

CHAPTER 3  
Article VIII

Erosion and Sediment Control Ordinance

BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF WINDSOR:  
Chapter 3, Article VIII, of the *Windsor Code* is adopted to read as follows:

Sec. 1 – Intent and Purpose

During the construction process, exposed soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat.

As a result, the purpose of this ordinance is to safeguard persons, protect property, and prevent damage to the environment in the Town of Windsor. This ordinance will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the Town of Windsor.

Sec. 2 – Applicability

This ordinance shall be applicable to any and all activities which result in the disturbance of more than one-half (0.5) acre of land, with the exception of the following activities:

- (a) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
- (b) Nursery and agricultural operations conducted as a principal main or accessory use.
- (c) Construction of a single family detached dwelling, disturbing less than one (1.0) acre of land, that is not part of a subdivision or larger development of land, provided that a permit is not required by the Inland Wetlands and Watercourses Commission.

Sec. 3 – Designation of Ordinance Administrator

The Town Engineer is hereby appointed to administer and implement the provisions of this ordinance.

## **Sec. 4 – Definitions**

Definitions not included in this section are defined in the Town’s Stormwater Manual.

**Owner**                      The legal or beneficial owner of a site, including but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person, firm or corporation in control of the site.

**Person**                      “Person” means, except to the extent exempted from this ordinance, any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity and acting as either the owner or the owner’s agent.

**Town Engineer**              Town of Windsor Town Engineer or his designee.

**Town Manager**              Town of Windsor Town Manager or his designee.

## **Sec. 5 – Guidelines for Erosion and Sediment Control**

The Town of Windsor will utilize the policy, criteria and information including technical specifications and standards in the latest edition of the Connecticut Guidelines for Soil Erosion and Sediment Control, as well as the Town’s Stormwater Manual, as amended, and the Town’s Engineering Standards and Specifications as amended, for the proper implementation of the requirements of this ordinance. These documents may be updated and expanded periodically, based on improvements in science, engineering, monitoring and local maintenance experience.

## **Sec. 6 – Erosion and Sediment Control Permits**

- (a) No person shall perform any land-disturbing activity that would require the uncovering of an area of land one-half (0.5) acre or more without first meeting the requirements of this ordinance prior to commencing the proposed activity.
- (b) Unless specifically exempted by this ordinance, any person proposing a land-disturbing activity that would require the uncovering of an area of land one-half (0.5) acre or more shall submit an application for an Erosion and Sediment Control Permit to the Town Engineer for review and approval.
  - 1. Proof of registration under the Connecticut Department of Environmental Protection’s General Permit for the Discharge of Stormwater and Dewatering Wastewaters

Associated with Construction Activities must be provided for sites disturbing an area of land of five (5.0) acres or more.

- (c) Each application for an Erosion and Sediment Control Permit shall be accompanied by the following items in order to be considered:
1. An Erosion and Sediment Control Plan in accordance with Section 7;
  2. A signed statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the Erosion and Sediment Control Plan developed for the application;
  3. Performance bond in accordance with Section 9; and,
  4. Permit application and plan review fees in accordance with Sections 10 and 11.

### **Sec. 7 – Erosion and Sediment Control Plan**

The Erosion and Sediment Control Plan shall be prepared in accordance with the criteria established in applicable design manuals and documents and must be submitted with the stamp and signature of a Professional Engineer licensed in the state of Connecticut.

Modifications to the Plan shall be processed and approved or disapproved in accordance with Sections 8 and 12 of this Article. Modifications may be authorized by the Town Engineer by written authorization to the permittee.

### **Sec. 8 – Design Requirements**

Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the applicable design manuals and documents and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Town Engineer.

### **Sec. 9 – Performance Bonds**

Unless otherwise required by the Planning Department, Town Planning & Zoning Commission and/or the Inland Wetlands and Watercourses Commission, the applicant will be required to file with the Town, through the Town's Finance Director, a performance bond in an amount as determined and deemed sufficient by the Town Engineer to cover the total estimated construction cost of all site improvements, landscaping, and maintenance improvements for such period as specified by the Town of Windsor, as well as the engineering and inspection costs to cover the failure or repair of improvements installed on the site, prior to the commencement of any land-disturbing activity that would require uncovering one-half (0.5) acre or more of land.

The bond required in this section shall include provisions relative to forfeiture for failure to complete work specified in the approved Erosion and Sediment Control Plan, compliance with all of the provisions of this ordinance, other applicable laws and regulations, and any time limitations. The bond shall not be fully released without a final inspection of the completed work by the Town Engineer, submission of "as-built" plans, a signed maintenance agreement and covenant, if

applicable, and a certification of completion by the Town Engineer that the erosion and sediment controls implemented at the site, comply with the approved Erosion and Sediment Control Plan and provisions of this ordinance.

