

CHAPTER XXXIII  
LAND-DISTURBING EROSION  
AND  
SEDIMENT CONTROL ORDINANCE

33.01 AUTHORITY

**A. Statutory Authority.** This Chapter is adopted pursuant to Section 66.234 of the Wisconsin Statutes. Except as otherwise specified in Wisconsin Statutes Section 62.234, Section 62.23 of the Wisconsin Statutes applies to this Chapter and to any amendments to this Chapter.

**B. Construction Not Limiting.** The provisions of this Chapter are to be construed so as not to limit any other lawful regulatory powers of the City of Kenosha.

**C. Administration.** This Chapter 33 shall be administered and enforced by the Director of Neighborhood Services and Inspections, or his/her designee.

33.02 FINDINGS AND PURPOSE

**A. Findings.** The Common Council finds that runoff from land-disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the State in the City.

**B. Purpose.** It is the purpose of this Chapter to further the maintenance of safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion; 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 by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land-disturbing construction activity to waters of the State in the City.

33.03 INTENT

The intent of this Chapter is to require use of best management practices to reduce the amount of sediment and other pollutants resulting from land-disturbing construction activities. Use of this Chapter will foster consistent, Statewide application of the construction site performance standards for new development and redevelopment contained in Subchapters III and IV of Chapter NR 151, Wisconsin Administrative Code.

33.04 APPLICABILITY OF CODE

**A. Applicability.** This Chapter applies to the

following land-disturbing construction activities except as provided under Subsection B:

**An Erosion Control Permit** shall be required, and all construction site erosion control provisions of this Chapter shall apply, to any of the following activities:

- a. Land-disturbing activity on a slope of greater than twelve (12%) percent.
- b. Land-disturbing activity that involves the excavation or filling, or a combination of excavation and filling.
- c. Land-disturbing activity that disturbs more than one hundred (100) linear feet of road ditch, grass waterway or other land area where surface drainage flows in a defined open channel; including the placement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel.
- d. Any new private roads or access drives longer than one hundred twenty-five (125') feet.
- e. Development that requires a subdivision plat, as defined in the applicable local land division Chapter(s).
- f. A construction site that has one (1) or more acres of land-disturbing construction activity.

**B. Exemptions.** This Chapter does not apply to the following:

1. 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.
2. Nonpoint discharges from agricultural facilities and practices.
3. Nonpoint discharges from silviculture activities.
4. Routine maintenance for project sites under five (5) acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
5. **Exemptions For Municipal Road or County Highway Projects.** Municipal road or County highway projects are exempt where all of the activity takes place within existing public right-of-ways.

**C. Applicability to Excluded or Exempted Sites.** Notwithstanding the applicability requirements in Subsection A, or the exemptions in Paragraphs **B.2.** through **B.5.**, this Chapter applies to construction sites of any size that, in the opinion of the Code Official, or designee, 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.

This Chapter applies to land-disturbing construction activities on lands within the boundaries and jurisdiction of the City, as well as the extraterritorial division of land subject to an ordinance enacted pursuant to Sections 236.45(2) and (3) of the Wisconsin Statutes.

This Chapter is not applicable to activities conducted by a State agency, as defined under Section 277.02(1) of the Wisconsin Statutes, but also including the office of District Attorney, which is subject to the State plan promulgated or a memorandum of understanding entered into under Section 281.33 of the Wisconsin Statutes.

### **33.05 INTERPRETATION**

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City of Kenosha, and shall not be deemed a limitation or repeal of any other power granted by Wisconsin Statutes.

### **33.06 JURISDICTION AND ADMINISTRATION**

**A. Jurisdiction.** This Chapter applies to all areas of the City of Kenosha, Wisconsin.

**B. Conflict.** Where the standards of this Chapter differ or conflict with applicable local land division, zoning, shoreland zoning or other applicable local Ordinances or State regulations, the more restrictive standards shall apply.

### **33.07 DEFINITIONS**

**Agricultural Facility** means a structure associated with an agricultural practice, per the meaning given in Section 281.16 of the Wisconsin Statutes, or as amended.

