

ORDINANCE NO. 2005- 1848

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE
TEXT TO REPEAL AND RECREATE DIVISION 15-8.0300, PERTAINING TO
CONSTRUCTION SITE EROSION AND EROSION CONTROL AND TO
CREATE CHAPTER 148 OF THE MUNICIPAL CODE ENTITLED
"ILLCIT DISCHARGES AND CONNECTIONS TO THE
STORM DRAINAGE SYSTEM"

WHEREAS, the City of Franklin, specifically, the City of Franklin Engineering Department having reviewed the provisions of Division 15-8.0300 of the Unified Development Ordinance pertaining to Construction Site Erosion, in conjunction with its review of the Wisconsin Department of Natural Resources' Model Construction Site Erosion Control Zoning Ordinance, as required under the Department's permitting and regulatory oversight authority; and

WHEREAS, the Engineering Department having produced amended regulations in draft form improving the existing City regulations controlling and regulating run-off and incorporating those provisions of the WIDNR Model Ordinance as required and previously and preliminarily reviewed and approved by the Department of Natural Resources, with the intent to require the use of best management practices to reduce the amount of sediment and other pollutants resulting from land disturbing construction activities on sites that do not include the construction of a building and as is otherwise regulated by the Wisconsin Department of Commerce in s. COMM 21.125 or COMM 50.115, Wis Adm. Code, in furtherance of the policy of the State of Wisconsin to foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of ch. NR 151, Wis. Adm. Code; and

WHEREAS, the proposed ordinance amendments pertaining to construction site erosion control, together with proposed model regulations pertaining to prohibiting illicit drain or conveyance discharges or connections in relation to the conveyance of storm waters, also as required by WIDNR and prepared by that agency with input from the Milwaukee Metropolitan Sewerage District, were the subject of a public hearing before the City of Franklin Plan Commission on June 9, 2005, which was preceded by a class 2 notice as required by §62.23(7)(d)2., Stats., and §15-9.0205 of the Unified Development Ordinance, so as to be authorized by and to effectuate the City's zoning authority, and a public hearing before the City of Franklin Common Council on July 12, 2005, which was preceded by a class 2 notice as required by §236.45(4), Stats., and §15-9.0201 of the Unified Development Ordinance, so as to be authorized by and to effectuate the City's land division authority; and the Plan Commission having recommended approval thereof and the Common Council having

concurred with such recommendation and having determined that the adoption of such proposed regulations will further and protect the health, safety and general welfare of the Community.

NOW, THEREFORE, the Mayor and Common Council of the City of Franklin, Wisconsin, do ordain as follows:

SECTION 1: Division 15-8.0300 of the Unified Development Ordinance of the City of Franklin, Wisconsin, be and the same is hereby repealed and recreated to read as follows:

DIVISION 15-8.0300 CONSTRUCTION SITE EROSION

SECTION 15-8.0301 PURPOSE, INTENT AND AUTHORITY

A. Purpose and Intent. The City of Franklin finds that runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the State and of the City of Franklin, including from sites where the only development activity is grading, filling, and/or excavating, independent of or prior to building construction. It is the purpose of this Division to help preserve the natural resources; to protect the quality of the waters of the State and of the City; and to protect and promote the health, safety and welfare of the people, to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams, nature conservancy areas and wetlands, by minimizing the amount of airborne dust and by preventing the destruction of natural resources intended to be preserved by this ordinance, through the administration and enforcement of the permit, plan, control measure and maintenance requirements of this Division.

B. Authority.

1. This ordinance is adopted under the authority granted by §62.234, Stats. This ordinance supersedes all provisions of an ordinance previously enacted under §62.23, Stats., that relate to construction site erosion control. Except as otherwise specified in §62.234, Stats., §62.23, Stats., applies to this ordinance and to any amendments to this ordinance.

2. The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City of Franklin Common Council.

3. The City of Franklin Common Council hereby designates the City Engineer or designee to administer and enforce the provisions of this ordinance.

4. The requirements of this ordinance do not preempt more stringent erosion and sediment control requirements that may be imposed by any of the following:

a. Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under §§281.16 and 283.33, Stats.

b. Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

5. This Division is additionally intended to further the purposes of and is made pursuant to the authority granted under §§62.23(7), 62.234 and 236.45, Stats.

