

VILLAGE OF LITTLE CHUTE

ORDINANCE NO. 5, SERIES 2017

AN ORDINANCE AMENDING CHAPTER 7 CONTROL OF CONSTRUCTION SITE EROSION RESULTING FROM LAND DISTURBING CONSTRUCTION ACTIVITIES—TITLE 9—PUBLIC UTILITIES VILLAGE OF LITTLE CHUTE MUNICIPAL CODE

BE IT ORDAINED By the Village Board of Trustees, Village of Little Chute, Outagamie County, Wisconsin does hereby ordain that Chapter 7 Control of Construction Site Erosion Resulting from land disturbing construction activities Title 9 Public Utilities be amended as follows:

ARTICLE VIII. - CONSTRUCTION SITE EROSION CONTROL

DIVISION 1. - GENERALLY

Sec. 34-771. - Authority.

- (a) This article is adopted under the authority granted by Wis. Stats. § 61.354. This article supersedes all provisions of an ordinance previously enacted under Wis. Stats. § 61.35, that relates to construction site erosion control. Except as otherwise specified in Wis. Stats. §§ 61.35, 61.354, applies to this article and to any amendments to this article.
- (b) The provisions of this article are deemed not to limit any other lawful regulatory powers of the same governing body.
- (c) The village board hereby designates the community development department and public works department to administer and enforce the provisions of this article.
- (d) The requirements of this article do not pre-empt more stringent erosion and sediment control requirements that may be imposed by any of the following:
 - (1) State department of natural resources administrative rules, permits or approvals including those authorized under Wis. Stats. §§ 281.16 and 283.33.
 - (2) Targeted nonagricultural performance standards promulgated in rules by the state department of natural resources under Wis. Admin. Code § NR 151.004.

(Code 2006, § 15-5-1; Ord. No. 16(Ser. of 2007), § 1, 12-19-2007)

Sec. 34-772. - Findings of fact.

The village board finds that runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the village.

(Code 2006, § 15-5-2(a); Ord. No. 16(Ser. of 2007), § 2, 12-19-2007)

Sec. 34-773. - Purpose.

It is the purpose of this article 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 village.

(Code 2006, § 15-5-2(b); Ord. No. 16(Ser. of 2007), § 3, 12-19-2007)

Sec. 34-774. - Applicability and jurisdiction.

(a) Article applicability to land disturbing activities; exception.

(1) This article applies to the following land disturbing construction activities except as provided under subsection (a)(2) of this section:

- a. A construction site, which has 4,000 square feet or greater of land disturbing construction activity.
- b. A construction site, which has 100 cubic yards or greater of excavation volume, filling volume, or some combination of excavation and filling volume.
- c. A construction site, which has 100 linear feet or greater of land disturbance to a highway, street, driveway, swale, ditch, waters of the state, wetland, protective area, or other nonagricultural drainage facility which conveys concentrated flow. Wetlands shall be delineated in accordance with Wis. Admin. Code § NR 103.08(1m).

(2) This article does not apply to the following:

- a. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under 40 CFR 122, for land disturbing construction activity.
- b. Nonpoint discharges from agricultural activity areas.
- c. Nonpoint discharges from silviculture activities.
- d. Mill and crush operations.
- e. Land disturbing construction activity that includes the construction of one- and two-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one acre of disturbance. ~~These construction sites are regulated by the state department of commerce under Wis. Admin. Code § COMM 21.125. These sites are regulated by the Village of Little Chute Building Inspection Department.~~

(3) Notwithstanding the applicability requirements in subsection (a)(1) of this section, this article applies to construction sites of any size that, in the opinion of the community development department or public works department, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(b) Jurisdiction - This article applies to land disturbing construction activity on construction sites located within the boundaries and jurisdiction of the village.

(c) Exclusions - This article is not applicable to activities conducted by a state agency, as defined under Wis. Stats. § 227.01(1), but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Wis. Stats. § 281.33(2).

