

59-22

AN ORDINANCE AMENDING SECTION 24-10(a) OF CHAPTER 24 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO APPLICABILITY AND JURISDICTION; APPLICABILITY.

(Utilities Committee – 10-19-2022)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 24-10(a) of Chapter 24 of the Municipal Code of the City of Appleton, relating to applicability and jurisdiction; applicability, is hereby amended to read as follows:

Sec. 24-10. Applicability and jurisdiction.

(a) ***Applicability.***

- (1) This ordinance applies to all land disturbing activities, including transportation facilities, within the City of Appleton except as provided under sub. (3).
- (2) Land disturbing activities meeting any one of the following are required to prepare a plan and obtain a permit:
 - a. Building on lots in subdivisions, certified survey maps or unplatted lands.
 - b. Land disturbing activities involving grading, removal of protective ground cover or vegetation, excavation, land filling, scraping or other land disturbing activity affecting a surface of one (1) acre or more.
 - c. Land disturbing activities involving street, highway, road or bridge construction, enlargement, relocation or reconstruction affecting a surface area of one (1) acre or more.
 - d. Notwithstanding the previously listed applicability requirements, this ordinance applies to any sites which, in the opinion of the City of Appleton, are likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that cause undue erosion, that increases water pollution by scouring or the transportation of particulate matter, or that endangers property or public safety.

- (3) This ordinance does not apply to the following:
- a. Land disturbing construction activity that includes the construction of one- (1-) and two- (2-) family residential dwellings that are not part of a larger common plan of development or sale and that result in less than one (1) acre of disturbance. These construction sites are regulated by the Wisconsin Department of Safety and Professional Services under s. SPS 321.125 Wis. Adm. Code.
 - b. 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 activity.
 - c. Nonpoint discharges from agricultural facilities and practices.
 - d. Nonpoint discharges from silviculture activities.
 - e. Activities conducted by a state agency, as defined under §227.01 (1), Wis. Stats., but also including the office of the district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under §281.33 (2), Wis. Stats.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

60-22

AN ORDINANCE AMENDING SECTION 24-24(b)(7) OF CHAPTER 24 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PERFORMANCE STANDARDS FOR NON-PERMITTED SITES; REQUIREMENTS.

(Utilities Committee – 10-19-2022)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 24-24(b)(7) of Chapter 24 of the Municipal Code of the City of Appleton, relating to performance standards for non-permitted sites; requirements, is hereby amended to read as follows:

Sec. 24-24. Performance standards for non-permitted sites.

(b) **Requirements.** Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:

- (7) The transport, by runoff from the site, of chemicals, cement and other building compounds and materials on the construction site during the construction period. 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.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

61-22

AN ORDINANCE AMENDING SECTION 24-25(c) OF CHAPTER 24 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PERFORMANCE STANDARDS FOR PERMITTED SITES; EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS.

(Utilities Committee – 10-19-2022)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 24-25(c) of Chapter 24 of the Municipal Code of the City of Appleton, relating to performance standards for permitted sites; erosion and other pollutant control requirements, is hereby amended to read as follows:

Sec. 24-25. Performance standards for permitted sites.

(c) **Erosion and other pollutant control requirements.** The plan required under sub. (b) shall include the following:

- (1) Erosion and sediment control practices shall be used to prevent or reduce all of the following:
 - a. The deposition of soil from being tracked onto streets by vehicles.
 - b. The discharge of sediment from disturbed areas into on-site storm water inlets.

- c. The discharge of sediment from disturbed areas into adjacent waters of the state.
 - d. The discharge of sediment from drainage ways that flow off the site.
 - e. The discharge of sediment by dewatering activities.
 - f. The discharge of sediment eroding from soil stockpiles existing for more than seven (7) days.
 - g. The discharge of sediment from erosive flows at outlets and in downstream channels.
 - h. The transport, by runoff from the site, of chemicals, cement and other building compounds and materials from the construction site during the construction period. 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 subdivision.
 - i. The transport by runoff of untreated wash water from vehicle and wheel washing from the construction site. Wastewaters, such as concrete truck washout, shall be properly managed to limit the discharge of pollutants.
- (2) BMPs that, by design, discharge no more than five (5) tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization, as determined by the WDNR construction site soil loss and sediment discharge guidance.
 - (3) Erosion and Sedimentation BMPs may be combined to meet the requirements of this section. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing activity, or other appropriate mechanism. The method of calculating the percent reduction in sediment shall be a method approved by the City of Appleton.
 - (4) No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with MEP.
 - (5) Notwithstanding sub. (2), if BMPs cannot be designed and implemented to meet these requirements, the plan shall include a written and site-specific explanation as to why the requirements are not attainable and how the sediment load shall be reduced to the maximum extent practicable.

