

**ORDINANCE NO. 11-11-13-04**

**An Ordinance Creating Sections 18-229.1 to 18-229.13, Construction Site Erosion Control Regulations; Repealing and Recreating Section 18-13, Introduction to Definitions; Repealing and Recreating Section 18-199(a); and Repealing and Recreating Section 18-200(b) of the Village of Fontana on Geneva Lake Municipal Code.**

The Board of Trustees of the Village of Fontana-on-Geneva Lake do ordain as follows:

**SECTION I:** Sections 18-229.1 through 18-229.13, Construction Site Erosion Control Regulations, are hereby created as follows:

**Section 18-229.1: Purpose**

Pursuant to § 61.354, Wis. Stats., it is the purpose of these regulations to preserve the natural resources; to protect the quality of the waters of the state and the village, 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 Geneva Lake and other waters and wetlands of the village and state. The intent of these regulations is to require control practices that will reduce the amount of sediment and other pollutants leaving construction sites during land-development or land disturbance activities. These regulations apply to all land-disturbing construction activities in the Village of Fontana-on-Geneva Lake and within its extraterritorial review powers. These regulations set forth different procedures for different activities depending upon the size, type and location of the activities.

**Section 18-229.2: Applicability**

- (a) Any land-disturbing or land developing activity shall be subject to the erosion and sediment control provisions of this section if:
- (1) A subdivision plat requiring review and approval by the village would result, if construction of buildings on platted lots results.
  - (2) A certified survey map, requiring review and approval by the village would result, if construction of buildings on certified survey map lots results.
  - (3) An area of 4,000 square feet or greater will be disturbed by excavation, grading, filling, or other earth-moving activities, resulting in a loss or removal of protective ground cover, or vegetation.
  - (4) Excavation, fill, or any combination thereof, will exceed 400 cubic yards. Excavation and filling of less than 400 cubic yards, at the discretion of the building inspector, may require control of erosion and pollutants if judged necessary.
  - (5) Any watercourse is to be changed, altered, enlarged, or materials are removed from a stream or lake bed.
  - (6) Any utility work in which underground conduits, piping, wiring, water lines, sanitary sewers, storm sewers, or similar structures will be laid, repaired, replaced, or enlarged, if such work involves more than 300 linear feet of earth disturbance.
  - (7) Disturbance in areas where the slope is equal to or greater than 12

percent would result.

- (8) In those cases where land-disturbing construction activities lasting for more than seven days are located between the ordinary high water mark of Geneva Lake and North Shore Drive or South Shore Drive, or in all such other places which are located within the 500 feet of the ordinary high water mark of Geneva Lake, or within 200 feet of the ordinary high water mark of any navigable stream.

- (b) All state-funded or -conducted construction is exempt from these regulations.

### **Section 18-229.3: Standards and criteria**

All control measures shall meet the design criteria, standards, and specifications as identified by the building inspector and in accordance with, but not limited to, the Wisconsin Construction Site Best Management Practice Handbook.

- (a) *Maintenance of control measures.* All sedimentation basins and other control measures necessary to meet the requirements of this Ordinance shall meet the maintenance provisions for control measures contained in the Wisconsin Construction Site Best Management Practice Handbook and shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.
- (b) *Site dewatering.* Water pumped from the site shall be treated by temporary sedimentation basins designed for the highest dewatering pumping rate according to the criteria and requirements set forth in chapter 3, section F.1 of the Wisconsin Construction Site Best Management Practice Handbook. Water may not be discharged in a manner that causes erosion of the site or receiving channels.
- (c) *Waste and material disposal.* All waste and unused building materials including garbage, debris, cleaning wastes, waste water, toxic materials, or hazardous materials shall be properly disposed of and not allowed to be carried by runoff into a receiving lake, stream channel, or storm sewer system.
- (d) *Tracking.* 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.
- (e) *Drain inlet protection.* All storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards, and specifications as set forth in chapter 3E of the Wisconsin Construction Site Best Management Practice Handbook.
- (f) *Vegetation removal*

1. In a strip paralleling the shoreline and extending 50

feet inland from all points along the ordinary high water mark of Geneva Lake, no more than 30 percent of the length of this strip shall be clear cut to the depth of the strip.