(Code 2006, § 15-5-3; Ord. No. 16(Ser. of 2007), § 4, 12-19-2007)

Sec. 34-775. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administering authority means a governmental employee, or a regional planning commission empowered under Wis. Stats. § 61.354, that is designated by the village board to administer this article.

Agricultural activity area means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

Agricultural production area means the part of the farm where there is concentrated production activity or impervious surfaces. The term "agricultural production areas" include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The term "agricultural production area" does not include the agricultural activity area.

Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this article, average annual rainfall means measured precipitation in Green Bay, Wisconsin, between March 29 and November 25, 1969.

Best management practice (BMP) means structural or nonstructural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

Business day means a day the office of the community development department or public works department is routinely and customarily open for business.

Cease and desist order means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

Common plan of development or sale means a 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. The term "common plan of development or sale" includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

Construction site means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development.

Design Storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

Development means residential, commercial, industrial, institutional, or other land uses and associated roads.

Division of land means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a five year period.

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

Erosion and sediment control plan means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

Extraterritorial means the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

Governing body means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

Land disturbing construction activity or disturbance means any manmade alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. The term "land disturbing construction activity" includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

Landowner means any person holding fee title, an easement or other interest in property, which allows the person to undertake cropping, livestock management, land disturbing construction activity or maintenance of storm water BMPs on the property.

Maximum extent practicable (MEP) means ~~a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.~~ the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with section 34-776 of this ordinance.

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

Permit means a written authorization made by the community development department or public works department to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

Pollutant has the meaning given in Wis. Stats. § 283.01(13).

Pollution has the meaning given in Wis. Stats. § 281.01(10).

Protective area has the meaning given in section 34-949(c)(4).

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

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

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

Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catchbasins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (1) Is designed or used for collecting water or conveying runoff.
- (2) Is not part of a combined sewer system.
- (3) Discharges directly or indirectly to waters of the state.

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

Stop work order means an order issued by the community development department or public works department which requires that all construction activity on the site be stopped.

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

Transportation facility means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095 (1)(b), Wis. Stats. Transportation facility does not include building sites for the construction of

public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.

Waters of the state has the meaning given in Wis. Stats. § 281.01(18).

(Code 2006, § 15-5-4; Ord. No. 16(Ser. of 2007), § 5, 12-19-2007)

Sec. 34-776. – Applicability of Maximum Extent Practicable.

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

Sec. 34-777. - Fee schedule.

The fees referred to in other sections of this article shall be established by the village board and may from time to time be modified by resolution. A schedule of the fees established by the village board shall be available for review in the community development department and public works department.

(Ord. No. 16(Ser. of 2007), § 10, 12-19-2007)

Sec. 34-778. - Inspection.

If land disturbing construction activities are being carried out without a permit required by this article, the community development department or public works department may enter the land pursuant to the provisions of Wis. Stats. § 66.0119(1)—(3).

(Code 2006, § 15-5-9; Ord. No. 16(Ser. of 2007), § 11, 12-19-2007)

Secs. 34-779—34-807. - Reserved.

DIVISION 2. - STANDARDS

Sec. 34-808. - Technical standards.

- (a) Design criteria, standards and specifications. All BMPs required to comply with this article shall meet the design criteria, standards and specifications based on any of the following:
 - (1) Design guidance and technical standards identified or developed by the state department of natural resources under Wis. Admin. Code ch. NR 151, subch. V (Wis. Admin. Code §§ NR 151.30—151.32).
 - (2) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.

- (3) Technical standards and other guidance identified within the stormwater reference guide.
 - (4) For this article, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.
- (b) Other standards - Other technical standards not identified or developed in subsection (a) of this section, may be used provided that the methods have been approved by the community development department or public works department.

(Code 2006, § 15-5-5; Ord. No. 16(Ser. of 2007), § 6, 12-19-2007)

Sec. 34-809. - Performance standards.