**Agricultural Practice** means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; grazing; livestock raising; orchards; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in Federal programs in return for payments in kind; owning land, at least thirty-five (35) acres of which is enrolled in the Conservation Reserve Program under 16 USC 3831 to 3836; and, vegetable raising, per the meaning given in Section 281.16 of the Wisconsin

Statutes, or as amended.

**Average Annual Rainfall** means a calendar year of precipitation, excluding snow, which is considered typical.

**Best Management Practice (BMP)** means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

**Business Day** means a day the office of the City's Department of Neighborhood Services and Inspections is routinely and customarily open for business.

**Code Official** means the Director of Neighborhood Services and Inspections, and any duly authorized designee of the Director.

**Construction Site** means any 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.

**Department** means the Department of Neighborhood Services and Inspections for the City of Kenosha, Wisconsin.

**Division of Land** means the creation from one parcel of five (5) or more parcels or building sites of five (5) or fewer acres each in area where such creation occurs at one time or through the successive partition within a five (5) year period.

**Erosion** means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

**Erosion and Sediment Control Plan** means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

**Extraterritorial** means the unincorporated area with three (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.

**Final Stabilization** means that 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 seventy (70%) percent of the cover, for the unpaved areas and areas not covered

by permanent structures, or that employ equivalent permanent stabilization measures.

**Governing Body** means the Common Council of the City of Kenosha, Wisconsin.

**Land-Disturbing Activities** means any land alterations or disturbances that may result in soil erosion, sedimentation, or change in runoff, including, but not limited to, removal of groundcover, grading, excavating and filling of land.

**Land-Disturbing Construction Activity** means any manmade 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 waters of the State. Land-Disturbing Construction Activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

**MEP or Maximum Extent Practicable** means 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 site conditions.

**Performance Standard** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

**Permit** means a written authorization made by the Code Official, or designee, to the applicant to conduct land-disturbing construction activity or to discharge post-construction runoff to waters of the State.

**Pollutant** means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water, per the meaning given in Section 283.01 of the Wisconsin Statutes, or as amended.

**Pollution** includes contaminating or rendering unclean or impure the waters of the State, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life, per the meaning given in

Section 281.01 of the Wisconsin Statutes, or as amended.

**Responsible Party** means any entity holding fee title to the property or performing services to meet the performance standards of this Chapter through a contract or other agreement.

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

**Sediment** means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

**Separate Storm Sewer** means a conveyance or system of conveyances, including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meet all of the following criteria:

1. Is designed or used for collecting water or conveying runoff.
2. Is not part of a combined sewer system.
3. Is not draining to a storm water treatment device or system.
4. Discharges directly or indirectly to waters of the State.

**Site** means the entire area included in the legal description of the land on which the land-disturbing construction activity is proposed in the permit application.

**Soil Stockpile** means an artificially created accumulation of earth that materially affects water flow across the soil surface in a manner that is inconsistent with the permanent drainage plan.

**Stop Work Order** means an order issued by the Code Official, which requires that all construction activity on the site be stopped.

**Technical Standard** means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

**Waters of the State** includes those portions of Lake Michigan and Lake Superior within the boundaries of this State, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this State or its jurisdiction, per the meaning given in Section 281.01 of the Wisconsin Statutes, or as amended.

**33.08 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS**

**A. BMP Design Criteria, Standards and Specifications.** All BMPs required to comply with this Chapter shall meet the design criteria, standards and specifications based on the following:

1. Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under Subchapter V of Chapter NR 151, Wisconsin Administrative Code.

2. Design guidance and technical standards identified in the City of Kenosha Stormwater Management Criteria as developed and revised by the Director of Public Works, or his/her designee, and on file in the City Engineer's Office.

3. For purposes of this Chapter, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R Factor, or an equivalent design storm using the 90<sup>th</sup> percentile rainfall distribution developed by the Southeastern Wisconsin Regional Planning Commission, revised 2005, and approved by the Wisconsin Department of Natural Resources, with consideration given to the geographic location of the site and period of disturbance.

