

## CHAPTER 26: EROSION CONTROL

### 26.01. Title/Purpose.

This chapter is entitled “Erosion Control.” It is the purpose of this Chapter 26 to exercise jurisdiction on the issue of land disturbing activities relating to the construction of one- and two-family dwellings, manufactured dwellings, and other construction project which disturbs less than one acre of land, in order to minimize sedimentation, water pollution, flooding, and related property damage caused by soil erosion during construction and uncontrolled runoff after construction. Chapter 26 establishes regulatory requirements and standards for the design, installation, and maintenance of erosion and sediment control practices in order to diminish the threats to public health, safety, and welfare and the natural resources of the Town.

### 26.02. Authority.

This chapter is adopted under the authority granted by Wis. Stat. §§ 101.65(1), 101.651, 101.653, and 236.45.

### 26.03. Findings and Intent.

A. **Findings.** The Town Board finds runoff from land disturbance activities carries a significant amount of sediment and other pollutants to the waters and rights-of-way of this township.

B. **Intent.** The intent of this chapter is to require erosion control practices that will reduce the amount of sediment and other pollutants during land development or land disturbance activities.

### 26.04. Applicability of Chapter.

This chapter shall apply to land disturbance activities related to the construction of one- and two-family dwellings, manufactured dwellings, and other construction which disturbs less than one acre of land, including additions, alterations, and repairs, as defined by Wis. Admin. Code § Comm. 20.07, whose initial construction started after December 1, 1992. Chapter 26 is applicable to land-disturbing activities associated with driveways, sidewalks, landscaping, or other similar features, when constructed during the construction of the dwelling or other construction project, even though those features do not have an impact on the dwelling structure or construction project. Chapter 26 also applies to other land disturbing activities, including the installation of pools, ponds, and other features unrelated to the dwelling or structure, that disturb less than one acre of land, on a parcel of land containing a one- or two-family dwelling.

## **26.05. Adoption of State Law.**

Wis. Admin. Code ch. COMM 21 and Appendices A-21.25 and A-21.26 are hereby adopted and by reference made a part of Chapter 26. Any future amendments and revisions of said Wisconsin Administrative Code sections or appendices are also made a part of Chapter 26.

## **26.06. Definitions.**

The following definitions shall be applicable in this chapter:

A. “Applicant.” The landowner of the site subject to this chapter or a responsible party performing services to meet the standards of this chapter through a contract or other agreement.

B. “Aquic condition.” Soil saturated with water and chemically reduced such that the soil water contains no dissolved oxygen.

C. “Best management practice” or “BMP.” Structural or nonstructural measures, practices, techniques, or devices employed to avoid or minimize soil, sediment, or pollutants carried in runoff to waters of the Town.

D. “Building Inspector.” The person appointed under Section 21.05 of the Municipal Code.

E. “Cease and desist order.” A court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in noncompliance with the Town conservation standards.

F. “Certified Soil Erosion Control Inspector.” A person certified by the Department of Commerce to engage in the administration of this chapter.

G. “Construction site.” An area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing activities may be taking place at different times on different schedules but under one plan.

H. “County Zoning Division” shall mean Walworth County Land Use & Resource Management Department, Zoning Division.

I. “Dewatering.” The removal of trapped water, usually by pumping, for the construction site to allow land development or utility installation activities to occur.

J. “Disturbed area.” A site which, due to land developing or land disturbing activities, has or will experience disturbance or destruction of the existing land surface and/or vegetative cover.

K. “Dwelling.” Any building which contains one or two units which are intended to be used as a home residence or sleeping place.

L. “Erosion.” The process by which the land surface is worn away by the action of wind, water, ice, or gravity.

M. “Erosion and sediment control plan.” A comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during land disturbing or construction activities.

N. “Erosion and sediment control practice.” A method or device implemented to prevent or reduce erosion or the resulting deposition of soil or sediment. Practice standards establish the minimum level of acceptable quality for planning, designing, installing, operating, and maintaining erosion and sediment control best management practices. Practice standards are developed by:

(1) The Wisconsin Department of Natural Resources under subch. IV of Wis. Admin. Code ch. NR 151.

(2) USDA Natural Conservation Service and published in the Field Office Technical Guide (FOTG) Technical Notes and Field Manuals.

