

10/18/93

STATE OF WISCONSIN

VILLAGE OF OCONOMOWOC LAKE

COUNTY OF WAUKESHA

ORDINANCE # 130

AN ORDINANCE ENTITLED "CONSTRUCTION SITE EROSION CONTROL ORDINANCE"

SECTION 1: Chapter 21 of the Municipal code for the Village of Oconomowoc Lake entitled Construction Site Erosion Control Ordinance is hereby created to read as follows:

CONSTRUCTION SITE EROSION CONTROL

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CHAPTER 21

CONSTRUCTION SITE EROSION CONTROL ORDINANCE

21.01 This Chapter shall be known as, referred to, or cited as the "Construction Site Erosion Control Ordinance, Village of Oconomowoc Lake, Waukesha County, Wisconsin."

21.02 **AUTHORITY FOR AND APPLICABILITY OF ORDINANCE**

This ordinance applies to land disturbing and land development activities on lands within the jurisdiction of the Village of Oconomowoc Lake, and annexed lands and is adopted under authority granted by 62.234 Wisconsin Statutes. In addition to the requirements of this ordinance, the property owners are hereby put on notice that they are subject to all other rules, laws, ordinances and regulations of the Village of Oconomowoc Lake, Waukesha County, State of Wisconsin, and the federal government, including but not limited to, the Zoning Code, Subdivision and Platting Ordinance, Shoreland-Wetland Zoning Code, the Erosion Control Ordinance, and the State of Wisconsin Land Disturbing Regulations. The property owners are hereby advised that obtaining a building permit in no way relieves the property owners of satisfying all terms and conditions of other rules, laws, ordinances and regulations of the Village of Oconomowoc Lake, Waukesha County, State of Wisconsin, and federal government.

21.03 **DEFINITIONS**

ADMINISTRATOR

The village Administrator or his/her designee.

APPLICANT

Any landowner, land user(s), their agent, or contractor responsible for submitting and carrying out the requirements of this ordinance. Applicant shall also mean any subsequent land owner to whom this ordinance applies.

AGRICULTURAL

Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries.

BEST MANAGEMENT PRACTICE

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

EROSION

The detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

EROSION CONTROL PLAN

A written description and detailed site plan of best management practices designed to meet the requirements of this ordinance submitted by the applicant for review and approval by the Village of Oconomowoc Lake.

LAND DEVELOPMENT ACTIVITY

The construction of buildings, roads, parking lots, paved and unpaved storage areas, patios, seawalls and similar facilities but not including general maintenance of parking lots and drives.

LAND DISTURBING ACTIVITY

Any manmade change of the land surface including removing vegetative cover, demolition, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; and harvesting of trees, and tree nurseries.

LANDOWNER

Any person holding title to or having an interest in land.

LAND USER

Any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.

RUNOFF

The rainfall, snow melt, dewatering or irrigation water flowing over the ground surface.

SITE

The entire area of land disturbing or land development activity.

STABILIZE

To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel or other measure.

SURFACE WATERS

All lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or ground water, natural or artificial, public or private, within the Village.

VILLAGE

The Village of Oconomowoc Lake.

WORKING DAY

A calendar day, except Saturdays, Sundays and Village recognized legal holidays.

21.04 GENERAL ADMINISTRATION

The Administrator is designated to administer and enforce the provisions of this ordinance. The Administrator shall oversee the administration of this ordinance and issue permits and review erosion control plans as provided herein and make recommendations, where appropriate, to the Village and any other agency of the Village relative to matters related to erosion and sediment control.

21.05 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR BEST MANAGEMENT PRACTICES

All best management practices required to comply with this ordinance shall meet the design criteria, standards and specifications in the latest edition of the "Wisconsin Construction Site Best Management Practice Handbook" as published and amended from time-to-time by the State of Wisconsin Department of Natural Resources. Design criteria, standards and specifications for best management practices not contained in the "Wisconsin Construction Site Best Management Practice Handbook" shall not be permitted unless approved by the Village or Administrator.