**B. Alternate Standards.** Other technical standards not identified or developed in **Subsection 33.08 A.** may be used provided that the methods have been approved by the Code Official.

**C. Conflict Resolution of Technical Sources.** The Code Official shall approve final design criteria, standards and specifications for BMP requirements in the event of conflicts between technical sources in **Section 33.08 A.**

**33.09 PERFORMANCE STANDARDS**

**A. Responsibility For Implementation of Plan.** The responsible party shall implement an Erosion and Sediment Control Plan, developed in **Section 33.11**, which incorporates the requirements of this Section.

**B. Plan.** A written plan shall be developed in accordance with **Section 33.11** and implemented for each construction site.

**C. Erosion and Other Pollutant Control Requirements.** The plan required under **Section 33.11** shall include the following:

1. BMPs that, by design, achieve to the maximum extent practicable, a reduction of eighty (80%) percent of the sediment load carried in runoff,

on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an eighty (80%) percent sediment reduction to meet the requirements of this Section. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this Section. Credit toward the sediment reduction shall be given for limiting the duration or area, or both, of land-disturbing construction activity, or other appropriate mechanism.

2. Notwithstanding Paragraph **C.1.**, if BMPs cannot be designed and implemented to reduce the sediment load by eighty (80%) percent on an average annual basis, the plan shall include a written and site-specific explanation as to why the eighty (80%) reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

3. Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

a. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.

b. Prevent the discharge of sediment as part of site dewatering.

c. Protect the separate storm drain inlet structure from receiving sediment.

4. The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the State. 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 Section.

**D. Location.** The BMPs used to comply with this Section shall be located prior to runoff entering waters of the State.

**E. Alternate Requirements.** The Code Official may establish storm water management requirements more stringent than those set forth in this Section if the Code Official determines that an added level of protection is needed for sensitive resources.

**33.10 EROSION CONTROL PERMITS AND ADMINISTRATION**

**A. Erosion Control Permits Required.** No activity shall occur and no Building Permit may be issued until an Erosion Control Permit is issued by the Code Official.

**B. Permit Application.** The applicant must

provide the following when requesting a permit:

1. A completed application form signed by the landowner. If a landowner appoints an agent to submit an application, the landowner shall be bound by all of the requirements of this Chapter and the terms of any permit issued to the agent.

2. An Erosion Control Plan meeting all the standards of the Wisconsin Department of Natural Resources (WDNR) and the Wisconsin Department of Commerce.

3. Copies of permits or permit applications or approvals required by any other governmental entity.

4. A proposed timetable and schedule for completion and installation of all elements of approved Erosion Control Plans and a detailed schedule of completion of construction.

5. Projects of a smaller scale may be allowed relief from some permit application requirements at the discretion of the Code Official.

**C. Permit Approval.** The Code Official shall verify that the permit application is complete. Upon approval, the Erosion Control Permit shall be issued after the applicant has met all other requirements of this Chapter.

**D. Permit Conditions.**

1. **Plan Implementation.** The Erosion Control Plan shall be implemented prior to the start of any land-disturbing activity and shall be maintained over the duration of the project.

2. **Permittee Responsibilities.** The permittee is responsible for the successful completion of the Erosion Control Plan. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.

3. **Permission To Enter Property For Inspection.** Application for a permit shall constitute express permission by the permittee and landowner for the Code Official to enter the property for purposes of inspection under **Section 33.08 E.** of this Chapter or for curative action.

4. **Adjacent Public Thoroughfares To Be Cleaned.** All mudtracking off-site onto adjacent public and private thoroughfares shall be cleaned up and removed by the end of each working day or at the discretion of the Code Official using proper disposal methods.

5. **Approved Permit and Erosion Control Plan Kept on Project Site.** A copy of the approved permit and Erosion Control Plan shall be kept on the project site, or in a place readily accessible to contractors, engineers, inspection staff and other authorized personnel.