(3) Other state or local agencies or organizations, approved by the Town Board, including, but not limited to, the Wisconsin Department of Transportation, the University of Wisconsin Cooperative Extension Service, the Southeastern Wisconsin Regional Planning Commission, the Center for Watershed Protection, or the Walworth County Land Use and Building Department.

O. “Land disturbing activity.” Any manmade alteration or change of the land surface resulting in a change of topography or vegetative cover or nonvegetative cover that may result in runoff and lead to an increase in soil erosion and movement of sediment. Land disturbing activities include clearing and grubbing for future development, excavating, filling, adding or disposing of soil or contaminated soil grading, building construction or demolition, and pit trench dewatering.

P. “Landowner.” Any person holding title to or having an interest in a parcel of land which includes a site subject to this chapter.

Q. “Maintenance agreement.” A legal document that provides for long-term maintenance and post-construction stormwater management practices.

R. “Navigable water.” Lake Superior, Lake Michigan, all natural inland lakes within the state, and all streams, ponds, sloughs, flowages, and other waters within the territorial limits of the state, including the state portion of boundary waters which are navigable under the laws of the state.

S. “Ordinary high water mark.” The meaning given in Wis. Admin. Code § NR 115.03(6).

T. “Performance standard.” A narrative or measurable number specified in the minimum acceptable outcome for a facility or practice.

U. “Permit.” A written authorization made by the Building Inspector to an applicant, Landowner, or responsible party to conduct land disturbing activities subject to this chapter.

V. “Predevelopment condition.” The extent and distribution of land cover types present before the initiation of land disturbing construction activities.

W. “Responsible party.” Any entity holding fee title to the property or other person contracted or obligated by other agreements to implement the construction site erosion and sediment control plan subject to this chapter.

X. “Runoff.” Rainfall, snow melt, ice melt, or irrigation water that moves over the land surface via sheet or channelized flow.

W. “Shoreland.” Those lands lying within the following distances: 1,000 feet from the ordinary high water mark of navigable lakes, ponds, and flowages; 300 feet from the ordinary high water of navigable streams or channels; or the landward side of floodplain, whichever is greater.

Z. “Shoreyard setback area.” An area in the shoreland that is within a certain distance, normally 75 feet, from the ordinary high water mark in which construction or the placement of buildings or structures has been limited or prohibited under Walworth County Code of Ordinances ch. 74.

AA. “Site.” That parcel or other division of land set forth in the legal description contained in the Application on which the land disturbing or land development activity is proposed to take place.

BB. “Site Stabilization.” All land disturbing activities at the construction site have been completed and a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for unpaved areas and the areas not covered by permanent structures or other surfacing material is

in place, and the risk of further soil erosion is minimal, as determined by the Building Inspector.

CC. “Stormwater.” Precipitation runoff, snow melt runoff, surface runoff, and drainage.

DD. “Stormwater best management practice.” Structural and nonstructural practices, devices, and methods that are designed, constructed, and maintained to control the volume, quantity, and quality of stormwater to avoid or minimize sediment or pollutants carried in runoff to waters of the Town. Stormwater management practices selected are based on the physical suitability of the site, the overall site management objectives, and the performance criteria specified in this chapter. Some examples include, but are not limited to, infiltration, trench, or basin, wet detention basin, rain garden, filter strip, artificial wetland, clean roof, or swale.

EE. “Stormwater management permit.” A written authorization made by the Building Inspector to the applicant to conduct land disturbing activities or to discharge post-construction runoff to waters of the Town.

FF. “Stormwater management plan.” A comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has undergone final stabilization and following completion of the land disturbing activities.

GG. “Stop work order.” An order issued by the Building Inspector which requires that all construction activities on the site be stopped.

HH. “Town conservation standards.” Those applicable design criteria, standards, and specifications for conservation practices used by the Town. Conservation practice standards establish the minimum level of acceptable quality for planning and site assessment, performance expectations, design and installation parameters, and the operation and maintenance needs of conservation practices. Conservation practice standards include those contained in (i) subch. IV of Wis. Admin. Code ch. NR 151; (ii) § IV of the Field Office Technical Guide, Technical Notes and Field Office Manuals published by the USDA Natural Resource Conservation Service; (iii) other technical standards and specifications adopted by the State Standards Oversight Council, other state or local agencies or organizations, the Wisconsin Department of Transportation, the University of Wisconsin Cooperative Extension Service, the Southeastern Wisconsin Regional Planning Commission, the Center for Watershed Protection, or the County Zoning Division, and approved by the Town.

