

# Chapter 27

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## EROSION CONTROL

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### 27.01 Authority

- (1) This ordinance is adopted by the Common Council of the City of Sheboygan Falls under the authority granted by Wis. Stat. § 62.234. This ordinance supersedes all conflicting and contradictory erosion control regulations previously enacted under Wis. Stat. § 62.23. Except as specifically provided for in Wis. Stat. § 62.234, Wis. Stat. § 62.23 applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The Common Council of the City of Sheboygan Falls hereby designates the Director of City Services to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent stormwater management and erosion control requirements that may be imposed by any of the following:
  - (a) WDNR administrative rules, permits or approvals including those authorized under Wis. Stat. §§ 281.16 and 283.33.
  - (b) Targeted non-agricultural performance standards promulgated in rules by the WDNR under NR 151.004, Wisconsin Administrative Code.

### 27.02 Findings and Purpose

- (1) Findings -

The Common Council of the City of Sheboygan Falls finds runoff from construction sites carries a significant amount of sediment and other pollutants to the Waters of the State in the City of Sheboygan Falls.

- (2) Purpose -

It is the purpose of this ordinance 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 of Sheboygan Falls.

### 27.03 Applicability of Ordinance

This ordinance applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the City of Sheboygan Falls. This ordinance also applies to all lands located within three miles of the corporate limits of the City of Sheboygan Falls, pursuant to the City's extraterritorial plat approved jurisdiction as set forth in Wis. Stat. § 236, even if plat approval is not involved.

This ordinance is not applicable to activities conducted by a state agency, as defined under Wis. Stat. § 227.01 (1). This includes:

- (1) The office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stat. § 281.33 (2).
- (2) The Wisconsin Department of Transportation (WDOT) that entered into a memorandum of understanding with the WDNR that satisfies Wis. Stat. § 281.33(2) such that activities directed and supervised by WDOT are exempt from this ordinance.

#### 27.04 Title

This ordinance shall be known as the Erosion Control Ordinance for the City of Sheboygan Falls.

#### 27.05 Definitions

- (1) "Administering authority" means a governmental employee empowered under Wis. Stat. § 62.234, that is designated by the City of Sheboygan Falls to administer this ordinance.
- (2) "Agricultural land use" means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock and has the same meaning of in Wis. Stat. § 281.16(1).
- (3) "Average annual rainfall" means a calendar year of precipitation, excluding snow that is considered typical.
- (4) "Best management practice" or "BMPs" means structural or non-structural measures, practices, techniques, or devices employed to avoid or to minimize soil, sediment, or pollutants carried in runoff to waters of the state.
- (5) "BMP Handbook" means the most recent edition of the *Wisconsin Construction Site Best Management Practices Handbook*, or as listed on the WDNR's website.
- (6) "Business day" means a day the office of the City of Sheboygan Falls is routinely and customarily open for business.
- (7) "Commercial land use" means use of land for the retail or wholesale sale of goods or services.
- (8) "Construction site best management practice" means a control measure used to meet the requirements of Section 27.08 of this ordinance.
- (9) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (10) "Construction site" means an area where 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.
- (11) "Control plan" means a written description of the number, locations, sizes, and other pertinent information of BMPs designed to meet the requirements of this ordinance submitted by the applicant for review and approval by the City of Sheboygan Falls.
- (12) "Division of land" means the creation from one parcel of two or more parcels or building sites of one or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5 year period.

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- (13) "Erosion" means the detachment and movement of soil, sediment or rock fragments by water, wind, ice, or gravity.
- (14) "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.
- (15) "Extraterritorial" means the unincorporated area within 3 miles of the corporate limits of the City of Sheboygan Falls.
- (16) "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 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.
- (17) "Governing body" means the city council of the City of Sheboygan Falls.
- (18) "Land developing" activity means the construction and reconstruction of buildings, roads, parking lots, paved storage areas and similar facilities.
- (19) "Land disturbing construction activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling, and grading activities.
- (20) "Landowner" means any person holding title to or having an interest in land.
- (21) "Land user" means any person operating, leasing, renting, or having made other arrangements with the landowner where the landowner authorizes use of his or her land.
- (22) "MEP" or "maximum extent practicable" means a level of implementing BMPs to achieve a performance standard specified in this chapter that 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 to meet the performance standards and may vary based on the performance standard and site conditions.
- (23) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (24) "Permit" means a written authorization made by the City of Sheboygan Falls to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to Waters of the State.
- (25) "Pollutant" has the meaning given in Wis. Stat. § 283.01(13).
- (26) "Pollution" has the meaning given in Wis. Stat. § 281.01(10).
- (27) "Responsible party" means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

