

# CHAPTER TWO

## BUILDING AND CONSTRUCTION ORDINANCE

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CHAPTER 2

EROSION CONTROL ORDINANCE

**Section 2.01**      **Authority.** This Ordinance is adopted under the authority granted to the Town Board by the Town meeting under Wis. Stats. §60.10(2)(c), permitting the Town Board to exercise the powers of a Village Board.

**Section 2.02**      **Title.** This Chapter shall be known as, referred to, and may be cited as "Erosion Control Ordinance" and is hereinafter referred to as the Ordinance.

**Section 2.03**      **Findings and Declaration of Policy.** The Town Board finds that urbanizing land uses have accelerated the process of soil erosion, runoff and sediment deposition in the waters of the Town. It is, therefore, declared to be the policy of this Ordinance to provide for the control and if possible, the prevention of soil erosion, and thereby to preserve the natural resources, control floods and prevent impairment of dams and reservoirs, protect the tax base, and protect and promote the health, safety and general welfare of the people of the Town.

**Section 2.04**      **Intent and Purpose.** The purpose of this Ordinance is to promote the public health, safety, prosperity, and general welfare of the citizens of the Town, and to conserve the soil, water and related resources and control erosion and sedimentation.

**Section 2.05**      **Applicability.** This Ordinance applies to the use of lands within the political boundaries of the Town of Roxbury.

**Section 2.06**      **Definitions.** All references to the Wisconsin Statutes shall be to the 1995-1996 Edition, and subsequent amendments. The following terms, whenever they occur in this Ordinance, are defined as follows:

- I      **Agricultural Lands.** Lands used for production of food and fiber, including but not limited to, general farming, livestock and poultry enterprises, grazing, nurseries, horticulture, viticulture, truck farming, forestry, sod production, cranberry production and wild crop harvesting and includes lands used for on-site structures necessary to carry out such activities.

- II        **Control Plan (Erosion and Sediment Control Plan and/or Runoff Control Plan).** Written description approved by the Town Engineer, of methods for controlling sediment or pollution from accelerated erosion on a development area and/or from erosion caused by accelerated runoff from a development area and controlling runoff.
- III       **Cubic Yards.** The amount of material in excavation and/or fill measured by the method of "average end areas."
- IV       **Erosion (Soil Erosion).** The detachment and movement of soil or rock fragments by water, wind, ice or gravity.
- V        **Excavation.** Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.
- VI       **Existing Grade.** The vertical location of the existing ground surface prior to excavation or filling.
- VII       **Fill.** Any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by human forces to a new location and shall include the conditions resulting therefrom.
- VIII      **Grading.** Altering the elevation of the land surface by stripping, excavating, filling, or stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
- IX       **Governing Body.** The Roxbury Town Board.
- X        **Land Disturbing Activities or Uses.** Any land alterations or disturbances which may result in soil erosion, sedimentation and/or the increase in runoff, including but not limited to tilling, removal of ground cover, grading, excavating and filling of land, except that the term shall not include such minor land-disturbing activities as home gardens and repair and maintenance of private roads. Additionally, this term does not include agricultural land uses.
- XI       **Land Treatment Measures.** Structural or vegetative practices, or combinations of both, used to control erosion and sediment production,



## SECTION 2.06(XX)

including areas to be protected by fencing.

- XII **Land Occupier or Occupier of Land.** Any person, partnership, firm, limited liability company or corporation that has an interest in the land either as owner, as tenant in common or joint tenant or holds as a trustee, assignee, or holds as a land contract vendee.
- XIII **Land Users.** Persons who use land, individually or collectively as owners, operators, lessors, renters, occupiers who are providing a service that requires access or alterations of the land in order to perform the service, or by other arrangement which gives them the responsibility of private or public land use.
- XIV **Parcel.** All contiguous lands under the ownership or control of a land occupier or land user.
- XV **Peak Flow.** The maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.
- XVI **Permit.** The signed, written statement issued under this Ordinance authorizing the applicant to engage in general land disturbing uses specified and for a specified period of time.
- XVII **Permittee.** Any person to whom a permit is issued under this Ordinance.
- XVIII **Person.** Any individual, corporation, limited liability company, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.
- XIX **Public Lands.** All lands which are subject to regulation by the Town, including, but not limited to:
- A. all lands owned or controlled by the Town; and
  - B. all land, within the political boundaries of the Town, which are owned by another unit of government if that unit of government is acting in a proprietary rather than governmental function.
- XX **Removal.** Cutting vegetation to the ground or stumps, complete

extraction, or killing by spraying.