II. “Plan Commission.” The municipal body created by Chapter 19 of the Municipal Code.

JJ. "WDNR." The Wisconsin Department of Natural Resources.

KK. "Wetlands." An area where water is at or near the surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

## **26.07. Construction Site Erosion and Sediment Control.**

### **A. General.**

(1) Where land disturbing construction activities are to occur, erosion and sediment control practices complying with Town conservation standards shall be installed and maintained to prevent or reduce the potential deposition of soil or sediment to waters of the Town or adjacent properties.

(2) Land disturbing construction activities, except those activities necessary to implement erosion or sediment control practices, may not begin until the erosion and sediment control practices are in place for each area to be disturbed, in accordance with the approved erosion and sediment control plan.

(3) Erosion and sediment control practices shall be maintained until the disturbed areas are stabilized. A disturbed area shall be considered stabilized by vegetation when a perennial cover has been established with a density of at least 70 percent of cover for the unpaved areas and areas not covered by a permanent structure or that employ equivalent permanent stabilization measures.

(4) Erosion and sediment control best management practices used to meet the standards of this chapter shall be planned, designed, installed, and maintained according to Town conservation standards, or standards approved by the department of commerce, or the WDNR, in accordance with the process under Wis. Admin. Code § NR 151.32(2).

**B. Mandated Practices.** Specific best management practices complying with Town conservation standards shall be employed and maintained to do all of the following at each site where land disturbing construction activities are to occur, shall:

(1) Prevent soil from being tracked onto streets by vehicles.

(2) Prevent the discharge of sediment from disturbed areas into on-site stormwater inlets.

(3) Prevent the discharge of sediment from disturbed areas abutting waters of the state.

(4) Prevent the discharge of sediment into drainage ways that flow off the site.

(5) Prevent the discharge of sediment during dewatering activities.

(6) Prevent the discharge of sediment from stockpiles existing for more than seven days.

(7) Manage building waste, chemicals, materials, and other compounds used on the construction site to prevent their transport by runoff to waters of the Town and adjacent properties.

(8) Prevent land disturbance activities outside of the area designated on the approved erosion and sediment control plan or within the shoreyard setback areas.

C. **Control Standards.** Including the practices under subsection 26.07.B., above, additional erosion and sediment control best management practices complying with Town conservation standards shall be employed and maintained to accomplish one of the following erosion and sediment control standards:

(1) A potential annual cumulative soil loss rate of not more than one of the following:

(a) Five tons per acre per year where sand, loamy sand, sandy loam, loam, sandy clay loam, clay loam, sandy clay, silty clay, or clay textures are exposed.

(b) Seven and one-half tons per acre per year, where silt, silty clay loam, or silt loam textures are exposed.

(2) A reduction of at least 80 percent of the potential sediment load in stormwater runoff from the site on an average annual basis as compared with no sediment or erosion controls for the site when the land disturbing construction activity involves more than one or more acre.

(3) A reduction of at least 40 percent of the potential sediment load in stormwater runoff from the site on an average annual basis as compared with no sediment or erosion controls for the site where less than one acre of the land disturbing construction activity is to occur.

D. **Soil Loss Analysis.** Potential soil loss or the reduction in potential sediment load shall be determined using an engineer analytical modeling acceptable to the department of commerce or the Building Inspector.

E. **Monitoring.**

(1) The owner or owner's agent shall inspect the erosion and sediment control practices for maintenance needs at all of the following intervals until final site stabilization:

(a) At least weekly.

(b) Within 24 hours after a rainfall event of 0.5 inches or greater. A rainfall event shall be considered to be the total amount of rainfall recorded in any continuous 24-hour period.

(c) At all intervals cited on the erosion and sediment control plan.

(2) The owner or owner's agent shall maintain a monitoring record when the land disturbing activities construction activity involves one or more acres. The monitoring record shall contain at least the following information:

(a) The condition of the erosion and sediment control practices at the intervals specified under subsection 26.07.E(1), above, and the need for any cleaning, repairing, modification, or replacement.

(b) A description and the date of the maintenance conducted to clean, repair, replace, or modify erosion and sediment control practices.

F. **Maintenance.** The responsible party shall maintain all erosion and sediment control practices necessary to meet the requirements of this ordinance until the project site has undergone final site stabilization.