- (28) "Runoff" means the rainfall, snowmelt, or irrigation water flowing over the ground surface via sheet or channelized flow.
- (29) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff, or deposited by runoff away from its original location.
- (30) "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, that meets all of the following criteria:
- (a) Is designed or used for collecting stormwater or conveying runoff.
  - (b) Is not part of a combined sewer system.
  - (c) Is not draining to a stormwater treatment device or system.
  - (d) Discharges directly or indirectly to Waters of the State.
- (31) "Site" means the entire area included in the legal description of the land where the land disturbing, land redeveloping, or land development activity is proposed in the permit application.
- (32) "Stabilize" means to make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, concrete, gravel, or other measure.
- (33) "Stop work order" means an order issued by the City of Sheboygan Falls that requires that all construction activity on the site be stopped.
- (34) "Technical standard" means a document that specifies design, predicted performance, and operation and maintenance specifications for a material, device, or method.
- (35) "Waters of the State" means those portions of Lake Michigan and Lake Superior within boundaries of Wisconsin, 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 the state or its jurisdiction and has the same meaning given in Wis. Stat. § 281.01(18).

## **27.06 Design Criteria, Standards and Specifications for Best Management Practices (Bmps)**

All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications for the BMPs based on accepted design criteria, standards and specifications identified in the latest edition of the *Wisconsin Construction Site Best Management Practice Handbook, Appendix E of COMM 20, Wisconsin Administrative Code, the DOT - Facilities Development Manual*, or as listed on the WDNR's website.

- (1) Design Criteria, Standards and Specifications -

All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

- (a) Applicable design criteria, standards and specifications identified in the current version of the *Wisconsin Construction Site Best Management Practice Handbook*, or as listed on the WDNR's website.

- (b) Other design guidance and technical standards identified or developed by the WDNR under subchapter V of chapter NR 151, Wisconsin Administrative Code.
  - (c) An average annual basis, calculated using the appropriate annual rainfall or runoff factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.
- (2) Other Standards -
- Other technical standards not identified or developed in Section 27.06(1), may be used provided that the methods have prior written approval by the City of Sheboygan Falls.

### **27.07 Maintenance of BMPs**

All BMP measures necessary to meet the requirements of this ordinance shall be maintained by the applicant or subsequent landowner or responsible party throughout the duration of the construction activities until the site has undergone final stabilization.

### **27.08 Control of Erosion and Pollutants During Land Development, Redevelopment, and Land Disturbance**

- (1) General Applicability -

These general applicability provisions apply to the following sites of land development, land redevelopment or land disturbing activities, excluding *sites regulated under COMM 21.125 and COMM 50.115, Wisconsin State Statutes*.

- (a) Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of 4,000 square feet or more;
  - (b) 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;
  - (c) Those involving street, highway, road, or bridge construction, enlargement, relocation or reconstruction;
  - (d) Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300 feet or more;
  - (e) Those requiring a subdivision plat approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved subdivision plats;
  - (f) Those requiring a certified survey or the construction of houses or commercial, industrial or institutional buildings on lots of approved certified surveys; or
  - (g) Those involving grading, removal of protective ground cover or vegetation, excavation, demolition, landfilling, or other land disturbing activity on slopes of 12 percent or greater.
- (2) Erosion and Other Pollutant Control Requirements -

BMPs must be installed, applied, and maintained in accordance with the site plan. The BMPs shall be located on or off the construction site but prior to entering Waters of the

State or a separate storm sewer connection to Waters of the State. The BMPs shall be designed to reduce pollutants from the construction site to the maximum extent practicable, including, but not limited to:

(a) Control Sediment Runoff -

When designed to the maximum extent practicable, construction site BMPs: are expected to reduce total suspended solid loads by 80 percent on an average annual basis compared to no controls for the construction site to the property line and/or delivered to the Waters of the State. Controls of less than 80 percent require justification as described in Section 27.10(2)(i) of this ordinance.

(b) 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. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday. Sediment tracked by construction equipment from a site onto a public or private paved road or sidewalk shall be minimized by providing a non-tracking access roadway. The access roadway shall be installed as approved on the plan. The sediment cleanup provisions of (e) below are unaffected by the presence or absence of an access roadway.

(c) Building material waste disposal -

All building material waste shall be properly managed and disposed of to prevent pollutants and debris from being carried off site by runoff or wind.