- XXI **Review Agency.** Any agency designated by the Town for the purpose of seeking technical advice as to the adequacy of erosion and runoff control plans to conform to the standards and criteria of Section 2.09.
- XII **Runoff.** The portion of rainfall, melted snow or irrigation water that flows across the ground surface and eventually is returned to lakes or streams, creeks or other water courses.
- XXIII **Sediment.** Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site or origin by air, water, gravity or ice, and has come to rest on the earth's surface at a different site.
- XXIV **Sedimentation.** The transportation and deposition of sediment that may ultimately degrade water quality by the presence of suspended solid particles, derived from soils by erosion or discharged into surface waters from other sources; or the deposition of water-borne sediments in stream channels, lakes, reservoirs, or on flood plains, usually because of a decrease in the velocity of the water.
- XXV **Soil Loss.** Soil movement from a given site because of land disturbing activities or by the forces of erosion and redeposited at another site on land or in a body of water.
- XXVI **Stop-Work Order.** A means of giving notice to the permittee that the Town Engineer believes that the permittee has violated one or more provisions of this Ordinance. Notice is given both by posting upon the lands where the land disturbing activity occurs one or more copies of a poster stating the violation and by mailing a copy of this poster by certified mail to the permittee at the address shown on the permit.
- XXVII **Storm Frequency.** The average period of time in which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- XXVIII **Storm Sewer.** A closed conduit for conducting collected storm water.
- XXIX **Storm water Drainage Facility.** Any element in a storm water drainage system which is made or improved by human activity.



- XXX **Storm water Drainage System.** All facilities used for conducting storm water to, through or from a drainage area to the point of final outlet, including but not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, streets and pumping stations.
- XXXI **Storm water Runoff.** The waters derived from rains falling within a tributary drainage basin, flowing over the surface of the ground or collected in channels, watercourses or conduits.
- XXXII **Structural Measures.** Works of improvement for land stabilization to prevent erosion, sediment or runoff which include, but are not limited to, gully control structures, grass waterways, rip rap, detention basins, sediment basins, flood retention dams, diversions, lining channels with rock, concrete or other materials. Contour strip cropping is not a structural measure.
- XXXIII **Town.** The Town of Roxbury, Dane County, Wisconsin.
- XXXIV **Town Engineer.** The person or firm employed by the Town of Roxbury to function in the capacity of the Town Engineer, or the duly appointed representative, unless the text states otherwise.
- XXXV **Twenty-Five Year Storms.** Those rainstorms of varying durations and intensities expected to recur on the average of once every 25 years.
- XXXVI **Twenty-Five Year Storm Runoffs.** The storm water runoffs from the 25 year storms.

**Section 2.07**      **Land Disturbing Activities Subject to Erosion Control.**

- I      **General Requirement.** Any landowner, land occupier or land user who undertakes, begins, commences or performs land disturbing activities; or who permits another person to do the same, on land subject to this section, shall be subject to the provisions of this Ordinance.
- II      **Land Disturbing Activities Subject to Erosion and Sediment Control.**  
Land disturbing activities on public or private lands shall be subject to the erosion and sediment control provisions of this Ordinance, if:  
An area of 5,000 square feet or greater will be disturbed by excavation, grading, filling, or other earthmoving activities, resulting in the loss or removal of protective ground cover or vegetation; or



- A. Excavation, fill, or any combination thereof, will exceed 1,000 cubic yards; or
- B. Any public (federal, state or local) street, road or highway is to be constructed, enlarged, relocated or substantially reconstructed; or
- C. Any water course is to be changed, enlarged, or materials are removed from stream or lake beds; or
- D. Any proposed land use by a unit of government or by public or private utilities in which underground conduits, cables, piping, wiring, waterlines, sanitary sewers or storm sewers will be laid, repaired, replaced or enlarged, if such use involves more than 300 linear feet of trenching or land disturbance; or
- E. Any subdivision of land which requires plat approval or any certified survey; or
- F. Any land disturbing activity on slopes greater than 15%; or
- G. Any land disturbing activity on unstable soils as determined by the Town Engineer.