- (a) Responsible party - The responsible party shall implement an erosion and sediment control plan, developed in accordance with division 4 of this article that incorporates the requirements of this section.
- (b) Plan - A written erosion and sediment control plan shall be developed in accordance with division 4 of this article and implemented for each construction site.
- (c) Requirements - The erosion and sediment control plan shall meet the following minimum requirements to the maximum extent practicable:
 - (1)
 - (3) Where appropriate, the plan shall include erosion and sediment controls to do all of the following to the maximum extent practicable:
 - a. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
 - b. Prevent the discharge of sediment as part of site dewatering.
 - c. Protect the separate storm drain inlet structure from receiving sediment.
 - d. Prevent the discharge of sediment from disturbed areas into adjacent waters of the state.
 - e. Prevent the discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 - f. Prevent the discharge of sediment from erosive flows at outlets and in downstream channels.
 - g. Prevent the transport by runoff into the waters of the state of untreated wash water from vehicle and wheel washing.
 - (4) The use, storage and disposal of building materials, chemicals, cement, concrete truck washout, litter, sanitary waste, and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into storm sewers and 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 subsection.
 - (5) Sediment Performance Standards - In addition to the erosion and sediment control practices under par. (3), the following erosion and sediment control practices shall be employed:
 - a. BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
 - b. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment

control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.

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

(d) Preventive Measures

- (1) Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
- (2) Minimization of soil compaction and preservation of topsoil.
- (3) Minimization of land disturbing construction activity on slopes of 20 percent or more.
- (4) Development of spill prevention and response procedures.

- (e) Location - The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

- (f) Implementation – The BMP's used to comply with this section shall be implemented as follows:

- (1) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in Sec. 34-809.(c).
- (2) Erosion and sediment control practices shall be maintained until final stabilization.
- (3) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
- (4) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
- (5) BMP's that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

- (f) Alternate requirements - The community development department or public works department may establish requirements more stringent than those set forth in this section if the community development department or public works department determines that an added level of protection is needed for sensitive resources.

(Code 2006, §§ 15-5-6, 15-5-7; Ord. No. 16(Ser. of 2007), § 7, 12-19-2007)

Secs. 34-810—34-826. - Reserved.

DIVISION 3. - PERMITTING REQUIREMENTS, PROCEDURES AND FEES

Sec. 34-827. - Required.

No responsible party may commence a land disturbing construction activity subject to this article without receiving prior approval of an erosion and sediment control plan for the site and a permit from the community development department or public works department.

(Code 2006, § 15-5-8(a); Ord. No. 16(Ser. of 2007), § 8(1), 12-19-2007)

Sec. 34-828. - Application and fees.

At least one responsible party desiring to undertake a land disturbing construction activity subject to this article shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of division 4 of this article and shall pay fees identified in section 34-776 to the community development department or public works department. By submitting an application, the applicant is authorizing the community development department or public works department to enter the site to obtain information required for the review of the erosion and sediment control plan.

(Code 2006, § 15-5-8(a); Ord. No. 16(Ser. of 2007), § 8(2), 12-19-2007)

Sec. 34-829. - Review and approval of permit application.

The community development department or public works department shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

- (1) Within 20 business days of the receipt of a complete permit application, as required by section 34-828, the community development department or public works department shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this article.
- (2) If the permit application and plan are approved, the community development department or public works department shall issue the permit.
- (3) If the permit application or plan is disapproved, the community development department or public works department shall state, in writing, the reasons for disapproval.
- (4) The community development department or public works department may request additional information from the applicant. If additional information is submitted, the community development department or public works department shall have 20 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
- (5) Failure by the community development department or public works department to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

(Code 2006, § 15-5-8(d); Ord. No. 16(Ser. of 2007), § 8(3), 12-19-2007)

Sec. 34-830. - Surety bond.

As a condition of approval and issuance of the permit, the community development department or public works department may require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(Code 2006, § 15-5-8(e)(2); Ord. No. 16(Ser. of 2007), § 8(4), 12-19-2007)

Sec. 34-831. - Requirements.

