



Legislation Text

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021113

SUBSTITUTE 1

THE CHAIR

A substitute ordinance relating to soil erosion regulations.

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|--------------|----|
| 290-1 | rc |
| 290-2 | cr |
| 290-3 | rc |
| 290-5 | rc |
| 290-7-1-0 | rc |
| 290-7-1-d | rc |
| 290-7-1-f | rc |
| 290-7-1-g | rc |
| 290-7-2-a | rc |
| 290-7-2-d | rc |
| 290-7-2-e-0 | rc |
| 290-7-2-e-3 | rc |
| 290-7-2-e-4 | rc |
| 290-7-2-e-5 | rc |
| 290-7-2-e-7 | cr |
| 290-7-2-e-8 | cr |
| 290-7-2-e-9 | cr |
| 290-7-4 | rn |
| 290-9-1-a-2 | am |
| 290-9-4-b-1 | rc |
| 290-9-4-b-2 | rc |
| 290-9-4-b-3 | rc |
| 290-9-4-b-4 | rc |
| 290-9-4-b-5 | rc |
| 290-9-4-b-6 | rc |
| 290-9-4-b-7 | rc |
| 290-9-4-b-8 | rc |
| 290-9-4-b-9 | rc |
| 290-9-4-b-10 | rc |
| 290-9-4-b-11 | rc |
| 290-9-4-b-12 | rc |
| 290-9-4-b-13 | rc |
| 290-9-4-b-14 | rc |
| 290-9-4-c | rc |
| 290-11-1-a | rc |
| 290-11-2 | rc |

290-11-3 rc
290-11-4 cr
290-13 rc

This ordinance modifies the city's soil erosion regulations to meet recent changes in Wisconsin department of natural resources' regulations.

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 290-1 of the code is repealed and recreated to read:

290-1. Definitions. In this chapter:

1. AGRICULTURAL LAND USE means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
2. BEST MANAGEMENT PRACTICE (BMP) means structural or non-structural measures which are temporary or permanent measures, methods, procedures and devices employed to avoid or minimize soil, sediment and pollutant movement, or to manage storm water runoff, onto or off a site, developed in consultation with the Wisconsin department of natural resources.
3. BMP HANDBOOK means the most recent edition of the Wisconsin construction site best management practices handbook.
4. COMMERCIAL LAND USE means use of land in whole or in part as a place of resort, assemblage, trade, traffic, occupancy, or use by the public.
5. CONSTRUCTION SITE CONTROL MEASURE means a control measure used to meet the requirements of s.290-7-2.
6. CONTROL MEASURE means a practice or combination of practices to control erosion and attendant pollution.
7. CONTROL PLAN means a written description or drawing with the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this chapter submitted by the applicant for review and approval by the department of city development in case of private property or by the department of public works in case of a public right-of way.
8. EROSION means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.
9. ILLICIT DISCHARGE means any discharge to the drainage system which is not composed entirely of storm water unless a permit has been obtained from the appropriate regulatory agency. This includes, but is not limited to, activities related to spills, dumping and disposal of any substance or material.
10. LAND DEVELOPING ACTIVITY means the construction, demolition or removal of buildings, structures, roads, parking lots, utilities, paved storage areas and similar facilities, or parts thereof.
11. LAND DISTURBING ACTIVITY means any man-made change of the land surface including removing vegetation cover, excavating, filling and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; and harvesting of trees.
12. LAND USER means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his or her land.
13. LANDOWNER means any person holding title to or having an interest in land.
14. MAINTENANCE means the upkeep by the applicant, or subsequent landowner or land user during the period of land disturbance and land development of the site or any portion thereof, in a manner to ensure adequate performance and to prevent nuisance conditions.
15. PUBLIC RIGHT-OF-WAY AND PUBLIC UTILITY EASEMENTS means lands platted, dedicated

or used for streets, alleys, county parkways, pedestrian ways and drainage channels, and easements granted for drainage purposes, sewers, water main and city underground or overhead cable.