### III

**Land Disturbing Activities Subject to Onsite Detention and Runoff Control.** Land disturbing activities on public or private lands shall be subject to the onsite detention and runoff control provisions of this Ordinance if:

- A. The land disturbing activity will be a residential development having a gross aggregate area of five acres or more; or
- B. The land disturbing activity will be a residential development on less than five acres having thirty percent or more of the area as impervious surfaces including roads, buildings, parking facilities and other improvements; or
- C. All industrial developments with gross aggregate area of 0.2 acres or more; or
- D. All commercial developments with gross aggregate area of 1.0 acres or more; or
- E. The land disturbing activity will be a development, other than residential, commercial or industrial, having a gross aggregate area of three acres or more; or

## SECTION 2.09(II)

- F. In the opinion of the Town Engineer, the runoff from the land disturbing activity will create a hazard by exceeding the safe capacity of the receiving water body in the area; or will cause undue channel erosion or an undue increase in water pollution by increased scour and transport of particles; or will otherwise endanger the downstream property owners or their property. Safe capacity is defined as the rate of flow that can be handled without flooding.

- IV **Compliance With This Section.** The owner, land occupier or land user shall comply with this section by following the procedure of Section 2.10 and receiving from the Town Engineer written approval of the control plan and a permit before commencement of any land disturbing activities on lands subject to control under this section.

**Section 2.08 Erosion and Sedimentation Control Regulations for Lands Not Otherwise Subject to this Ordinance.** Any landowner, land occupier or land user who permits excessive erosion to adjacent land, public streets or bodies of water from land not otherwise subject to this Ordinance shall be deemed in violation of this Ordinance and subject to the penalties provided in Section 2.13. Erosion is excessive if, in the opinion of the Town Engineer, an unsafe condition results in the streets, if undue sedimentation of lakes and streams occurs or if the public health, safety or general welfare of the citizens of the Town of Roxbury is harmed.

### **Section 2.09 Standards and Criteria.**

- I **Effect of Compliance.** Compliance with the standards and criteria of this section shall not bar a nuisance action or other civil action brought by any injured public or private party for damage to property upon which the erosion directly occurred or to property or other rights which were damaged by erosion, sedimentation or runoff.
- II **Standard for Erosion and Sediment Control for Land Disturbing Activities.** The Town Engineer shall neither approve plans nor issue permits required by this Ordinance for land disturbing activities unless erosion and sedimentation during and after the land disturbing activity will not exceed that which would have been eroded if the land had been left in its undisturbed state and/or are controlled in accordance with the Town Erosion and Sediment Control Specifications, or other Technical Guidelines as developed by the U.S. Department of Agriculture, Soil Conservation Service.



III      **Standards for Onsite Detention and Runoff Control for Land Disturbing Activities.** Land disturbing activities subject to onsite detention and runoff control regulation under this Ordinance shall not exceed the more stringent of the two following standards:

- A.      The peak rate of runoff after the proposed activities shall not be greater than the peak rate which would have resulted from the same storm event occurring over the site of the proposed activity with the land in its natural undeveloped state; or
- B.      The peak runoff rate shall be limited to a rate prorated on the basis of the safe capacity of the existing or proposed storm water drainage facilities.

Further, land disturbing activities subject to onsite detention and runoff control regulation by this Ordinance shall provide for detention of the increased storm water runoff which would result from the proposed land disturbing activity. Storage shall be sufficient to store this increased runoff for a 25 year storm of any duration. Storm water detention may be provided by the landowner/land user onsite or adjacent to the site or may be provided by the Town, with costs prorated as provided in Section 2.10(V)(G) of this Ordinance. Estimated runoff and required storage capacity shall be calculated in accordance with the latest edition of Urban Hydrology for Small Watersheds -Technical Release Number 55 by the U.S. Department of Agriculture, Soil Conservation Service.

IV      **Standard for Tracking.** The Town Engineer shall neither approve any plan nor issue a permit for any land disturbing activity under this Ordinance unless satisfied that adequate provisions are made to prevent the tracking or dropping of dirt or other materials from the site onto any public or private street.