All permits shall require the responsible party to:

- (1) Notify the community development department or public works department within 48 hours of commencing any land disturbing construction activity.
- (2) Notify the community development department or public works department of completion of any BMPs within ten business days after their installation.
- (3) Obtain permission, in writing, from the community development department or public works department prior to any modification, pursuant to section 34-829, of 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 drainageways resulting from land disturbing construction activities and document repairs in weekly inspection reports.
- (7) Conduct construction site inspections at least once per week and within 24 hours after a precipitation event of 0.5 inches or greater. Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification that repair or replacement is needed. Maintain, at the construction site, weekly written reports of all inspections. Weekly inspection reports shall include all of the following:
 - a. Date, time and location of the construction site inspection;
 - b. The name of individual who performed the inspection;
 - c. An assessment of the condition of erosion and sediment controls;
 - d. A description of any erosion and sediment control BMP implementation and maintenance performed; and
 - e. A description of the present phase of land disturbing construction activity at the construction site.
- (8) Allow the community development department or public works department to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan. Keep a copy of the erosion and sediment control plan, stormwater management plan, amendments, weekly inspection reports, and permit at the construction site until permit coverage is terminated.
- (9) The permit applicant shall post the certificate of permit coverage in a conspicuous location at the construction site.

(Ord. No. 16(Ser. of 2007), § 8(5), 12-19-2007)

Sec. 34-832. - Conditions.

Permits issued under this section may include conditions established by the community development department or public works department in addition to the requirements set forth in section 34-831, where needed to ensure compliance with the performance standards in section 34-949.

(Code 2006, § 15-5-8(e)(3); Ord. No. 16(Ser. of 2007), § 8(6), 12-19-2007)

Sec. 34-833. - Duration.

Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The

community development department or public works department may extend the period one or more times for up to an additional 180 days. The community development department or public works department may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this article.

(Code 2006, § 15-5-8(e)(1); Ord. No. 16(Ser. of 2007), § 8(7), 12-19-2007)

Sec. 34-834. - Maintenance.

The responsible party throughout the duration of the construction activities shall maintain all BMPs necessary to meet the requirements of this article until the site has undergone final stabilization.

(Code 2006, § 15-5-6; Ord. No. 16(Ser. of 2007), § 8(8), 12-19-2007)

Sec. 34-835. - Alternate requirements.

The community development department or public works department may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than one acre of disturbance.

(Ord. No. 16(Ser. of 2007), § 8, 12-19-2007)

Secs. 34-836—34-863. - Reserved.

DIVISION 4. - PLAN STATEMENT AND AMENDMENTS

Sec. 34-864. - Requirements.

The erosion and sediment control plan required under section 34-949(b) shall comply with the stormwater reference guide and contain at a minimum the following information:

- (1) Name, address, and telephone number of the landowner and responsible parties, 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) A legal description of the property proposed to be developed.
- (3) Description of the construction site and the nature of the land disturbing construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
- (4) A site map with property lines, disturbed limits, and drainage patterns.
- (5) Total area of the site and total area of the construction site that is expected to be disturbed by construction activities. Include a description of intended sequence of major land disturbing construction activities for major portions of the construction site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
- ~~(6) Proposed best management practices.~~

- (6) ~~Performance standards applicable to site.~~ Calculations to show the compliance with the performance standard in section 34-809.
- (7) Existing data describing the surface soil as well as subsoils.
- (8) Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
- (9) Name of immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- (10) The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to two five feet.
 - a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on or immediately adjacent to the site shall be shown. Any identified 100-year flood plans, flood fringes and floodways shall also be shown.
 - b. Boundaries of the construction site.
 - c. Drainage patterns and approximate slopes anticipated after major grading activities.
 - d. Areas of soil disturbance.
 - e. Location of major structural and non-structural controls identified in the erosion and sediment control plan.
 - f. Location of areas where stabilization BMPs will be employed.
 - g. Areas which will be vegetated following land disturbing construction activities.
 - h. Area(s) and location(s) of wetland on the construction site, and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
 - i. Area(s) used for infiltration of post-construction storm water runoff.
 - j. And alphanumeric or equivalent grid overlying the entire construction site map.
- (11) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:
 - a. Description of interim and permanent stabilization practices, including a BMP implementation schedule. The erosion and sediment control plan shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
 - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the [administering authority], structural measures shall be installed on upland soils.
 - c. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
 - d. Trapping of sediment in channelized flow.

