

Chapter 31 -Erosion, Sediment and Water Runoff Control

31.01 INTRODUCTION

(1) **Authority.** This ordinance is adopted under the authority granted by Sections 61.34(1), 61.35, 61.354, 62.23 and 236.45, Wis. Stat.

(2) **Findings and Declaration of Policy.** The Village of Deerfield finds that land uses have significantly contributed to the process of soil erosion, runoff and sediment deposition in waters located within or near the Village of Deerfield. It is, therefore, declared to be the purpose of this Ordinance to control and, if possible, prevent soil erosion and minimize water runoff increases and, thereby, to preserve the natural resources, control floods and prevent impairment of dams and reservoirs, protect the quality of public waters and wetlands, prevent property damage, preserve wildlife, protect the tax base, and protect and promote the health, safety and general welfare of the people of the Village of Deerfield. This ordinance is in accordance with and consistent with the Village's general zoning ordinance, so far as practicable.

(3) **Intent and Purpose.**

(A) The purpose of this ordinance is to regulate construction site erosion and stormwater runoff, to accomplish the following objectives:

1. Promote regional storm water management by watershed,
2. Minimize sedimentation, water pollution from nutrients, heavy metals, chemical and petroleum products and other contaminants, flooding and thermal impacts to the water resources of Deerfield,
3. Promote infiltration and groundwater recharge;
4. Protect functional values of natural watercourses and wetlands,
5. Provide a set of performance standards that are consistent with the standards set forth by Dane County,
6. Achieve an 80% reduction in sediment load rates to Dane County waters compared to no controls for all new development, a 40% reduction in sediment load rates compared to no controls for all redevelopment and street reconstruction, and a 20% reduction in sediment load rates compared to no controls for existing developments,
7. Ensure no increase in temperature of storm water post-construction in order to protect coldwater communities,
8. Ensure no increase in the rate of surface water drainage from sites during or after construction; and

9. Protect public and private property from damage resulting from runoff or erosion.

(4) **Severability.** If any section, provision or portion of this ordinance is found unconstitutional or invalid by a court, the remainder of this ordinance shall not be affected thereby.

(5) **Abrogation and Greater Restrictions.** It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easement, covenants, deed restrictions, agreements, rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

(6) **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this Ordinance may be inconsistent or conflicting, the more restrictive requirement or interpretation shall control.

(7) **Effective Date.** This ordinance shall become effective 30 (thirty) days after date of publication. After that date, all land disturbing activities shall be in compliance with all provisions of this ordinance.

31.02 DEFINITIONS -

The following terms, wherever they appear in this Ordinance, are defined as follows:

(1) **"Affected"** means that a regulated activity has significantly:

(A) Caused negative impacts on water quality or the use or maintenance of one's property or business; or

(B) Endangered one's health, safety, or general welfare.

(2) **"Agricultural Land Use"** means alterations or disturbances of land for the commercial 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. Commercial forestry activities are not included within agricultural land uses for purposes of this Ordinance.

(3) **"Best management practice"** means a practice, technique, or measure that is an effective, practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both during and after land development activities. These can include structural, vegetative or operational practices.

(4) **"Commercial"** means for the retail or wholesale sale of goods or services.

- (5) **“Construction site erosion control”** means preventing or reducing soil erosion and sedimentation from land disturbing activity.
- (6) **"Control Plan"** means a written description, of the control measures (including the number, locations, sizes and other pertinent information) designed to meet the requirements of the Ordinance.
- (7) **"Erosion"** means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
- (8) **"Excavation"** means 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.
- (9) **“Existing development”** means buildings and other structures and impervious area existing prior to ordinance adoption.
- (10) **"Existing Grade"** means the vertical location of the existing ground surface prior to excavation or filling.
- (11) **"Fill"** means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved to a new location and shall include the conditions resulting therefrom.
- (12) **“Financial security instrument”** means an irrevocable letter of credit or similar guarantees acceptable to the Village of Deerfield Attorney to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.
- (13) **"Forestry"** means the planting, management or harvesting of timber.
- (14) **"Governing Body"** means the Village Board of the Village of Deerfield.
- (15) **"Grading"** means altering the elevation of the land surface by stripping, excavating, filling, 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.
- (16) **“Gully erosion”** means a severe loss of soil caused by or resulting in concentrated flow of sufficient velocity to create a defined flow channel.
- (17) **“Heavily disturbed site”** means a site where an area of land is subjected to significant compaction due to the removal of vegetative cover or earthmoving activities, including filling.
- (18) **“Hydrologic soil group (HSG)”** has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.
- (19) **“Impervious surface”** means any land cover that prevents rain or melting snow from soaking into the ground, such as roofs (including overhangs), roads, sidewalks,

patios, driveways and parking lots. For purposes of this chapter, all road, driveway or parking surfaces including gravel surfaces, shall be considered impervious, unless specifically designed to encourage infiltration and approved by the local approval authority.

(20) **"Infiltration"** means the process by which rainfall or runoff seeps into the soil.

(21) **"Land Developing Activities"** means the construction or installation of any buildings, roads, parking lots, paved storage areas, utility lines or similar facilities.

(22) **"Land Disturbing Activities"** mean any man-made change to the land surface which may result in soil erosion, sedimentation or increase in water runoff, including but not limited to tilling, removal of vegetative cover, stockpiling of soil, grading, excavating, livestock grazing and filling of land.

(23) **"Landowner"** means any person holding title to or having an ownership interest in land.

(24) **"Land Treatment Measures"** mean structural or vegetative practices (including fencing) used to control erosion, sediment and water runoff.

(25) **"Land User"** means any person who uses land collectively or individually as owner, operator, lessor or renters, or who occupies land by providing work or service that requires alteration of the land, or any person who has made other arrangements with a landowner which gives them the responsibility for use of the land.

(26) **"Lightly disturbed site"** means a site where an area of land is subjected to minor compaction due to the limited removal of vegetative cover or earthmoving activities

(27) **"Local approval authority"** means the municipal staff, agency or contracted entity, as designated by the Village Administrator, with responsibility for enforcing stormwater and erosion control ordinances.

(28) **"Local Land Division Ordinance"** means any county, city, village or town ordinance adopted under Chapter 236, Wis. Stats. to regulate the division of land.

(29) **"Major Land Disturbing Activities"** means those activities where the land disturbance covers one or more acres, where a subdivision (as defined by chapter 236, Wis. Stats.) is created, or where the Village Engineer determines that special circumstances due to topography, proximity to watercourses or relation to sensitive environmental areas make the disturbance a major one.

(30) **"Minor Land Disturbing Activities"** are those activities where the land disturbance covers less than one acre and the activities do not otherwise fall within the definition of major land disturbing activities.

(31) **"New development"** means any of the following activities:

- (A) Structural development, including construction of a new building or other structures;
- (B) Expansion or alteration of an existing structure that results in an increase in the surface dimensions of the building or structure;
- (C) Land-disturbing activities; or
- (D) Creation or expansion of impervious surface

(32) “**Non-erosive velocity**” means a rate of flow of stormwater runoff, usually measured in feet per second, which does not erode soils. Non-erosive velocities vary for individual sites, taking into account topography, soil type, and runoff rates.

(33) “**Parcel**” means all contiguous lands under the ownership or control of a land occupier or land user.

(34) “**Peak Flow**” means the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or event.

(35) “**Person**” means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.

(36) “**Pervious surface**” means any land cover that permits rain or melting snow to soak into the ground.

(37) “**Plan**” means an erosion control plan required by Chapter 31 or a storm water management plan required by Chapter 31.

(38) “**Plan review agency**” means the municipal staff, agency or qualified contracted entity, as designated by the Village Administrator, with responsibility for reviewing stormwater and erosion control plans under the local stormwater and erosion control ordinance.

