

ORDINANCE NUMBER 6.03

AN ORDINANCE OF THE TOWN OF BLOOMING GROVE TO CREATE EROSION CONTROL AND STORM WATER RUNOFF STANDARDS

The Town Board of the Town of Blooming Grove, Dane County, does ordain as follows:

The Town of Blooming Grove Erosion Control and Storm Water Runoff Ordinance is hereby created to read as follows:

EROSION CONTROL AND STORM WATER RUNOFF

Section 1. Authority

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

Section 2. Title

This Ordinance shall be known as, referred to, and may be cited as "Erosion Control Ordinance" and is hereinafter referred to as the Ordinance.

Section 3. Findings and Declaration of Policy

The Town of Blooming Grove finds that urbanizing land uses, including runoff from construction sites, have accelerated the process of soil erosion, runoff and sediment deposition in the waters of the Town of Blooming Grove and the State. It is, therefore, declared to be the policy of this Ordinance to provide for the control and if possible, the prevention of soil erosion, and thereby to preserve the natural resources, control floods and prevent impairment of dams and reservoirs, protect the tax base, and protect and promote the health, safety and general welfare of the people of the Town of Blooming Grove.

Section 4. Intent and Purpose

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

Section 5. Applicability

This Ordinance applies to the use of lands within the political boundaries of the Town of Blooming Grove.

Section 6. Definitions

a. The following terms, whenever they occur in this Ordinance, are defined as follows:

- (1) "Agricultural Land Use" is the use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.
- (2) "Control Plan" (Erosion and Sediment Control Plan and/or Runoff Control Plan) is a written description approved by the Town Engineer, of methods for controlling sediment or pollution from accelerated erosion on a development area and/or from erosion caused by accelerated runoff from a development area and controlling runoff.
- (3) "Erosion" (Soil Erosion) is the detachment and movement of soil or rock fragments by water, wind, ice or gravity.
- (4) "Excavation" means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quaried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.
- (5) "Existing Grade" means the vertical location of this existing ground surface prior to excavation or filling.
- (6) "Fill" means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by human forces to a new location and shall include the conditions resulting therefrom.
- (7) "Grading" is altering the elevation of the land surface by stripping, excavating, filling, or stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
- (8) "Government Body" means the Town of Blooming Grove.
- (9) "Land Disturbing Activities or Uses" are any land alterations or disturbances which may result in soil erosion, sedimentation and/or the increase in runoff, including but not limited to tilling, removal of ground cover, grading, excavating and filling of land, except that the term shall not include such minor land disturbing activities as home gardens and repair and maintenance of private roads. Additionally, this term does not include

agricultural land uses if such are regulated at the federal, state or county level.

- (10) "Landowner" means any person holding title to or having an interest in land.
- (11) "Land Treatment Measures" are structural or vegetative practices (including fencing), or combinations of both, used to control erosion, sediment and water runoff.
- (12) "Land Users" are those who use land, individually or collectively as owners, operators, lessors, renters, occupiers who are providing a service that requires access or alterations of the land in order to perform the service, or by other arrangement which gives them the responsibility of private or public land use.
- (13) "Twenty-Five Year Storms" are those rainstorms of varying durations and intensities expected to recur on the average of once every 25 years.
- (14) "Twenty-Five Year Storm Runoffs" are the stormwater runoffs from the 25 year storms.
- (15) "Parcel" is all contiguous lands under the ownership or control of a landowner or land user.
- (16) "Peak Flow" is the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from a predetermined storm or flood.
- (17) "Permit" is the signed, written statement issued under this Ordinance authorizing the applicant to engage in general land disturbing uses specified and for a specified period of time.
- (18) "Person" is any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county, or state agency within Wisconsin, the federal government, or any combination thereof.
- (19) "Public Lands" means all lands which are subject to regulation by the Town of Blooming Grove, including, but not limited to:
 - (a) all lands owned or controlled by the Town of Blooming Grove, and
 - (b) all land within the political boundaries of the Town of Blooming Grove, which are owned by another unit of government if that unit of government is acting in a proprietary rather than governmental function.