2. All other vegetation removal will be kept to a minimum as needed to allow for the construction of buildings, patios and decks, or the installation of utilities throughout the parcel as determined by the building inspector.

(g) *Site erosion control.* The following criteria shall apply only to land-development and land-disturbing activities that result in runoff leaving the site:

1. Channelized runoff from adjacent areas passing through the construction site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described in this section. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas unless shown to have resultant runoff velocities of less than 0.5 feet per second across the disturbed area for a two-year, 24-hour storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. Guidelines of the U.S. Natural Resources Conservation Service for allowable velocities in different types of channels should be followed.
2. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time. This shall include the planting of vegetative cover as soon as practical.
3. Runoff from the entire disturbed area on the site shall be controlled by meeting the following subsections a. and b., or a., b., and c.:
  - a. All disturbed ground left inactive for seven or more calendar days shall be stabilized by seeding or sodding or by mulching or covering, or other equivalent control measure. Seeding or sodding should be done prior to September 15 to be effective.
  - b. Filter fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope areas 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.
- c. For sites with ten or more acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed designed to meet the criteria set forth in chapter 3.C.4 of the Wisconsin Construction Site Best Management Handbook. The basin discharge rate shall be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
4. Any soil or dirt storage piles containing more than 10 cubic yards of material should not be located with a downslope drainage length of less than 25 feet to a drainage channel, stream, or lake. Whenever possible, dirt storage piles shall not be located within the drip line of any tree with a five-inch diameter at four feet high. Regardless of location or size, any dirt storage piles remaining for more than seven days shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence less than seven days shall be controlled by placing straw bales or filter fence barriers around the pile. Soil or dirt-storage piles resulting from in-street utility repair or construction located closer than 25 feet to a roadway, drainage channel, stream, or lake must be covered with tarps or suitable alternative control if exposed for more than seven calendar days, and storm drain inlets must be protected with straw bales or other appropriate filtering barriers. Bales and fences must be replaced at least once every six months.

#### **Section 18-229.4: Erosion control plan and permit required**

No landowner or land user may commence a land disturbance or land-development activity subject to these regulations without receiving prior approval of a control plan for the site and a land-disturbing permit from the building inspector. At least one landowner or land user controlling or using the site and desiring to undertake a land-disturbing or land developing activity subject to these regulations shall submit an application for a permit and a control plan and pay an application fee to the building inspector. By submitting an application, the applicant is authorizing the building inspector to enter the site to obtain information required for the review of the control plan. All appropriate measures are to be installed prior to issuance of a building permit or commencement of construction.

#### **Section 18-229.5: Content of the erosion control plan**

- (a) *Contents of the control plan for land-disturbing activities covering one acre*

or more. The control plan shall contain any information which the building inspector may need to determine soil erosion, and sedimentation potential and control. The building inspector may require the following, as well as any other information which, in his judgment, is needed to evaluate the control plan:

- (1) *Existing site map.* A map of existing site conditions at a scale not smaller than one inch equals 100 feet showing the following:
  - a. Site boundaries and adjacent lands which accurately identify site location;
  - b. Location of lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site;
  - c. The limits and elevations of the 100-year recurrence interval floodplain, and, where applicable, floodway and flood fringe boundaries;
  - d. Location of predominant soil types;
  - e. Vegetative cover;
  - f. Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site;
  - g. Location and dimensions of existing utilities, structures, roads, highways, and paving;
  - h. Site topography with a maximum contour interval of two feet; and
  - i. Certification (stamp or seal) by a registered professional engineer.
- (2) *Plan of final site conditions.* A plan of final site conditions at the same scale as the existing site map scale be prepared which shows the proposed changes in the site. The plan shall be certified by a registered professional engineer.
- (3) *Site construction plan.* A site construction plan of the site prepared at a scale not smaller than one inch equals 100 feet showing the following:
  - a. Locations and dimensions of all proposed land-disturbing activities;
  - b. Locations and dimensions of all temporary soil or dirt stockpiles;
  - c. Location and dimensions of all construction site management control measures necessary to meet the requirements of this Ordinance;
  - d. A schedule of anticipated starting and completion dates of each land-disturbing activity, including the dates of installation of construction site control measures necessary to meet the

requirements of this Ordinance;

- e. Provisions for maintenance of the construction site control measures during construction; and
  - f. Certification (stamp or seal) by a registered professional engineer.
- (b) *Contents of the control plan statement for land-disturbing activities covering less than one acre.* Landowners and land users performing minor land-disturbing activities (less than one acre) shall prepare an erosion control plan statement- with a simple sketch drawn to a scale not smaller than one inch equals 100 feet- which briefly describes the site erosion control measure that will be used to meet the requirements of this Ordinance. The erosion control plan statement shall also include a site development schedule.

#### **Section 18-229.6: Review of erosion control plan or statement**

Within 45 days of receipt of the application, control plan, or control plan statement and fee, the building inspector shall review the application and control plan or control statement to determine if the requirements of these regulations have been met. The building inspector may request comments from other departments, agencies, or the village engineer. If the requirements of these regulations have been met, the building inspector shall approve the plan, inform the applicant, and issue a permit. If the conditions have not been met, the building inspector shall either require resubmission of the plan with additional information or deny the permit. Within 30 days of receipt of the needed information, the building inspector shall again determine if the plan or statement meets the requirements of these regulations. If the plan or statement is disapproved, the building inspector shall inform the applicant in writing of the reasons for the disapproval.

#### **Section 18-229.7: Permit conditions**

All permits shall require the permittee to:

- (a) Notify the building inspector not less than two working days before commencing any land-disturbing or land developing activity.
- (b) Notify the building inspector within 14 calendar days after completing any land-disturbing or land developing activity and/or the completion of installation of any onsite detention facility or other control measures.
- (c) Obtain permission in writing from the building inspector prior to modifying the approved control plan or control statement.
- (d) Install all control measures as identified in the approved control plan or control statement.
- (e) Maintain all road drainage systems, stormwater drainage systems, control measures, and other facilities identified in the control plan or control statement
- (f) Repair any siltation or erosion damage to adjoining surfaces and drainageways resulting from land developing or land-disturbing activities.
- (g) Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs.
- (h) Allow the building inspector to enter the site for the purpose of inspecting for

compliance with the control plan or control statement or for performing any work necessary to bring the site into compliance with the control plan or control statement.

- (i) Keep a copy of the approved control plan on the site at all times.

#### **Section 18-229.8: Permit duration**

Permits shall be valid for a period of 180 calendar days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The building inspector may extend the permit period up to an additional 180 days. The building inspector may require additional control measures as a condition of the extension if they are necessary to meet the requirements of these regulations.

#### **Section 18-229.9: Sureties**

As a condition of approval and issuance of the permit, the building inspector may require the applicant to deposit an irrevocable letter of credit or cash bond to guarantee a faithful execution of the approved control plan and permit conditions. The form of the letter or cash bond shall be such that it is readily available for village use without any restrictions and as approved by the village attorney.

#### **Section 18.229.10: Fees**

A fee shall be required for the review of erosion control statements and erosion control plans. The amount of such fees shall be in accordance with the Village of Fontana-on-Geneva Lake Fee Schedule adopted by the village board and amended from time to time.

