

**ORDINANCE NO. 2014-01**

**AN ORDINANCE AMENDING SECTION 15 CHAPTER 4 OF THE VILLAGE  
OF FREDONIA CODE OF ORDINANCES PERTAINING TO  
EROSION CONTROL**

The Village Board of the Village of Fredonia does ordain as follows:

Section 15, Chapter 4 is hereby amended to read as follows:

**Chapter 4**

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**Erosion Control**

- 15-4-1 Erosion Control – Intent**
- 15-4-2 Authority**
- 15-4-3 Findings and Purpose**
- 15-4-4 Applicability of Chapter**
- 15-4-5 Definitions**
- 15-4-6 Design Criteria, Standards and Specifications**
- 15-4-7 Maintenance of Control Measures**
- 15-4-8 Control of Erosion and Pollutants During Land Disturbance and Development**
- 15-4-9 Permit Application; Control Plan and Permit Issuance**
- 15-4-10 Inspection**
- 15-4-11 Enforcement**
- 15-4-12 Appeals**

**Sec. 15-4-1 Erosion Control – Intent.**

The intent of this Chapter is to require erosion control practices that will reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbance activities. This Chapter applies to all land disturbing construction activities and land development activities within the Village of Fredonia.

**Sec. 15-4-2 Authority.**

This Chapter is adopted under the authority granted in Sec. 61.354, Wis. Stats.

### **Sec. 15-4-3 Findings and Purpose.**

(a) **Findings.** The Village of Fredonia finds runoff and erosion from construction sites and land disturbing activities greatly impacts the amount of sediment and other pollutants that enter the waters and rights of way of the state of Wisconsin and the Village of Fredonia.

(b) **Purpose.** It is the purpose of this Chapter to preserve the natural resources; to protect the quality of the waters of the state and the Village; and to protect and promote the health, safety and welfare of the people, to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites and land disturbing activities to lakes, streams and wetlands.

### **Sec. 15-4-4 Applicability of Chapter**

(a) This Chapter applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the Village of Fredonia.

(b) The Department of Natural Resources technical standards developed under NR151-32 Wisconsin Construction Site Best Management Practice Handbook is adopted by reference and shall become a part of this Chapter. These standards are available online at the WDNR website, a copy of which shall be kept on file at the Village Hall.

### **Sec. 15-4-5 Definitions**

(a) The following definitions shall be applicable in this Chapter:

(1) **Agricultural Land Use.** Use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

(2) **BMP.** Best management practices installed per the technical standards developed by the Wisconsin Department of Natural Resources under Wisconsin Administrative Code NR 151.32.

(3) **Commercial Land Use.** Use of land for the retail or wholesale sale of goods or services.

(4) **Construction Site Control Measure.** A control measure used to meet the requirements of Section 15-4-8(b).

(5) **Control Measure.** A practice or combination of practices to control soil erosion and attendant pollution.

(6) **Control Plan.** A written description of the number, location, sizes, and other pertinent information of control measures designed to meet the requirements of this Chapter submitted by the applicant for review by staff and approval by the Architectural Control Board.

(7) **Erosion.** The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.

(8) **Five (5) Year Twenty-four (24) Hour Design Storm.** The rain intensities and rain volumes as described in the Technical Rainfall Frequency in the Southeastern Wisconsin Region.

(9) **Land Developing Activity.** The construction of buildings, roads, parking lots, paved storage areas and similar facilities.

(10) **Land Disturbing Construction Activity.** Any man-made change of the land surface including removing vegetative cover, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens and harvesting of trees.

(11) **Landowner.** Any person holding title to or having an interest in land.

(12) **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.

(13) **Runoff.** The rainfall, snow melt, or irrigation water flowing over the ground surface.

(14) **Site.** The entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.

(15) **Technical Standards.** Standards developed by the Wisconsin Department of Natural Resources under Wisconsin Administrative Code NR 151.32.