- (20) "Runoff" is the portion of rainfall, melted snow or irrigation water that flows across the ground surface and eventually is returned to lakes or streams, creeks or other water courses.
- (21) "Sediment" is solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its origin by air, water, gravity or ice, and has come to rest on the earth's surface at a different site.
- (22) "Sedimentation" is 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 in floodplains, usually because of a decrease in the velocity of the water.
- (23) "Soil Loss" is soil movement from a given site because of land disturbing activities or by the forces of erosion and redeposited at another site on land or in a body of water.
- (24) "Stop-Work Order" is a means of giving notice that the Town Engineer believes that the permittee has violated one or more provisions of this Ordinance or that a land disturbing activity is occurring without a control plan being approved and a Permit being issued. Notice is given both by posting upon the lands where the land disturbing activity occurs one or more copies of a written notice stating the violation and by mailing a copy of the notice by certified mail to the permittee, landowner or land user at the appropriate address shown on the Permit.
- (25) "Storm Frequency" is the average period of time in which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- (26) "Storm Sewer" is a closed conduit for conducting collected stormwater.
- (27) "Stormwater Drainage Facility" is any element in a stormwater drainage system which is made or improved by human activity.
- (28) "Stormwater Drainage System" is all facilities used for conducting stormwater to, through or from a drainage area to the point of final outlet, including by not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, streets and pumping stations.
- (29) "Stormwater Runoff" is the waters derived from rains falling with a tributary drainage basin, flowing over the ground surface or collected in a water drainage system.
- (30) "Structural Measures" are works of improvement for land stabilization to prevent erosion, sediment or runoff which include, but are not limited to,

gully control structures, fencing, grass waterways, riprap, detention basins, sediment basins, flood retention dams, diversions, lining channels with rock, concrete or other materials. Contour strip cropping is not a structural measure.

(31) "Town Engineer" means the professional engineer designated by the Town Board to administer this Ordinance, and includes any other persons who are supervised by the Engineer.

- b. Words used in the present tense include the future; the number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory as used throughout this Ordinance.

Section 7. Land Disturbing Activities Subject to Erosion Control

- a. General Requirement. Any landowner or land user who undertakes, begins, commences or performs land disturbing activities; or who permits another person to do the same, on land subject to this Ordinance, shall be subject to the provisions of this Ordinance.
- b. Land Disturbing Activities Subject to Erosion and Sediment Control. Land disturbing activities on public or private lands shall be subject to the erosion and sediment control provisions of this Ordinance, if:
- (1) An area of 5,000 square feet or greater will be disturbed by excavation, grading, filling, or other earthmoving activities, resulting in the loss or removal of protective ground cover or vegetation; or
 - (2) Excavation, fill, or any combination thereof, will exceed 1,000 cubic yards or more of dirt, soil or other excavation or fill material; or
 - (3) Any public (federal, state or local) street, road or highway is to be constructed, enlarged, relocated or reconstructed; or
 - (4) Any water course is to be changed, enlarged, or materials are removed from stream or lake beds; or
 - (5) Any proposed land use by a unit of government or by public or private utilities in which underground conduits, cables, piping, wiring, waterlines, sanitary sewers or storm sewers will be laid, repaired, replaced or enlarged, if such use involves more than 300 linear feet of trenching or earth disturbance; or
 - (6) Any subdivision of land which requires plat approval or any certified survey; or