21.06 MAINTENANCE OF BEST MANAGEMENT PRACTICES

All best management practices necessary to meet the requirements of this ordinance shall be maintained consistent with the maintenance standards contained in the "Wisconsin Construction Site Best Management Practice Handbook". The applicant and any subsequent landowner shall be responsible for maintaining the best management practices during the period of land disturbing activity and land development activity on the site in a satisfactory manner to ensure adequate performance and to prevent off site damage.

Implementation of maintenance standards for best management practices that are not included in the "Wisconsin Construction Site Best Management Practice Handbook" shall not be permitted unless prior approval is granted by the Village or Administrator.

21.07 EROSION CONTROL PLAN CONTENT AND PERMIT APPLICATION SUBMITTAL AND APPROVAL.

No person may commence a land disturbing or land development activity subject to this ordinance without receiving prior approval of an erosion control plan for the site and a permit from the Administrator. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land development activity subject to this ordinance shall submit an application for a permit and an erosion control plan and pay a review fee to the Village. Submission of an application authorizes the Administrator to enter the site to obtain information required for the review of the erosion control plan.

(1) EROSION CONTROL PLANS FOR ALL SINGLE FAMILY RESIDENTIAL CONSTRUCTION PROJECTS AND FOR ALL SITES OF ONE ACRE OR LESS.

The erosion control plan land disturbing activity or land development activity where the land to be disturbed or to be developed is one acre or less and all single family residential construction projects shall contain the following:

- (a) The location of existing and proposed dwellings, other buildings and improvements with respect to the property lines.
- (b) The direction of slopes before and after land disturbance or land development on the site.
- (c) A description of all temporary best management practices required by this ordinance and Wisconsin law. Other best management practices shall be implemented during construction as deemed necessary by the Village or Administrator.
- (d) Any other information deemed necessary by the Village or Administrator.

(2) EROSION CONTROL PLANS FOR SITES OF MORE THAN ONE ACRE

The erosion control plan for sites of land disturbing activity or land development activity where the land to be disturbed or to be developed is more than one acre shall contain the following:

- (a) Existing Site Map. A map on a scale of at least 1 inch equals 100 feet showing the following existing conditions and immediate adjacent areas:
 - i. Site boundaries and adjacent lands which accurately identify site location;
 - ii. Lakes, ponds, streams, wetlands, channels, ditches and other water courses on and immediately adjacent to the site;
 - iii. 100-year flood plains, and floodways;
 - iv. Vegetative cover, types and location;
 - v. Location of natural drainage patterns on the site and immediately adjacent to the site and the size, slope and land cover of the upslope and downslope drainage areas, including peak discharge, velocities, direction and destination of flows;
 - vi. Locations and dimensions of utilities, structures, roads, highways, and paving;
 - vii. Site topography at a minimum contour interval of two feet; and,
 - viii. Any other information deemed necessary by the Village or Administrator.

(b) Site Development Plan. A site development plan including:

- i. Locations and dimensions of all proposed land disturbing and land development activities;
- ii. Locations and dimensions of all temporary soil or dirt stockpiles;
- iii. Locations and dimensions of all best management practices necessary to meet the requirements of this ordinance.
- iv. Schedule of anticipated starting and completion date of each land disturbing or land development activity including the installation of site best management practices needed to meet the requirements of this ordinance;
- v. Provisions for maintenance of the best management practices during construction;
- vi. Description of vegetation and other materials to be used to stabilize the site including a schedule for installation and maintenance; and,
- vii. Location and dimensions of storm water management measures including but not limited to past development peak flows, drainage system dimensions and computations. Provide certification of all computations, designs and final construction by a registered professional engineer.

(3) PLAN REVIEW AND PERMITTING PROCESS

- (a) Department requirements. Within 30 working days of receipt of the application for a permit and erosion control plan and fee for sites where the land to be disturbed or to be developed is more than one acre of land disturbance or land development or within 10 working days of receipt of the application and erosion control plan and fee for all single family residential construction projects and all sites where the land to be disturbed or to be developed is one acre or less of land disturbance or land development, the Administrator shall review the application and erosion control plan to determine if the requirements of this ordinance are met. The Administrator may request comments from other committees or agencies. If the requirements of this ordinance are met, the Administrator shall approve the plan, and issue a permit to the applicant.