The bond shall be a cash bond for which a certified or cashier's check is to be made payable to the Town of Windsor. The applicant shall comply with all necessary procedures to establish the bond as determined by the Finance Director. A W-9 form must be completed by the applicant to accept the bond deposit. Release of the bond will be determined by the Town Engineer, as described above, at which time the Finance Director will issue a check made payable to the applicant for the bond reduction amount in addition to accrued interest.

### **Sec. 10 – Application Procedure**

Applications for Erosion and Sediment Control Permits shall be filed with and on forms provided by the Town Engineer and shall include the items set forth in Section 6 above.

### **Sec. 11 – Application Review Fees**

The fee for review of any Erosion and Sediment Control Permit application shall be based on the fee structure established in the Price Guide and shall be paid at the time of application.

### **Sec. 12 – Review and Approval**

- (a) The Town Engineer shall inform the applicant, in writing, whether the application and erosion and sediment control plan are approved or disapproved within 30 days after receiving an application.
- (b) Failure of the Town Engineer to act on an original or revised application within 30 days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by written agreement between the applicant and Town Engineer. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Town Engineer.
- (c) Approval of the application and Erosion and Sediment Control Plan must be obtained prior to the issuance of any building permit.

### **Sec. 13 – Inspection**

- (a) The Town Engineer shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the Erosion and Sediment Control Plan as approved. Plans for grading, stripping, excavating, and filling work bearing the approval of the Town Engineer shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the Town Engineer or his designee at least two working days before the following:
  - 1. Start of construction
  - 2. Completion of clearing limit demarcation

3. Installation of sediment and erosion control measures
  4. Completion of site clearing
  5. Completion of rough grading
  6. Completion of final grading
  7. Close of the construction season
  8. Completion of final landscaping
  9. Removal of sediment and erosion control system
- (b) The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved Erosion and Sediment Control Plan(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Town Engineer at the time interval specified in the approved permit.
- (c) The Town Engineer may enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under subsection (b).

#### **Sec. 14 – Enforcement**

(a) Violation and Penalties

No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this ordinance.

(b) Procedure for Issuance of Citations

1. The Town Manager shall issue a written notice to any person who violates any provision of this ordinance. No written notice may be issued against the State or any State official or employee acting within the scope of his employment. Such written notice shall explain the nature of the violation and the steps required for compliance, and shall allow a seventy-two (72) hour period within which to correct the violation or within which a written plan for correction shall be submitted to the Town Manager, setting forth a reasonable time period for correction of the violation as agreed upon by the Town Manager. A written notice issued pursuant to this subsection shall be served 1) by hand delivery, at which time the seventy-two (72) hour period shall begin; or 2) by certified mail return receipt requested and by regular first class mail. Three (3) business days shall be allowed for mail delivery of the notice prior to the commencement of the seventy-two (72) hour period.
2. Within two (2) business days after the period for correction established in subsection (a) expires, the Town Manager shall re-inspect the subject property to determine compliance.
3. If the violations set forth in the written notice have not been corrected at the time of re-inspection, the Town Manager, in his capacity as chief executive officer, shall issue a citation and fine for each violation by hand, by certified mail return receipt requested, by leaving a true and attested copy of the citation at the usual place of abode or residence of

the person in violation, or in the case of a corporate or business entity, delivery to the business address or the address of the statutory agent of said entity. No such fine shall be levied against the State or any State Official or State employee acting within the scope of his employment. All citations issued pursuant to this Section shall state the violation for which the citation is being issued, the fine imposed for the violation, the time period within which the fine must be paid, and an address for remittance of the fine. The Windsor Town Council may periodically update the schedule of fines for violations by way of amendment to this ordinance. The current fine for each violation shall be as follows:

Nature of Violation	Amount of Civil Fine
(1) Carrying on activities without a permit, or carrying on activities not authorized by a permit, which do not pose an immediate danger to persons, property, or the surrounding environment.	\$ 75.00
(2) Carrying on activities without a permit, or carrying on activities not authorized by a permit, which may pose an immediate danger to persons, property, or the surrounding environment.	\$150.00
(3) Carrying on activities without a permit, or carrying on activities not authorized by a permit, which cause limited and/or correctable damage to property or the surrounding environment.	\$200.00
(4) Carrying on activities without a permit, or carrying on activities not authorized by a permit, which cause irreversible soil erosion or sedimentation.	\$250.00

(c) Compliance Periods After Citation

1. Any violation for which a citation is issued and which is not corrected within the time period specified in Section 14(b) shall be a new violation of this ordinance, and every twenty-four (24) hour period thereafter in which the violation is not corrected shall constitute a new violation. For repeated violations of the same provision of this ordinance by the same person, the Town Manager shall not be required to provide the violator with another written notice or correction period, and may immediately issue the citations and fines permitted by this Article.
2. The Town Manager of the Town of Windsor shall not be responsible for a daily re-inspection. Rather the person to whom the citation has been issued shall be responsible for reporting subsequent compliance by way of written report to the Town Manager. The Town Manager shall re-inspect to confirm compliance within one (1) business day of receipt of such report.