- (7) Any land disturbing activity is to occur on slopes greater than 15 percent;
or
 - (8) Any land disturbing activity is to occur where the Town Engineer determines that erosion or runoff is likely unless a control plan is developed.
- c. Land Disturbing Activities Subject to On-site Detention and Runoff Control. Land disturbing activities on public or private land shall be subject to the on-site detention and runoff control provisions of this Ordinance if:
- (1) The land disturbing activity will be a residential development having a gross aggregate area of five acres or more; or
 - (2) The land disturbing activity will be a residential development on less than five acres having thirty percent or more of the area as impervious surfaces including roads, buildings, parking facilities and other improvements; or
 - (3) All industrial developments with gross aggregate area of 0.2 acres or more; or
 - (4) All commercial developments with gross aggregate area of 1.0 acres or more; or
 - (5) The land disturbing activity will be a development, other than residential, commercial or industrial, having a gross aggregate area of three acres or more; or
 - (6) In the opinion of the Town Engineer, the runoff from the land disturbing activity will create a hazard by exceeding the safe capacity of the receiving water body in the area; or will cause undue channel erosion or an undue increase in water pollution by increased scour and transport of particles; or will otherwise endanger the downstream property owners or their property. Safe capacity is defined as the rate of flow that can be handled without flooding.
- d. Compliance With This Section. The landowner or land user shall comply with this section by following the procedure of Section 10 and receiving from the Town Engineer written approval of the control plan and a permit before commencement of any land disturbing activities on lands subject to control under this section.

Section 8. Erosion and Sedimentation Control Regulations for Lands Not Otherwise Subject to this Ordinance

Any landowner or land user who permits excessive erosion to adjacent land, public streets or bodies of water from land not otherwise subject to this Ordinance shall be deemed in violation of this Ordinance and subject to the penalties provided in Section 12. Erosion is excessive if, in the opinion of the Town Engineer, an unsafe condition

results in the streets, if undue sedimentation of lakes and streams occurs or if the public health, safety or general welfare of the citizens of the Town of Blooming Grove is harmed.

Section 9. Standards and Criteria

- a. Effect of Compliance. Compliance with the standards and criteria of this section shall not bar a nuisance action or other civil action brought by an injured public or private party for damage to property upon which the erosion directly occurred or to property or other rights which were damaged by erosion, sedimentation or runoff.
- b. Standard for Erosion and Sediment Control for Land Disturbing Activities. The Town Engineer shall not approve plans nor shall the Town Clerk issue any permit required by this Ordinance for land disturbing activities unless erosion and sedimentation during and after then land disturbing activity will not exceed that which would have been eroded if the land had been left in its undisturbed state and/or are controlled in accordance with the Town of Blooming Grove Erosion and Sediment Control Specifications, or other Technical Guidelines as developed by the U.S. Department of Agriculture, Soil Conservation Service or the Wisconsin Department of Natural Resources.
- c. Standards for On-site Detention and Runoff Control for Land Disturbing Activities. Land disturbing activities subject to on-site detention and runoff control regulation under this Ordinance shall not exceed the more stringent of the two following standards:
 - (1) The peak rate of runoff after the proposed activities shall not be greater than the peak rate which would have resulted from the same storm event occurring over the site of the proposed activity with the land in its natural undeveloped state; or
 - (2) The peak runoff rate shall be limited to a rate prorated on the basis of the safe capacity of the existing or proposed stormwater drainage facilities.

Further, land disturbing activities subject to on-site detention and runoff control regulation by this Ordinance shall provide for detention of the increased storm water runoff which would result from the proposed land disturbing activity. Storage shall be sufficient to store this increased runoff for a 25-year storm of any duration. Storm water detention may be provided by the landowner/land user on-site or adjacent to the site or may be provided by the Town of Blooming Grove, with costs prorated as provided in Section 10(3)(7) of this Ordinance. Estimated runoff and required storage capacity shall be calculated in accordance with the latest edition of Urban Hydrology for Small Watersheds-TRN 55 by the U.S. Department of Agriculture, Soil Conservation Service.

- d. Standard for Tracking. The Town Engineer shall neither approve any plan nor shall the Town Clerk issue a permit for any land disturbing activity under this Ordinance

unless satisfied that adequate provisions are made to prevent the tracking or dropping of dirt or other materials from the site onto any public or private street.

e. Design Criteria, Engineering Standards and General Principles. The applicant for a permit may employ any structural or nonstructural measures believed to be necessary to achieve all applicable standards set out in this Ordinance. However, the Town Engineer is required to evaluate these measures to determine that they follow currently accepted design criteria and engineering standards. The following general principles shall be used by the Town Engineer when evaluating control plans and granting permits under this Ordinance:

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

Section 10. Application and Issuance of Permits

a. Permit Required; Procedure and Fee.