If the requirements of the ordinance are not met, the Administrator shall inform the applicant in writing of what additional information is needed to meet the requirements of the ordinance. Within 20 working days of receipt of needed additional requested information for sites of land disturbance activity or land development activity where the land to be disturbed or to be developed is more than one acre, or within 10 working days of receipt of needed information for all

single family residential construction projects and for all sites of land disturbance activity or land development activity where the land to be disturbed or to be developed is one acre or less, the Administrator shall again determine if the erosion control plan meets the requirements of this ordinance and inform the applicant in writing of approval and any conditions if applicable and issue a permit.

If the erosion control plan is disapproved, the Administrator shall inform the applicant in writing of the reasons for disapproval. If the Administrator fails to act within the time line set within this section, the erosion control plan shall be deemed approved and the permit shall be issued.

- (b) Duration. Permits and erosion control plan approvals 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 Administrator may extend the period one or more times for up to an additional 36 months total. The Administrator may require additional best management practices as a condition of the extension if they are necessary to meet the requirements of this ordinance.
- (c) Financial Guarantee. The Administrator may require the applicant to furnish the Village with a financial guarantee, the form and type of which shall be acceptable to the Village. The financial guarantee shall be in an amount determined by the Administrator to be the cost of constructing and installing the erosion and sediment control practices. A financial guarantee shall not be required of departments, boards, municipalities, commissions, public offices and corporations having the authority of Eminent Domain as defined under Chapter 32, Wisconsin Statutes.

The financial guarantee must be sufficient to cover all phases of the plan from the clearing and stockpiling operations to final grading, landscaping, and maintenance and shall give the Village the authority to use the funds to complete the project if the applicant defaults or does not properly implement the approved plan. The financial guarantee may not be released until the site has been stabilized with vegetative cover including vegetative cover required as a result of utility distribution system installation and the practice installation required as part of this ordinance has been certified as built by a licensed profession engineer.

- (d) Grading and Maintenance Agreements. A grading and maintenance agreement shall be provided to the Village prior to issuance of any permits and shall be

effective for a sufficient time period to perform the activities required, make the appropriate inspections and approve the final installation. The grading and maintenance agreement shall provide all information deemed appropriate by the Administrator, including the date of completion and a designation of the individual(s) or municipality responsible for maintenance of installed practices after release of the financial guarantee.

- (e) Erosion Control Plan Conditions. All permits and approved erosion control plans shall require the applicant to:
- i. Notify the Village within 2 working days of commencing any land disturbing or land development activity;
 - ii. Notify the Village of completion of any control measures within one working day after their installation;
 - iii. Obtain permission in writing from the Village prior to modifying the erosion control plan;
 - iv. Install all best management practices as identified in the approved erosion control plan;
 - v. Maintain all road drainage systems and tracking provisions, storm water drainage systems, control measures and other facilities identified in the erosion control plan;
 - vi. repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land development or disturbing activities;
 - vii. Inspect the best management practices after each rain of 0.5 inches or more and at least once each week and make needed repairs;
 - viii. Allow the Administrator to enter the site for the purpose of inspecting compliance with the erosion control plan or for performing any work necessary to bring the site into compliance with the erosion control plan; and
 - ix. Keep a copy of the erosion control plan on the site.

21.08 CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBANCE AND DEVELOPMENT ACTIVITIES

(1) APPLICABILITY

This section applies to any of the following sites of land development or land disturbing activities:

- (a) Those site requiring a subdivision plat or certified survey.

- (b) Those sites providing for the construction of houses, accessory structures, structures, commercial buildings or additions there to on lots of record having an affected surface area of 3,000 sq. feet or more and/or 400 cubic yards of excavation or fill material.
- (c) Those involving grading, removal of protective ground cover or vegetation, demolition, excavation, land filling or other land disturbing activity affecting a surface area of 3,000 square feet or more.
- (d) Those involving excavation or filling or a combination of excavation and filling affecting 400 cubic yards or more of dirt, sand or other excavation or fill material, or in excess of 15 cubic yards in aggregate on sites within the jurisdiction of the "Village of Oconomowoc Lake Shoreland-Wetland Zoning Code.
- (e) Those sites involving street, highway, road, or bridge construction, except State funded or conducted construction activities meeting requirements contained in the Department of Transportation, Department of Natural resources Cooperative Agreement Memorandum of Understanding on Erosion Control.
- (f) Those sites involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300 feet or more.