(39) “**Plat review officer**” means the municipal staff, agency or contracted entity, as designated by the Village Administrator, with responsibility for reviewing land divisions, certified survey maps or subdivision plats, or any combination thereof, under Chapter 236 of the Wisconsin Statutes.

(40) “**Post-development**” refers to the extent and distribution of land cover types anticipated to occur under conditions of full development of the submitted plan. This term is used to match pre- and post-development stormwater peak flows as required by the ordinance.

(41) “**Pre-development**” refers to the extent and distribution of land cover types present before the initiation of land development activity, assuming that all land uses prior to land disturbing activity are in “good” condition as described in the Natural Resources Conservation Service Technical Release 55, “Urban Hydrology for Small Watersheds”

(commonly known as TR-55). This term is used to match pre- and post-development stormwater peak flows as required by the ordinance. In a situation where cumulative impervious surface created after the adoption of this ordinance exceeds the 20,000 sq. ft threshold, the pre-development conditions shall be those prior to any land disturbance.

(42) "**Public Lands**" means all lands owned or controlled by any unit of government.

(43) "**Redevelopment**" means any construction, alteration or improvement exceeding four thousand square feet of land disturbance performed on sites where the entire existing site is predominantly developed to commercial, industrial, institutional or multifamily residential uses.

(44) "**Runoff curve number (RCN)**" has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

(45) "**Runoff**" includes but is not limited to ice or water flowing over the ground surface.

(46) "**Sediment**" means solid material, mineral or organic, that is in suspension, is being transported or has been moved from a site by air, water, gravity or ice and has come to rest or has been deposited on the earth's surface at another location.

(47) "**Sedimentation**" means 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.

(48) "**Sheet and rill erosion**" means a loss of soil caused by sheet flow or shallow concentrated flow, and characterized by an absence of channeling or a relatively uniform loss across the exposed upper layer of the soil or shallow irregular scouring of the soil surface.

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

(50) "**Slope**" means the net vertical rise over horizontal run, expressed as a percentage, which represents a relatively homogeneous surface incline or decline over the area disturbed.

(51) "**Soil Loss**" means soil removed from a given site by land disturbing activities or by the forces of erosion, and redeposited at another site.

(52) "**Soil loss rate**" means the rate, usually measured in tons per acre per year, at which soil is transported beyond the perimeter of a given control site and which occurs as a result of sheet and rill erosion. This term does not apply to soil movement resulting from concentrated flow such as gully or bank erosion.

(53) “**Storm events**” mean the precipitation amounts that occur over a 24-hour period that have a specified recurrence interval for Dane County, Wisconsin. For example, one-year, two-year, 10-year and 100-year storm events mean the precipitation amounts that occur over a 24-hour period that have a recurrence interval of one, two, 10 and 100 years, respectively.

(54) “**Stormwater**” means the flow of water, which results from, and which occurs during and immediately following, a rainfall, snow- or ice- melt event.

(55) “**Stormwater management**” means any measures taken to permanently reduce or minimize the negative impacts of stormwater runoff quantity and quality after land development activities.

(56) “**Storm Frequency**” means the average period of time during which a storm of a given duration and intensity can be expected to be equaled or exceeded.

(57) “**Storm Sewer**” means a closed conduit for conducting collected stormwater.

(58) “**Stormwater Runoff**” means the waters derived from rains, snowmelt and icemelt falling within a tributary drainage basin, flowing over the ground surface or collected in a water drainage system.

(59) “**Street reconstruction**” means removal and replacement of the road subgrade, where existing stormwater conveyance systems are modified.

(60) “**Structure**” means any human-made object with form, shape and utility, either permanently or temporarily attached to, placed upon, or set into the ground, streambed or lakebed.

(61) “**Structural Measures**” means land treatments intended to prevent erosion, sediment or runoff that include, but are not limited to: gully control structures, grass waterways, riprap, detention basins or ponds, sediment basins or ponds, flood retention dams, diversions, and lining channels with rock, concrete or other materials. Contour strip cropping is not considered a structural measure under this Ordinance.

(62) “**Unnecessary hardship**” means that circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with regulations unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

(63) “**Village**” means the Village of Deerfield.

(64) “**Village Enforcement Agent**” means the persons or representative hired, appointed or retained by the Village Board to routinely provide public works service, building inspection or engineering services for the Village, and shall include the Village Building Inspector, Village Engineer, Village Administrator, or any other person designated by the Village Board or these particular officers.

(65) "**Village Engineer**" means the person or a representative of the firm appointed or retained by the Village of Deerfield to routinely provide engineering services for the Village.

(66) "**Water Drainage Facility**" means any element in a water drainage system which is made or improved by man.

(67) "**Water Drainage System**" means all facilities used for conducting runoff 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, reservoirs, detention basins or ponds, storm sewers, streets, and pumping stations.

(68) "**Working Day**" means Monday, Tuesday, Wednesday, Thursday or Friday, excluding however any such day officially observed by the Village as a legal holiday.

31.03 SCOPE OF GEOGRAPHIC COVERAGE; EXCLUSIONS -

(1) **Within the Village.** Unless specifically excluded herein, this ordinance applies to all land disturbing and land developing activities occurring within the corporate limits of the Village.

(2) **Within the Extraterritorial Area.** The Ordinance shall apply outside the Village limits within the extraterritorial plat review area provided by chapter 236, Wis. Stats., but only to those land disturbing activities relating to, arising from, or connected with a subdivision as defined in section 236.02(12), Wisconsin Statutes.

(3) **Exclusions.** The following activities are generally excluded from coverage under this Ordinance:

(A) Agricultural land uses as defined in this ordinance, and quarries, except where the Village Engineer determines that erosion or runoff from such agricultural or quarry uses is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken. Agricultural buildings resulting in new total impervious surface area of 20,000 sq. ft. or more is not exempt from this ordinance per s. 14.47(1)(b) of the Dane County Code of Ordinances (DCCO).

(B) Small land disturbing activities such as gardens, minor landscaping modifications, and minor repair of sidewalks, paths or driveways, except where the Village Engineer determines that erosion or runoff is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.

(C) One- and two-family dwelling units regulated under the Wisconsin Uniform Dwelling Code; The Village of Deerfield shall regulate these sites during the period that residential building permits are in effect, consistent with then-existing Wisconsin Uniform Dwelling Code requirements. This is exempt only from the construction site erosion control provisions of the ordinance per s. 14.47(2) DCCO.

(D) Construction of public buildings and buildings that are places of employment relating to activities specifically regulated by the Wisconsin Department of Commerce during the period that Department of Commerce-authorized building permits are in effect and specific erosion control procedures on these construction sites are effective, pursuant to s. 101.1205, Wis. Stats. This is exempt only from the construction site erosion control provisions of the ordinance per s. 14.47(2) DCCO.

(E) State building projects subject to s. 13.48 (13) Wis. Stats, and state highway projects subject to Wis. Admin. Code Chap. Trans 401. This is exempt only from the construction site erosion control provisions of the ordinance per s. 14.47(2) DCCO.

(F) Notwithstanding the language of sub. (3)(D),(3)(E),(3)(F), activities unrelated to actual building construction shall be subject to all the requirements of this ordinance. These activities shall include, but are not limited to:

1. Land disturbing activity prior to excavation for foundation work;
2. Landscaping;
3. Installation of driveways, parking areas and sidewalks;
4. Earthwork on an area greater than 4,000 square feet on sites not directly related to structural concerns; and
5. Development of ponds and channelized watercourses, commercial parks, and landing strips or airport runways.