~~(2) **Commercial Land Use.** Use of land for the retail or wholesale sale of goods or services.~~

~~(3) **Construction Site Control Measure.** A control measure used to meet the requirements of Section 15-4-8(b).~~

~~(4) **Control Measure.** A practice or combination of practices to control soil erosion and attendant pollution.~~

~~(5) **Control Plan.** A written description of the number, locations, sizes, and other pertinent information of control measures designed to meet the requirements of this Chapter submitted by the applicant for review by staff and approval by the Architectural Control Board.~~

~~(6) **Erosion.** The detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.~~

~~(7) **Land Developing Activity.** The construction of buildings, roads, parking lots, paved storage areas and similar facilities.~~

~~(8) **Land Disturbing Construction Activity.** Any man-made change of the land surface including removing vegetative cover, excavating, filling and grading but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.~~

~~(9) **Landowner.** Any person holding title to or having an interest in land.~~

~~(10) **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.~~

~~(11) **Runoff.** The rainfall, snow melt, or irrigation water flowing over the ground surface.~~

~~(12) **BMPH.** The Department of Natural Resources Wisconsin Construction Site Best Management Practice Handbook.~~

~~(13) **Ten (10) Year Twenty-four (24) Hour Design Storms.** The rain intensities and rain volumes as described in BMPH.~~

~~(14) **Site.** The entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.~~

### **Sec. 15-4-6 Design Criteria, Standards and Specification for Control Measures**

All control measures required to comply with this Chapter shall meet the design criteria, standards and specifications for the control measures based on the technical standards developed by Wisconsin Department of Natural Resources under NR 151.32. ~~accepted design criteria, standards and specifications identified by the BMPH and the Village of Fredonia.~~

### **Sec. 15-4-7 Maintenance of Control Measures**

All BMP's sediment basins and other control measures necessary to meet the requirements of this Chapter shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development until the site is stabilized ~~of the site~~ in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions. ~~(identified in the BMPH)~~ The maintenance of BMPs shall meet NR 151 or SPS 360 as the appropriate requirements. ~~standards for maintenance of control measures shall be as set forth in the BMPH or adopted by the Village of Fredonia.~~

### **Sec. 15-4-8 Control of Erosion and Pollutants During Land Disturbance and Development**

(a) **Applicability.** This Section applies to the following sites of land development or land disturbing activities:

- (1) Those ~~activities~~ requiring a subdivision plat approval; or the construction of houses or commercial, industrial or institutional buildings on lots of approved subdivision plats.
- (2) Those ~~activities~~ requiring a certified survey approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved certified surveys.
- (3) Those ~~activities~~ involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of one ~~four thousand (1,000) (4,000)~~ square feet or more;
- (4) Those ~~activities~~ involving excavation or filling or a combination of excavation and filling affecting one ~~four~~ hundred (100)~~(400)~~ cubic yards or more of dirt, sand or other excavation or fill material;
- (5) Those ~~activities~~ involving street, highway, road, or bridge construction, enlargement, relocation or reconstruction;
- (6) Those ~~activities~~ involving the laying, repairing, replacing or enlarging or an underground pipe or facility for a distance of one ~~three~~ hundred (100)~~(300)~~ feet or more.

(b) **Erosion and Other Pollutant Control Requirements.** The following requirements shall be met on all sites described in Subsection (a) above. These practices shall meet the technical standards:

- (1) **Site Dewatering.** Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydrocyclones, swirl

concentrators, or other appropriate controls designed and used to remove particles of 100 microns or greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than 100 microns during dewatering operations, then no control is needed before discharge, except as determined by the Village Building Inspector or Director of Public Works. ~~control measures specified in the BMPH.~~ Water may not be discharged in a manner that causes erosion of the site, adjacent sites or receiving channels.