#### **Section 18.229.11: Inspection**

The building inspector shall inspect construction sites at least once each month during the period starting March 1 and ending October 31 and a total of at least twice during the period beginning November 1 and ending February 28 to ensure compliance with the approved control plan. If land-disturbing or land-development activities are being carried out without a permit, the building inspector shall institute the appropriate enforcement action.

#### **Section 18-229.12: Enforcement**

- (a) The building inspector may post a stop work order if:
  - (1) Any land-disturbing or land-developing activity regulated under these regulations is being undertaken without a permit.
  - (2) The control plan or control statement is not being implemented in good faith.
  - (3) The conditions of the permit are not being met.

- (b) If the permittee does not cease the activity or comply with the control plan or permit conditions within ten calendar days after being notified, the village may revoke the permit.
- (c) Where no permit has been issued and the landowner or land user fails to cease within ten calendar days, the building inspector may request the village attorney to obtain a cease and desist order.
- (d) The building inspector may retract a stop work order or a permit revocation .
- (e) Ten calendar days after posting a stop-work order, the village may issue to the landowner, pennittee, or land user a notice of intent to perform work necessary to comply with the erosion control requirements of this ordinance. The village may enter onto the land and commence the required work after 14 calendar days from issuing the notice of intent. The costs of the work performed by the village, plus interest at the rate authorized by the village board, shall be billed to the landowner, pennittee, or land user. In the event a landowner, permittee, or land user fails to pay the amount due, the village clerk shall enter the amount due on the tax rolls and collect it as a special assessment against the property pursuant to § 66.60(16), Wis. Stats.
- (e) Any person violating any of the provisions of this regulation shall be subject to those penalties and enforcement remedies provided in article XII.
- (f) Compliance with the erosion control provisions of this Ordinance may also be enforced by injunction.

**Section 18-229.13: Appeals**

The Board of Zoning Appeals shall hear and decide appeals where it is alleged that there is an error in any order, decision, or determination made by the building inspector in administering this section. Upon appeal, the board of appeals may issue variances from the provisions of this section which are consistent with the findings required for variances in this Ordinance. The board of appeals shall use the rules, procedures, duties, and powers authorized by law in hearing and deciding appeals and authorizing variances. Any applicant, permittee, landowner, or land user may appeal any order, decision, or determination made by the building inspector in administering this section.

**SECTION II:** Section 18-13, Introduction to Definitions, is hereby repealed and recreated as follows:

**Section 18-13: Definitions**

The following words, terms and phrases, wherever they occur in this Chapter, shall have the meaning ascribed to them by this section; provided, however, that those definitions set forth in Section 18-549, herein, shall exclusively control with regard to any conflicting definitions between 18-13 and 18-549:

**SECTION III:** Section 18-199(a) is hereby repealed and recreated as follows:

**Section 18-199(a)**

Rules for all signs within the LR-0, RS-1, RS-2, RS-4, RS-5, AR-6, MR-8, and MR-



12 Districts within the Village; and the A-5 ETZ, RCE ETZ, and the R-1 ETZ Districts within the ETZ Area.

**SECTION IV:** Section 18-200(b) is hereby repealed and recreated as follows:

**Section 18-200(b)**

Rules for all signs within the AH-35, IN, NB, VC, CB, OP, RP and PD Districts within the Village; and the A-1 ETZ, A-2 ETZ, A-3 ETZ, A-4 ETZ, C-1 ETZ, C-2 ETZ, C-3 ETZ, P-1 ETZ, P-2 ETZ, B-1 ETZ, B-2 ETZ, B-3 ETZ, and M-3 ETZ Districts within the ETZ Area.

**SECTION V:** This Ordinance shall take effect and be enforced from and after its passage and publication.

Approved and Adopted this 11th day of November, 2013.

BOARD OF TRUSTEES  
VILLAGE OF FONTANA-ON-GENEVA LAKE

By: 

Arvid Petersen, President

Attest: 

Dennis Martin, Village Clerk

