

**CONSTRUCTION SITE EROSION &  
SEDIMENT CONTROL ORDINANCE  
TOWN OF SUGAR CREEK**

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## **FOREWORD**

Use of this ordinance will foster consistent, statewide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of chapter NR 151, Wis. Adm. Code.

The Town of Sugar Creek does hereby ordain that Chapter \_\_\_ of the \_\_\_\_\_ is created to read as follows:

### **SECTION 1 AUTHORITY**

- (1) This ordinance is adopted under the authority granted by s. 60.267, Wis. Stats., relating to towns. This ordinance supersedes all provisions of any previously enacted ordinance relating to construction site erosion control. Except as otherwise specified in s. 60.627, Wis. Stats., s. 60.62, Wis. Stats. applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the Town of Sugar Creek.
- (3) The Town of Sugar Creek and/or its designees shall administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not preempt more stringent erosion and sediment control requirements that may be imposed by any of the following:
  - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under ss. 281.16 and 283.33, Wis. Stats.;
  - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code;
  - (c) The Town of Sugar Creek;
  - (d) Walworth County.

### **SECTION 2 FINDINGS OF FACT AND DECLARATION OF POLICY**

- (1) The Town of Sugar Creek finds that land disturbing construction activities have accelerated the process of soil erosion, surface water runoff, and sediment and other pollutant deposition in the waters of the Town.
- (2) Wherefore, it is declared to be the policy of this ordinance to protect and promote safe and healthful conditions; provide for the control and prevention of runoff and soil erosion and thereby preserve natural resources, control floods, preserve ground cover and scenic beauty, protect the quality of public waters, preserve wildlife, and enhance the public enjoyment and use of natural resources in the Town of Sugar Creek.

### **SECTION 3 APPLICABILITY AND JURISDICTION**

- (1) This ordinance applies to land-disturbing construction activity on lands located within the boundaries and jurisdiction of the Town of Sugar Creek that, as determined by the Town of Sugar Creek, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water; that causes undue channel erosion; that increases water pollution by scouring or the transportation of particulate matter; or that endangers property or public safety unless the site is otherwise exempt under paragraph (2).

- (2) This ordinance does not apply to the following:
- (a) Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development;
  - (b) A construction project that is exempted by federal statutes or regulations from the requirement to have a national pollutant discharge elimination system permit issued under chapter 40, Code of Federal Regulations, part 122, for land-disturbing construction activity.
  - (c) Nonpoint discharges from agricultural facilities and practices.
  - (d) Nonpoint discharges from silviculture activities.
  - (e) Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
  - (f) Activities conducted by a state agency, as defined under s. 227.01(1), Wis. Stats.

#### **SECTION 4     DEFINITIONS**

“Administering authority” means a governmental employee, or a regional planning commission empowered under s. 60.627, Wis. Stats., that is designated by the Town of Sugar Creek to administer this ordinance.

“Agricultural facilities and practices” has the meaning in s. 281.16(1), Wis. Stats.

“Best management practice” or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize soil, sediment or pollutants carried in runoff to waters of the State.

“Building Inspector” means the governmental employee designated by the Town Board to administer this ordinance.

“Construction site” means 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 construction activities may be taking place at different times on different schedules but under one plan. A long-range planning document that describes separate construction projects, such as a 20-year transportation improvement plan, is not a common plan of development.

“Design Storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall.

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

“Erosion and sediment control plan” means a comprehensive plan developed to address pollution caused by erosion and sedimentation of soil particles or rock fragments during construction.

**“Final stabilization”** means that all land disturbing construction activities at the construction site have been completed and that a uniform perennial vegetative cover has been established with a density of at least 70 percent of the cover for the unpaved areas and areas not covered by permanent structures or that employ equivalent permanent stabilization measures.

**“Land-disturbing construction activity”** means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion runoff and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.

**“Landowner”** means any person, partnership, firm or corporation that holds title to land either as sole owner, tenant in common or joint tenant, has title as a trustee or assignee, or has a land contract vendee’s interest.

**“Land user”** means any person who use land, individually or as an owner, operator, lessor, renter, or occupier who is 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.