(H) Notwithstanding the language of sub. (3)(D),(3)(E),(3)(F) the following activities are subject to the requirements of this ordinance:

1. Buildings and activities of municipalities;
2. Buildings and activities of school districts;
3. Local highway projects; and
4. Municipal streets.

31.04 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR CONTROL MEASURES.

Unless otherwise specified herein, plans will not be approved nor permits issued unless erosion and sedimentation leaving the site during and after the land disturbance 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 established procedures, including, but not limited to, Minimizing Erosion in Urbanizing Areas, Wisconsin Construction Site Best Management Practice Handbook, or other technical guidelines as developed by the Dane County Land Conservation Department in cooperation with the Natural Resources Conservation Service or otherwise identified as acceptable to the Village Engineer.

Wisconsin Administrative Code Section ILHR 21.125 and DNR 216 shall herein be incorporated herein by reference. Where design criteria, standards or specifications conflict, the most restrictive provisions shall apply. In certain cases, the design criteria, standards, specifications and control measures may be modified by the Village Board as provided in section 31.07(3) of this Ordinance.

31.05 MAINTENANCE OF CONTROL MEASURES.

All control measures necessary to meet the requirements of this Ordinance shall be maintained by the landowner and/or land user, and/or permittee in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions during the period of land disturbance and land development or for such longer period of time as specified in the permit. If the Village accepts a public dedication of a control measure, then the Village will physically maintain the measure unless otherwise agreed in writing. The method of payment of any or all of the maintenance costs may be determined by the Village Board, as appropriate.

31.06 EROSION CONTROLS REQUIRED.

(1) **Applicability.** The erosion controls specified below apply to the following sites of land development or land disturbing activities. Development that requires a subdivision plat is also subject to erosion control requirements per s. 14.45(6) DCCO.

(A) Those sites involving grading, the removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a land surface area of 4,000 square feet or more.

(B) Those sites involving excavation or filling, or a combination of excavation and filling, involving 400 cubic yards or more of dirt, sand or other excavation or fill material.

(C) Those sites involving any street, highway, road, or bridge construction, enlargement, relocation or reconstruction.

(D) Those sites involving the inspecting, laying, repairing, replacing or enlarging of an underground pipe, cable or other facility for a distance of 300 feet or more.

(E) Those sites involving the changing, enlargement, dredging or other alteration to any watercourse.

(F) Land disturbing activity on a slope of greater than 12%.

(G) Land disturbing activity that disturbs more than 100 lineal feet of road ditch, grass waterway or other land area where surface drainage flows in a defined open channel; including the placement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel;

(H) Any new public or private roads or access drives longer than 125 feet.

(I) Those other situations where the Village Engineer determines that erosion or runoff is likely to occur unless control measures are taken. Determinations in these situations require an erosion control permit should be made in writing, unless waived by the applicant (s. 14.46(5) DCCO).

(2) **Minimum Erosion Control Standards to be Met.** At a minimum, and in addition to the standards set forth in Village Ord. §31.04 and 31.10, the erosion control standards listed below must be met on all sites described in subparagraph (1) above. Additional or more stringent control standards may be required in these situations where the Village Engineer determines that special circumstances due to topography, proximity to watercourses or environmentally sensitive areas justify additional or more stringent controls. The permittee is responsible for obtaining compliance with the required standards. In cases where no permit has been issued, the landowner is responsible for obtaining compliance with the required standards.

(A) **Site Dewatering.** Water pumped from the site shall be treated by temporary sedimentation basins or other appropriate control measures. Such sedimentation basins shall have a depth of at least 3 feet, be surrounded by a 4 foot high snow fence or equivalent barrier and have sufficient surface area to provide a surface settling rate of not more than 1500 gallons per square foot per day at the highest dewatering pumping rate. Water may not be discharged in a manner that causes erosion of the site, a neighboring site, or the bed or banks of the receiving water.

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

(C) **Tracking.** Each site shall have a graveled entrance pad of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Sediment reaching a public or private road shall be removed by street cleaning (not hydraulic flushing) before the end of each workday.

(D) **Channelized Runoff.** Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical, as determined by the Village Engineer.

(E) **Sequenced Activities.** All activities on the site shall be conducted in such a sequence as to minimize the area of bare soil exposed at any one time and the amount of soil leaving the site.

(F) **Stabilize Disturbed Ground.** All disturbed ground and soil or direct storage piles shall be contained on the site by filter barriers or other suitable means. The containment measures shall be installed at a time established by the reviewing authority. The containment measures shall remain in place until the site is adequately stabilized, as may be determined by the Village Engineer.

(G) **Filter Fences, Straw Bails on Slopes.** Filter fences, straw bales, or equivalent control measures shall be placed continuously along all sideslope and downslope sides of the site where deemed appropriate by the reviewing authority. If a channel or area of concentrated runoff passes through the site, filter barriers shall be placed continuously along the channel edges to reduce sediment reaching the channel.

(H) **Drain Inlet Protection.** Affected storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications, as determined by the Village Engineer.

(3) **Additional Erosion Control Standards To Be Met On Larger Sites.** In addition to the minimum control standards set forth in subsection 31.06(2) above and the standards required by Village Ord. §31.04, all sites involving land divisions, subdivisions or certified survey maps (where the land divisions, subdivisions or certified survey maps involve either five (5) or more acres or create five (5) or more lots or building sites), or all sites where five (5) or more acres are disturbed at a time, shall meet the added control requirements listed below. The permittee and/or landowner, and/or land user is responsible for obtaining compliance with the control requirements.

(A) **Sedimentation Control Measures.** Where required by the Village Engineer, sedimentation basins or equivalent sediment control measures shall be constructed and maintained for the duration of the land disturbing activity, or longer, if so provided in the permit. Sedimentation basins shall be constructed in accordance with accepted design standards, as approved by the Village Engineer. The total sedimentation basin surface area shall provide a surface settling rate of not more than 1500 gallons per square foot per day for a five (5) year, 24 hour storm from the entire drainage area which will discharge to the basin during development conditions. The calculation of the water runoff rate shall be determined by methods as periodically set forth in the current edition of U.S. Soil Conservation Service Technical Release No. 55. Sedimentation basin depth shall be at least 3 feet and all sedimentation basins shall be surrounded by a 4 foot high snow fence or equivalent barrier. The basin design discharge rate shall also be sufficiently low, as determined by the Village Engineer, so as to not cause erosion along the discharge channel or the receiving water. The permittee shall periodically remove sediment from the basin so as to maintain a depth of at least 3 feet at all times. This control requirement also applies to any site, regardless of size, if a channel originates in the disturbed area.

31.07 RUNOFF CONTROLS REQUIRED.

(1) **Applicability.** The runoff controls specified below apply to the following sites of land development or land disturbing activities:

(A) Those sites requiring certified survey map approval or subdivision or land division plat approval under the Village of Deerfield Land Division Ordinance.

(B) Those sites involving the construction of buildings or other improvements on lots of approved certified surveys, land division plats or subdivision plats.

(C) Any development(s) after the adoption date of this ordinance that result(s) in the cumulative addition of 20,000 square feet of impervious surface to the site;

(D) Redevelopment, as defined in s.31.02(43), shall meet the following storm water management performance standards: 31.11(2)(A)2, 2(B), 2(E), and 2(F).

(E) Other land development activities, including but not limited to redevelopment or alteration of existing buildings and other structure, that the local approval authority, as designated by the Village Administrator, determines may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution or property damage, or significantly impact a lake, stream, or wetland area. All such determination shall be made in writing unless waived by the applicant.

(2) All water runoff control measures shall require approval of the Village Engineer. Control measures may include, but are not limited to, infiltration basins, detention ponds, and swales. If water control measures will result in a temporary pond with a depth greater than three (3) feet, the Village Board may require fences or safety shelves.