- (1) Unless specifically exempted from this Ordinance, no landowner or land user may undertake a land disturbing activity subject to this Ordinance without receiving a permit from the Town Clerk prior to commencing the proposed activity. Each land occupier or land user desiring to undertake a regulated activity subject to this Ordinance shall submit to the Town Clerk an application for a permit together with the appropriate fee required by this Ordinance. See Exhibit I attached hereto.

(2) Exceptions to this requirement are as follows:

- (a) The owner or land user of public lands are exempt from payment of any permit fees;
- (b) For its convenience, the Town Clerk may enter into an agreement with public or private utilities and governmental units to waive the need for a permit for each individual land disturbing activity, if the utility or governmental unit agrees to adopt and follow a procedure for each land disturbing activity which meets all applicable standards contained in this Ordinance. Further, the agreement shall provide that in the event that a utility or governmental unit activity fails to meet the standard, the agreement shall terminate and the utility or governmental unit shall be subject to the penalties of this Ordinance.

b. Control Plan Required. Unless specifically exempted by this Ordinance, every applicant for a permit under this Ordinance shall develop and shall submit a plan to control erosion, sedimentation and runoff which would result from the proposed activity, which shall be reviewed by the Town Engineer prior to issuance of the permit.

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

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

- (c) A schedule indicating the anticipated starting and completion dates of the development sequence and the time of exposure of each area of land disturbing activity prior to the completion of effective measures for erosion and sediment control.
- (d) Proposed topography of the site location with a maximum of two foot contour intervals showing:
 - i) Location of proposed land disturbing activity, proposed disturbance of protective cover, any proposed additional structure on the site, areas to be seeded or mulched, areas to be vegetatively stabilized and areas to be left undisturbed.
 - ii) Elevations, dimensions, locations of all proposed land disturbing activities including where topsoil will be stockpiled, so that topsoil will not contribute to erosion and sedimentation.
 - iii) The finished grade, stated in feet horizontal to feet vertical, of cut and fill slopes.
 - iv) Kinds of utilities and proposed areas of installation.
 - v) Proposed paved and covered areas in square feet or to scale on a plan map.
 - vi) Makeup of proposed surface soil (upper six inches), on areas not covered by buildings, structures or pavement. Description shall be in such terms as: original surface soil, subsoil, sandy, heavy clay or stony.
 - vii) Proposed kind of cover on areas not covered by buildings, structures or pavement. Description shall be in such terms as: lawn, turfgrass, shrubbery, trees, forest cover, riprap or mulch.
- (e) Plans and hydraulic computations of all temporary or permanent structural or nonstructural measures or other protective devices to be constructed in connection with, or as part of, the proposed work showing:
 - i) Estimated surface runoff of the area based upon 10 and 25-year frequency storm events. Peak flows based upon synthetic storm frequency events calculated using Urban Hydrology for Small Watersheds-TRN55 shall be required in the event that storm runoff or stream flow data is not available in the area.

- ii) Estimated rate of discharge in cubic feet per second at the point or points of discharge from the site location based upon 10 and 25-year frequency storm events.
- iii) The storm event frequency or recurrence interval and discharge rate in cubic feet per second on which the design of plans for the site location is based.
- iv) Proposed provisions to carry runoff to the nearest adequate outlet, such as a curbed street, storm drain or natural drainage way.
- v) Design computations and applicable assumptions for all structural measures for erosion and sediment pollution control and water management. Volume and velocity of flow shall be given for all surface water conveyance measures and pipe outfalls. Surface runoff computations shall be submitted to the Town Engineer in accordance with current administrative guidelines as approved by the Town Plan Commission.
- vi) Estimate of cost of erosion and sediment control and water management structures and features.
- vii) Provisions for maintenance of control facilities including easements to insure short as well as long-term erosion and sediment pollution control and stormwater management.
- viii) Seeding mixtures and rates, lime and fertilizer application rates, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
- ix) Methods to prevent tracking of soil off the site of the land disturbing activity.

d. Review of Application and Control Plan and Issuance of Permits.