SECTION 15-8.0302 APPLICABILITY AND JURISDICTION

A. Applicability. This Section applies to the following sites of land disturbing construction activities, except as provided under Sub. B.:

1. **Construction site (1/4 or more acres; 25 or more cubic yards).** A construction site, which has one-quarter or more acres of land disturbing construction activity or upon which 25 or more cubic yards of dirt, sand or other excavation or fill material is excavated or filled by the land disturbing construction activity..
2. **Subdivision Plats.** Those requiring a Subdivision Plat approval or the construction of residential or commercial, industrial or institutional buildings on lots of approved Subdivision Plats.
3. **Certified Survey Map.** Those requiring a Certified Survey Map approval or the construction of residential or commercial, industrial or institutional buildings on lots of an approved Certified Survey Map.
4. **Street, Highway, Road, or Bridge Construction, Enlargement, Relocation or Reconstruction.** Those involving street, highway, road, or bridge construction, enlargement, relocation or reconstruction.

5. **Laying, Repairing, Replacing or Enlarging of an Underground Pipe or Facility.** Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of three hundred (300) feet or more.
6. **Supporting or Adjoining Natural Resource Features.** Those, which are within 100 feet of any natural resource feature listed in Table 4.0100.
7. **Adverse Drainage Impacting.** Notwithstanding Subs. 1. through 6. above, this ordinance applies to construction sites of any size that, in the opinion of the City Engineer or designee, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation particulate matter or that endangers property or public safety.

B. Non-applicability. This ordinance does not apply to the following:

1. Land disturbing construction activity that includes the construction of a building and is otherwise regulated by the Wisconsin Department of Commerce under s. Comm 21.125 or 50.115, Wis. Adm. Code.
2. A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land disturbing construction activity.
3. Nonpoint discharges from agricultural facilities and practices.
4. Nonpoint discharges from silviculture activities.
5. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.

C. Jurisdiction. This Division of this Ordinance applies to land disturbing and land development activities on lands within the boundaries and jurisdiction of the City of Franklin and the public and private lands subject to extraterritorial review under Chapter 236 of the Wisconsin Statutes. This Division 15-8.0300 is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Stats., but also including the office of district attorney, which is subject to the state plan

promulgated or a memorandum of understanding entered into under s. 281.33 (2), Stats.

SECTION 15-8.0303 DEFINITIONS

A. "Administering authority" means the City of Franklin City Engineer or designee, under §62.234, Stats., that is hereby designated by the Common Council to administer this ordinance.

B. "Agricultural facilities and practices " has the meaning in §281.16(1), Stats.

C. "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical.

D. "Best management practice" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the state.

E. "Business day" means a day the office of the Franklin City Engineer or other office designated by the Common Council is routinely and customarily open for business.

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

G. "Construction site" means an area upon which one or more land disturbing construction activities occur, including, but not limited to areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

H. "Division of land" means the creation, from one parcel, of five or more parcels or building sites of one and one-half or fewer acres each in area, where such creation occurs at one time or through the successive divisions within a 5-year period, or a minor division.

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

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

K. "Extraterritorial" means the unincorporated area within 3 miles of the City of Franklin.

L. "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has

been established, with a density of at least 70 percent of the cover, for the unpaved areas and areas not covered by permanent structures, or that employ equivalent permanent stabilization measures.

M. "Fill" means earth, clay, soil, ground or any mixture or combination of the foregoing. Stones, rocks or broken concrete, not exceeding 18 inches in diameter, need not be removed from fill, if not constituting more than 5% of the individual load. At no time shall stones, rocks or broken concrete be used in any degree of concentration as fill, except as aforesaid. No asphalt/bituminous products are allowed as fill material. Unusable topsoil from grubbing operation(s) cannot be used for fill.

N. "Governing body" means the City of Franklin Common Council, or as to any other governmental agency, the town board of supervisors, county board of supervisors, city council, village board of trustees or village council.

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

P. "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this Division, which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

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

R. "Permit" means a written authorization made by the City of Franklin to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

S. "Pollutant" has the meaning given in s. 283.01 (13), Stats.

T. "Pollution" has the meaning given in s. 281.01 (10), Stats.

U. "Responsible party" means any person or entity holding fee title to the property or performing services to meet the

performance standards of this ordinance through a contract or other agreement.

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

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

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

1. Is designed or used for collecting water or conveying runoff.
2. Is not part of a combined sewer system.
3. Is not draining to a storm water treatment device or system.
4. Discharges directly or indirectly to waters of the state.