**“Maximum extent practicable”** means the highest level of performance that is achievable but is not equivalent to a performance standard identified in this ordinance as determined in accordance with Section 5(1) of this ordinance.

**“Off-site”** means located outside the property boundary described in the permit application.

**“Performance standard”** means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

**“Permit”** means a written authorization made by the Town of Sugar Creek to the applicant to conduct land-disturbing construction activity or to discharge post- construction runoff to waters of the State.

**“Permitee”** means any person to whom a permit is issued under this chapter.

**“Pollutant”** has the meaning given in s. 283.01(13), Wis. Stats.

**“Pollution”** has the meaning given in s. 281.01(10), Wis. Stats.

**“Responsible party”** means the landowner or any other entity performing services to meet the requirements of this ordinance through a contract or other agreement.

**“Runoff”** means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

**“Safe capacity”** means the rate of flow that can be handled by the receiving waterway without causing flooding or erosion damage.

“Sediment” means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.

“Silviculture activity” means activities including tree nursery operations tree harvesting operations, reforestation tree thinning, prescribed burning, and pest and fire control. Clearing and grubbing of an area of a construction site is not a silviculture activity.

“Site” means the entire area included in the legal description of the land on which the land-disturbing activity will occur.

“Stop-work order” means a method of giving notice to the permittee that the Town believes that the permittee has violated one or more provisions of this chapter. Notice is given both by posting upon the lands where the disturbing activity occurs one or more copies of a poster so stating the violation and by mailing a copy of this poster by certified mail to the permittee at the address shown on the permit.

“Technical standard” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

“Town Board” means the Board of Supervisors of the Town of Sugar Creek.

“Transportation facility” means a highway, railroad, public mass transit facility, public-use airport, public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Wis. Stats. “Transportation facility” does not include building sites for the construction of public buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.

“Waters of the state” include those portions of Lake Michigan and Lake Superior within the boundaries of the state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

## **SECTION 5      GENERAL REQUIREMENTS**

- (1) Any landowner, land occupier or land user who undertakes, commences or performs land disturbing activities or who permits another person to do the same on land subject to this section, shall be subject to the provisions of this chapter. The landowner, land occupier or land user shall be responsible for compliance with this section and shall submit to the Building Inspector a written erosion and sediment control plan developed in accordance with Sections 6-7 and receive a permit before commencement of any land disturbing activities on lands subject to control under this ordinance.
- (2) Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the Town of Sugar Creek’s satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic

features, and other competing interest such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

## **SECTION 6      TECHNICAL AND PERFORMANCE STANDARDS**

- (1) The responsible party shall comply with this section and implement the erosion and sediment control plan developed in accordance with this section.
- (2) All best management practices required for compliance with this ordinance shall meet design criteria, standards, and specifications based on any of the following:
  - (a) Design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code.
  - (b) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an appropriate design storm and precipitation distribution, and when considering the geographic location of the site and the period of disturbance.
  - (c) Technical standards and methods approved by the Town of Sugar Creek.
- (3) The erosion and sediment control plan required under Section 5(1) shall include the following:
  - (a) Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
    - (i) The deposition of soil from being tracked onto streets by vehicles;
    - (ii) The discharge of sediment from disturbed areas into on-site storm water inlets;
    - (iii) The discharge of sediment from disturbed areas into adjacent waters of the state;
    - (iv) The discharge of sediment from drainage ways that flow off the site;
    - (v) The discharge of sediment by dewatering activities;
    - (vi) The discharge of sediment from erosive flows at outlets and in downstream channels;
    - (vii) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. Projects that require the placement of these materials in waters of the state, such as constructing bridge footings or BMP installations, are not prohibited by this subdivision.
    - (viii) The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
  - (b) In addition to the erosion and sediment control practices under paragraph (a), the following erosion and sediment control practices shall be employed:
    - (i) BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
    - (ii) No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
    - (iii) Notwithstanding paragraph (1), if BMPs cannot be designed and implemented to meet the sediment performance standard, the erosion and sediment control plan

shall include a written, site-specific explanation of why the sediment performance standard cannot be met and how the sediment load will be reduced to the maximum extent practicable.