- (6) *Preventative measures.* The plan shall incorporate all of the following:
- a. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
 - b. Minimization of soil compaction and preservation of topsoil.
 - c. Minimization of land disturbing construction activity on slopes of twenty percent (20%) or more.
 - d. Development of spill prevention and response procedures.
- (7) All off-site deposits occurring as a result of a storm event shall be cleaned up by the end of the next working day. All other off-site deposits occurring as a result of land disturbing activities shall be cleaned up by the end of the workday. Flushing is not allowed.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

62-22

AN ORDINANCE AMENDING SECTION 24-30(e) OF CHAPTER 24 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO PERMITTING REQUIREMENTS, PROCEDURES AND FEES (PERMIT REQUIREMENTS).

(Utilities Committee – 10-19-2022)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 24-30(e) of Chapter 24 of the Municipal Code of the City of Appleton, relating to permitting requirements, procedures and fees; permit requirements, is hereby amended to read as follows:

Sec. 24-30. Permitting requirements, procedures and fees.

- (e) *Permit requirements.* All permits shall require the responsible party to:
- (1) Notify the City of Appleton no less than two (2) business days prior to commencing any land disturbing construction activity.

- (2) Notify the City of Appleton of completion of any BMPs within two (2) business days after their installation.
- (3) Notify the City of Appleton no less than two (2) business days prior to leaving the site at the completion of the project or seasonal shutdown.
- (4) Obtain permission in writing from the City of Appleton prior to any modification pursuant to Sec. 24-35 of the erosion and sediment control plan.
- (5) Install all BMPs as identified in the approved erosion and sediment control plan.
- (6) Maintain and repair all road drainage systems, storm conveyance systems, BMPs and other facilities, both on and off site, identified in the approved erosion and sediment control plan.
- (7) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.
- (8) Inspect the BMPs within twenty-four (24) hours after each rain of 0.5 inches or more and at least once each week. Make needed repairs, install additional BMPs as necessary and document the findings of the inspections in an erosion control log kept on site with the date of inspection, the name of the person conducting the inspection, a description of the present phase of the construction, a description of any repairs needed and documentation of the completed repairs.
- (9) *Winter dormant inspection requirements.* When a permitted construction site is shut down and dormant over the winter season, the applicant shall be exempt from weekly inspections as required in Sec. 24-30(e)(7) upon approval of the Director of Public Works. In order for a permitted site to be classified as winter dormant, the applicant must install erosion control measures to the satisfaction of the Director of Public Works, provide an inspection of these measures and then cease all construction activities except for minor maintenance activities. Once a site is classified as winter dormant by the Director of Public Works, inspections are only required within twenty-four (24) hours of a rain or thaw event as determined by the Director of Public Works. If at any time construction resumes or an erosion control failure occurs at the site, the site shall lose the winter dormant classification and the applicant must resume normal inspection.
- (10) *Documentation of inspection.* When required by the City of Appleton, erosion control inspections, including any repairs needed and/or actions taken at the site, shall be documented on the City of Appleton online

erosion control self-reporting system. The permittee will be given access to this website, which contains documentation and forms for use in the erosion control inspections. Digital photographs of each of the erosion control practices and the site conditions shall be submitted and shall be required to meet the minimum inspection requirements of this section.

- (11) Allow the City of Appleton to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the plan. Keep a copy of the erosion and sediment control plan at the construction site.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.

63-22

AN ORDINANCE AMENDING SECTION 24-35(a) OF CHAPTER 24 OF THE MUNICIPAL CODE OF THE CITY OF APPLETON, RELATING TO EROSION AND SEDIMENT CONTROL PLAN, STATEMENT AND AMENDMENTS; EROSION AND SEDIMENT CONTROL PLAN.