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

Z. "Stop work order" means an order issued by the City of Franklin, which requires that all construction activity on the site be stopped.

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

BB. "Waters of the state" has the meaning given in s. 281.01 (18), Wis. Stats.

SECTION 15-8.0304 TECHNICAL STANDARDS

A. DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS. All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on any of the following:

1. Applicable design criteria, standards and specifications identified in the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222 November 1993 Revision.
2. Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
3. For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm

using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance. In this ordinance, the following year and location has been selected as average annual rainfall(s): Milwaukee, 1969 (Mar. 28-Dec. 6).

[Note to Users: The USLE and its successors RUSLE and RUSLE2, utilize an R factor which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single storm erosion. A design storm can be statistically calculated to provide an equivalent R factor as an average annual calculation.]

B. OTHER STANDARDS. Other technical standards not identified or developed in Sub. A. immediately above, may be used provided that the methods have been approved by the City Engineer or designee.

SECTION 15-8.0305 PERFORMANCE STANDARDS.

A. RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with Section 15-8.0307, that incorporates the requirements of this Section.

B. PLAN. A written plan shall be developed in accordance with Section 15-8.0307 and implemented for each construction site.

[Note to Users: The written plan may be that specified within s. NR 216.46, the erosion control portion of a construction plan or other plan.]

C. EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The plan required under Sub. B. immediately above, shall include the following:

1. BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction

shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

[Note to Users: Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in such. V. of ch. NR 151, Wis. Adm. Code, may be used to calculate sediment reduction.]

2. Notwithstanding Sub. 1. immediately above, if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.
3. Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:
 - a. **Prevent tracking of sediment from the construction site onto roads and other paved surfaces.** Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday. The entrance for a permitted fill site is to be equipped with a gate to prevent after hours dumping.
 - b. **Prevent the discharge of sediment as part of site dewatering.** Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators, or other appropriate controls designed and used to remove particles of one hundred (100) microns or greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than one hundred (100) microns during dewatering operations, then no control is needed before discharge, except as determined by the City Engineer or his authorized representative. Water may not be discharged in a manner that causes erosion of the site or receiving channels.
 - c. **Protect the separate storm drain inlet structure from receiving sediment.** All storm drain inlets shall be

protected with a straw bale, filter fabric, or equivalent barrier meeting City Engineer accepted design criteria, standards and specifications. What ever method is use must be maintain to prevent flooding on streets.

4. **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 and not allowed to be carried by runoff into a receiving channel or storm sewer system. The use, storage and disposal of chemicals, cement and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. However, projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.
5. The following criteria set forth in Subs. a. through d., below, apply only to land development or land disturbing activities that result in runoff leaving the site.
 - a. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described in this Division. Sheetflow runoff from adjacent areas greater than nine thousand (9,000) square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5 ft/sec across the disturbed area for the set of one-year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. U.S. Soil Conservation Service guidelines for allowable velocities in different types of channels shall be followed. These guidelines have been incorporated into the Wisconsin Administrative Code at Chapter NR 120.16, as amended.
 - b. All activities on the site shall be conducted pursuant to a construction site plan schedule sequence approved by the City Engineer or designee, to minimize the area of bare soil exposed at any one time.
 - c. Runoff from the entire disturbed area on the site shall be controlled by meeting either Subparagraphs (1), (2) and (4), or (1), (3) and (4) set forth below.
 - (1) All disturbed ground left inactive for seven (7) or more days shall be stabilized by seeding and mulching, or sodding (only available prior to October 15th), or by

other equivalent control measure as approved by the City Engineer.

(2) For sites with more than ten (10) 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 1.4 percent of the area draining to the basin and at least three (3) feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three (3) feet. The basin shall be designed to trap sediment greater than fifteen (15) microns in size, based on the set of 1-year design storms having durations from one-half (0.5) to twenty-four (24) hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

(3) For sites with less than ten (10) acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all side slope and down slope 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.