(d) The discharge of sediment as part of site dewatering must be minimized.

(e) Sediment cleanup -

The end of the next working day following the occurrence shall clean up off-site sediment deposition occurring as a result of a storm event. All other off-site sediment deposition occurring as a result of construction activities shall be cleaned up at the end of the workday.

(f) Public storm sewer inlet protection -

Downslope, on-site public storm sewer inlets shall be protected with erosion control.

(g) 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 paragraph.

(3) Alternate Requirements -

The City of Sheboygan Falls may establish construction site storm water management requirements more stringent than those set forth in this section if the City of Sheboygan Falls determines that an added level of protection is needed for sensitive resources.

**27.09(a) Control of Erosion and Pollution from One and Two Family Dwellings**

- (1) Land disturbing activities at construction sites with building foundations for one and two family dwellings shall abide the BMPs as described in COMM 21.125, Wisconsin Administrative Code.
- (2) Performance Standards -
  - (a) Perimeter erosion control measures shall be placed within 24 hours after beginning the excavating. Erosion control measures shall be placed along downslope areas and along side slope areas as required to prevent or reduce erosion where erosion during construction will result in a loss of soil to waters of the state, public storm sewer inlets or off-site. The BMPs as defined in COMM 20.07(8m) or alternative measures that provide equivalent protection to these practices may be utilized to satisfy the requirements of this section. When the disturbed area is stabilized, the erosion control measures may be removed.
  - (b) Stabilization by seeding and mulching -

Slopes greater than or equal to 12 percent, with a downslope length of 10 feet or more, are not considered stabilized with seeding and mulching unless used in conjunction with a tackifier, netting, or matting. Asphalt emulsion may not be used as a tackifier.
  - (c) Tracking -

Sediment tracked by construction equipment on a site onto a public or private paved road or sidewalk shall be minimized by providing a non-tracking access roadway. The access roadway shall be installed as approved on the plot plan, prior to framing above the first floor decking. The sediment cleanup provisions of (d) are unaffected by the presence or absence of an access roadway.

It is not the intent to require a gravel access roadway where natural conditions, such as sandy soils or solidly frozen soil, already provide non-tracking access.
  - (d) Sediment cleanup -

Off-site sediment deposition occurring as a result of a storm event shall be cleaned up by the end of the next workday following the occurrence. All other off-site sediment deposition occurring as a result of construction activities shall be cleaned up at the end of the workday.
  - (e) Public sewer inlet protection -

Downslope, on-site public storm sewer inlets shall be protected with erosion control procedures.
  - (f) Building material waste disposal -

All building material waste shall be properly managed and disposed of to prevent pollutants and debris from being carried off the site by runoff. For proper disposal of flammable, combustible and hazardous liquids, contact the local fire department.



## (3) Best Management Practices -

Appropriate BMPs as defined in COMM 20.07(8m), the *Wisconsin Construction Site Best Management Practices Handbook*, or as listed on the WDNR's website, may be selected, installed, maintained and remain in place until the site is stabilized to meet the performance standards specified in Section 27.09(a)(1) of this ordinance.

## (4) Maintenance of Erosion Control Procedures -

During the period of construction at a site, all erosion control procedures necessary to meet the performance standards of this section shall be properly implemented, installed and maintained by the building permit applicant or subsequent landowner. If erosion occurs after building construction activities have ceased, some or all of the erosion control procedures shall be maintained until the site has been stabilized.

**27.09(b) Control of Erosion and Pollution from Commercial Sites**

Requirements under this section are the same as those listed for Section 27.09(a) of this ordinance.

**27.10 Permit - Application, Control Plan, and Permit Issuance**

- (1) No landowner or responsible party may commence a land disturbance, land redevelopment, or land development activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the City of Sheboygan Falls. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing, land redevelopment, or land developing activity subject to this ordinance shall submit an application for a permit and a control plan and pay an application fee to the City of Sheboygan Falls. By submitting an application, the applicant is authorizing the City of Sheboygan Falls to enter the site to obtain information required for the review of the implementation of the erosion and sediment control plan.
- (2) Content of the control plan for land development and land disturbing activities covering more than one acre.
  - (a) An erosion and sediment control plan shall be prepared and submitted to the City of Sheboygan Falls.
  - (b) The erosion and sediment control plan shall be designed to meet the performance standards in Section 27.08 of this ordinance and other requirements of this ordinance.
  - (c) 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:
    1. 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.
    2. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a topographic map at a readable scale.

3. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date that clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
  4. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
  5. Existing data describing the surface soil as well as subsoils.
  6. Depth to groundwater, as indicated by NRCS soil information where available.
  7. Name of the immediate named receiving water.
  8. Locations of all surface waters and wetlands within one-quarter mile of the construction site.
- (d) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed one foot.
1. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes, and floodways shall also be shown.
  2. Boundaries of the construction site.
  3. Drainage patterns and approximate slopes anticipated after major grading activities.
  4. Areas of soil disturbance.
  5. Location of major structural and non-structural controls identified in the plan.
  6. Location of areas where stabilization practices will be employed.
  7. Areas that will be vegetated following construction.
  8. Extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
- (e) 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 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:
1. 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.

2. 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 City of Sheboygan Falls, structural measures shall be installed on upland soils.

Management of overland flow at all sites, unless otherwise controlled by outfall controls.

Trapping of sediment in channelized flow.

Staging construction to limit bare areas subject to erosion.

Protection of downslope drainage inlets where they occur.

Minimization of tracking at all sites.

Clean up of off-site sediment deposits.

Proper disposal of building and waste materials at all sites.

Stabilization of drainage ways.

Control of soil erosion from dirt stockpiles.

Installation of permanent stabilization practices as soon as possible after final grading.

13. Minimization of dust to the maximum extent practicable.
  - (f) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions of the water course are maintained and protected.
  - (g) For each construction site identified under Section 27.08(1) of the ordinance, an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City of Sheboygan Falls. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the BMPs that will be used to meet the requirements of the ordinance, including the site development schedule.
  - (h) 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 that has the reasonable potential for the discharge of pollutants to Waters of the State and that has not otherwise been addressed in the plan.
    2. The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
    3. The City of Sheboygan Falls notifies the applicant of changes needed in the plan.

- (i) If 80 percent of sediment reduction will not be controlled from the site by design, then the erosion and sediment control plan shall include a reasonable justification for controlling sediment from the site to the maximum extent possible as compared to no sediment controls. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls should be included.
- (3) Content of control plan statement for land disturbing activities covering less than one acre, but meeting the applicability requirements stated in Section 27.08(l) of this ordinance.

An erosion and sediment control plan statement (with simple map) shall be submitted to briefly describe the site and BMPs (including the site development schedule) that will be used to meet the requirements of the ordinance.

- (4) Review of erosion control plan -

Erosion control plans for sites of one or more acres. Within 30 working days of receipt of the application, erosion control plan, and fee, the City of Sheboygan Falls shall review the application and control plan to determine if the requirements of this ordinance are met. The City of Sheboygan Falls may request comments from other departments or agencies. If the requirements of this ordinance are met, the City of Sheboygan Falls shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the City of Sheboygan Falls shall inform the applicant in writing and may either require needed information or disapprove the plan. Within 30 working days of receipt of needed information, the City of Sheboygan Falls shall again determine if the plan meets the requirements of this ordinance. If the plan is disapproved, the City of Sheboygan Falls shall inform the applicant in writing of the reasons for the disapproval.

Erosion control plans for sites of less than one acre. Within 10 working days of receipt of the application, erosion control plan, and fee, the City of Sheboygan Falls shall review the application and erosion control plan to determine if the requirements of this ordinance are met. The City of Sheboygan Falls may request comments from other departments or agencies. If the requirements of this ordinance are met, the City of Sheboygan Falls shall approve the plan, inform the applicant, and issue a permit. If the conditions are not met, the City of Sheboygan Falls shall inform the applicant in writing and may either require needed information or disapprove the plan. Within 10 days of receipt of needed information, the City of Sheboygan Falls shall again determine if the erosion control plan meets the requirements of this ordinance. If the erosion control plan is disapproved, the City of Sheboygan Falls shall inform the applicant in writing of the reasons for the disapproval.

A building permit or footing and foundation permit for the site may not be issued without an approved erosion control plan.

- (5) Erosion control permits -

- (a) Duration -

Erosion Control Permits 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 City of Sheboygan Falls may extend the period one or more times for up to an additional 180 days. The City of Sheboygan Falls may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

- (b) Surety bond, cash escrow, or letter of credit -

As a condition of approval and issuance of the permit, the City of Sheboygan Falls may require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee a good faith execution of the approved control plan and any permit conditions.