- (c) The erosion and sediment control plan shall incorporate all of the following:
  - (i) Maintenance of existing vegetation, especially adjacent to surface waters whenever possible;
  - (ii) Minimization of soil compaction and preservation of topsoil;
  - (iii) Minimization of land disturbing construction activity on slopes of 20 percent or more;
  - (iv) Development of spill prevention and response procedures.
- (d) The BMPs used to comply with this section shall be located so that treatment occurs before runoff enters waters of the state, and shall be implemented as follows:
  - (i) Erosion and sediment control practices shall be constructed or installed before land-disturbing activities begin in accordance with the erosion and sediment control plan.
  - (ii) Erosion and sediment control practices shall be maintained until final stabilization.
  - (iii) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
  - (iv) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
  - (v) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.
- (4) The Town of Sugar Creek may establish erosion control requirements more stringent than those set forth in this section if the Town Board determines that an added level of protection is needed for sensitive resources.

#### **SECTION 7 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.**

- (1) For each construction site, an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Town of Sugar Creek. The control plan statement shall briefly describe the site, including a site map. Further, it shall also include the BMPs that will be used to meet the requirements of the ordinance, including the site development schedule. A site map shall also accompany the erosion and sediment control plan statement.
- (2) A written erosion and sediment control plan shall be prepared and submitted to the Town of Sugar Creek, and shall be designed to meet the standards in Section 6 and other requirements of this ordinance. The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction up until final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the following items:
  - (a) The name(s), address(es), daytime and emergency telephone numbers of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm. The application shall also include start and end dates for construction.
  - (b) Description of the site and nature of the construction activity, including representation of the limits of land disturbance on a United States Geological Service 7.5 minute series topographic map.

- (c) Description of the intended sequence of major land disturbing construction activities for major portions of the construction site, including stripping and clearing; rough grading; construction of utilities, infrastructure and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
- (d) Estimates of the total area of the site and the total area of the site expected to be disturbed by construction activities.
- (e) Calculations to show the compliance with the performance standards in Section 6(3)(b)(i).
- (f) Existing data describing the surface soil as well as subsoils.
- (g) Depth to groundwater, as indicated by Natural Resources Conservation Service soil information where available.
- (h) Name of the immediate named receiving water from the United States Geological Service 7.5 minute series topographic maps.
- (i) A site map, which shall include the following items and shall be at an appropriate scale and contour. The site map shall consist of, but not be necessarily limited to a description of listing of:
  - (i) Existing, topography, vegetative cover, natural and engineered drainage systems, roads and surface waters. Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site shall be shown. Any identified primary and secondary environmental corridors, wetlands, 100-year flood plains, flood fringes and floodways shall also be shown.
  - (ii) Boundaries of the construction site.
  - (iii) Drainage patterns and approximate slopes anticipated after major grading activities.
  - (iv) Areas of soil disturbance.
  - (v) Location of major structural and non-structural controls identified in the plan.
  - (vi) Location of areas where stabilization practices will be employed.
  - (vii) Areas and type of vegetated/landscaped which will follow construction.
  - (viii) Aerial drawing showing the extent of wetland acreage on the site and locations where storm water is discharged to a surface water or wetland within one-quarter mile downstream of the construction site.
  - (ix) An alphanumeric or equivalent grid overlying the entire construction site map.
  - (x) A description of appropriate controls and measures that will be performed at the site to prevent storm water runoff, sediments and pollutants from reaching waters of the state. The plan shall clearly describe the appropriate BMPs for each sequenced or phased activity and the timing during the construction process that the BMPs will be implemented. The description of erosion controls shall include, when appropriate, the following minimum requirements:
    - (1) A description of interim and permanent stabilization practices. Site plans shall ensure that existing vegetation is preserved where attainable and that disturbed portions of the site are stabilized.
    - (2) A description of structural practices to divert flow away from exposed soils, store flows or otherwise limit runoff and the discharge of storm



water runoff, sediments and pollutants from the site. Unless otherwise specifically approved in writing by the Town of Sugar Creek, structural measures shall be installed on upland soils.