(4) For all sites containing disturbed soils, constructed swales shall be protected by filter fence checks placed perpendicular to the flow of the swale and at a distance of not more than one hundred (100) feet apart. The last downstream check fence shall be placed within five (5) feet of the entrance to an existing drainage channel, swale or public right-of-way.

d. Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a down slope drainage length of less than twenty-five (25) feet to a roadway or drainage channel. If remaining for more than seven (7) days, mulching, vegetative cover, tarps or other means shall stabilize them. Placing straw bales or filter fence barriers around the pile shall control erosion from piles, which will be in existence for less than seven (7) days. In-street utility repair or construction soil or dirt storage piles located closer than twenty-five (25) feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven (7) days, and the storm drain inlets must be protected with insert baskets and

straw bales or other appropriate filtering barriers as approved by the City Engineer or his authorized representative.

6. **Dust Control Areas.** Areas disturbed by destruction of vegetative cover shall be subject to dust control by applicable environmental regulation. Bare soils prone to air erosion during windy periods shall be settled down to prevent air pollution. Unpaved streets, haul roads, or adjacent paved streets shall be given a dust-preventative treatment or swept and/or watered as required to prevent airborne dust. Power booms unassisted by water injection or vacuum will not be allowed.
7. **Street Right-of-Way.** No excavated material shall be placed or stored on the pavement or curb lawn area within the street right-of-way. No grading or excavation shall be allowed within the street right-of-way without a special permit issued by the City Engineer or his authorized representative. Soils that have eroded onto or have been tracked onto the street right-of-way from a site will be removed under the direction of the City Engineer, and the cost of said removal shall be charged to the landowner or land user.
8. **Erosion of Placed Materials.** No soil, sediment, rock or other material existing as a result of any land developing or land disturbing activity shall be allowed to erode onto or be placed upon any private property adjacent to the site without the prior written consent of the adjoining landowner and then, only after that adjoining landowner obtains the necessary permit(s).
9. **Natural Resource Protection Standards.** All natural resource features shall be preserved and protected at all times, pursuant to the requirements of Part 4 of this Unified Development Ordinance, which is specifically applied to land disturbance, whether such land disturbance is independent of, prior to, or associated with any other development, including, but not limited to, those setting forth any buffer or setback requirements. Every application for a Construction Site Erosion Control Permit shall contain a statement that the proposed land disturbance area is not within 100 feet of a natural resource feature, if true, which shall be confirmed by the City Engineer or designee by inspection. Every application for such permit for a land disturbance within 100 feet of a natural resource feature shall include the submission by the applicant of a Natural Resource

Protection Plan pursuant to Division 15-7.0200 of this Unified Development Ordinance or such permit shall not be granted. All defined Protected Natural Resources will be protected with a double row of silt fence and a single line of 4' orange construction fence.

D. LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state.

[Note to Users: While regional treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.]

E. ALTERNATE REQUIREMENTS. The City of Franklin may establish storm water management requirements more stringent than those set forth in this Section if the City Engineer or designee determines that an added level of protection is needed for sensitive resources.

SECTION 15-8.0306 CONSTRUCTION SITE EROSION CONTROL PERMIT REQUIRED AND APPLICATION

A. PERMIT REQUIRED. No responsible party, landowner, occupant, land user, person or entity may commence, continue, and no responsible party, landowner or occupant may suffer or allow to continue, a land disturbing construction activity subject to this Division, without receiving prior approval of a control plan for the site and a Construction Site Erosion Control Permit, from the City Engineer or designee, excepting when the disturbance or activity is made under a single family home building permit or other development approval which provides the control measures required under this Division, i.e., Subdivision Development Agreement, Special Use Resolution and the like. Any person or entity desiring to undertake a land disturbing construction activity subject to this Division shall obtain the submission of an application for a Construction Site Erosion Control Permit, together with a control plan and pay an application fee. Notwithstanding the foregoing, land disturbing activities may be permitted under a Construction Site Erosion Control Permit without the prior approval of a control plan, for an Adverse Drainage Impacting land disturbing construction activity for which an erosion and sediment control plan statement is required in lieu thereof, under Section 15-8.0307B. of this Division, and for a Class 1 (as described below) application; in lieu of a control plan, a Class 1 applicant may submit a plat of survey depicting the area and describing any volume of and the

nature of the land disturbing construction activity, and the restoration to be performed, if any, together with such other information as reasonably required by the City Engineer or designee to further the purposes and intent of this Division. *[Note: The application fee shall be included in the fee for building permits and other applicable development approvals, where constituting the exception set forth above.]*