The Village may require or accept public dedication of water runoff control measures. When such dedication is required, or accepted, the dedicated land may also be suitable for parkland or recreational use when so approved by the Village Board. Once dedicated and accepted, the Village shall maintain the runoff control measures as necessary to adhere to this Ordinance and any other applicable laws or contracts. The potential costs of maintaining proposed runoff control measures will be among the criteria considered in both accepting or rejecting an entire Erosion and Runoff Control Plan, and in determining whether or not to require or accept dedication to the Village of any or all runoff control measures. In the event that the Village does not require dedication of any water runoff control measures, the continued maintenance and recovery of the costs for maintenance of such measures shall be assured through such means as deed restrictions, easements, assessments or a contract with the Village.

(A) On-site Measures. In addition to the general provisions stated above, the following standards apply to on-site water runoff control measures. On-site water runoff control measures shall be designed to prevent reduction in the value of any surrounding property(s). Factors that will be considered in preventing devaluation of surrounding property(s) include, but are not limited to, location, landscaping, and safety. The peak rate of runoff leaving the site during or after disturbance of the land shall not exceed that of the pre or undisturbed condition under the following four minimum standards:

1. based on a 100 year -- 24 hour design storm in order to prevent increases in floodplain elevations;
2. based on a 10 year -- 24 hour design storm to prevent exceeding the capacity of storm sewers;
3. based on a 2 year -- 24 hour design storm to help control stream bank erosion; and

4. location and design of runoff control measures shall take into consideration soil types, slopes, and existing groundwater conditions in the area, in order to avoid property damage due to increased elevations of groundwater or due to soil saturation.

As a general rule, all on-site water runoff control measures shall be constructed prior to, or simultaneously with, the land disturbing activities from which the water runoff is to be controlled. However, if the use of off-site control measures is under consideration but the design and/or location of the possible off-site measures have not yet been determined by the Village, then the Village may allow the permittee to proceed with the land disturbing activities prior to the construction of off-site runoff control measures, provided that the permittee preserves an area or areas on-site deemed suitable by the Village Engineer for the construction of on-site water runoff control measures if that become necessary. The specifics of this preservation shall be set forth in the permit or approval plan.

(B) **Off-site Measures.** When the Village Board determines, based on drainage study conducted and prepared by a qualified professional engineer, that off-site water runoff control measures best serve the interests of the public and the environment, then the Board may allow or require off-site water runoff control as a condition of approval of a land disturbance permit. When off-site water runoff control is permitted or required as specified in the above paragraph, prior to final approval by the Board, the permit applicant shall obtain written permission from any and all property owners who would experience increases in the amount of water runoff entering their land from a 2, a 10, or a 100 year -- 24 hour design storm or whose property is threatened by virtue of additional soil saturation. The Village Board will act on behalf of any and all affected public lands, public drainage ways, storm sewers or other public waterways, will grant written permission for off-site runoff control only in those cases where the standards set forth in paragraphs (C2) and (C)1 (2)(A) above have been met.

All off-site runoff control measures shall be in place and constructed prior to the land disturbing activities from which the water runoff is to be controlled and must meet all the requirements of s. 14.52 DCCO.

(3) Control Standards May Be Modified by Village Where Special Circumstances Exist. The control standards set forth above are intended to apply on a typical development site in the Deerfield area. When land disturbing or land development activity is proposed for a site with extraordinary features, then, the Village Board may, at its discretion, require additional and/or more restrictive control standards and measures before any control plan is approved or permit is issued. Extraordinary sites include, but are not limited to, sites where land disturbing or development activities are proposed to occur on slopes of more than twenty percent (20%), in designed floodplain, wetland, or conservancy areas or in environmental corridor areas identified in the Village Master Plan.

31.08 EROSION AND SEDIMENTATION CONTROL REGULATIONS FOR LANDS OR ACTIVITIES NOT OTHERWISE SUBJECT TO THIS ORDINANCE.

Notwithstanding any other provisions of this Ordinance, it shall be a violation of this Ordinance for any person to create, permit, establish, maintain or allow to be maintained any condition or activity that causes excessive runoff or erosion to adjacent land, public streets or water bodies. Penalties and remedies may be sought for such activities as provided in section 31.17. Erosion and runoff is excessive when in the opinion of the Village Enforcement Agent an unsafe condition results in the streets, sedimentation occurs in lakes and streams, environmentally-sensitive lands are threatened, runoff endangers downstream property, or the public health, safety or general welfare of the citizens of the Village of Deerfield is otherwise threatened or harmed.

31.09 EROSION AND STORMWATER CONTROL PLAN APPROVALS, EROSION AND STORMWATER CONTROL PERMITS REQUIRED BEFORE COMMENCING ACTIVITY.

(1) **Activity By Person Other Than The Village.** No landowner or land user, other than the Village of Deerfield, may commence a land disturbance or land development activity subject to this Ordinance without receiving prior Village approval of an erosion control plan and permit and Stormwater control plan and permit as provided in this Ordinance. At least one landowner or land user desiring to undertake a land disturbing or land developing activity subject to this Ordinance shall apply for a permit and submit a control plan along with such other information as may be requested by the Village Engineer, Village Board or Plan Commission, and pay an application fee to the Village Clerk. By applying for a permit, the applicant is authorizing the Village Enforcement Agent to enter the site to obtain information required for the review of the erosion and stormwater control plan(s), to inspect for compliance with the control plan and for curative action under 31.17(1)(C)..

(2) **Activity By Village of Deerfield.** Before the Village of Deerfield, or its authorized agents or employees, commence any land disturbance or land development activity subject to this Ordinance, there shall be an approved erosion and stormwater control plan in place. No permit or fees are required for Village activity.

(3) **Emergency Situations.** Notwithstanding the above, a private landowner or the Village may commence land disturbing activity without an approved erosion and stormwater control plan where immediate action is necessary in order to respond to an existing or threatened emergency situation. When such emergency activity is undertaken, care will be taken to comply with the erosion and runoff control standards set forth in this Ordinance to the fullest extent practicable under the circumstances.

31.10 EROSION CONTROL PLAN REQUIREMENTS.

(1) **Major Land Disturbing Activities--Content of the Erosion Control Plan.** Major land disturbing activities include those where the land disturbance involves more than

20,000 sq. ft or more, or where a subdivision (as defined in chapter 236, Wis. Stats.) is created, or where the Village Engineer determines that special circumstances due to topography, proximity to watercourses or relation to environmentally-sensitive lands make the disturbance a major one. Per section 14.50, DCCO, sites greater than 20,000 sq. ft. require a detailed site construction plan. The control plan for a major land disturbing activity shall include at least the following information:

(A) **Existing Site Map.** A map of existing site conditions on a scale of at least 1 inch equals 100 feet showing the site and immediately adjacent areas:

1. Site boundaries and adjacent lands which accurately identify site location.
2. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.
3. 100 year floodplains, flood fringes and floodways.
4. Location of the predominant soil types.
5. Vegetative cover.
6. Location and dimensions of stormwater drainage systems and natural drainage patterns which may affect the site, continuing at least to the nearest perennial stream (small scale map may be used if necessary).
7. Locations and dimensions of utilities, structures, roads, highways, and paving.
8. Site topography at a contour interval not to exceed four (4) feet.