- 16. RUNOFF means the rainfall, snowmelt, dewatering or irrigation of water flowing over the ground surface.
- 17. SET OF ONE YEAR DESIGN STORMS means the following rain intensities and rain volumes or corresponding values specific to the community for storms that occur approximately once per year:

| Average Storm (hours) | Duration Rain Intensity (inches/hour) | Total Rain (inches) |
|-----------------------|---------------------------------------|---------------------|
| 0.5 | 1.8 | 0.9 |
| 1 | 1.1 | 1.1 |
| 2 | 0.7 | 1.3 |
| 3 | 0.5 | 1.5 |
| 6 | 0.3 | 1.7 |
| 12 | 0.2 | 2.0 |
| 24 | 0.1 | 2.3 |

18. 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. This includes all work in the public right-of-way.

Part 2. Section 290-2 of the code is created to read:

290-2. Intent. It is the intent of this chapter to prevent site materials, construction residue or illicit discharges from entering any portion of the storm sewer system and watercourses. This applies to construction grading and excavation in or adjacent to any public way, watercourse or storm drainage facility.

Part 3. Section 290-3 of the code is repealed and recreated to read:

290-3. Design, Criteria, Standards and Specifications. All control measures required to comply with this chapter shall meet the design criteria, standards and specifications for the control measures based on accepted design criteria, standards and specifications identified by the department. The Wisconsin department of transportation erosion control product acceptability list (WisDotPAL) and the department of natural resources' best management practices handbook may be used as a reference; however, each project shall have an individual control plan.

Part 4. Section 290-5 of the code is repeated and recreated to read:

290-5. Maintenance of Control Measures. To meet the requirements of this chapter the applicant or subsequent landowner shall:

- 1. Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs.
- 2. Allow the department of neighborhood services to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the plan.
- 3. Keep a copy of the control plan on the site.
- 4. Send record of inspection and repairs to the appropriate city department as defined in the erosion

control permit.

Part 5. Section 290-7-1-0, d, f and g of the code is repealed and recreated to read:

290-7 Control of Erosion and Pollutants: 1. APPLICABILITY. This section applies to the following sites of land development or land disturbing activities and storage of erodible material:

- d. Those involving excavation, filling or storage, or a combination of excavation and filling of storage affecting 100 cubic yards or more of dirt, sand or other excavation or fill material.
- f. Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility on private property or in the public right-of-way for a distance of 300 feet or more.
- g. Those involving demolition, razing or major repair of any building where soil could be exposed to wind and rain.

Part 6. Section 290-7-2-a,d, e-0, e-3, e-4 and e-5 of the code is repealed and recreated to read:

2. REQUIREMENTS. a. Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upslope chambers, hydro-cyclons, swirl concentrators or other appropriate controls designed and used to remove particles of 100 microns or greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than 100 microns during dewatering operations, then no control is needed before discharge, except as determined by the department. Water may not be discharged in a manner that causes erosion of the site or receiving channels. This includes truck washout or disposal of spent water.

d. Drain Inlet Protection. All storm drain inlets shall be protected with a straw bale, frame with filter fabric or equivalent barrier meeting accepted design criteria, standards and specifications.

e. Site Erosion Control. The following criteria apply to land development or land disturbing activities that result in runoff leaving the site:

e-3. All disturbed ground left inactive for 10 or more days shall be stabilized by seeding or sodding, or by mulching or covering, or other equivalent control measure. Seeding and sodding may only be used from May 1 to September 15 of any year.

e-4. For sites with more than 5 acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and at least 3 feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of 3 feet. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of one-year design storms having durations from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

e-5. For sites with less than 5 acres disturbed at one time, filter fences, straw bales or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.

Part 7. Section 290-7-2-e-7 to 9 of the code is created to read:

e-7. Within the public right-of-way no erodible materials shall be located within 100 feet of any unprotected storm drain inlet.

e-8. The city shall be notified 3 working days before any land disturbing activities are commenced.

e-9. The city shall be notified when erosion control measures are in place.

Part 8. Section 290-7-4 of the code is renumbered 290-7-2-e-6.