6. **One and Two Family Erosion Control Permit Requirements.** The landowner shall be responsible for construction site and erosion control maintenance and grading work at the project site, and for proper restoration in compliance with this Chapter. All items listed below shall be complied with:

a. All required drainage structures and appurtenances shall meet City specifications and approved grading and drainage plans.

b. All required ditches, swales, berms, drainage easements and waterways located within the boundary of the referenced site or within the adjacent road right-of-way and area lying adjacent to the site shall be graded to the proper gradient and side slope, and meet the approved elevations, and shall be seeded or sodded and stabilized.

c. The finished or final yard elevation and slope around the perimeter of any new structure, along with the entire site area, shall be final graded and finished with topsoil and seeded or sodded to the required elevations as shown on the approved Building Permit Plat of Survey as submitted at the time of Building Permit issuance. If seeded, the parkway, a ten (10) foot perimeter along any public sidewalk or right-of-way, and any drainageway, including downspout channels, shall be protected by erosion control matting or other approved method.

If a structure or project is completed between September 15 and May 1 of any given year, the site may be rough graded so as to prevent runoff, and erosion control measures are to be installed and maintained until the site can be final graded and stabilized, but in no case later than June 1 of the following year.

d. All roof drainage and sump pump discharge shall be outletted to the street yard, natural drainageway or approved storm sewer system so as not to saturate, accumulate or damage the subject property or adjacent properties.

e. Gutters and downspouts, or roof leaders and downspouts, shall be installed on all principal structures in order to direct water runoff away from the structures to the street yard, natural drainageway or approved storm sewer system.

f. The site shall be cleared of rubbish, brush and any other debris. Construction materials, other unused materials, clay or fill piles shall be removed from the site.

g. A Plat of Survey prepared by a Wisconsin registered land surveyor or Wisconsin licensed professional engineer shall be submitted showing proposed elevations as approved by the City, and

actual final elevations in the following locations:

(1) At the property corners and at all corners of the structures.

(2) At twenty-five (25) foot intervals along each property line.

**E. Permit Duration.** Permits issued under this Section shall be valid for a period of one hundred eighty (180) days from the date of issue, or for the pendency of the Building Permit or other construction authorizations, whichever is longer.

**F. Extensions of Time To Complete Work.** Any applicant who obtains a permit and fails to complete the work in the time specified in Subsection 33.10 E., may apply to the Code Official for a time extension not to exceed one (1) year. Extensions may be granted if the work commenced has proceeded in a professional and workmanlike manner which exhibits reasonably progress. Extended permits shall not impose new conditions unless required by this Ordinance, or any other State or local law, rule or regulation. In the event that the Code Official denies the request for extension, such denial may be appealed to the Stormwater Utility Committee. Such appeal must be filed in the office of the City Clerk/Treasurer within thirty (30) days of the denial. There is no fee for this appeal. Upon a violation of Subsection 33.10 E., no new work may commence without the issuance of an approved extension or a new permit.

**G. Cash Assurance.** At the time a preliminary grading or mass grading Erosion Control Permit is issued to any project other than permits for new one or two family dwellings, the landowner shall submit a payment of Five Thousand (\$5,000.00) Dollars to guarantee that the conditions of the Erosion Control Permit and this Chapter are being followed as they relate to maintaining the public right-of-way and storm sewer system. The cash assurance shall be used if the City determines that the landowner or his/her contractor have not kept the right-of-ways clean from mudtracking, if there is damage to the stormwater drainage improvements, or if erosion and sediment controls are not being maintained. If the cash assurance is depleted prior to completion of the project, the landowner shall post another cash assurance in the same amount. The cash assurance shall be refunded to the landowner once the project is completed and it is determined that the property is in compliance with this Chapter.

**H. Soil Stockpiles.**

**1. Review and Approval Required.** Soil stockpiles are permitted only when reviewed and approved as part of an Erosion Control Permit for site mass grading or new building construction, or other

approved land-disturbing activities.

**2. Location.** Soil stockpiles shall not be located in close proximity to any public street or alley, and in all cases shall be located as indicated on the approved plan. Requested changes of location shall require a revised plan and approval of the Code Official.

**3. Removal.** All soil stockpiles shall be removed from the site or graded to meet the approved drainage plan at the time the permit expires, or at the time a Temporary Occupancy Permit is issued to any project connected with that particular site, whichever occurs sooner.