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

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

1. Locations and dimensions of all proposed land disturbing activities.
2. Locations and dimensions of all site management control measures necessary to meet the requirements of this Ordinance.
3. Schedule of anticipated starting and completion date of each land disturbing or land developing activity including the installation of site control measures needed to meet the requirements of this Ordinance.
4. Provisions for maintenance of the site control measures during and after land disturbing activities.
5. limits of disturbed area;
6. limits of impervious area;
7. cross sections of and profiles within road ditches;

8. culvert sizes;
9. direction of flow of runoff;
10. watershed size for each drainage area;
11. design discharge for ditches and structural measures;
12. runoff velocities;
13. fertilizer and seeding rates and recommendations;
14. time schedules for stabilization of ditches and slopes;
15. description of methods by which sites are to be developed;
16. provision for sequential steps mitigating erosive effect of land disturbing activities to be followed in appropriate order and in a manner consistent with accepted erosion control methodology suitable to proposed sites and amenable to prompt re-vegetation;
17. provisions to prevent mud-tracking off-site onto public thoroughfares during the construction period; and
18. any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features of the site.

(D) **Such other information as the Village Engineer deems necessary,** including but not limited to support calculations for sizing site control measures.

Note: Soil Conservation Service guidelines for allowable velocities in different types of channels should be followed. Design storm definitions to be followed in this Ordinance are contained in Soil Conservation Service Technical Release No. 55 and in U.S. Department of Agriculture publication, "Minimizing Erosion in Urbanizing Areas," Appendix A.]

(2) Minor Land Disturbing Activities--Content of Control Plan Statement. Minor land disturbing activities are all those activities other than those deemed to be major land disturbing activities. For minor land disturbing activities greater than 20,000 sq. ft., per section 14.50 DCCO, , an erosion control and detailed site construction plan (with sample map) shall be submitted to describe the site and erosion controls (including the site development schedule) that will be used to meet the requirements of this Ordinance.

(A) **Simplified Plan Checklist.** Applicants may submit erosion control proposals using simplified checklists of standard erosion control practices, on a standard form approved by the Village Administrator, wherever all of the following conditions exist:

1. The site does not exceed 20,000 square feet in area; and
2. the slope of the land does not exceed six percent (6%) throughout the site.

3. Simplified plan checklists shall be reviewed by the Village Administrator for completeness and accuracy.

(3) Erosion Control Performance Standards.

(A) Proposed design, suggested location and phased implementation of effective, practicable erosion control measures for plans shall be designed, engineered and implemented to achieve the following results:

1. Prevent gully and bank erosion; and
2. Limit total off-site permissible annual aggregate soil loss for exposed areas resulting from sheet and rill erosion to an annual, cumulative soil loss rate not to exceed 7.5 tons per acre annually.

(B) Plan compliance under par. (a) shall be determined using the U.S. Natural Resources Conservation Service Technical Guide or another commonly accepted soil erosion methodology approved by the Dane County Conservationist, that considers season of year, site characteristics, soil erodibility and slope.

Erosion control measures for plan approval need not attempt to regulate soil transportation within the boundaries of the applicant's site.

31.11 STORMWATER CONTROL PLAN REQUIREMENTS.

(1) **Plan materials.** Stormwater management plans shall satisfy all of the requirements in sub.(2), and shall address at a minimum the following information:

(A) A narrative describing the proposed project, including implementation schedule for planned practices,

(B) Identification of the entity responsible for long-term maintenance of the project;

(C) A map showing drainage areas for each watershed area;

(D) A summary of runoff peak flow rate calculations, by watershed area, including:

1. Pre-existing peak flow rates;
2. Post-construction peak flow rates with no detention;
3. Post-construction peak flow rates with detention;
4. Assumed runoff curve numbers (RCNs); and
5. Time of concentration (Tc) used in calculations.

(E) A complete site plan and specifications, signed by the person who designed the plan. All plans shall be drawn to an easily legible scale, shall be clearly labeled, and shall include, at a minimum, all of the following information:

1. Property lines and lot dimensions;
 2. All buildings and outdoor uses, existing and proposed, including all dimensions and setbacks;
 3. All public and private roads, interior roads, driveways and parking lots. Show traffic patterns and type of paving and surfacing material,
 4. All natural and artificial water features, including, but not limited to lakes, ponds, streams (including intermittent streams), and ditches. Show ordinary high water marks of all navigable waters, 100-year flood elevations and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the applicant's expense,
 5. Depth to bedrock;
 6. Depth to seasonal high water table;
 7. The extent and location of all soil types as described in the Dane County Soil Survey, slopes exceeding 12%, and areas of natural woodland or prairie,
 8. Existing and proposed elevations (referenced to the North American Vertical Datum of 1988, where available) and existing and proposed contours in the area requiring a grading and filling permit;
 9. Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project,
 10. Soil erosion control and overland runoff control measures, including runoff calculations as appropriate,
 11. Detailed construction schedule;
 12. Copies of permits or permit applications required by any other governmental entities or agencies,
 13. Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features;
 14. Location of all storm water management practices,
 15. All existing and proposed drainage features;
 16. The location and area of all proposed impervious surfaces; and
 17. The limits and area of the disturbed area.
- (F) Engineered designs for all structural management practices;

(G) A description of methods to control oil and grease or written justification for not providing such control;

(H) If required under sub. (2)(f), a description and plans to control temperature of runoff;

(2) **Stormwater management performance standards.** Proposed design, suggested location and phased implementation of effective, practicable stormwater management measures for plans shall be designed, engineered and implemented to achieve the following results:

(A) **Sediment Control.**

1. For new construction, design practices to retain soil particles greater than 5 microns on the site (80% reduction) resulting from a one-year 24-hour storm event, according to approved procedures, and assuming no sediment resuspension,
2. For redevelopment resulting in exposed surface parking lots and associated traffic areas, design practices to retain soil particles greater than 20 microns on the entire site (40% reduction) resulting from a one-year 24-hour storm event, according to approved procedures, and assuming no sediment resuspension. Under no circumstances shall the site's existing sediment control level or trapping efficiency be reduced as a result of the redevelopment.

(B) **Oil and grease control.** For all stormwater plans for commercial or industrial developments and all other uses where the potential for pollution by oil or grease, or both, exists, the first 0.5 inches of runoff will be treated using the best oil and grease removal technology available. This requirement may be waived by the plan reviewer, only when the applicant can demonstrate that installation of such practices is not necessary.

(C) **Runoff rate control - hydrologic calculations.** All runoff calculations shall be according to the methodology described in the Natural Resources Conservation Service's Technical Release 55, "Urban Hydrology for Small Watersheds" (commonly known as TR-55), or other methodology approved by the Dane County Conservationist. For agricultural land subject to this section, the maximum runoff curve number (RCN) used in such calculations shall be 51 for HSG A, 68 for hydrologic soil group B, 79 for HSG C, and 84 for HSG D. The TR-55-specified curve numbers for other land uses shall be used. Heavily disturbed sites will be lowered one permeability class for hydrologic calculations. Lightly disturbed areas require no modification. Where practices have been implemented to restore soil structure to pre-developed conditions, no permeability class modification is required.

(D) **Runoff rate control - design standards.** All stormwater facilities shall be designed, installed and maintained to effectively accomplish the following:

1. Maintain predevelopment peak runoff rates for the 2-year, 24-hour storm event (2.9 inches over 24 hours duration).
2. Maintain predevelopment peak runoff rates for the 10-year, 24-hour storm event (4.2 inches over 24 hours duration.)
3. Maintain predevelopment peak runoff rates for the 100-year, 24-hour storm event (6.0 inches over 24-hour duration).

(E) **Outlets.** Discharges from new construction sites must have a stable outlet capable of carrying designed flow as required in sub. (2)(d), at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or water body.

(F) **Infiltration.** All downspouts, driveways and other impervious areas shall be directed to pervious surfaces, where feasible, or unless the applicant can demonstrate that the practice is likely to result in groundwater contamination.

(3) **Storm water management goals.** The following standards shall be met whenever possible, and proposed design, suggested location and implementation of practices to meet these goals shall be included in plans:

(A) For existing development, design practices to retain soil particles greater than 40 microns on the site (20% reduction) resulting from a one-year 24-hour storm event, according to approved procedures, and assuming no sediment resuspension.