V      **Design Criteria, Engineering Standards and General Principles.** The applicant for a permit may employ any structural or nonstructural measures believed to be necessary to achieve all applicable standards set out in this Ordinance. However, the Town Engineer or review agency is required to evaluate these measures to determine that they follow currently accepted design criteria and engineering standards.

## **SECTION 2.10(I)(B)(1)**

The following general principles shall be used by the Town Engineer or review agency when evaluating control plans and granting permits under this Ordinance:

- A. The smallest practical area of land shall be exposed at any given time during development.
- B. Such minimum area exposure shall be kept to as short a duration of time as is practicable.
- C. Temporary vegetation, mulching or other cover shall be used to protect areas exposed during development.
- D. Provision shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development according to the standards contained in this Ordinance.
- E. Permanent, final plant covering or structures shall be installed as soon as possible.
- F. The plan of development shall relate to the topography and soils of the site so that the lowest potential for erosion is created.
- G. Natural plant covering shall be retained and protected and shall be deemed a dominating factor in developing the site.

### **Section 2.10**

### **Application and Issuance of Permits.**

#### **I**

#### **Permit Required; Procedure and Fee.**

- A. Unless specifically exempted from this Ordinance, no land occupier or land user may undertake a Land disturbing activity subject to this Ordinance without receiving a permit from the Town Engineer prior to commencing the proposed activity. Each land occupier or land user desiring to undertake a regulated activity subject to this Ordinance shall submit to the Town Engineer an application for a permit together with the appropriate fee required by this Ordinance.
- B. Exceptions to this requirement are as follows:
  - 1. The owner and occupier of public lands are exempt from payment of any permit fees;



## SECTION 2.10(III)(C)(2)

2. For its convenience, the Town Engineer may enter into an agreement with public or private utilities and governmental units to waive the need for a permit for each individual land disturbing activity, if the utility or governmental unit agrees to adopt and follow a procedure for each land disturbing activity which meets all applicable standards contained in this Ordinance. Further, the agreement shall provide that in the event that a utility or governmental unit activity fails to meet the standard, the agreement shall terminate and the utility or governmental unit shall be subject to the penalties of this Ordinance.

II **Control Plan Required.** Unless specifically exempted by this Ordinance, every applicant for a permit under this Ordinance shall develop and shall submit a plan to control erosion, sedimentation and runoff which would result from the proposed activity.

III **Contents of the Control Plan.** The control plan shall contain such information which the Town Engineer or review agency may reasonably need to determine soil erosion, sedimentation and runoff control. The Town Engineer and/or review agency may require the following, as well as any other information which, in the judgment of the Engineer and/or review agency, is needed to evaluate the control plan:

- A. A map of the site location at a scale of not smaller than one inch equals 100 feet showing the location of predominant soil types and the existing vegetative cover.
- B. A topographic map of the site location, including enough of the contiguous properties to show existing drainage patterns and watercourses that may affect or be affected by the proposed development of the site, and also show the site boundaries. Scale of not less than one inch equals 100 feet is to be used.
- C. A plan of the site at a scale of not smaller than one inch equals 100 feet showing:
  1. Name, address and telephone number of the land occupier, along with the name and telephone number of the party responsible for maintaining erosion control structures.
  2. Limits of natural flood plain(s), based on a 100 year flood, if any.

## SECTION 2.10(III)(C)(5)

3. A schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area of land disturbing activity prior to the completion of effective measures for erosion and sediment control.
4. Proposed topography of the site location with a maximum of two foot contour intervals showing:
  - a. Location of proposed land disturbing activity, proposed disturbance of protective cover, any proposed additional structure on the site, areas to be seeded or mulched, areas to be vegetatively stabilized and areas to be left undisturbed.
  - b. Elevations, dimensions, locations of all proposed land disturbing activities including where topsoil will be stockpiled, so that topsoil will not contribute to erosion and sedimentation.
  - c. The finished grade, stated in feet horizontal to feet vertical, of cut and fill slopes.
  - d. Kinds of utilities and proposed areas of installation.
  - e. Proposed paved and covered areas in square feet or to scale on a plan map.
  - f. Makeup of proposed surface soil (upper six inches) on areas not covered by buildings, structures or pavement. Description shall be in such terms as: original surface soil, subsoil, sandy, heavy clay or stony.
  - g. Proposed kind of cover on areas not covered by buildings, structures or pavement. Description shall be in such terms as: lawn, turfgrass, shrubbery, trees, forest cover, rip rap or mulch.
5. Plans and hydraulic computations of all temporary or permanent structural or nonstructural measures or other protective devices to be constructed in connection with, or as part of, the proposed work showing:



## SECTION (III)(C)(5)(h)

- a. Estimated surface runoff of the area based upon ten and 25 year frequency storm events. Peak flows based upon synthetic storm frequency events calculated using Urban Hydrology for Small Watersheds - TR55 shall be required in the event that storm runoff or stream flow data is not available in the area.
- b. Estimated rate of discharge in cubic feet per second at the point or points of discharge from the site location based upon ten and 25 year frequency storm events.
- c. The storm event frequency or recurrence interval and discharge rate in cubic feet per second on which the design of plans for the site location is based.
- d. Proposed provisions to carry runoff to the nearest adequate outlet, such as a curbed street, storm drainer natural drainage way.
- e. Design computations and applicable assumptions for all structural measures for erosion and sediment pollution control and water management. Volume and velocity of flow shall be given for all surface water conveyance measures and pipe out falls. Surface runoff computations shall be submitted to the Town Engineer in accordance with current administrative guidelines as approved by the Town Plan Commission.
- f. Estimate of cost of erosion and sediment control and water management structures and features.
- g. Provisions for maintenance of control facilities including easements to insure short as well as long-term erosion and sediment pollution control and storm water management.
- h. Seeding mixtures and rates, lime and fertilizer application rates, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

## SECTION 2.10(IV)(C)(3)

- i. Methods to prevent tracking of soil off the site of the land disturbing activity.

### IV

#### **Review of Application and Control Plan and Issuance of Permits.**

- A. The applicant shall submit a permit application and any required fee and control plan to the Town engineer.
- B. If the Town has a designated review agency, the Town Engineer shall forward the application and control plan to the Town Planning Commission and any other appropriate review agencies which shall determine the adequacy of the plan's contents to control erosion, sedimentation and runoff during and after the land disturbing activities pursuant to Section 2.09(V) of this Ordinance. The review agency shall inform the Town Engineer of its recommended disposition of the plan within four weeks of its receipt of the control plan. If the review agency recommends disapproval, such recommendation shall be in writing. If the Town lacks a review agency, these duties shall be performed by the Town Engineer.
- C. The Town Engineer shall inform the applicant in writing whether or not the control plan is approved within five weeks from the date of receipt of the completed application, control plan and required fee.
  1. If the application is approved, the Town Engineer shall issue the permit.
  2. If additional information is required in order to evaluate the application, the Town Engineer shall so notify the applicant, who shall promptly submit the required information. Further review and approval or disapproval shall occur as specified in Section 2.14 of this Ordinance, with applicable time limits determined from the date of receipt of the additional information.
  3. If the application is disapproved, the Town Engineer shall specify in writing the reasons for disapproval. The applicant may resubmit a new or modified control plan or may appeal the Town Engineer's decision pursuant to Section 2.14.



## SECTION 2.10 (V)(G)

4. Failure by the Town Engineer to render a written decision within five weeks of receipt of the completed application, control plan and any required fee shall be deemed to be approval of the plan as submitted, and the applicant may proceed as if the permit has been issued, unless notified of an additional information requirement.