**I. Project Site Maintenance.**

**1. Responsibility of Landowner.** It shall be the responsibility of the landowner to maintain the project site and adjoining right-of-way in conformance with the following:

a. Free from debris, rubbish, unused building materials, scraps, etc. All such materials shall be collected in a covered dumpster or other approved container.

b. Grass, weeds and vegetation shall not exceed a height of eight (8") inches.

**2. Failure To Comply With Order(s).** In the event that the responsible party fails to comply with an order to clean the site or to cut grass, weeds or vegetation, the Code Official may have the work done, and shall recover the cost through special assessments levied against the property. A One Hundred (\$100.00) Dollar Administrative Fee for processing and administering the special assessment shall be added to the special assessment against the property.

**J. Inspections.**

**1. Implied Consent.** Application for a permit shall constitute permission by the applicant and landowner for the Code Official, or his/her designee, to enter upon the property and inspect during the construction phase prior to the inspections, as may be deemed necessary to confirm compliance with the requirements of this Chapter.

**2. Number of Inspections.** The site of any regulated land disturbing activity shall be inspected once every thirty (30) days, or more frequently as determined by the Code Official during the construction phase.

**3. Compliance Verification.** Within ten (10) days after installation of all practices in an approved Erosion Control Plan and achievement of soil

stabilization, the permittee shall notify the Code Official. The Code Official shall inspect the property to verify compliance with the Erosion Control Plan within ten (10) days of notification of soil stabilization.

**4. Maintenance.** Maintenance, as outlined in Commerce 21.125 and Commerce 60.20, Wisconsin Administrative Code, is the responsibility of the owner, and facilities are subject to inspection and orders for repair.

**K. Permit Transfers.**

**1. Approval.** When a permittee and landowner act to transfer an interest in property subject to an approved plan prior to the completion of the proposed steps to attain soil stabilization, the permittee must secure approval from the Code Official.

**2. Responsibility To Comply With Minimum Standards.** When a permittee and landowner transfer ownership, possession or control of real estate subject to either or both an uncompleted Erosion Control Plan, the successor in interest to any portion of the real estate shall be responsible to control soil erosion and runoff and shall comply with the minimum standards provided in this Chapter.

**L. Plan or Permit Amendments.** Any proposed modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the Code Official in consultation with the plan review agency prior to implementation of said changes.

**33.11 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT AND AMENDMENTS**

**A. Erosion and Sediment Control Plan.**

1. An Erosion and Sediment Control Plan shall be prepared and submitted to the Code Official.

2. The Erosion and Sediment Control Plan shall be designed to meet the performance standards in **Section 33.09** and other requirements of this Chapter.

3. The Erosion and Sediment Control Plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The Erosion and Sediment Control Plan shall include, at a minimum, the following items:

a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of

the applicant's principal contact at such firm. The application shall also include start and end dates for construction.

b. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United State Geological Service 7.5 minute series topographic map.

c. 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.

d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.

e. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.

f. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.

g. Existing data describing the surface soil as well as subsoils.

h. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information, where available.

i. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.

j. For building construction sites, the following shall also be required:

(1) Property lines, lot dimensions and limits of disturbed areas.

(2) Limits of impervious area, including buildings. Include all public and private roads, interior roads, driveways and parking lots, and indicate the type of paving and surfacing material.

(3) Cross-sections of and profiles of channels, swales and road ditches.

(4) Culvert sizes, if applicable.

(5) Direction of flow of runoff.

(6) Design discharge for ditches and structural measures.

(7) Runoff velocities.

(8) Fertilizer and seeding rates and recommendations, if applicable.

(9) Time schedules for stabilization of ditches and slopes.

(10) Description of methods by which sites are to be developed and a detailed land disturbance schedule, including time schedules for stabilization of ditches and slopes.

(11) Provision for sequential steps mitigating

erosive effect of land disturbing activities to be followed in appropriate order and in a manner consistent with accepted erosion control methodology suitable to proposed sites and amenable to prompt revegetation, including runoff calculations as appropriate.