(B) For street reconstruction, design practices to retain soil particles greater than 20 microns on the site (40% reduction) resulting from a one-year, 24 hour storm event, according to approved procedures, and assuming no sediment resuspension.

31.12 TECHNICAL STANDARDS AND SPECIFICATIONS.

The design of all best management practices designed to meet the requirements of this chapter shall comply with the following technical standards:

- (1) Natural Resources Conservation Service’s “Field Office Technical Guide, Chapter 4;” or its successor;
- (2) Wisconsin Department of Natural Resources’ “Wisconsin Construction Site Best Management Practice Handbook” or its successor.
- (3) Any other technical methodology approved by the Village Designee and the Dane County Conservationist.

31.13 VILLAGE REVIEW OF CONTROL PLAN.

(1) **Major Land Disturbing Activities.** Control plans for major land disturbing activities must be reviewed and approved by the Village Engineer before a permit can be granted. Within 30 days of receipt of a completed control plan, the Village Engineer shall

determine if the requirements of this Ordinance are met and shall approve, reject or conditionally approve the control plan. If the plan is rejected or conditionally approved, the applicant shall be informed, in writing, of the reasons for rejection or conditions of approval.

(2) **Minor Land Disturbing Activities.** Control plan statements for minor land disturbing activities shall be reviewed by the Village Building Inspector for compliance with this Ordinance in accordance with the Erosion Control Checklist attached hereto and incorporated herein as Exhibit A established by the Village Engineer and approved by the Village Board. This compliance checklist is for use by the Building Inspector and applicant/permittee in connection with minor land disturbing activities. The Building Inspector shall approve, reject or conditionally approve the plan within the same number of working days as required for issuance of a building permit, but in no event more than three (3) working days after receipt of the completed control plan statement. If the control plan statement is rejected or conditionally approved, the applicant shall be informed, in writing, of the reasons for rejection or conditions of approval.

31.14 FEES.

(1) **Major.** The application fee for a major land disturbing activity permit shall be thirty-five dollars (\$35). In addition to this fee, the applicant must pay the actual engineering and legal fees or expenses incurred by the Village in connection with review of the control plan and the engineering fees or expenses estimated to be incurred for on-site inspection during the project. Where plat or certified survey map review fees are paid pursuant to the Land Division Ordinance set forth in chapter 25 of the Village ordinances for the same project covered by the proposed land fee will be waived. Where the application fee is waived, the applicant must still pay engineering and inspection fees and expenses, however, such fees and expenses shall not be duplicative of any engineering or inspection fees paid in connection with plat or certified survey map approval.

(2) **Minor.** The application fee for a minor land disturbing activity permit shall be twenty dollars (\$20). Where a building permit fee is applied and paid for in connection with the same activity, then no additional fee need be paid in order to obtain the necessary land disturbing activity permit.

(3) **Deposit.** To guarantee payment of any inspection, consulting, engineering, legal or review fees required under this section or any other provision of this ordinance, the applicant shall deposit \$1,000.00 with the Village. The Village may bill the applicant directly for payment of such fees. If such fees are paid timely, the deposit will be refunded in full to the applicant. If such fees are not timely paid, the Village may deduct the amount of such fees from the deposit. Failure to pay such fees timely or in full may constitute grounds for denial or withholding of a permit.

31.15 EROSION CONTROL AND RUNOFF PERMITS.

(1) **Duration.** All land disturbing activity permits, whether major or minor, shall be valid for a period of one year from the date of issuance. All work must be completed prior to expiration of the permit. If land disturbing activity, minor or major, is to continue beyond the expiration of the permit, then reapplication and review pursuant to this ordinance, is required. No activity may occur until permits are issued per s. 14.49(1) DCCO.

(2) **Requirements.** The applicant must provide the following when requesting a permit:

- (A) Completed application form,
 - 1. The application must be signed by the landowner or include a notarized statement signed by the landowner authorizing the applicant to act as the landowner's agent and bind the landowner to the terms of this ordinance.
 - 2. If a landowner appoints an agent to submit an application pursuant to (2)(a)(1), the landowner shall be bound by all of the requirements of this ordinance and the terms of any permit issued to the agent.
- (B) Fees and deposit as required by sec. 31.14;
- (C) If required by sec. 31.06, an erosion control plan meeting all the standards of sec. 31.10(3), or a simplified checklist as described in sec. 31.10.
- (D) If required by sec. 31.07, a storm water management plan meeting all of the standards of sec. 31.07 and 31.11, and a draft maintenance agreement as described in sec. 31.11(1)(I);
- (E) Copies of permits or permit applications or approvals required by any other governmental entity,
- (F) A proposed timetable and schedule for completion and installation of all elements of approved erosion control and stormwater management plans and a detailed schedule for completion of construction.
- (G) An estimate of the cost of completion and installation of all elements of the approved erosion control and stormwater management plans.
- (H) Evidence of financial responsibility to complete the work proposed in the plan. The Village of Deerfield may require a financial security instrument sufficient to guarantee completion of the project.

(3) **Approval process.**

(A) The Village's designee shall verify that the permit application is complete under sec. 31.15(2). The Village's designee shall then forward plan(s) to the plan review agency for review and approval. Plan review staff shall review the plan(s) for compliance with the standards identified in sec. 31.06, 31.10 and 31.07, 31.11.

(B) Within the time frame set by the Village's designee, plan review staff shall either approve the submitted plan or notify the Village's designee of any deficiencies. Staff engaged in this review and approval process shall be certified where appropriate by the Wisconsin Department of Commerce for this purpose.

(C) The Village's designee shall notify the applicant in writing of any deficiency in the proposed plan and the applicant shall be given an opportunity to correct any deficiency.

(D) Where installed stormwater practices will be privately-owned, an affidavit which describes the property by legal description, notifying future prospective purchasers of the existence of a stormwater permit issued under this ordinance and applicable plan, timetables and potential liability imposed by sub. 31.17(2) for failure to bring the property into compliance with this ordinance, after notification, shall be recorded with the Dane County Register of Deeds prior to issuance of an erosion and stormwater control permit. The foregoing information shall also be noted on every plat and certified survey map.

(E) Upon approval by the Village's designee, the erosion control or storm water management permit shall be issued by the local approval authority, after the applicant has met all other requirements of this ordinance.

(4) Permit conditions.

(A) The plan shall be implemented prior to the start of any land disturbing activity and shall be maintained over the duration of the project. Stormwater components of the plan shall be maintained in perpetuity.

(B) The permittee is responsible for successful completion of the erosion control plan and the stormwater management plan. The permittee shall be liable for all costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.

(C) Application for a permit shall constitute express permission by the permittee and landowner for the Village's designee to enter the property for purposes of inspection under sub. (5) or curative action under sub. 31.17(2). The application form shall contain a prominent provision advising the applicant and landowner of this requirement.

(D) All incidental mud-tracking off-site onto adjacent public thoroughfares shall be cleaned up and removed by the end of each working day using proper disposal methods.

(5) Permit transfers.

(A) When a permittee and landowner act to transfer an interest in property subject to an approved plan prior to completion of the proposed steps to attain soil stabilization, the permittee must secure approval from the Village's designee.

(B) When a permittee and landowner transfers ownership, possession or control of real estate subject to either or both an uncompleted erosion control stormwater management plan, the successor in interest to any portion of the real estate shall be responsible to control soil erosion and runoff and shall comply with the minimum standards provided in this ordinance.

