activity regulated under this ordinance is being undertaken without a permit.
 - (2) The erosion and sediment control plan is not being implemented in a good faith manner.
 - (3) The conditions of the permit are not being met.
- B. Any land disturbing construction activity initiated after the effective date of this chapter by any

person or entity subject to the provisions of this chapter shall be deemed a violation unless conducted in accordance with said provisions.

- C. The Zoning Administrator may issue a citation or a Notice of Violation in order to correct any violation of this chapter. A Notice or Violation shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken.
- D. Upon receipt of written notification from the Zoning Administrator, a permittee shall correct work that does not comply with the erosion and sediment control plan or other provisions of the permit within 30 days. A permittee shall make corrections as necessary to meet the specifications and schedule set forth by the Zoning Administrator in the notice.
- E. The Zoning Administrator may suspend or revoke a permit issued under this ordinance for noncompliance with the provisions of this chapter.
- F. Any permit revocation or stop work order shall remain in effect unless retracted by the Zoning Administrator or by a court of competent jurisdiction.
- G. Any person or entity who fails to comply with any provision of this chapter or order issued hereunder shall be subject to a forfeiture under Section 1-16A(5) of this Code.
- H. When the Zoning Administrator determines that a permittee has failed to follow practices set forth in the stormwater management plan submitted and approved pursuant to § 73-10 of this chapter, or has failed to comply with schedules set forth in said erosion and sediment control plan, the Zoning Administrator or a party designated by the Zoning Administrator may enter upon the land and perform the work or other operations necessary to bring the condition of said lands into conformance with the requirements of the approved erosion and sediment control plan. The Zoning Administrator shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial guaranty posted pursuant to § 73-7(D) of this chapter. Where a financial guaranty has not been established, or where such financial security is insufficient to cover these costs, the costs and expenses shall be billed to the landowner and upon default of payment shall be entered on the tax roll as a special charge against the property pursuant to Wis. Stats. § 66.0627 and collected with any other taxes levied thereon for the year in which the work is completed.
- I. Nothing in this ordinance shall limit or exclude the Town from taking any other action under any Town municipal code, state statute, or other remedy allowed by law.

§ 73-15 Appeals.

- A. TOWN BOARD. The Town Board shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Zoning Administrator in administering this chapter. The Town Board shall also use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals. Upon appeal, the Town Board may authorize variances from the provisions of this chapter which are not contrary to the public interest and where owing to special conditions a literal enforcement of this chapter will result in unnecessary hardship.

B. WHO MAY APPEAL. Appeals to the Town Board may be taken by any aggrieved person or by an officer, department, board or bureau of the Town affected by any decision of the administering authority.

§ 73-16 Severability.

A. If any section, clause, provision or portion of this chapter is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall remain in force and not be affected by such judgment."

(1) All ordinances, or parts of ordinances, in conflict herewith are hereby repealed.

(2) § 1-16A.(5)(a) of the Scott Municipal Code is hereby amended to read as follows:

"(a) § 73-1 IG, penalty: not less than \$50 nor more than \$10,000 per offense."

SECTION 2 That all ordinances or parts thereof in conflict herewith are hereby repealed.

SECTION 3 That this ordinance shall take effect immediately upon passage, posting, and publication of the same.

The above foregoing Ordinance was duly adopted at a regular meeting of the Town Board of the Town of Scott on the _____ day of _____ 2016.

TOWN OF SCOTT

By: _____
Town Board Chairperson

ATTEST:

Town Clerk

Vote:

Yes: _____

No: _____

Adopted: _____

Posted: _____

Published: _____