- (3) A description of the management of overland flow at all sites, unless otherwise controlled by outfall controls.
  - (4) A description of how sedimentation in canalized flow will be undertaken.
  - (5) A description of the staging of construction activities to limit bare soil areas subject to erosion.
  - (6) A description of the protection of down slope drainage inlets where they occur.
  - (7) Plans for the minimization of tracking of debris at all vehicle and equipment entry and exits locations of the site.
  - (8) Plans for clean up of off-site sediment deposits, by sweeping, to be completed no later than the end of each work day.
  - (9) Plans for proper disposal of building and waste materials at all sites.
  - (10) Plans for stabilization of drainage ways.
  - (11) Plans for the installation of permanent stabilization practices as soon as possible after final grading.
  - (12) Plans for the minimization of dust to the maximum extent practicable.
  - (13) The erosion and sediment control plan shall require that velocity dissipation devices be placed at discharge locations and along the length of any outfall channel, as necessary, to provide a non-erosive flow from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.
- (3) The applicant shall amend the plan if any of the following occur:
- (a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the erosion and sediment control plan.
  - (b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.
  - (c) The Town of Sugar Creek notifies the applicant of changes needed in the plan.

## **SECTION 8      PERMITTING REQUIREMENTS, PROCEDURES AND FEES**

- (1) No responsible party may commence a land-disturbing construction activity subject to this ordinance without receiving a permit pursuant to the terms of this Ordinance from the Town of Sugar Creek.
- (2) At least one responsible party desiring to undertake a land-disturbing construction activity subject to this ordinance shall submit an application for a permit and a written erosion and sediment control plan that meets the requirements of Section 5 and shall pay an application fee as required in Section 9 to the Town of Sugar Creek. By submitting an application, the applicant is authorizing the Town of Sugar Creek to enter the site to obtain information required for the review of the erosion and sediment control plan.
- (3) Unless otherwise excepted by this ordinance, a permit application must be accompanied by an erosion control plan and a non-refundable permit administration fee.

- (4) Approval of the application shall rest with the Building Inspector. The Building Inspector and/or his/her designee shall review any permit application that is submitted with the proper application fee and erosion and sediment control plan. The Building Inspector shall determine if a written erosion and sediment control plan and permit is required. If a permit is required, the following approval procedure shall be used:
- (a) Within 20 business days of the receipt of a complete permit application, as required by sub. (2), the Town of Sugar Creek shall inform the applicant whether the application and plan are approved or disapproved based on the requirements of this ordinance.
  - (b) If the permit application and plan are approved, the Town of Sugar Creek shall issue the permit.
  - (c) If the permit application or plan is disapproved, the Town of Sugar Creek shall state in writing the reasons for disapproval.
  - (d) The Town of Sugar Creek may request additional information from the applicant. If additional information is submitted, the Town of Sugar Creek shall have 20 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
  - (e) Failure by the Town of Sugar Creek to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.
- (5) As a condition of approval and issuance of the permit, the Town of Sugar Creek may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved erosion and sediment control plan and any permit conditions.
- (6) All permits shall require the responsible party to:
- (a) Notify the Town of Sugar Creek within 48 hours of commencing any land-disturbing construction activity.
  - (b) Notify the Town of Sugar Creek of completion of any BMPs within 14 days after their installation.
  - (c) Obtain permission in writing from the Town of Sugar Creek prior to any modification of the erosion and sediment control plan.
  - (d) Install all BMPs as identified in the approved erosion and sediment control plan.
  - (e) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
  - (f) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing activities and document repairs in a site inspection log.
  - (g) Inspect the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week. Make needed repairs and install additional BMPs as necessary, and document these activities in an inspection log that also includes the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
  - (h) Allow the Town of Sugar Creek to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the erosion and sediment control plan. Keep a copy of the erosion and sediment control plan at the construction site.
- (7) Permits issued under this section may include conditions established by the Town of Sugar Creek in addition to the requirements set forth in subsection (6), where needed to assure compliance with the standards in Section 6.