(C) When ownership, possession or control of property subject to an uncompleted erosion control or stormwater management plan, or both, is transferred, the former owner (seller) shall notify the new owner (buyer) as to the current status of compliance with notice to the authority, and provide a copy of the erosion control plan or stormwater management plan, or both.

(D) Transfers of interest in real estate subject to an approved, uncompleted plan may be conducted consistent with this ordinance under any of the following arrangements:

1. The transferee shall file a new, approved erosion control or storm water management plan, or both, with the authority,
2.
 - 2.1 The transferee shall obtain an approved assignment from the authority as sub-permittee to complete that portion of the approved plan regulating soil erosion and runoff on the transferee's property.
3. The permittee shall provide the Village of Deerfield with a duly completed and executed continuing surety bond or certified check in an amount sufficient to complete the work proposed in the approved plan; at the time of transfer the permittee may seek to reduce the surety bond or certified check to the appropriate amount to complete remaining work. If the transferor enters into escrow agreements with transferees to complete an approved plan, these funds shall be available to the authority to attain plan compliance. When an approved erosion control plan and, if required, a stormwater management plan is or are not completed as proposed, the authority may use the surety bond to complete remaining work to achieve plan compliance.

(6) **Plan or permit amendments.** Any proposed modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the Village's designee in consultation with the Village of Deerfield prior to implementation of said changes.

(7) **Major Activity Permit Requirements.** All major land disturbing activity permits shall require the permittee to do at least the following:

(A) The applicant shall provide, prior to issuance of the permit, an irrevocable letter of credit, or Financial Security Instrument to the Village in an amount equal to 115% of the estimated cost of all required control measures as determined by the Village

Engineer. The security deposit shall guarantee that all required control measures will be taken or installed according to the approved plan. The security shall remain in full force until released by the Village Board, and only after an inspection by the Village Engineer assures that all required control measures have been fully and satisfactorily completed. The Village shall have the right to draw upon the security for purposes of obtaining compliance with the approval control plan as it deems necessary. If the erosion and runoff control requirements of this ordinance are included as part of plat or certified survey map conditions of approval, then, security for performance of the control requirements may be included as part of the overall security required for installation of improvements under chapter 16 of the Village Ordinances.

(B) Contact the Village Clerk upon completion of any control measures at least two working days prior to commencing any land disturbing activity.

(C) Obtain written permission from the Village Engineer prior to modifying the control plan. The Village Engineer is authorized to permit only those modifications that comply with the terms of this ordinance.

(D) Install all control measures as identified in the approval control plan.

(E) Maintain all control measures as identified in the control plan.

(F) Repair any damage to adjoining surfaces and drainageways resulting from any land developing or disturbing activities on the permitted site.

(G) Inspect the control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs immediately.

(H) Allow the Village Enforcement Agent to enter the site for the purpose of inspecting for compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.

(I) Keep a copy of the approved control plan on the site.

(3) **Minor Activity Permit Requirements.** All minor land disturbing activity permits shall require the permittee to:

(A) Obtain permission in writing from the Building Inspector prior to modifying the control plan. The Building Inspector is authorized to permit only those modifications that comply with the terms of this ordinance.

(B) Install all control measures as identified in the approved control plan.

(C) Maintain all control measures as identified in the control plan.

(D) Repair any damage to adjoining surfaces and drainageways resulting from any land developing or disturbing activities on the permitted site.

(E) Inspect the control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs immediately.

(F) Allow the Village Enforcement Agent to enter the site for the purpose of inspecting for compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.

31.16 INSPECTION.

The Village Enforcement Agent shall inspect all major and minor land disturbing activities and sites in order to ensure compliance with the control plan and permit. If land disturbing or land development activities are being carried out without a valid permit, the Village Enforcement Agent may enter the land pursuant to the special inspection warrant provisions of section 66.0119, Wis. Stats.

(1) Inspections.

(A) Application for a permit under this ordinance shall constitute permission by the applicant and landowner for the Village's designee to enter upon the property and inspect during the construction phase prior to the inspections pursuant to paragraphs (d) and (f), as necessary to confirm compliance with the requirements of this ordinance.

(B) As part of the plan approval process, the Village's designee shall determine the minimum number of inspections required to assure compliance. The site of any regulated land disturbing activity shall be inspected once every 30 days, or more frequently as determined by the local approval authority during the construction phase with assistance from the Village of Deerfield staff.

(C) Within 10 days after installation of all practices in an approved erosion control plan and achievement of soil stabilization, the permittee shall notify the Village's designee.

(D) The Village's designee shall inspect the property to verify compliance with the erosion control plan within 10 days of notification of soil stabilization.

(E) Within 10 days after installation of all practices in an approved stormwater management plan, the permittee shall notify the Village's designee and submit drawings documenting construction. The person who designed the stormwater management plan for the permittee shall submit as-built certification to ensure that constructed stormwater management practices and conveyance systems comply with the specifications included in the approved plans. At minimum, as-built certification shall include a set of drawings comparing the approved stormwater management plan with what was constructed. Other information shall be submitted as required by the Village's designee.

(F) The Village's designee shall inspect the property to verify compliance within 10 days of notification.

(G) Maintenance is the responsibility of the owner, and facilities are subject to inspection and orders for repairs.

31.17 VIOLATIONS, ENFORCEMENT AND PENALTIES.

(1) **Violations.** No land development or land disturbing activities within the scope of this Ordinance may occur without full compliance with the provisions of this Ordinance. Any person who violates or fails to comply with any provision of this Ordinance is subject to the enforcement and penalty provisions below.

(2) **Enforcement.** This Ordinance shall be enforced consistent with the policies and purposes underlying its adoption. The following enforcement actions, or any combination thereof, may be taken in case of a violation of this Ordinance.

(A) **Stop-Work Order.** A stop-work order may be issued by the Village Enforcement Agent if: (i) any land disturbing or land developing activity regulated under this Ordinance is being undertaken without a permit, (ii) the control plan is not being implemented in a good faith manner, or (iii) the conditions of the permit are not being met. Stop-work orders may be retracted when compliance with the Ordinance is obtained. The Village Enforcement Agent has the authority to retract a stop-work order for major and minor land disturbing activities.

1.1 Enforcement of Stop Work Order.

- a.. Whenever the local approval authority finds any noncompliance with the provisions of this ordinance, the local approval authority shall attempt to communicate with the owner or person performing the work to obtain immediate and voluntary compliance if such person is readily available. If the owner or person performing the work is not readily available, that person refuses to voluntarily comply immediately or the non compliance presents an imminent danger or will cause or threatens to cause bodily injury or damage to off-site property, including, but not limited to off-site run-off, the local approval authority shall post in a conspicuous place on the premises, a stop work order which shall cause all activity not necessary to correct the noncompliance to cease until noncompliance is corrected.
 2. The stop work order shall provide the following information: date of issuance, town and section number, or equivalent identifying information within a municipality, reason for posting and the signature of the inspector posting the card.
 3. It shall be a violation of the ordinance for the unauthorized removal of the stop work order from the premises.
2. The permittee and landowner authorize the local approval authority to take any action, to perform any work, or commence any

operations necessary to correct conditions upon the subject property where notice of noncompliance has been issued to bring the property into conformance with plan requirements. The permittee and landowner further consent to reimburse the authority for the total costs and expenses of the aforementioned actions, said reimbursement may be collected as a special charge upon the property for current services rendered as provided by law.

3. If the permittee has filed an appeal prior to the expiration of the time for compliance, the local approval authority may take action, perform work or correct conditions only to the extent necessary to protect against or correct an imminent hazard or a condition that will cause or threatens to cause personal injury or damage to off-site property.
- 4.