(2) **Waste and Material Disposal.** All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of and not allowed to be carried by wind or runoff into a receiving channel, ~~or storm sewer system, or neighboring property.~~

(3) **Tracking.** Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Entrance to and exiting from the site shall occur only over required and approved tracking pads, graveled road, or parking areas. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

(4) **Drain Inlet Protection.** All storm drain inlets ~~down stream~~ shall be protected with a straw, bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications.

(5) **Site Erosion Control.** The following criteria [(Subsection B(5)(a) through (f)]~~shall~~ apply only to land-development or land-disturbing activities that result in runoff leaving the site.

a. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in Subsection (b)(5)(c)[3]. below. Sheetflow runoff from adjacent areas greater than ~~ten thousand (10,000)~~-square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5 feet per-second across the disturbed area for a five year, ten (10)-year twenty-four (24) ~~hour~~ design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. (Note: Soil Conservation Service guidelines for allowable velocities in different types of channels shall be followed.)

b. Natural drainage patterns shall not be changed without a Wisconsin DNR approved plan.

c. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed any one time.

d. Runoff from the entire disturbed area on the site shall be controlled by meeting either Subsection B(5)(d)[1] and [2] or [1] and [3].

1. All disturbed ground left inactive for seven or more days shall be stabilized by temporary or permanent seeding, temporary or permanent seeding and mulching, sodding, covering with tarps, or equivalent control measures. Seeding without mulch or sodding may only be allowed if the seeding or sodding is started and completed between May 1 and September 15. If temporary seeding is used, a permanent cover shall also

be required as part of the final site stabilization. This number of days may be lengthened up to 21 days at the discretion of the Director of Public Works. For winter shut down, seeding and mulching may not be required at the discretion of the Director of Public Works.

2. For sites with 10 or more acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three feet. The basin shall be designed to trap sediment greater than 15 microns in size, based on a five-year, twenty-four-hour storm. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

3. For sites with no more than 10 acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.

4. Appropriate ditch checks shall be placed across any concentrated flow.

e. Any soil or dirt storage piles containing more than 10 cubic yards of material should not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. If remaining for more than seven days, they shall be stabilized by filter fabric fences, straw bale fences, mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than seven days shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet to a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers.

f. Fill soil placement shall be conducted in a proper fashion using compaction methods as defined in "Wis-DOT Specifications for Construction of Highways". Toe of fill slope shall be kept out of flood plains per drainage map in Village offices. Finished slopes shall be a maximum of 3(horizontal):1(vertical) or as recommended in a geotechnical report prepared by a licensed engineer from the State of Wisconsin.

~~b. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.~~

~~c. Runoff from the entire disturbed area on the site shall be controlled by meeting either Subsection (b)(5)c.1. and 2. or 1. and 3.~~

~~1. All disturbed ground left inactive for seven (7) or more days shall be stabilized by seeding or sodding (only available from April 15 to September 15<sup>th</sup>) or by mulching or covering, or other equivalent control measure.~~

- ~~2. For sites with ten (10) or more acres disturbed at one time, or if a channel originates in the disturbed area, one (1) or more sedimentation basins shall be constructed. Each sedimentation basin shall be designed and constructed as specified in the BMPH.~~
- ~~3. For sites with less than ten (10) acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.~~
- ~~d. Runoff from sites with slopes of twelve percent (12%) or more may require additional or different controls than listed in paragraph 3 above. Requirements for such slopes shall be as specified by the Architectural Control Board.~~
- ~~e. Any soil or dirt storage piles, containing more than 10 (10) cubic yards of material should not be located with a downslope drainage length of less than twenty-five (25) to a road way or drainage channel. If remaining for more than seven (7) days, they shall be stabilized by mulching, vegetative cover, tarps, filter fabric fences or straw bale fences. Erosion from piles which will be in existence for less than seven (7) days shall be controlled by placing straw bales or filter fence barriers around the pile. In street utility repair or construction soil or dirt storage located closer than twenty-five (25) or a roadway or drainage channel must be covered with tarps or suitable filter alternative control, if exposed for more than seven (7) days, and down stream storm drain inlets must be protected with straw bale or other appropriate filtering barriers.~~