### V

**Permit; Conditions.** All permits issued under this Ordinance shall be issued subject to the following conditions and requirements and any permittee who begins to perform any land disturbing activity authorized by permit shall be deemed to have accepted all of these conditions:

- A. All land disturbances, construction and development will be done pursuant to the control plan as approved by the Town Engineer.
- B. The permittee shall give at least two working days notice to the Town Engineer in advance of the start of any land disturbing activity.
- C. The permittee shall file a notice of completion of all land disturbing activities and/or the completion of installation of all onsite detention facilities within 10 days after completion.
- D. Approval in writing must be obtained from the Town Engineer prior to any modifications to the approved control plan.
- E. The permittee will be responsible for maintaining all roads, road rights-of-way, streets, runoff and drainage facilities and drainage ways as specified in the approved plan until they are accepted and dedicated to a governmental entity.
- F. The permittee will be responsible for repairing any damage at his or her expense to all adjoining surfaces and drainage ways caused by runoff and/or sedimentation resulting from activities which are not in compliance with the approved plan.
- G. The permittee must provide and install at his or her expense all drainage, runoff control and erosion control improvements required by this Ordinance and the approved control plan, and also must bear his or her proportionate share of the total cost of offsite improvements to drainage ways based upon the existing developed drainage area or planned development of the drainage area, as determined by the Town Engineer.

## SECTION 2.10(VII)(A)

- H. No work will be done on the site during any period of time that the average hourly wind velocity at the location of the land disturbing activity exceeds 20 miles per hour, unless provision has been made to eliminate dust and blowing dirt.
- I. No portion of the land which undergoes the land disturbing activity will be allowed to remain uncovered for greater than two weeks after notice is given to the Town Engineer that the land disturbing activity is completed.
- J. The permittee shall permit the Town Engineer to enter onto the land regulated under this Ordinance for the purpose of inspecting for compliance with the approved control plan and permit.
- K. The permittee authorizes the Town Engineer to perform any work or operations necessary to bring the condition of the lands into conformity with the approved control plan or plan as modified by the Town engineer and further consents to the Town placing the total of the costs and expenses of such work and operations upon the tax roll as a special charge against the property.

### VI

**Permit Duration.** Permits issued under this Ordinance shall be valid for a period of six months from the date of issuance by the Town Engineer and all work must be completed prior to the expiration date of the permit. The Town Engineer may extend the expiration date of the permit if the Engineer finds that an extension will not cause an increase in erosion, sedimentation or runoff. The Town Engineer is further authorized to modify the plans if necessary to prevent any increase in sedimentation, erosion or runoff resulting from any extension.

### VII

#### **Fees For Engineering Review and Enforcement.**

- A. Any person who submits an application for approval of an erosion control plan or issuance of a permit required by this Ordinance shall pay a fee equal to the Town's actual cost for engineering work by the Town Engineer and/or review agency incurred by the Town in connection with review of the erosion control plan, including any inspections required to assure compliance with the plan. The fee shall be paid prior to issuance of the permit if the engineering review fees have been billed by that time. If billed to the Town after issuance of the permit, the fee shall be paid within 30 days of its receipt by the



## SECTION 2.12(II)(B)

applicant. Failure to pay such fee within 30 days shall be grounds for revocation of the permit, issuance of a stop work order, and/or charging the cost as a special charge against the property pursuant to Wis. Stats. §66.60(16), in the discretion of the Town Board.

- B. If the Town Engineer and/or review agency is required to undertake any enforcement action under Sections 2.08, 2.12(IV) or 2.13(III) of this Ordinance, all fees charged to the Town by the Engineer shall be collected by the Town from the person or persons violating the Ordinance, unless a Court of record expressly dismisses an action to enforce the Ordinance or finds that the Engineer's actions lacked a reasonable basis under this Ordinance. If unpaid by the responsible party within 30 days of submission, the Town shall enter the cost as a special charge against the property pursuant to Wis. Stats. §66.60(16).

**Section 2.11**      **Time for Compliance.** Land disturbing activities commenced after the effective date of this Ordinance shall comply with all provisions of the Ordinance.

## **Section 2.12**      **Administration.**

- I      **Delegation of Authority.** The Town Board shall designate the Town Engineer to administer and enforce the provisions of this Ordinance, under its direction. The Town Engineer may seek technical advice from the Dane County Land Conservation District or the U.S. Department of Agriculture, Soil Conservation Service as to the adequacy of any proposed plan and permit application submitted to the Town.
- II      **Administrative Duties.** In the administration and enforcement of this Ordinance, the Town Engineer shall perform the following duties:
- A.      Keep an accurate record of all plan data received, plans approved, permits issued, inspections made and other official actions and make a periodic permit activity report to the Roxbury Plan Commission.
- B.      If the Town has a designated review agency, the Engineer shall forward permit applications and control plans for review to the review agency. The Town Engineer may issue permits required by Section 2.10 of this Ordinance under the procedure set forth herein only upon the recommendation of the review agency.