(B) **Revocation of Permit.** Where a stop work order has been issued in order to obtain compliance with a control plan, the Village may revoke the permit if the permittee does not cease the illegal activity or obtain compliance with the control plan or permit conditions within twenty-four (24) hours from issuance of the stop work order. Permits for major and minor land disturbing activities may be revoked by the Village Enforcement Agent.

(C) **Village to Perform Work.**

1. Twenty-four hours after posting a stop work order, if the permittee does not cease illegal activity or obtain compliance with the control plan or permit conditions, the Village Enforcement Agent and/or other designated Village official or agents may go on to the land and commence the work or any curative measures. In the event of an emergency, the Village may immediately enter the land to perform curative measures or repairs necessary to protect the public safety and welfare without first posting a stop work order.
2. Regardless of issuance of a stop work-order, when either a violation of this Ordinance or the conditions of a permit cause sediment to deposit on any Village street or public property, the Village Enforcement Agent and/or other designated Village officials or agents shall proceed to remove and/or clean such sediment as soon as possible.
3. The cost of the work performed by the Village pursuant to subsections 1 or 2 above, plus interest, shall be billed to the permittee or the landowner on whose property the work under subsection 1 was performed, or from whose activities or property the sediment originated for work under subsection 2, or may be recovered out of any security posted for such

purpose. In the event a permittee or landowner otherwise 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 section 66.0703, Wis. Stats.

(D) Injunction and Other Judicial Remedies. Compliance with the provisions of this Ordinance may also be obtained by the Village Board authorizing the Village Attorney to commence appropriate action to enjoin violations, compel compliance, or pursue other appropriate judicial relief.

(E) Private Remedies Preserved. These enforcement provisions are not intended in any way to restrict or limit the rights of private parties to pursue whatever private legal remedies they may have available as a result of any erosion, sediment or water runoff.

(3) **Penalties.** Any person violating any provision of this Ordinance shall be subject to forfeitures as follows: for major land disturbing activities, not less than \$200 nor more than \$2,000 plus the actual cost of prosecution for each offense; for minor land disturbing activities, not less than \$50 nor more than \$500 plus the actual cost of prosecution for each offense. Each day a violation exists shall constitute a separate offense. Citations for any violation of any provision of this Ordinance may additionally be issued by the Village Enforcement Agent, and such citations shall be in conformance with other municipal citations. Without limitation by enumeration, a violation of this Ordinance is occurring if any of the following conditions exist: (i) any land disturbing or land developing activity regulated under this Ordinance is being undertaken without a permit, (ii) the control plan is not being implemented in a good faith manner, (iii) the conditions of the permit are not being met, or (iv) any condition or activity that causes excessive runoff or erosion to adjacent land, public streets, or water bodies is occurring or being allowed to occur, in violation of section 31.08 of this Ordinance.

(A) Any person who has the ability to pay any forfeiture entered against him or her under this ordinance but refuses to do so may be confined in the county jail until such forfeiture is paid, but in no event to exceed thirty (30) days. In determining whether an individual has the ability to pay forfeiture, all items of income and all assets may be considered regardless of whether or not such income or assets are subject to garnishment, lien or attachment by creditors.

(B) As a substitute for or as an addition to forfeiture actions under sub 9(3) or corrective action under sub.8(c)(1), the Village Attorney is authorized to seek enforcement of any part of this ordinance by court action seeking injunctive relief. It shall not be necessary for the Village to take corrective action or prosecute for forfeiture before resorting to injunctive relief.

31.18 APPEALS AND VARIANCES.

(1) Appeal or Variance Requests.

(A) **By Applicant or Permittee.** Any aggrieved applicant, permittee or land user may appeal any order, decision, determination or inaction of the Village in administering or enforcing this Ordinance, or may apply for a variance from the requirements of this Ordinance. A twenty-five dollar (\$25) fee must accompany any appeal or variance request involving a minor land disturbing activity. A three hundred dollar (\$300) fee must accompany any appeal or variance request involving a major land disturbing activity. Appeal or variance requests must be submitted in writing, state the grounds for the appeal or variance request, and be filed with the Village Clerk.

(B) **Appeal By Citizens.** An appeal of any order, decision, determination or inaction of the Village in administering or enforcing this Ordinance may be commenced upon the filing of a petition signed by twelve (12) adult residents of the Village and payment of a three hundred dollar (\$300) fee. The appeal must be filed with the Village Clerk and must state written grounds for the appeal. A copy of any citizen appeal shall be delivered or mailed to the applicant or permittee by the Village Clerk within five (5) working days of its filing, if any, with the Village. The filing of a citizen appeal, by itself, does not prohibit the commencement or continuation of any work or activity.

(C) **Deposit.** Appeal or variance requests shall be accompanied by a \$1,000.00 deposit to secure payment of actual engineering, consulting, legal or inspection fees incurred by the Village in reviewing the variance or appeal. The fees shall be paid and the deposit released in accordance with section 31.14(3) of this ordinance.

(D) **Appeal Deadline.** Appeals by applicants, permittees or citizens must be filed within forty-five (45) days of the order, decision, determination of inaction being appealed.

(E) **Multiple Appeals Prohibited.** Once an appeal has been filed on a matter, no other appeal on the same order, decision, determination or inaction will be allowed. The Zoning Board shall consolidate appeals wherever possible to avoid a multiplicity of appeal proceedings and to hasten the final resolution of a matter. The Zoning Board may allow additional parties to join a pending appeal where appropriate and where such addition will not delay the proceedings.

(2) **Authority of Zoning Board of Appeals.**

(A) **The Village Zoning Board of Appeals** shall hear and decide all variance requests and appeals in accordance with the provisions of section 62.23(7)(e), Wis. Stats., and this ordinance. Where provisions may conflict, the more stringent shall apply. The Zoning Board shall only grant 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 is impracticable or otherwise unreasonable or demonstrated to be unnecessary. Such variances may be granted only when the Village Engineer has been presented with satisfactory proof, and the Zoning Board of Appeals so concurs, that the variance will achieve compliance results comparable to those set forth in this Ordinance.

(B) Appeals or variance requests shall be heard and decided within 30 days of receipt of the written request and payment of the appeal fee, unless an extension is agreed upon by the appellant and Zoning Board.

(C) Variances. An applicant may include in the application a request for a variance from the requirements. No variance shall be granted unless applicant demonstrates and the zoning administrator and/or the county conservationist find that all of the following conditions are present:

- 1.1 Enforcement of the standards set forth in this ordinance will result in unnecessary hardship to the landowner;
- 1.2 The hardship is due to exceptional physical conditions unique to the property;
- 1.3 Granting the variance will not adversely affect the public health, safety or welfare, nor be contrary to the spirit, purpose and intent of this ordinance;
- 1.4 The project will have no impact upon any of the stated purposes of this ordinance.
- 1.5 The applicant has proposed an alternative to the requirement from which the variance is sought that will provide equivalent protection of the public health, safety and welfare, the environment and public and private property;
- 1.6 1.7 The net cumulative effect of the variance will not impact downstream conditions; and
- 1.8 Existing regional facilities are shown to meet the performance standards of this ordinance.

(D). If all the conditions set for in 31.18(2)(C)(1-7) are met, a variance may only be granted to the minimum extent necessary to afford relief from the unnecessary hardship, with primary consideration to water quality.

(3) **Ordinance Procedures Prevail.** Pursuant to section 68.16, Wis. Stats., the Village Board elects that the procedures for administrative review of decisions set forth in this Ordinance shall apply in lieu of the procedures of the Wisconsin Municipal Administrative Procedure Act.

(4) **Enforcement Not Stayed.** The filing of an appeal or variance request does not preclude the Village from commencing or continuing any of the enforcement actions set forth in section 31.17(2) or a forfeiture proceeding under section 31.17(3) of this Ordinance unless the Village Board specifically agrees to stay such enforcement.