## **Sec, 15-4-9 Permit Application; Control Plan and Permit Issuance**

(a) **Application.** No landowner or land user may commence a land disturbance or land development activity subject to the Chapter without receiving prior approval of a control plan for the site and a permit from the Architectural Control Board. At least one (1) landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this Chapter shall submit an application for a permit and control plan and pay an application fee to the Village of Fredonia. By submitting an application, the applicant is authorizing the Architectural Control Board to enter the site to obtain information required for the review of the control plan.

(b) **Content of the Control Plan for Land Disturbing and Land Development Activities Covering One (1) or More Acres.** This includes projects developed in multiple phase of less than acre but exceed one acre in aggregate.

(1) **Existing Site Map.** A map of exiting site conditions on a scale of at least one (1) inch equal one hundred (100) feet showing the site and an immediately adjacent area extending a minimum of two hundred (200) feet in each direction.

- a. Site boundaries and adjacent lands which accurately identify site location;
- b. Lakes, streams, wetlands, channels, ditches, and other water courses on the site or within one thousand (1,000) feet.
- c. One hundred (100) year floodplains, flood fringes and floodways;
- d. Location of the predominant soil types;

- e. Vegetative cover;
- f. Location and dimensions of storm water drainage systems and natural drainage patterns on the site;
- g. Locations and dimensions of utilities, structures, roads, highways, and paving; and;
- h. Site topography at a contour interval not to exceed five (5) feet.
- i. Primary and/or secondary environment corridors or other areas of significance.

**(2) Plan of Final Site Conditions.** A plan of final site conditions on the same scale as the existing site map showing the site changes.

**(3) Site Construction Plan.** A site construction plan including:

- a. Locations and dimensions of all proposed land disturbing and land development activity.
- b. Locations and dimensions of all temporary soil or dirt stockpiles;
- c. Locations and dimensions of all construction site management control measures necessary to meet the requirements of this Chapter.
- d. Schedule of anticipated starting and completion date of each land disturbing or land developing activity including the installation of construction site control measures needed to meet the requirements of this Chapter; and
- e. Provisions for maintenance of the construction site control measures during construction.

**(c) Content of Control Plan Statement for Land Disturbing and Land Development Activities Covering Less Than One (1) Acre.** An erosion control plan statement (with simple map) shall be submitted to briefly describe the site and erosion controls (including the site development schedule) that will be used to meet the requirements of the Chapter. The plan shall be filed at the time of the building permit application.

**(d) Review of Control Plan.** Within forty-five (45) days of receipt of the application, control plan, (or control plan statement) and fee, the Architectural Control Board shall review the application and control plan to determine if the requirements of this Chapter are met. The Architectural Control Board may request comments from other departments or agencies. If the requirements of this Chapter are met, the Architectural Control Board shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the Architectural Control Board shall inform the applicant in writing and may either require needed information or disapprove the plan. Within thirty (30) days of receipt of needed information, the Architectural Control Board shall again determine if the plan meets the requirements of this Chapter. If the plan is disapproved, the Architectural Control Board shall inform the applicant in writing of the reasons for disapproval.

**(e) Permits.**

**(1) Duration.** Permits shall be valid for a period of one hundred eighty (180) days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Architectural Control Board may extend the period one (1) or more times for up to an additional one hundred eighty (180) days. The Architectural Control Board may require additional control measures as a condition of the extension if they are necessary to meet the requirements of the Chapter.

**(2) Surety Bond.** As a condition of approval and issuance of the permit, the Architectural Control Board may require the applicant to deposit a surety bond or

irrevocable letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions, in the amount necessary to implement the approved control plan.