(2) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS

The following requirements shall be met on all sites covered by this ordinance:

- (a) Temporary Best Management Practices. The following temporary best management practices shall be used to control sediment where erosion of the site, including dirt piles, during construction will result in sediment reaching surface waters, rights-of-way, public storm sewers or other off sites areas:
 - i. Small drainage areas with overland flow less than one acre, shall require a filter fabric fence or equivalent best management practice placed along the downslope areas and along the sideslope areas as required.
 - ii. Drainage areas of one to two acres with concentrated or channelized flow, shall require a filter fabric barrier or equivalent best management practice placed downslope of the disturbed area.
 - iii. Drainage areas of more than two acres to five acres with concentrated or channelized flow, shall require a sediment trap or equivalent best management practice placed downslope of the disturbed area.

- iv. Drainage areas of more than five acres with concentrated or channelized flow, shall require a sediment basin or equivalent best management practice placed downslope of the disturbed area.
 - v. Steep slopes, which are slopes of 12 or more percent, shall require use of additional best management practices.
 - vi. Environmentally sensitive areas, which are sites within 1,000 feet of a lake or pond or 300 feet of a stream, wetland, channel, ditch, floodplain or other watercourse, may require use of additional best management practices.
- (b) Site Stabilization. The disturbed area shall be stabilized by seeding, sodding or other permanent means as set forth below:
- i. For building sites, the disturbed areas shall be mulched or other best management practices utilized and approved by the Administrator within 7 days after foundation backfilling;
 - ii. For other sites, the disturbed area shall be stabilized according to the schedule and materials described in the erosion control plan;
 - iii. When the disturbed area is properly stabilized by established vegetation or other permanent means, the temporary best management practices shall be removed;
- (c) Tracking Prevention and Cleanup. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Sediment reaching a public or private road shall be removed by street cleaning before the end of each work day. Flushing may not be used unless the sediment will be controlled by a filter fabric barrier, sediment trap, sediment basin or equivalent best management practice.
- (d) Drain Inlet Protection. Downslope storm drain inlets shall be protected.
- (e) Site Dewatering. Water pumped from the site shall be treated by an appropriately sized filter fabric barrier, sediment trap, sediment basin or equivalent best management practice. Water may not be discharged in a manner that causes erosion or damage of the site, adjacent properties or receiving channels.
- (f) Sediment Cleanup. All off-site sediment deposits shall be cleaned up by the end of the next work day unless environmental damage will occur in which case clean up shall occur at the direction of the Administrator. All other off-site sediment deposits occurring as a result of construction activities shall be cleaned up at the end of the work day.

- (g) Waste and Material Management and Disposal. All waste and unused building materials shall be properly managed and disposed of to prevent pollutants and debris from being carried by runoff off the site.
- (h) Soil or Dirt Storage Piles. Soil or dirt storage piles shall be located at least 25 feet from any downslope road, lake, stream, wetland, ditch, channel or other watercourse and protected in accordance with G(2). Piles located in the street or within 25 feet of any downslope road, lake, stream, wetland, ditch, channel, floodplain or other watercourse shall require the use of additional best management practices.
- (i) The proposed surface water runoff shall not be diverted so as to concentrate flow directly onto adjacent property or adversely affect adjoining property.

21.09 FEE SCHEDULE

The fees referred to in other sections of this ordinance shall be established by the Village Board of the Village Oconomowoc Lake and may from time to time be modified by Village Board resolution. A schedule of the fees established by the Village Board of the Village of Oconomowoc Lake shall be available for review in the office of the Administrator.

(1) INSPECTION

At any reasonable time and for any proper purpose, the Administrator is authorized to enter upon any land and make inspections to determine conformance with the terms of this Ordinance and any permits or plan approvals pursuant to the provisions of 66.122, 66.123 Wisconsin Statutes.