B. PERMIT APPLICATION AND FEES. An application for a Construction Site Erosion Control Permit shall be signed by the owner of the land involved, as a responsible party, together with the person applying for the permit, if other than the owner, who shall also be a responsible party by reason of such application. The applicant shall also pay an application fee at the time of filing the application. There shall be three classes of applications for the setting of application fees and in part, for applying the control plan requirements. A Class 1 application is an application involving land disturbing construction activities upon a construction site of 1/4 acre up to 1/2 acre or supporting 25 cubic yards up to 100 cubic yards of fill or excavation activities, for which the application fee is \$50.00. A Class 2 application is an application involving land disturbing construction activities upon a construction site of 1/2 acre up to 2 acres or supporting 100 cubic yards up to 500 cubic yards of fill or excavation activities, any land disturbing construction activity Supporting or Adjoining Natural Resource Features, and any Adverse Drainage Impacting land disturbing construction activity, for which the application fee is \$100.00. A Class 3 application is an application involving land disturbing construction activities upon a construction site of 2 or more acres or supporting 500 or more cubic yards of fill or excavation activities, for which the application fee is \$250.00, plus an additional \$50.00 for each 500 cubic yards or portion thereof in addition to the base 500 cubic yards. The application shall accurately describe the construction site area and the type of land disturbing construction activity applied for, shall provide the tax key number(s) and available address(es) of property upon which the site is located, and the volume by cubic yards of any filling or excavation activities. In all other respects, the application shall provide for and contain such information as may be reasonably required by the City Engineer or designee, to further the purpose and intent of this Division. An application fee for land disturbing construction activity commenced prior to the issuance of a permit and applicable approval of a control plan, shall be doubled. By submitting an application, the

applicant is authorizing the City Engineer or designee to enter the site to obtain information required for the review of the erosion and sediment control plan.

B. REVIEW AND APPROVAL OF PERMIT APPLICATION.

The City Engineer or designee shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

1. Within 15 business days of the receipt of a complete permit application, as required by this Section 15-8.0306, the City Engineer or designee shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.
2. If the permit application and plan are approved, the City Engineer or designee shall issue the permit.
3. If the permit application or plan is disapproved, the City Engineer or designee shall state in writing the reasons for disapproval.
4. The City Engineer or designee may request additional information from the applicant. If additional information is submitted, the City Engineer or designee shall have 15 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
5. Failure by the City Engineer or designee to inform the permit applicant of a decision within 15 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

D. SURETY BOND. As a condition of approval and issuance of the permit, the City Engineer or designee may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

E. PERMIT REQUIREMENTS. All permits shall require the responsible party to:

1. Notify the City Engineer or designee within forty-eight (48) hours of commencing any land disturbing activity.
2. Notify the City Engineer or designee of the completion of installation of any control measures within three (3) days after their installation.

3. Obtain permission in writing from the City Engineer or designee prior to modifying the control plan.
4. Install all control measures as identified in the approved control plan.
5. Maintain all road drainage systems, storm water drainage systems, control measures and other facilities identified in the control plan and document repairs in a site erosion control log.
6. Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities. and document repairs in a site erosion control log.
7. Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs and undertake such other or additional inspecting and activities as recommended in the Wisconsin Construction Site Best Management Practice Handbook, *WDNR Pub. WR-222* November 1993 Revision.
8. Conduct any filling activity so that at the end of each day the surface shall be graded to drain and be free from broken concrete and relatively free from gravel, and that the upper four (4) inches thereof shall be of soil suitable for growing grass. The surface of said filling shall be kept free from dust at all times during the filling activity and thereafter.
9. Allow the City Engineer and/or designee and/or City representatives 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 control plan.
10. Keep a copy of the control plan on the site, if facilities are available

F. PERMIT CONDITIONS. Permits issued under this Section may include conditions established by the City Engineer or designee, in addition to the requirements set forth in Sub. E. above, where reasonably necessary to assure compliance with the performance standards in Section 15-8.0305.

G. PERMIT DURATION. Permits shall be valid for a period of one (1) year unless otherwise shown on the permit, or the length of the building permit or other construction authorizations, whichever are longer, from the date of issuance. The City Engineer or designee may extend the period one or

more times for up to an additional one hundred and eighty (180) days. The City Engineer or designee may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this Division.

H. MAINTENANCE. All sedimentation basins and all other control measures required by this Division shall be maintained by the land owner, land occupant and all persons and entities performing development activities upon or adjacent or near the property upon which the control measures are installed in a manner to ensure their intended performance and to prevent nuisance conditions, during the period of land disturbance and land development of the site, and thereafter for control measures intended to perform thereafter for an extended period of time or permanently.