(Utilities Committee – 10-19-2022)

The Common Council of the City of Appleton does ordain as follows:

Section 1: That Section 24-35(a) of Chapter 24 of the Municipal Code of the City of Appleton, relating to erosion and sediment control plan, statement and amendments, erosion and sediment control plan, is hereby amended to read as follows:

Sec. 24-35. 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 of Appleton Department of Public Works.
- (2) The complete erosion and sediment control plan shall be submitted in both hard copy and .pdf format.
- (3) The erosion and sediment control plan shall be prepared by a person who holds a registration issued by the Wisconsin Department of Regulation and Licensing in one (1) of the following categories:

- a. Architect.
 - b. Engineer.
 - c. Land Surveyor.
 - d. Landscape Architect.
- (4) The erosion and sediment control plan shall be designed to meet the performance standards in Sec. 24-25 and other requirements of this ordinance.
- (5) 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 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 land disturbing activity. Sites of one (1) acre or more shall include the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.
 - c. The intended sequence of land disturbing construction of the development site, including stripping; clearing and grubbing; excavation; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date when clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, establishment of permanent vegetation and removal of erosion and sediment controls.
 - 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. For sites with one (1) acre or more of disturbed area, provide calculations per WDNR Soil Loss Guidelines per Sec. 24-25(c)(2).

- f. Location and description of the existing surface soil as well as subsoils, as indicated by USDA Natural Resource Conservation Service Soil Survey information.
 - g. Whenever permanent infiltration devices will be employed or were evaluated, the depth to the nearest seasonal high groundwater elevation or top of bedrock shall be identified per appropriate on-site testing.
 - h. Name of the immediate named receiving water from the United States Geological Services 7.5 minute series topographic maps.
- (6) 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 one hundred (100) feet per inch and at a contour interval not to exceed two (2) feet.
- a. Existing topography, vegetative cover, natural and engineered drainage patterns and systems, roads, and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on the site and on adjacent lands shall be shown. Any identified 100-year flood plains, flood fringes, floodways, and flood storage areas shall also be shown.
 - b. Boundaries of the parcel and the construction site.
 - c. Drainage patterns and approximate slopes before and after major grading activities.
 - d. Areas of soil disturbance.
 - e. Location, dimensions and descriptions of major structural and non-structural controls identified in the erosion and sediment control plan.
 - f. Location of areas where stabilization BMPs will be employed.
 - g. Areas that will be vegetated following land disturbing construction activity.
 - h. Area(s) and location(s) of wetland acreage on the site and locations where stormwater is discharged to a surface water or wetland, within one-quarter mile downstream of the construction site.
 - i. Water courses and wetlands that may affect or be affected by runoff from the site.

- j. On sites one (1) acre or larger an alphanumeric or equivalent grid overlying the entire construction site map.
- k. Topography and drainage network of enough of the contiguous properties to show runoff patterns onto, through, and from the site.
- l. Location, dimensions and description of utilities, structures and pavements.
- m. Area(s) used for infiltration of post-construction stormwater runoff.

(7) Each erosion and sediment control plan shall include a description of appropriate control BMPs that will be installed and maintained at the construction site to prevent pollutants from reaching waters of the state. The erosion and sediment control plan shall clearly describe the appropriate erosion and sediment control BMPs for each major land disturbing construction activity and the timing during the period of land disturbing construction activity that the erosion and sediment control BMPs will be implemented. The description of erosion and sediment control BMPs shall include, when appropriate, the following minimum requirements:

- a. Description of interim and permanent stabilization practices, including a BMP implementation schedule. Erosion and sediment control 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 of Appleton, structural measures shall be installed on upland soils.
- c. Management of overland flow at all areas of the construction site, unless otherwise controlled by outfall controls.
- d. Trapping of sediment in channelized flow.
- e. Staging land disturbing construction activities to limit exposed soil areas subject to erosion.
- f. Protection of downslope drainage inlets where they occur.

- g. Minimization of tracking at all vehicle and equipment entry and exit locations of the construction site.
- h. Clean up of off-site sediment deposits.
- i. Proper disposal of building and waste materials, including but not limited to designated sites for concrete truck washout.
- j. Stabilization of drainage ways.
- k. Control of soil erosion from stockpiles.
- l. Installation of permanent stabilization practices within ten (10) days after final grading.
- m. Minimization of dust to the maximum extent practicable.

(Ord 187-11, §1, 1-1-12)

- (8) 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.

Section 2: This ordinance shall be in full force and effect from and after its passage and publication.