- (c) Erosion control permit conditions -

All erosion control permits shall require the permittee to:

1. Notify the City of Sheboygan Falls within 2 working days of commencing any land disturbing activity;
2. Notify the City of Sheboygan Falls of completion of any BMPs within 2 working days after their installation;
3. Obtain permission in writing from the City of Sheboygan Falls prior to modifying the erosion and sediment control plan;
4. Install all BMPs as identified in the approved erosion and sediment control plan;
5. Maintain all road drainage systems, stormwater drainage systems, BMPs and other facilities identified in the erosion and sediment control plan;
6. Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing, redeveloping or disturbing activities and document repairs in a site erosion and sediment control log;
7. Inspect the construction BMPs within 24 hours of each rain of 0.5 inches or more and at least once each week and making needed repairs and documenting the findings of the inspections with the date of inspection and the name of the person conducting the inspection in a site erosion and sediment control log;
8. Allow the City of Sheboygan Falls 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 erosion and sediment control plan; and
9. Keep a copy of the erosion and sediment control plan on the site.

- (d) Exception -

Single family dwellings on less than one acre lots are excluded from the permit requirements discussed in Sections 27.10(5)1, 2, and 3 of this ordinance.

### 27.11 Inspection

The City of Sheboygan Falls shall inspect construction sites on a periodic basis to promote compliance with the sediment and erosion control plan.

If land disturbing, land redevelopment, or land development activities are being carried out without an approved erosion control permit, the representative of the City of Sheboygan Falls shall enter the land pursuant to the provisions of Wis. Stat. §§ 66.122 and 66.123.

## 27.12 Enforcement

- (1) The City of Sheboygan Falls may post a stop-work order if:
  - (a) Any land disturbing or land developing activity regulated under this ordinance is being undertaken without an approved erosion control permit;
  - (b) The erosion control plan is not being implemented in a good faith manner; or
  - (c) The conditions of the erosion control permit are not being met.
- (2) If the permittee does not comply with the erosion control plan or erosion control permit conditions within 24 hours, the City of Sheboygan Falls may revoke the erosion control permit.
- (3) If the landowner or land user where no erosion control permit has been issued does not cease the activity within 24 hours, the City of Sheboygan Falls may request the City of Sheboygan Falls City Attorney to obtain a cease and desist order.
- (4) The City of Sheboygan Falls or the Board of Appeals may retract the stop-work order or the revocation.
- (5) After posting a stop-work order, the City of Sheboygan Falls may issue a notice of intent to the permittee or landowner or land user of the City's intent to perform work necessary to comply with this ordinance. The City of Sheboygan Falls may go on the land and take actions to prevent sediments and pollutants from reaching the waters of the state.
- (6) If the cost of work performed by City personnel or other authorized agents, plus interest at the rate approved by the City Council, exceeds the amount deposited in the irrevocable letter of credit, surety bond, or cash escrow, the remainder shall be billed to the permittee on the landowner. In the event a permittee or landowner fails to pay the amount due, a designated city staff person may enter the amount due on the tax rolls and collect as a special charge against the property pursuant to Wis. Stat. § 66.60(16).
- (7) Any person, firm, association, or corporation violating any of the provisions of this ordinance shall be subject to the general penalty provisions of the City of Sheboygan Falls Municipal Code Section 1.31. Each day a violation exists shall constitute a separate offense.
- (8) Compliance with the provisions of this ordinance may also be enforced by injunction, citation, abatement of nuisances, or other appropriate and available remedy.

## 27.13 Appeals

- (1) Board of Appeals -

The Board of Appeals created pursuant to Section 1.31 of the Municipal Codes of the City of Sheboygan Falls pursuant to Wis. Stat. §§ 62.23(7)(e) and 68.11.

- (a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City of Sheboygan Falls in administering this ordinance;
- (b) Upon appeal, may authorize variances from the provisions of this ordinance that are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and

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

(2) Who May Appeal -

Appeals to the Board of Appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the City, affected by any decision of the City of Sheboygan Falls.

### **27.14 Fees**

Fees referred to in this ordinance shall be established by the Common Council of the City of Sheboygan Falls in a fee schedule and may from time to time be modified by the Common Council of the City of Sheboygan Falls by resolution. Fees shall be related to costs involved in handling permit applications, reviewing control plans, conducting site inspections, and administering the erosion control program.

### **27.15 Severability**

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a decision of 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 not affect the validity of all other provisions, sections or portion thereof of the ordinance which shall remain in full force and effect. Any other ordinance whose terms conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

### **27.16 Effective Date**

This ordinance is in full force and effect from and after passage and publication.