SECTION 15-8.0307 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.

A. EROSION AND SEDIMENT CONTROL PLAN.

1. An erosion and sediment control plan shall be prepared and submitted to the City Engineer or designee.
2. The erosion and sediment control plan shall be designed to meet the performance standards in SECTION 15-8.0305 and other requirements of this ordinance.
3. The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
 - a. The name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
 - b. Description of the site and the nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
 - c. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin,

the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

- d. Estimates of the total area of the site and the total area of the site that is expected to be disturbed by construction activities.
 - e. Estimates, including calculations, if any, of the runoff coefficient of the site before and after construction activities are completed.
 - f. Calculations to show the expected percent reduction in the average annual sediment load carried in runoff as compared to no sediment or erosion controls.
 - g. Existing data describing the surface soil as well as sub soils.
 - h. Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
 - i. Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
4. The erosion and sediment control plan shall include a site map. The site map shall include the following items and shall be at a scale not greater than 100 feet per inch and at a contour interval not to exceed two feet.
- a. Existing topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, ponds, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified 100-year flood plains, flood fringes and floodways shall also be shown.
 - b. Boundaries of the construction site.
 - c. Drainage patterns and approximate slopes anticipated after major grading activities.
 - d. Areas of soil disturbance.
 - e. Location of major structural and non-structural controls identified in the plan.
 - f. Location of areas where stabilization practices will be employed.
 - g. Areas which will be vegetated following construction.
 - h. Areal extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland.
 - i. Locations of all surface waters and wetlands within one mile of the construction site.

- j. An alphanumeric or equivalent grid overlying the entire construction site map.
- 5. Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:
 - a. Description of interim and permanent stabilization practices, including a practice implementation schedule. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
 - b. Description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from the site. Unless otherwise specifically approved in writing by the City Engineer or designee, structural measures shall be installed on upland soils.
 - c. Management of overland flow at all sites, unless otherwise controlled by outfall controls.
 - d. Trapping of sediment in channelized flow.
 - e. Staging construction to limit bare areas subject to erosion.
 - f. Protection of down slope drainage inlets where they occur.
 - g. Minimization of tracking at all sites.
 - h. Clean up of off-site sediment deposits.
 - i. Proper disposal of building and waste materials at all sites.
 - j. Stabilization of drainage ways.
 - k. Control of soil erosion from dirt stockpiles.
 - l. Installation of permanent stabilization practices as soon as possible after final grading.
 - m. Minimization of dust to the maximum extent practicable.
- 6. The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.

[Note to Users: *The plan requirements of this subsection will meet the erosion control plan requirements of s. NR 216.46, Wis. Adm. Code, when prepared in accordance with good engineering practices and the design criteria, standards and specifications outlined in the Wisconsin Construction Site Best Management Practice Handbook (WDNR Pub. WR-222 November 1993 Revision).*]

B. EROSION AND SEDIMENT CONTROL PLAN STATEMENT.

For each construction site identified under Section 15-8.0302A.7., an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the City Engineer or designee. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

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

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

SECTION 15-8.0308 FEE SCHEDULE.

The fees referred to in other sections of this Division shall be established by the Governing Body and may from time to time be modified by resolution. A schedule of the fees established by the Governing Body shall be available for review in the office of the City Clerk.

SECTION 15-8.0309 INSPECTION AND ENFORCEMENT.

A. Inspection. The City Engineer and designee and such City representatives as may be designated by the Common Council may inspect land disturbing construction activity sites

as often as necessary to ensure compliance with the control plan. If land disturbing or land development activities are being carried out without a permit, the City Engineer or designee shall enter the land by permission of the landowner or pursuant to the provisions of §66.0119, Stats., as amended.