**(3) Permit Conditions.** All permits shall require the permittee to:

- a.** Notify the Director of Public Works within forty-eight (48) hours of commencing any land disturbing or land developing activity.
- b.** Notify the Director of Public Works of completion of any control measures within ~~fourteen~~(4) (14) days after their installation.
- c.** Obtain permission in writing from the Architectural Control Board prior to modifying the control plan.
- d.** Install all control measures as identified in the approved control plan;
- e.** Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the control plan.
- f.** Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land developing or disturbing activities.
- g.** Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs;
- h.** Allow the Director of Public Works to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan; and
- i.** Keep a copy of the control plan on the site.

### **Sec. 15-4-10 Inspection**

**(a)** The director of Public Works shall inspect construction sites at least once a month during the period starting March 1 and ending October 31 and at least two (2) times during the period starting November 1 and ending February 28 to ensure compliance with the control plan.

**(b)** If land disturbing or land development activities are being carried out without a permit, the Director of Public Works may ~~shall~~ enter the land pursuant to the provisions of Sections 66.122 and 66.123, Wis. Stats.

### **Sec. 15-4-11 Enforcement**

**(a)** The Director of Public Works or Building Inspector (as indicated by Administrative Code) may post a stop-work order if:

- (1) Any land disturbing or land developing activity regulated under this Chapter is being undertaken without a permit;
- (2) The control plan is not being implemented in a good faith manner; or
- (3) The conditions of the permit are not being met.

**(b)** If the permittee does not cease the activity or comply with the control plan or permit conditions within ~~twenty-four~~~~forty-eight~~(24) (48) hours, the Director of Public works or Building Inspector may revoke the permit. The Architectural Control Board or the Board of Appeals may retract the stop-work order.

(c) If the landowner or land user where no permit has been issued does not cease the activity within twenty-four (24) ~~forty-eight (48)~~ hours, the Director of Public Works or Building Inspector may request the Village Attorney to obtain a cease and desist order.

(d) Forty-eight (48) hours after posting a stop-work order, the Director of Public Works or Building Inspector may issue a notice of intent to the permittee or landowner or land user of the Village of Fredonia's intent to perform work necessary to comply with this Chapter. The Director of Public Works or Building Inspector may go on the land and commence the work forty-eight (48) hours from issuing the notice of intent. The cost of the work performed under the supervision of the Director of Public Works or Building Inspector plus interest at the rate authorized by the Village of Fredonia shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special charge against the property pursuant to Sec. 66.60(16), Wis. Stats.

(e) In the event of emergency conditions, as deemed by the Director of Public Works or Building Inspector, whatever measures are necessary to bring the site into compliance shall be taken and all costs involved shall be paid by the permittee.

(f) Any person violating any of the provisions of this Chapter shall be subject to a forfeiture of not less than Two hundred (\$200.00) ~~Fifty Dollars (\$50.00)~~ nor more than Seven Hundred Dollars (\$700.00) ~~Five Hundred Dollars (\$500.00)~~ and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

(g) Compliance with the provisions of this Chapter may also be enforced by injunctions or citations.

## **Sec. 15-4-12 Appeals**

(a) **Board of Appeals.** The Board of Appeals created pursuant to Section 2-4-2 pursuant to Section 62.23(7)(e) and 68.11, Wis. Stats.

(1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Architectural Control Board, ~~or~~ Director of Public Works, or Building Inspector in administering this Chapter;

(2) Upon appeal, 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 the provisions of this Chapter will result in practical difficulty or unnecessary hardship.

(3) Shall use the rules, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

(b) **Who May Appeal.** Appeals to the Board of Appeals may be taken by any aggrieved person or by any officer, department, board or bureau of the Village affected by any decision of the Architectural Control Board or Director of Public Works.

This ordinance shall take effect and be in force one day after its passage and posting as provided by law.

PASSED AND ADOPTED by the Fredonia Village Board, Ozaukee County, Wisconsin, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

FREDONIA VILLAGE BOARD

\_\_\_\_\_  
Charles Lapicola, Village President

ATTEST:

\_\_\_\_\_  
Village Clerk