## SECTION 2.13(I)

- C. Investigate all complaints made to the application of this Ordinance.
- D. Revoke any permit granted under this Ordinance if it is found that the holder of the permit has misrepresented any material fact in the permit application or plan; or has failed to comply with the plan as originally approved or as modified in writing subsequently by the Town Engineer; or has violated any of the other conditions of the permit as issued to the applicant.

III **Inspection Authority.** The Town Engineer is authorized to enter upon any public or private lands affected by this Ordinance to inspect the land prior to permit issuance for the purpose of determining whether to approve the plan and after permit issuance to determine compliance with this Ordinance. If permission cannot be received from the land occupier or user, entry by the Town Engineer shall be by special inspection warrant pursuant to Wis. Stats. §§66.122 and 66.123.

IV **Enforcement Authority.** The Town Engineer is authorized to post a stop work order upon land which has had a permit revoked or to post a stop work order upon land which is currently undergoing any land disturbing activity in violation of this Ordinance. The Town Engineer shall supply a copy of each stop work order to the Town Attorney. In lieu of the stop work order, the Town Engineer may issue a written cease and desist order to any land occupier or land user whose activity is in violation of this Ordinance. These orders shall specify that the activity must be ceased or brought into compliance with the Ordinance within seven days. Any revocation, stop work order or cease and desist order shall remain in effect unless retracted by the Town Board, the Town Engineer or by a court of general jurisdiction; or until the land disturbing activity is brought into compliance with the Ordinance. The Town Engineer is authorized to refer any violation of this Ordinance or of a stop work or cease and desist order issued pursuant to this Ordinance to the Town Attorney for the commencement of further legal proceedings.

### **Section 2.13**      **Violations.**

- I **Penalties.** Any person, either owner or occupant of the premises, who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Ordinance, shall be subject to a forfeiture of not less than \$20.00 nor more than \$400.00, plus costs of prosecution for each violation. Each day that a violation exists or continues shall constitute a separate offense.



## SECTION(2.14(III))

- II        **Enforcement by Injunction.** Compliance with the provisions of this Ordinance may also be enforced by injunctive relief at the suit of the Town. It shall not be necessary to prosecute for forfeiture before resorting to injunction proceedings.
- III       **Performance of Work by the Town Engineer.** Where the Town Engineer determines that the holder of a permit issued pursuant to this Ordinance has failed to make any improvements or to follow practices as approved in the plan; or has failed to comply with the time schedule as included in the plan, the Town Engineer or a party designated by the Town Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said land into conformity with the requirements of the approved plan. The Town Engineer shall keep a detailed accounting of the costs and expenses of performing this work and these costs and expenses shall be entered on the tax roll as a special charge against the property pursuant to Wis. Stats. §66.60(16) and collected with any other taxes levied thereon for the year in which the work is completed.

### **Section 2.14        Appeals.**

- I        **Authority.** The Town Plan Commission shall:
  - A.       Hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Town Engineer in administering this Ordinance.
  - B.       Authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- II       **Procedure.** The rules, procedures, duties and powers of the Town Plan Commission shall apply to this Ordinance.
- III       **Who May Appeal.** Appeals may be taken by any person aggrieved or by an officer, department, boarder bureau of the Town affected by the order, requirement, decision or determination made by the Town Engineer. For the purpose of this Ordinance, aggrieved person shall include applicant and property owners who own land which is subject to the Ordinance.

## SECTION 2.15(III)

- IV Pursuant to Wis. Stats. §68.16, the Town Board elects that the procedures set forth in this section for administrative review of decisions under this Ordinance shall apply in lieu of the procedures of Wis. Stats. Chap. 68, except for Wis. Stats. §§68.14 and 68.15.

### **Section 2.15**      **Interpretation of Ordinance.**

- I **Abrogation and More Restrictive Requirements.** It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.
- II **Interpretation.** In its interpretation and application, the provisions of this Ordinance shall be minimum requirements liberally construed in favor of the Town of Roxbury and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- III **Severability.** If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

**History Note:** Adopted \_\_\_\_\_