21.10 ENFORCEMENT

- (1) The Administrator may post a stop-work order if:
 - (a) Any land disturbing or land development activity regulated under this ordinance is occurring without a permit and an approved erosion control plan, or
 - (b) The conditions of the permit and approved erosion control plan are not being complied with.
- (2) After posting a stop-work order, the Administrator may issue a notice of intent to the applicant or landowner or land user of its intent to perform work necessary to comply with this ordinance, permit or erosion control plan. If

conditions are likely to result in sediment from the site damaging adjacent properties or reaching surface waters, the Administrator may enter the land and take emergency actions necessary to prevent sediment or other pollutants from damaging adjacent properties or reaching surface waters, public rights-of-ways and storm sewers. The costs incurred by the Village plus interest and legal costs shall be billed to the owner of title of the property.

- (3) Any individual who violates this ordinance, the conditions of a permit granted pursuant to this ordinance, or permits erosion, sediment deposits, tracking or deposition of soil on adjacent land, public right-of-ways or surface waters shall be deemed to be in violation of this ordinance and subject to the penalties provided herein.
- (a) Penalties: Any person, firm, company, or corporation who violates, disobeys, omits, neglects, refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance, shall be subject to a forfeiture of not less than fifty dollars (\$50.00) and not to exceed the sum of five hundred dollars (\$500.00) for each offense, together with the costs of the action, and in default of the payment thereof, shall be imprisoned in the County Jail of Waukesha County, for a period of not to exceed six (6) months or until such forfeiture and the subsequent costs have been paid. Each day that a violation is permitted to exist shall constitute a separate violation and be punishable as such.
- (b) Enforcement by injunction: Compliance with the provisions of this ordinance may also be enforced by injunctional order at the suit of the Village or one (1) or more owners of real estate situated within an area affected by the regulations of this ordinance. It shall not be necessary to prosecute for forfeiture or imprisonment before resorting to injunctional proceedings.

21.11 APPEALS

(1) BOARD OF ZONING APPEALS

Any person or persons aggrieved by any decision of the Village or Administrator as it pertains to this ordinance, may appeal the decision to the Board of Zoning Appeals. Such appeal shall be filed with the secretary of the Board of Zoning Appeals within 30 days of the decision.

(2) ENFORCEMENT OF DECISION

In exercising the above-mentioned powers, such Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Village or Administrator from whom the appeal is taken and may issue or direct the issue of a permit provided that no such action shall have the effect of permitting best management practices in contradiction to the purpose of this ordinance or the Wisconsin Statutes or cause pollution or of granting variances to any other state, or local ordinance.

21.12 SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not effect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinance whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

21.13 EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

This ordinance passed this 18th day of October, 1993.

BY THE VILLAGE BOARD OF THE
VILLAGE OF OCONOMOWOC LAKE:


William F. Roberts, President

ATTEST:


Cheryl Wierdsma, Clerk

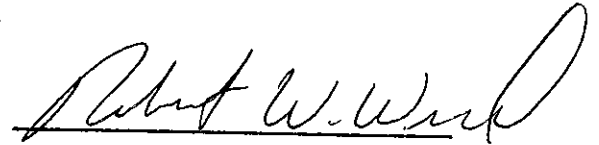
STATE OF WISCONSIN)
COUNTY OF WAUKESHA)

AFFIDAVIT OF POSTING
ORD #130 - EROSION

The undersigned, being first duly sworn, on oath deposes and states that on 21 Oct, 1993 at the direction of the Clerk of the Village of Oconomowoc Lake, he posted copies of the foregoing proceedings of the Village Board in the following public places in said Village.

to-wit:

- (1) Opposite the entrance to the Oconomowoc Lake Club on the northern side of the road in front of the Club;
- (2) At the entrance to the Village Hall on West Pabst Road;
- (3) At the northern corner of the junction of West Beach Road and the private drive (South Beach Road) leading into the Borisch, Fischer, Lowry, et al properties.



Subscribed and sworn to before me

this 21 day of October, 1993

(C. W. Verdama)

Notary Public, Waukesha County, Wisconsin

My commission expires: 11-19-95