(d) Payment of Fines

1. All fines imposed under this Article which are uncontested shall be made payable to the Town of Windsor and shall be received by the Town Manager within ten (10) business days from receipt of the citation. All fines collected by the Town Manager shall be directed to the Town Finance Director to be deposited into the Town of Windsor General Fund.
2. If no payment is received for any fine imposed under this Article within the time allowed for payment, then the Town Manager shall act in accordance with the procedures established in Chapter 2, Article VI, of the *Windsor Code of Ordinances*.

(e) Stop-Work Order; Revocation of Permit

In the event that any person implements site development in such a manner as to adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the Town Engineer and/or Town Manager may issue a stop-work order and suspend or revoke the Erosion and Sediment Control Permit.

**Sec. 15 – Hearing procedure for a citation**

The procedure for admitting liability to a violation under this Article, and the hearing procedure for any citation issued pursuant to this Article shall be in accordance with the provisions set forth in Chapter 2, Article VI, of the *Windsor Code of Ordinances*.

**Sec. 16 – Appeals**

Any person or entity aggrieved by a finding, determination, notice order or action taken under the provisions of this ordinance may appeal and shall be advised of his right to appeal in accordance with the provisions set forth in Chapter 2, Article VI of the *Windsor Code of Ordinances*.

**Sec. 17 - Miscellaneous**

The penalties established by this ordinance shall not be exclusive of any other enforcement remedy which may be imposed by the Town Manager, for violations of this ordinance, as authorized by any federal or state statute, Town Ordinance, Zoning Regulation, or Inland Wetlands and Watercourses Regulations, of the Town of Windsor or otherwise any other penalty that may be imposed by any local, state or federal agency.

**Sec. 18 – Savings Clause**

The enactment of this ordinance shall not operate as an abatement of any action or proceeding previously taken, now pending, or taken prior to the effective date of this ordinance. All said actions and proceedings are hereby ratified to be continued.

**Sec. 19 - Severability**

All provisions of the Town Code in conflict herewith are hereby repealed and that if for any reason, any word, clause, paragraph, or section of this ordinance shall be held to make the same unconstitutional, this ordinance shall not hereby be invalidated and the remainder of the ordinance shall continue in effect. Any provision herein which is in conflict with the Connecticut General Statutes is hereby repealed, it being understood that said statutes shall take precedence over this ordinance.

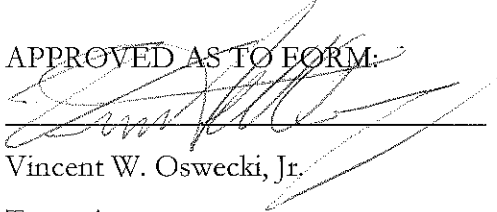
**Sec. 20 - Statutory Authorization**

The Legislature of the State of Connecticut has in Title 7, Chapter 98, Section 7-148(c)(7) of the General Statutes delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

**Sec. 21 - Effective Date**

This ordinance shall become effective ten (10) days after publication in a newspaper having a circulation in Windsor.

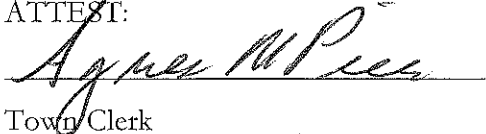
APPROVED AS TO FORM:



Vincent W. Oswecki, Jr.

Town Attorney

ATTEST:



Town Clerk

Distributed to Town Council	<u>12/15/08</u>
Public Hearing Advertised	<u>1/09/09</u>
Public Hearing	<u>1/20/09</u>
Adopted	<u>1/20/09</u>
Advertised	<u>1/23/09</u>
Effective Date	<u>2/2/09</u>



Went before Town Council to be reapproved with corrected Chapter Number:

Distributed to Town Council	<u>8/3/09</u>
Public Hearing Advertised	<u>8/7/09</u>
Public Hearing	<u>9/8/09</u>
Adopted	<u>9/8/09</u>
Advertised	<u>9/11/09</u>
Effective Date	<u>9/21/09</u>