- (1) The applicant shall submit a permit application and any required fee and control plan to the Town Clerk. The Town Clerk shall forward the Control Plan to the Town Engineer for review.
- (2) The Town Clerk shall inform the applicant in writing whether or not the control plan is approved with five weeks from the date of receipt of the completed application, control plan and required fee.
 - (a) If the application is approved, the Town Clerk shall issue the permit.

- (b) If additional information is required by the Town Engineer in order to evaluate the application, the Town Clerk shall so notify the applicant, who shall promptly submit the required information. Further review and approval or disapproval shall occur as specified in Section 14 of this Ordinance, with applicable time limits determined from the date of receipt of the additional information.
 - (c) If the application is disapproved, the Town Clerk shall specify in writing the reasons for disapproval. The applicant may resubmit a new or modified control plan or may appeal the Town Clerk's decision pursuant to Section 14.
 - (d) Failure by the Town Clerk to notify an applicant in writing within five weeks of receipt of the completed application, control plan and any required fee shall be deemed to be approval of the plan as submitted, and the applicant may proceed as if the permit has been issued, unless notified of an additional information requirement.
- e. Permit; Conditions. All permits issued under this Ordinance shall be issued subject to the following conditions and requirements and any permittee who begins to perform any land disturbing activity authorized by permit shall be deemed to have accepted all of these conditions:
- (1) All land disturbances, construction and development will be done pursuant to the control plan as approved by the Town Engineer.
 - (2) The permittee shall give at least two working days notice to the Town Engineer in advance of the start of any land disturbing activity.
 - (3) The permittee shall file a notice of completion of all land disturbing activities and/or the completion of installation of all on-site detention facilities within 10 days after completion.
 - (4) Approval in writing must be obtained from the Town Engineer prior to any modifications to the approved control plan.
 - (5) The permittee will be responsible for maintaining all roads, road rights-of-way, streets, runoff and drainage facilities and drainage ways as specified in the approved plan until they are accepted and dedicated to a governmental entity.
 - (6) The permittee will be responsible for repairing any damage at his or her expense to all adjoining surfaces and drainageways caused by runoff and/or sedimentation resulting from activities which are not in compliance with the approved plan.

- (7) The permittee must provide and install at his or her expense all drainage, runoff control and erosion control improvements required by this Ordinance and the approved control plan, and also must bear his or her proportionate share of the total cost of offsite improvements to drainageways based upon the existing developed drainage area or planned development of the drainage area, as determined by the Town Engineer.
 - (8) No work will be done on the site during any period of time that the average hourly wind velocity at the location of the land disturbing activity exceeds 20 miles per hour, unless provision has been made to eliminate dust or blowing dirt.
 - (9) No portion of the land which undergoes the land disturbing activity will be allowed to remain uncovered for greater than two weeks after notice is given to the Town Engineer that the land disturbing activity is completed.
 - (10) The permittee shall permit the Town Engineer to enter the land regulated under this Ordinance for the purpose of inspecting for compliance with the approved control plan and permit.
 - (11) The permittee authorizes the Town Engineer to perform any work or operations necessary to bring the condition of the lands into conformity with the approved control plan or plan as modified by the Town Engineer and further consents to the Town of Blooming Grove placing the total of the costs and expenses of such work and operations upon the tax roll as a special tax against the property.
- f. Permit Duration. Permits issued under this Ordinance shall be valid for a period of six months from the date of issuance of the Town Clerk and all work must be completed prior to the expiration date of the permit. The Town Clerk may extend the expiration date of the permit if the Engineer finds that an extension will not cause an increase in erosion, sedimentation or runoff. The Town Engineer is further authorized to modify the plans if necessary to prevent any increase in sedimentation, erosion or runoff resulting from any extension.
- g. Fees for Engineering Review and Enforcement.
- (1) Any person who submits an application for approval of an erosion control plan or issuance of a permit required by this Ordinance shall pay a filing fee of ten dollars (\$10.00) and, in addition, shall pay the Town's actual cost for engineering work by the Town Engineer incurred by the Town in connection with review of the erosion control plan, including any inspections required to assure compliance with the plan. The fee shall be paid prior to issuance of the permit if the engineering review fees have been billed at that time. If billed to the Town after issuance of the permit, the fee shall be paid within 30 days of its receipt by the applicant. Failure to pay such fee within 30 days shall be grounds for revocation of the permit, issuance of a stop work order, and/or charging the cost as a

special tax against the property pursuant to Wis. Stats. Section 66.60, in the discretion of the Town Board.