- (8) Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer. The Town of Sugar Creek may extend the period one or more times for up to an additional 180 days. The Town of Sugar Creek may require additional BMPs as a condition of the extension.
- (9) The responsible party, throughout the duration of the construction activities, shall maintain all BMPs necessary to meet the requirements of this ordinance until the site has undergone final stabilization.

## **SECTION 9     FEE SCHEDULE**

- (1) The fees referred to in other sections of this ordinance shall be established by the Town of Sugar Creek and may from time to time be modified by resolution. A schedule of the fees established by the Town of Sugar Creek shall be available for review in the Town Hall.
- (2) Additional fees may be assessed by the Town of Sugar Creek on a case by case basis based upon the unique requirements of each project.

## **SECTION 10    INSPECTION**

- (1) If land-disturbing construction activities are being carried out without a permit required by this ordinance, the Town of Sugar Creek may enter the land pursuant to the provisions of ss. 66.0119(1)-(3), Wis. Stats.
- (2) Inspection of the erosion and sediment controls shall be completed by the Town Engineer or a designee of the Town Board. All fees associated with the inspection costs shall be paid by the responsible party to the Town of Sugar Creek.

## **SECTION 11    ENFORCEMENT**

- (1) Any land disturbing construction activity initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- (2) The Town of Sugar Creek may post a stop-work order if any of the following occurs:
  - (a) Any land-disturbing construction activity regulated under this ordinance is being undertaken without a permit.
  - (b) The erosion and sediment control plan is not being implemented in a good faith manner.
  - (c) The conditions of the permit are not being met.
- (3) If the responsible party does not cease activity as required in a stop-work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions in this ordinance, the Town of Sugar Creek may revoke the permit.
- (4) If the responsible party, where no permit has been issued, does not cease the activity after being notified by the Town of Sugar Creek, or if a responsible party violates a stop-work order posted under subsection (2), the Town of Sugar Creek may request the Town attorney to obtain a cease and desist order in any court with jurisdiction.
- (5) The Town of Sugar Creek may retract the stop-work order issued under subsection (2) or the permit revocation under subsection (3).
- (6) After posting a stop-work order under subsection (2), the Town of Sugar Creek may issue to the responsible party a notice of intent to perform work necessary to comply with this

ordinance. The Town of Sugar Creek may go on the land and commence the work after issuing the notice of intent. The costs of the work performed under this subsection by the Town of Sugar Creek, plus interest and reasonable attorney and engineering fees, shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to subchapter VII of chapter 66, Wis. Stats.

- (7) Any person, firm, association, or corporation (failing to) comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$50 nor more than \$500 per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (8) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to an injunction proceeding.
- (9) At its sole discretion, the Town or its designee(s) charged with enforcing this ordinance may determine which (if any) provisions of this ordinance apply to proposed project. The Town or its designee(s) may waive any or all provisions of this ordinance for a proposed project.

## **SECTION 12    APPEALS**

- (1) The Town Board:
  - (a) Shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Town of Sugar Creek in administering this ordinance except for cease and desist orders obtained under Section 11(4);
  - (b) Upon appeal, the board may authorize variances from the provisions of this ordinance which are not contrary to the public interest and where owing to special conditions a literal enforcement of the provisions of the ordinance will result in unnecessary hardship; and
  - (c) Shall use the rules, procedures, duties and powers authorized by statute in hearing and deciding appeals and authorizing variances.
- (2) Appeals to the board may be taken by any aggrieved person or by any officer, department, board, or bureau of the Town of Sugar Creek affected by any decision of the Town of Sugar Creek made under this ordinance.

## **SECTION 13    SEVERABILITY**

If a court of competent jurisdiction judges any section, clause, provision or portion of this ordinance unconstitutional or invalid, the remainder of the ordinance shall remain in force and shall not be affected by such judgment.

## **SECTION 14    EFFECTIVE DATE**

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the Town Board of Supervisors of the Town of Sugar Creek on the 18th day of Aug. July 2016.  
*alb*

Attest:

Diane Boyd  
Diane Boyd, Town Clerk

Approved:

David Duwe  
David Duwe, Chairman

Absent

Dale Wuttke, Supervisor I

David Roberts

David Roberts, Supervisor II  
Roberts

Date of publication: 7-28-16