(1) When the failure of erosion or sediment control practices results in an immediate threat of sediment entering public sewers or the waters of the Town, procedures shall be implemented immediately to repair or replace the practices.

(2) Sediment deposition onto any roadways or neighboring properties resulting from the failure of an erosion or sediment control practice shall be cleaned up by the end of the workday.

(3) The owner or the owner's agent shall clean, repair, or replace any erosion and sediment control practice noted during the monitoring interval specified in subsection 26.07.E., above, within 24 hours of noting the maintenance needs.

(4) The Building Inspector and WDNR will be contacted before attempting to clean up any sediment deposited or discharged into any waters of the state or wetlands.



**G. Dismantling of Temporary Erosion and Sediment Control Practices.**

Except for permanent erosion control systems, the owner shall be responsible for dismantling and removing temporary erosion control practices once the soil on the site is stabilized. A disturbed site is considered stabilized by vegetation when a perennial cover has been established with a density of at least 70 percent.

**26.08. Site Drainage.**

A. Measures shall be implemented to ensure proper site drainage, prevent property damage, and protect health and safety. Site grading shall ensure positive flows away from buildings and septic systems and minimize adverse impacts to any adjacent environmental resources or properties.

B. The Building Inspector may require a site drainage plan performed by a professional engineer licensed in the state when the following site limitations or alterations have been noted:

- (1) Aquic conditions or saturation of a horizon of the soil.
- (2) Proposed plan indicates drainage conditions will be altered.
- (3) Historic or chronic drainage problems have been formally noted by the Town.

**26.09. Pond Regulations.**

A. Pond construction and pond maintenance require a permit under this chapter. Pond design, construction, and maintenance must be consistent with Town conservation standards and the following criteria:

(1) Ponds proposed to be constructed in wetlands must meet Town conservation standards for wetland enhancement, wetland restoration, and wetland wildlife habitat management. Shallow wildlife ponds have a maximum depth of four feet with 8:1 side slopes and do not provide for more than 20 percent open water within a wetland. Wildlife ponds may not be constructed across a wetland boundary with a deeper portion proposed outside of the wetland. Wildlife ponds may not have a significant adverse effect on the natural hydrologic water regime, existing unique plant wetland flora and fauna of a wetland area, and must be a wetland enhancement.

(2) Pond construction and maintenance in uplands and agricultural lands are not required to meet specific dimensional limitations or requirements, but shall incorporate safety features consistent with Town construction standards.

(3) Spoils excavated for pond construction or pond maintenance may not be disposed of in any wetland area, floodplain, or within any shoreyard.

(4) If a pond is proposed to be constructed in a floodplain area, the applicant must demonstrate that the project restores or improves functional values, including increasing flood and stormwater storage, maintaining groundwater recharge-discharge, enhancing fisheries and wildlife habitat, improving filtration or storage of sediments, nutrients, and toxins, improving shoreline protection against erosion, and any additional wetland functional values. The enhancement of functional values of a floodplain may not be conducted as part of mitigation for loss of wetlands.

(5) Spoils from pond construction may not be hauled off-site or sold without obtaining proper permits and/or approvals from the Town and/or County of Walworth, as applicable.

(6) The applicant must obtain conditional use approval for placing fill in the floodplain.

(7) The landowner or the responsible party must obtain all approvals required by the WDNR, U.S. Army Corps of Engineers, and local agencies prior to commencing pond construction within the Town.

(8) Site specific guidelines may be established during the review and approval process which are more restrictive based on unique characteristics of project site.

**B. Pond Construction Permit Requirements, Application Procedures and Fees, and Plan Requirements.**

(1) Permit Required. No person shall commence pond construction or pond maintenance subject to this chapter without receiving prior approval and obtaining an erosion permit for pond construction from the Town.

(2) Permit Application and Fees. Prior to undertaking a land disturbing activity for the construction of pond maintenance subject to this ordinance, the landowner or responsible party shall submit an application for a permit and submit a pond construction plan, construction site erosion, and sediment control plan that meet the requirements of Section 26.07, above, and shall pay an application fee referenced in Section 26.12, below. By submitting an application, the applicant is authorizing the Town to enter the site to obtain information required for the review of the project plan.

(3) The pond construction plan shall be prepared and submitted to the Building Inspector, and include the following:

(a) A project site plan map, drawn to scale, with the following information and details:

(i) Location and dimensions of all planned land disturbing activities, including the location of any spoil spreading.