- (2) If the Town Engineer is required to undertake any enforcement action under this Ordinance, all fees charged to the Town by the engineer and/or the Town Attorney shall be collected by the Town from the person or persons violating the Ordinance, unless a Court of record expressly dismisses an action to enforce the Ordinance or finds that the engineer's actions lacked a reasonable basis under this Ordinance. If unpaid by the responsible party within 30 days of submission, the Town shall enter the costs as a special tax against the property pursuant to Wis. Stats. Section 66.60.
- (3) The Town Engineer and/or Clerk shall have the discretion in connection with any significant land disturbing activity to require that the applicant, prior to issuance of a permit, make an escrow deposit or in lieu thereof to furnish a performance bond in an amount equal to one hundred twenty-five percent (125%) of the estimated cost of all of the required control measures as determined by the Town Engineer, including the cost of inspections. In the sole discretion of the Town Engineer and/or Clerk, the applicant may also assure payment for the measures by filing an irrevocable letter of credit in favor of the Town issued in the same amount for a sufficient duration to assure completion of the measures, and in a form and drawn upon a national or state chartered financial institution acceptable to the Town Engineer, Clerk and/or Town Attorney. The security deposited shall guarantee that all required control measures will be taken or installed according to the approved plan. The security shall remain in full force for the entire period of the permit unless released earlier by the Town. The Town shall have the right to draw upon the security for the purpose of obtaining compliance with the approved plan as it deems necessary. If the approved plan is included as part of plat or certified survey map conditions of approval, then the overall security for performance of the approved plan may be included as part of the overall security required for installation of improvements under the Town's Land Division and Subdivision Ordinance.

Section 11. Time for Compliance

Land disturbing activities commenced after the effective date of this ordinance shall comply with all provisions of the Ordinance.

Section 12. Administration

- a. Delegation of Authority. The Town Board shall designate the Town Engineer to administer and enforce the provisions of this Ordinance, under its direction. The Town Engineer may seek technical advice from the Dane County Land Conservation District, the U.S. Department of Agriculture, Soil Conservation

Service or the Wisconsin Department of Natural Resources as to the adequacy of any proposed plan and permit application submitted to the Town.

- b. Administrative Duties. In the administration and enforcement of this Ordinance, the Town Engineer shall perform the following duties:
- (1) Keep an accurate record of all plan data received, plans approved, permits issued, inspections made and other official actions.
 - (2) Investigate all complaints made to the application of this Ordinance.
 - (3) Revoke any permit granted under this Ordinance if it is found that the holder of the permit has misrepresented any material fact in the permit application or plan; or has failed to comply with the plan as originally approved or as modified in writing subsequently by the Town Engineer; or has violated any of the other conditions of the permit as issued to the applicant.
- c. Inspection Authority. The Town Engineer is authorized to enter upon any public or private lands affected by this Ordinance to inspect the land prior to permit issuance for the purpose of determining whether to approve the plan and after permit issuance to determine compliance with this Ordinance. If permission cannot be received from the landowner or user, entry by the Town Engineer shall be by special inspection warrant pursuant to Wis. Stats. Sections 66.122 and 66.123.
- d. Enforcement Authority. The Town Engineer is authorized to post a stop work order upon land which has a permit revoked or to post a stop work order upon land which is currently undergoing any land disturbing activity in violation of this Ordinance. The Town Engineer shall supply a copy of each stop work order to the Town Attorney. In lieu of the stop work order, the Town Engineer may issue a written cease and desist order to any landowner or land user whose activity is in violation of this Ordinance. These orders shall specify that the activity must cease or brought into compliance with the Ordinance within seven days. Any revocation, stop work order or cease and desist order shall remain in effect unless retracted by the Town Board, the Town Engineer or by a court of general jurisdiction; or until the land disturbing activity is brought into compliance with the Ordinance. The Town Engineer is authorized to refer any violation of this Ordinance or of a stop work or cease and desist order issued pursuant to this ordinance to the Town Attorney for the commencement of further legal proceedings.