**(12)** Provisions to prevent mudtracking off-site onto public thoroughfares during the construction period.

**(13)** Provisions to disconnect impervious surfaces, where feasible.

**(14)** Provisions to prevent sediment delivery to and accumulation in any proposed or existing stormwater conveyance systems.

**(15)** Copies of permits or permit applications required by any other unit of government or agency.

**(16)** Existing and proposed elevations, and existing and proposed contours in the area, where deemed necessary.

**(17)** Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features of the site.

**(18)** Soil storage piles and length of time to be left undisturbed.

**(19)** Basin and retention area stabilization details.

**4.** Plan Checklists shall be reviewed by the Code Official for completeness and accuracy.

**5.** All Best Management Practices (BMPs) shall be designed to meet the criteria identified by or developed by the Wisconsin Department of Natural Resources as set forth in Chapters NR 151, Commerce 20-21 and Commerce 60-65, Wisconsin Administrative Code. In addition, the Wisconsin Department of Transportation Erosion Control Product Acceptability List (WIS DOT PAL) may be used as a reference.

**6.** 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 two hundred (200') feet per inch and at a contour interval not to exceed five (5') 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 one hundred (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 in the plan.

**f.** Location of areas where stabilization practices will be employed.

**g.** Areas which will be vegetated following construction.

**h.** Areal extent of wetland acreage on the site and locations where stormwater is discharged to a surface water or wetland.

**i.** Locations of all surface waters and wetlands within one (1) mile of the construction site.

**j.** An alphanumeric or equivalent grid overlying the entire construction site map.

**7.** Each Erosion 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 the waters 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 controls 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 Code Official, structural measures shall be installed on upland controls.

**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.** Cleanup of off-site sediment deposits.

**i.** Proper disposal of building and waste materials at all sites.

**j.** Stabilization of drainageways.

**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.

**8.** 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 non-erosive flow from the structure to a watercourse 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 **Section 33.04**, an Erosion and Sediment Control Plan statement shall be prepared. This statement shall be submitted to the Code Official. The control plan statement shall briefly described 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 Chapter, including the site development scheduled.

**C. Amendments.** The applicant shall amend the plan if any of the following occur:

1. 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.

2. The actions required by the plan fail to reduce the impacts of pollutants carried by the construction site runoff.

3. The Code Official notifies the applicant of changes needed in the plan.

**33.12 FEE SCHEDULE**

The fees referred to in other sections of this Chapter shall be established by Resolution of the Common Council, and may from time to time be modified by Resolution. A schedule of fees established by the Common Council shall be available for review in the Department of Neighborhood Services and Inspections.

**33.13 INSPECTION**

If land-disturbing construction activities are being carried out without a permit required by this Chapter, the Code Official may enter the land pursuant to the provisions of Sections 66.0119(1), (2), and (3) of the Wisconsin Statutes.

**33.14 VIOLATIONS AND ENFORCEMENTS**

**A. Reinspection Fees.** A Reinspection Fee may be assessed when any of the following occur:

1. An inspection is requested by the owner, owner's agent or contractor, and the Work is not completed.

2. An inspection is requested by the owner, owner's agent or contractor, and there is no access to the Premises.

3. After an initial inspection and notice of

violation(s) to be corrected, an inspection is requested by the owner, owner's agent or contractor to approve corrections, and those corrections are incomplete or only a portion of the corrections are made, or corrections have been ignored, and previous arrangements have not been made with the Code Official to accomplish ordered corrections in phases, a Reinspection Fee shall be imposed on the owner, owner's agent or contractor responsible for the inspection request.

Work may not proceed on the installation impacted until such time that said Reinspection Fee has been paid.

There shall be no Reinspection Fee for a final inspection to determine compliance, or for a reinspection occurring during a period of an approved time extension granted for good cause and involving a good faith effort on the part of the property owner.