- e. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
- f. Protection of downslope drainage inlets where they occur.
- g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
- h. Clean up of off-site sediment deposits.
- i. Proper disposal of building and waste material.
- j. Stabilization of drainage ways.
- k. Installation of permanent stabilization practices as soon as possible after final grading.
- l. Minimization of dust to the maximum extent practicable.

(12) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel as necessary to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

(Code 2006, § 15-5-8(b), (c); Ord. No. 16(Ser. of 2007), § 9(1), 12-19-2007)

Sec. 34-865. - Erosion and sediment control plan statement.

For each construction site identified under section 34-920(a)(3), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the community development department or public works department. The control plan statement shall briefly describe the site, **the BMPs that will be used to meet the requirements of the ordinance and including** a site map. Further, it shall also include the best management practices that will be used to meet the requirements of this article, including the site development schedule.

(Code 2006, § 15-5-8; Ord. No. 16(Ser. of 2007), § 9(2), 12-19-2007)

Sec. 34-866. - Amendments.

The applicant shall amend the plan if any of the following occur:

- (1) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the plan.
- (2) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
- (3) The community development department or public works department notifies the applicant of changes needed in the plan.

(Ord. No. 16(Ser. of 2007), § 9(3), 12-19-2007)

Sec. 34-867. - Alternate requirements.

The community development department or public works department may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than one acre of disturbance.

(Ord. No. 16(Ser. of 2007), § 9(4), 12-19-2007)

Secs. 34-868—34-897. - Reserved.

DIVISION 5. - ENFORCEMENT AND APPEALS

Sec. 34-898. - Enforcement.

- (a) The community development department or public works department may post a stop work order if any of the following occurs:
 - (1) Any land disturbing construction activity regulated under this article is being undertaken without a permit.
 - (2) The erosion and sediment control plan is not being implemented in a good faith manner.
 - (3) The conditions of the permit are not being met.
- (b) If the responsible party does not cease activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions, the community development department or public works department may revoke the permit.
- (c) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the community development department or public works department, or if a responsible party violates a stop work order posted under subsection (a) of this section, the community development department or public works department may request the village attorney to obtain a cease and desist order in any court with jurisdiction.
- (d) The community development department, public works department, or the board of appeals may retract the stop work order issued under subsection (a) of this section or the permit revocation under subsection (b) of this section.
- (e) After posting a stop work order under subsection (a) of this section, the community development department or public works department may issue a notice of intent to the responsible party of its intent to perform work necessary to comply with this article. The community development department or public works department may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the community development department or public works department, plus interest at the rate authorized by the village board shall be billed to the responsible party or recovered from the surety bond, cash escrow, or irrevocable letter of credit. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to Wis. Stats. ch. 66, subch. VII.
- (f) Any person violating any of the provisions of this article shall be subject to a forfeiture of not less than \$25.00 nor more than \$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 article may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(Code 2006, § 15-5-10; Ord. No. 16(Ser. of 2007), § 12, 12-19-2007)

Sec. 34-899. - Appeals.

- (a) The board of appeals created pursuant to section 2-149 and Wis. Stats. § 61.354(4)(b):

- (1) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the community development department or public works department in administering this article except for cease and desist orders obtained under section 34-898(c);
 - (2) Upon appeal, may authorize variances from the provisions of this article which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the article will result in unnecessary hardship; and
 - (3) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (b) Appeals to the board of appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the village affected by any decision of the community development department or public works department.

(Code 2006, § 15-5-11; Ord. No. 16(Ser. of 2007), § 13, 12-19-2007)

Secs. 34-900. - Severability.

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

Secs. 34-901—34-916. - Reserved.

Date Introduced: September 6, 2017

Approved and Adopted: September 6, 2017

VILLAGE OF LITTLE CHUTE

By: 
Michael R. Vandén Berg, Village President

Attest: 
Laurie Decker, Village Clerk