Section 13. Violations

- a. Penalties. Any person, either owner or occupant of the premises, who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Ordinance, shall be subject to a forfeiture of not less

than \$50.00 nor more than \$500.00, plus costs of prosecution for each violation. Each day that a violation exists or continues shall constitute a separate offense.

- b. Enforcement by Injunction. Compliance with the provisions of this Ordinance may also be enforced by injunctive order at the suit of the Town of Blooming Grove. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.
- c. Performance of Work by the Town Engineer. Where the Town Engineer determines that a landowner or land user has failed to obtain a permit as required by this Ordinance; or the holder of a permit issued pursuant to this Ordinance has failed to make any improvements or to follow practices as approved in the plan, or has failed to comply with the time schedule as included in the plan, the Town Engineer or a party designated by the Town Engineer may enter upon the land and perform the work or other operations necessary to bring the condition of said land into conformity with the requirements of the approved plan and/or this Ordinance. The Town Engineer shall keep a detailed accounting of the costs and expenses of performing this work and these costs and expenses shall be entered on the tax roll as a special tax against the property pursuant to Wis. Stats. Section 66.60.

Section 14. Appeals or Variance Requests

- a. Authority. The Town Plan Commission shall:
 - (1) Hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Town Engineer or Town Clerk in administering this Ordinance.
 - (2) Authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship or it is demonstrated that the provision is unnecessary, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Variances shall not be granted solely on the basis of economic hardships.
- b. Procedure. The rules, procedures, duties and powers of the Town Plan Commission shall apply to this Ordinance. In addition, appeal or variance requests must be submitted in writing and state the grounds for the appeal or variance. A twenty dollar (\$20.00) filing fee must accompany the appeal or variance request. Any appeal must be filed within forty-five (45) days of the order, decision, determination or inaction being appealed. The appeal or request for variance shall be heard by the Plan Commission within forty-five (45) days of receipt unless extension is agreed upon by all parties.
- c. Who May Appeal. Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the Town affected by the order,

requirement, decision or determination made by the Town Engineer. For the purpose of this Ordinance, aggrieved person shall include any applicant, permittee, landowners and land users.

- d. Administrative Review. Pursuant to Wis. Stats. Section 68.16, the Town Board elects that the procedures set forth in this section for administrative review of decisions under this Ordinance shall apply in lieu of the procedures of the Wisconsin Municipal Administrative Procedure Act, except for Wis. Stats. Sections 68.14 and 68.15.
- e. Enforcement Not Stayed. The filing of an appeal or variance does not preclude the Town from commencing or continuing any of the enforcement actions set forth herein or a forfeiture proceeding unless the Town Board specifically agrees to stay such enforcements.

Section 15. Interpretation of Ordinance

- a. Abrogation and More Restrictive Requirements. It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.
- b. Interpretations. In its interpretation and application, the provisions of this Ordinance shall be minimum requirements liberally construed in favor of the Town of Blooming Grove and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- c. Severability. If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.
- d. Repeal of Conflicting Ordinances. All other Ordinances or parts of Ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.
- e. Effective Date. This Ordinance shall take effect the day after its passage and publication.

The above and foregoing Ordinance was duly adopted by the Town Board of the Town of Blooming Grove at a regular meeting held on the 8th day of October, 1996.

William E. Fobes, Chairperson

Earl K. Kielley, Supervisor

Roxanne V. Stillman, Supervisor

I hereby certify that the foregoing Ordinance creating erosion control and storm water runoff standards was published as a Class 1 notice under ch. 985, Wis. Stats., on the 18th day of December, 1996.

Dated: December 20, 1996

Verlene L. Hendrix, Clerk