B. Enforcement. Enforcement of this Division shall be accomplished as follows:

1. The City Engineer or his authorized representative may post a stop-work order on all building, construction, land disturbing or land development activities if:
 - a. Any land disturbing activity regulated under this Division is being undertaken without a permit; or
 - b. The control plan is not being implemented in a good faith manner; or
 - c. The conditions of the permit are not being met.
2. If the responsible party or any other person or entity performing or suffering the activity does not cease the activity or comply with the control plan or permit conditions forthwith, the City Engineer or designee may revoke the permit.
3. If the landowner or land user or any other person or entity performing or suffering the activity, where no permit has been issued, does not cease the activity forthwith, the City Engineer or designee may request the City Attorney to obtain a cease and desist order.
4. In addition to the foregoing provisions of this Subsection, this Division may be enforced by way of injunction, the imposition of forfeitures and other available relief pursuant to Division 9.0500 of this Ordinance and the undertaking by the City to cure any defects or complete any plans or measures, with the costs thereof to be assessed against the property owner and entered upon the tax roll pursuant to the procedures for a special charge under §66.0627, Stats. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings. Any violation of this Division is hereby declared to be a public nuisance.
5. In addition to the foregoing provisions of this Subsection, any person violating any of the provisions of this ordinance shall be subject to the penalty provisions set forth under §15-9.0502 of the Unified Development Ordinance.

SECTION 15-8.0310 APPEALS.

A. BOARD OF ZONING AND BUILDING APPEALS.

The Board of Zoning and Building Appeals:

1. Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the City Engineer or designee in administering this ordinance except for cease and desist orders obtained.
2. Upon appeal, may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
3. Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.

B. WHO MAY APPEAL. Appeals to the Board of Zoning and Building Appeals may be taken by any aggrieved person or by any office, department, board, or bureau of the City of Franklin affected by any decision of the City Engineer or designee.

SECTION 2: Chapter 148 of the Municipal Code of the City of Franklin, Wisconsin, be and the same is hereby created to read as follows:

CHAPTER 148 ILLICIT DISCHARGES AND CONNECTIONS TO THE STORM DRAINAGE SYSTEM

- | | |
|--|--------------------------------|
| § 148-1. Definitions. | § 148-4. Exemptions. |
| § 148-2. Discharge's prohibited. | § 148-5. Enforcement. |
| § 148-3. Connection's prohibited. | § 148-6. Violations and |
- penalties.**

§ 148-1. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

Illicit Connection: Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor

drains and sinks, regardless of whether said drain or connection had been allowed, permitted, or approved by a government agency, prior to the adoption of this ordinance.

Person: Means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Storm Drain System: Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

§ 148-2. Discharge's prohibited

No person shall discharge, spill or dump substances or materials which are not entirely composed of storm water into receiving bodies of water or onto driveways, sidewalks, parking lots or other areas that drain into the storm drainage system.

§ 148-3. Connection's prohibited

The construction, use, maintenance or continued existence of illicit connections to the storm drainage system is prohibited. This prohibition expressly includes, without limitation, illicit connections made prior to the adoption of this Ordinance, regardless of whether the connection was permissible under law or practice applicable or prevailing at the time of connection.

§ 148-4. Exemptions

The following activities are exempt from the provisions of this Section unless found to have an adverse impact on the storm water:

- (1) Discharges authorized by a permit issued by the Wisconsin Department of Natural Resources.
- (2) Discharges resulting from fire fighting activities.
- (3) Discharges from uncontaminated ground water, a potable water source, a roof drain, a foundation drain or sump pump, air conditioning condensation, spring lawn watering, individual residential car washing, water main or hydrant flushing, and swimming pools if the water has been de-chlorinated.

§ 148-5. Enforcement

Whenever the City of Franklin finds a person has violated a prohibition or failed to meet a requirement of this Section, the City of Franklin may order compliance by written notice of violation to the person. Such notice may require without limitation:

- (1) The elimination of illicit connections or discharges and that violating discharges, practices, or operations shall cease and desist; and
- (2) The abatement or remediation of storm water pollution or contaminated hazards and the restoration of any affected property;

§ 148-6. Violations and penalties

Except as otherwise provided, any person who shall violate any provision of this Chapter, or any order, rule or regulation made hereunder, shall be subject to a penalty as provided Chapter 1, General Provisions, §1-19, together with the costs of prosecution.

SECTION 3: The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 4: All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION 5: This ordinance shall take effect and be in force from and after its passage and publication.

Introduced at a regular meeting of the Common Council of the City of Franklin this 9th day of August, 2005, by Alderman Sohns.

Passed and adopted at a regular meeting of the Common Council of the City of Franklin this 9th day of August, 2005.

APPROVED:


Thomas M. Taylor, Mayor

ATTEST:

Sandra L. Wesolowski
Sandra L. Wesolowski, City Clerk

AYES 6 NOES 0 ABSENT 0