(ii) The location of any lake, stream, channel, ditch, pond, wetland, waterway, or 100-year floodplain line near the project site.

(iii) Location of property boundaries to ensure proposed pond is set back from the property line.

(iv) Location and direction of drainage patterns flowing onto or through the project site.

(v) Site grading plan, showing the existing and proposed contours and elevations of the pond and spoil spreading areas.

(vi) The project site construction access roadway.

(vii) If the proposed pond is an embankment pond, showing the location and elevation of the embankment and the locations and elevations of the inlet and outlet of the principal and emergency spillways, if planned.

(viii) Location of all construction site erosion and sediment control practices necessary during pond construction, pond maintenance, or spoil spreading activities.

(ix) Methods to handle, store, de-water, and transport spoil material.

(b) Pond construction details, specifications, and design documentation, including, but not limited to:

(i) Soil boring logs, if conducted.

(ii) Cross-sections of planned pond excavation.

(iii) If pond is constructed using an embankment, the following details must be prepared and submitted:

(aa) Design computations.

(bb) Profiles along centerline of embankment.

(cc) Cross-sections along principal and emergency spillway.

(dd) Pond lining specifications, if used.

(ee) Material and construction specifications for excavation, fill, conduits, pipes, or other materials used for pond construction.

C. Project construction schedule and sequencing plan, including the anticipated starting date of each phase of construction, including the installation of erosion and sediment control measures and final site restoration, for the pond construction or maintenance and the spoil spreading areas.

D. A site restoration, vegetation, and landscaping plan for the pond site and the spoil disposal areas, describing the seeding mixture and rate, erosion control matting specifications, mulching type and application rate, and any special planting.

E. Project narrative describing the purpose and intent of the pond construction or maintenance and the type of equipment that will be used.

F. A pond maintenance plan, specifying inspection and maintenance tasks and intervals.

#### **26.10. Administration and Enforcement.**

A. The Town Board designates the Building Inspector to administer and enforce the provisions of this chapter.

B. The Building Inspector shall be certified by the state to engage in the administration and enforcement of this chapter and Wis. Admin. Code chs. COMM 20 and 21.

C. The Building Inspector shall keep a record of all plan reviews, permit, and inspection activities.

#### **26.11. Permit and Plan Requirements.**

No person shall commence land disturbing activities and cause soil to be disturbed for construction within the scope of this chapter without first obtaining a permit and approval of an erosion and sediment control plan for that work from the Building Inspector.

## **26.12. Permit Application Procedures and Erosion and Sediment Control Plan Requirements.**

At least one responsible party desiring to undertake a land disturbing activity subject to this ordinance shall submit the following information to the Building Inspector.

A. **Permit Application.** An application for a permit, on a form provided by the County Zoning Division, shall be submitted to the Building Inspector. By submitting a permit application form, the applicant is authorizing the Building Inspector to enter the site to obtain information. No application shall be accepted that does not contain all the information requested on the application form or does not include the information listed in this section.

B. **Soil Erosion and Sediment Control Plan.** A soil erosion and sediment control plan with the following information:

(1) A site plan, drawn to scale, with all of the following information:

(a) The proposed dwelling location and any other proposed or existing buildings, driveways, wells, sanitary disposal systems, surface waters, wetlands, drainageways, 100-year floodplains on the site with respect to property lines. Surface waters adjacent to the site shall be drawn and labeled on the site plan. On waterfront parcels, draw and label the shoreyard setback line on the site plan.

(b) Delineate and label the areas of any land disturbing activities proposed on the parcel. Label and show the location of all erosion and sediment control practices, to be employed to comply with Wis. Admin. Code § Comm. 21.125 and this chapter. Label and show the location and dimensions of all temporary soil stockpiles.

(c) The preconstruction ground surface slope and direction of runoff flow within the proposed areas of land disturbance shall be marked and labeled on the site plan. Land disturbing activities on slopes greater than 12 percent shall include a grading plan drawn at a two-foot contour interval.

(2) A written plan shall include:

(a) A project schedule and sequencing plan with the anticipated starting and completion date of each land disturbing activity and the installation date of erosion and sediment control measures, including temporary and permanent seeding.

(b) A final site stabilization plan with specifications for temporary and permanent seeding and mulching, density, diversity, and maturity of plant materials planting dates, and maintenance needs.