A fee of Ninety (\$90.00) Dollars may be charged for a second reinspection; a fee of One Hundred Eighty (\$180.00) Dollars may be charged for a third reinspection; and, a fee of Three Hundred Sixty (\$360.00) Dollars may be charged for each subsequent reinspection. Reinspection Fees which are not paid for by or on behalf of the property owner within thirty (30) days of mailing of an invoice to the Permit holder shall be charged and collected as a special assessment against the real estate upon which the reinspection was made, and shall be a lien upon the real estate until paid in full, with interest accruing on the unpaid balance at the rate of seven (7%) percent per annum. There shall also be an administrative fee in the amount of One Hundred (\$100.00) Dollars added to the charge to cover the administrative costs of charging and specially assessing the property.

**B. Stop Work Order.**

1. Whenever the Code Official finds any noncompliance with the provisions of this Chapter, the Code Official shall attempt to communicate with the owner or person performing the work to obtain immediate and voluntary compliance if such person is readily available. If the owner or person performing the work is not readily available, that person refuses to voluntarily comply immediately, or the noncompliance presents an immediate danger or threatens to cause bodily injury or damage to off-site property, including, but not limited to, off-site runoff, the Code Official shall post in a conspicuous place on the premises, a Stop Work Order, which shall cause all activity not necessary to correct the noncompliance to cease until noncompliance is corrected.

2. The Stop Work Order shall provide the following information:

- a. Date of issuance;
- b. Reason for posting; and,
- c. Signature of inspector posting the Order.

3. In addition to posting a Stop Work Order, the Code Official shall provide written notification to the owner or contractor by personal service, certified mail, electronic mail or facsimile transmission. The permittee, landowner and contractor shall have twenty-four (24) hours from time of notification by the Code Official to correct any noncompliance with the plan when notification is by either personal communication of noncompliance to the owner or contractor, or their respective agents, or written notice sent by certified mail to the owner or contractor.

If notice is not provided under this subsection, the permittee and landowner shall have seventy-two (72) hours to correct any noncompliance with the plan when notification is by posting notice in a conspicuous place on the site or sending notice by facsimile transmission to the owner or contractor.

4. If the noncompliance is not corrected within the time periods specified in **Section 33.12 A.3.**, the permittee and landowner authorize the Code Official to take any action, to perform any work, or commence any operations necessary to correct noncompliance on the subject property where notice of noncompliance has been issued to bring the property into conformance with plan requirements. The permittee and landowner further consent to reimburse the authority for the total costs and expenses of the corrective actions. Reimbursement may be collected as a special charge upon the property for current services rendered as provided by law.

5. If the responsible party does not cease activity as required in a Stop Work Order posted under this Section or fails to comply with the Erosion and Sediment Control Plan or permit conditions, the Code Official may revoke the permit.

6. If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Code Official, or if a responsible party violates a Stop Work Order posted under Subsection **B.1.**, the Code Official may request that the City Attorney seek an injunction in any court of competent jurisdiction.

**C. Penalties.** Any person violating any of the provisions of this Code, except for the provisions governing the administration or enforcement thereof, shall upon conviction be subject to a forfeiture of not

less than Twenty-five (\$25.00) Dollars per day, nor more than Five Hundred (\$500.00) Dollars per day, together with the costs of prosecution; and, in default thereof, shall be imprisoned for a period of not less than one (1) day, nor more than six (6) months in the County Jail, or until such forfeitures and costs are paid.

### 33.15 APPEALS

**A. Committee on Public Works.** The Committee on Public Works, with respect to this Code:

1. Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Code Official in administering this Code.

2. May authorize variances from the provisions of this Code which are not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Code will result in unnecessary hardship.

3. Shall use the rules, procedures, duties and powers authorized by Wisconsin Statutes in hearing and deciding appeals and authorizing variances.

**B. Appeals.** Appeals to the Committee on Public Works may be made in writing by any aggrieved person or by any officer, department, Authority, Board or Commission of the City affected by a decision of the Code Official.

**C. Appeal Filing Fee.** There shall be a One Hundred (\$100.00) Dollar fee to accompany the filing of an appeal.

### 33.16 SEVERABILITY

If a court of competent jurisdiction judges any section, clause, provision or portion of this Chapter unconstitutional or invalid, the remainder of the Chapter shall remain in force and not be affected by such judgment.