Part 9. Section 290-9-1-a-2 of the code is amended to read:

290-9. Control Plan for Building and Site Development.

1. ACTIVITIES COVERING MORE THAN ONE ACRE.

a-2. Lakes, streams, wetlands, channels, ditches and other ~~[[water courses]]~~ >>watercourses<< on and immediately adjacent to the site.

Part 10. Section 290-9-4-b-1 to b-14 and c of the code is repealed and recreated to read:

4. PERMITS.

b. Irrevocable Letter of Credit, Bond or Certified Check.

b-1. Topsoil (3 inches), seed, fertilizer: \$0.40/sq. ft.

b-2. Seed, mulch, fertilizer: \$.15/sq. ft.

b-3. Silt fence (installed): \$4.00/lin. ft.

b-4. Sodding \$6.50/sq. yd.

b-5. Synthetic netting: \$.55/sq. yd.

b-6. Rock rip-rap (6-12" stone): \$27.00/cu. yd

b-7. Excavating and grading equipment: \$90.00/hour (estimate machine time).

b-8. Sediment removal by dredging: \$25.00cu. yd.

b-9. Demolition sites (500 sq. ft. minimum): \$2,000 minimum.

b-10. Street sweeping: \$70/hour.

b-11. Catch basins cleaning: \$200/basin.

b-12. Inlet baskets: \$150/inlet.

b-13. Inlet screens: \$75/inlet screen.

b-14. Gutter detention: \$75/unit.

c. Permit Conditions: All permits shall require the permittee to:

c-1. Notify the department 3 business days prior to commencing any land developing or disturbing activity.

c-2. Notify the department of the schedule of installation and completion of the control measures.

c-3. Obtain permission in writing from the department of city development prior to modifying the control plan.

c-4. Install all control measures as identified in the approved control plan prior to commencing any land developing or land disturbing activity.

c-5. Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the control plan.

c-6. Repair any situation or erosion damage to adjoining surfaces and drainageways resulting from land developing or disturbing activities.

Part 11. Section 290-11-1-a, 2 and 3 of the code is repealed and recreated to read:

290-11. Control Plan for Certain Right-of-Way and Public Easements Projects.

1. EROSION CONTROL PLAN.

a. Public works contracts. The erosion control plan required by this chapter for contracts awarded by the department of public works, with the exception of non-erodible stockpiles, shall be developed by the contractor. The control plan shall be submitted to the city engineer and approved prior to start of construction.

2. PERMIT DURATION. The permit shall be valid for a period of 90 days for excavation work or 180 days, or as determined by the public works contract for occupancy of the right-of-way.

3. IRREVOCABLE LETTER OF CREDIT, BOND OR CERTIFIED CHECK. As a condition of approval and issuance of the permit, the department of public works shall require the prime

contractor or owner to deposit an irrevocable letter of credit, bond or certified check to guarantee a good faith effort of the approved control plan and any permits. The irrevocable letter of credit, bond or certified check shall be conditioned that the applicant will perform and sufficiently complete all work engaged in as a result of being granted a permit and guarantee that the applicant will perform in accordance with this chapter. The form of the irrevocable letter of credit shall be prepared by the department of public works and approved as to form and execution by the office of the city attorney. The certified check required shall be based on the schedule provided for under s. 290-9-4-b.

Part 12. Section 290-11-4 of the code is created to read:

4. AMENDMENTS. All amendments to the control plan shall be approved by the appropriate city department prior to installation.

Part 13. Section 290-13 of the code is repealed and recreated to read:

290-13. Inspection.

1. The department shall inspect site development, building construction sites and building services not let to public works contract, at least once each month while the permit is active to ensure compliance with the control plan. If land disturbing or land development activities are being carried out without a permit, the department shall enter the land pursuant to s. 66.0119, Wis. Stats.
2. The department of public works shall inspect construction work for which it has issued permits to ensure compliance with the erosion control plan at least once each month while the permit is active.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

TWM/rk
LRB 02536-3
1/29/2003