(3) The name of the initial downstream receiving water from the dwelling site shall be identified.

C. **Data Required.** All required plans submitted for approval should be accompanied by sufficient data, calculations and information to determine if the plan will meet the erosion and sediment control standards contained in this chapter and Wis. Admin. Code § Comm. 21.125.

D. **Federal, State, and Local Permits.** The landowner or the responsible party is responsible for securing all other permits and approvals required by federal, state, county, and local agencies. This includes, but is not limited to:

- (1) A permit required under Wis. Stat. ch. 30.
- (2) A county zoning permit.
- (3) Town, county, or state road access approvals.

E. **Permit Application Fees.** A permit application fee shall be submitted to the Building Inspector. Said fee shall be as determined by resolution of the Town Board.

### **26.13. Approval or Denial of Erosion and Sediment Control Plans, Issuance of Permits, Permit Conditions and Permit Duration.**

A. **Approval of an Application.** Approval of an erosion and sediment control plan and issuance of a permit subject to this chapter will comply with procedures contained in Wis. Admin. Code § Comm. 20.09(5). Action to approve or deny an erosion and sediment control permit application and plan shall be completed with 10 working days of receipt of an erosion and sediment control plan complying with Section 26.11, above, all forms, fees, and documents required to process the application, including Town permitting requirements.

B. **Denial of an Application.** A copy of a denied application, accompanied by a written statement specifying the reasons for denial, shall be sent to the responsible party and to the owner as specified on the application. Any person aggrieved by a determination made by the Building Inspector may appeal the decision to the Department of Commerce following the procedures contained in Wis. Admin. Code §§ Comm. 20.19 and 20.21.

C. **Permit Conditions.** The conditions of approval of a permit subject to this chapter will be indicated by a letter, on the permit application, or on the permit. All conditions of the approval shall be met during construction.

D. **Permit Duration.** A permit issued pursuant to this chapter will expire 24 months after issuance.

#### **26.14. Enforcement, Violations, and Penalties.**

An owner or the owner's agent is subject to the following enforcement actions and penalties if land disturbing construction activities are found to be in violation with this chapter.

A. **Notice of Compliance and Noncompliance.** A notice of compliance or noncompliance with the Municipal Code shall be written on the building permit and posted at the job site. Upon finding of noncompliance, the Building Inspector shall notify the applicant of record and the owner, in writing, of the violations to be corrected. The time period allowed for compliance with the erosion and sediment control provisions of the Municipal Code shall be based on the severity of the noncompliance in relation to soil loss or potential damage to the waters of the state or adjacent properties.

B. **Stop-work and Cease and Desist Orders.** The Building Inspector may issue a special order directing the immediate cessation of work on a one- or two-family dwelling until the necessary plan approval is obtained or until the site complies with the erosion and sediment control provisions of the Municipal Code. Any person who continues to work on a one- or two-family dwelling after being given written notice to stop-work or cease and desist order shall be in violation of this chapter. Construction may resume once the erosion and sediment control compliance corrections are completed.

C. **Injunction.** Compliance with the provisions of this chapter may also be enforced by injunction, or other legal proceedings.

D. **Suspension or Revocation of Permit.** The Building Inspector may suspend or revoke any state uniform building permit where it appears that the permit was obtained through fraud or deceit, where the applicant has willfully refused to correct a violation order, or where the Building Inspector is denied access to the premises.

#### **26.15. Compliance Inspection Fees.**

A. The Building Inspector may assess an inspection fee to cover the cost to conduct a site inspection to assess the status of a project site in violation of this chapter.

B. Responsible parties subject to an inspection fee are limited to those where formal enforcement action has been undertaken and the responsible party has been

issued a notice of noncompliance, an ordinance citation, a cease and desist order, or is under an order or judgment issued by a court with jurisdiction.

C. The inspection fee assessed under subsection 26.15.A., above, shall be 200 percent of the permit fee charged for the project, pursuant to subsection 26.12.E., above.

**26.16. Appeals.**

The Plan Commission shall hear and decide appeals where it is alleged that there is error in an order, decision, or determination made by the Building Inspector this chapter. Upon appeal, the Plan Commission may authorize variances from the provisions of this chapter that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the chapter will result in unnecessary hardship.

**26.17. Effective Date.**

This chapter shall be effective upon passage and publication as provided by law.