

**Ordinance No. 2009-05**

The City Council of the City of Hermantown does ordain:

**AN ORDINANCE AMENDING CHAPTER 10 OF THE HERMANTOWN  
CODE OF ORDINANCES BY REPLACING SECTION 1060**

**Section 1.** Amendment to Chapter 10 of the Hermantown Code of Ordinance. Chapter 10 of City of Hermantown Code of Ordinances is hereby amended by replacing Section 1060 in its entirety:

**SECTION 1060. EROSION AND SEDIMENT CONTROL  
FOR LAND DISTURBANCE ACTIVITIES**

**1060.01 Purpose.** The purpose of this Section is to establish standards and specifications to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources and wetlands, and will promote and maintain the health and safety of the citizens of the City of Hermantown.

**1060.02 Scope.** Section 1060 establishes standards for erosion and sediment control associated with land disturbance activities within the City of Hermantown.

**1060.03 Definitions.** For the purposes of this Section 1060, the following terms, phrases, words, and their derivatives shall have the meaning stated below:

**1060.03.01** “Abbreviated erosion and sediment control plan” or “AESC plan” is an ESC plan that is prepared by completing a form provided by the City. An AESC plan may be completed by an applicant or landowner and does not need professional certification.

**1060.03.02** “Applicant” is any person who submits an application to the City for a permit pursuant to this ordinance.

**1060.03.03** “Best management practices” or “BMPs” are erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction-phasing, minimizing the length of time soil areas are exposed, and other management practices published by state or designated area-wide planning agencies. Examples of BMPs can be found in the current versions of: the Minnesota Pollution Control Agency’s publications “Protecting Water Quality in Urban Areas,” “Storm-Water and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Storm-Water and Snow-Melt Runoff on Wetlands,” and the “Minnesota Stormwater Manual;” the Metropolitan Council’s “Minnesota Urban Small Sites BMP Manual;” the United States Environmental Protection Agency’s “Storm Water Management for Construction Activities:

Developing Pollution Prevention Plans and Best Management Practices;” and the Minnesota Department of Transportation’s “Erosion Control Design Manual.”

**1060.03.04** “Borrow” is earth material used in filling or grading on a site.

**1060.03.05** “City” is the City of Hermantown.

**1060.03.06** “City Administrator” is the City Administrator designated from time to time by the City Council.

**1060.03.07** “City Attorney” is the City Attorney designated from time to time by the City Council.

**1060.03.08** “City Clerk” is the City Clerk as designated from time to time by the City Council.

**1060.03.09** “City Council” is the City Council of Hermantown.

**1060.03.10** “City Engineer” is the City Engineer designated from time to time by the City Council.

**1060.03.11** “Clearing and grubbing” is the cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots, and other remains in the designated areas.

**1060.03.12** “Demolition” is any act or process of wrecking or destroying a building or structure.

**1060.03.13** “Erosion” is the wearing away of the ground surface as a result of the movement of wind, water, ice, and/or land disturbance activities.

**1060.03.14** “Erosion control” is a measure employed to prevent soil erosion. Erosion control methods include, but are not limited to, stabilizing soil with temporary or permanent vegetation, mulch, or erosion control blankets, construction phasing, vegetative buffer strips, and limiting the area of impact.

**1060.03.15** “Erosion and sediment control plan” or “ESC plan” is a written plan that includes a set of best management practices or equivalent measures designed to control surface runoff and erosion and to retain sediment on a particular site during the period in which pre-construction and construction related land disturbances, fills, and soil storage occur, and before final improvements are completed, all in accordance with the specific requirements set forth in this Section. An ESC plan must either be professionally-prepared or abbreviated, in accordance with Section 1060.07.

**1060.03.16** “Erosion Control Inspector” is an employee, consultant, contract agency or individual who has been designated by the City Administrator to perform erosion and sediment control inspections at land disturbance sites in the City of Hermantown.

**1060.03.17** “Excavation” is the mechanical removal of earth material.

**1060.03.18** “Fill” is a deposit of soil or other materials placed by artificial means.

**1060.03.19** “Grading” is any excavating, filling or combination thereof.

**1060.03.20** “Issuing Authority” is the employee, consultant, contract agency or individual who has been designated by the City Administrator to issue a permit for a project involving a land disturbance activity.

**1060.03.21** “Land” is the parcel(s) of real estate upon which a land disturbance activity is conducted.

**1060.03.22** “Land alteration permit” is a permit issued by the Zoning Director pursuant to Section 1060.13.

**1060.03.23** “Land disturbance activity” is any land change that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or rights-of-way within the City of Hermantown, including but not limited to building construction or demolition, clearing and grubbing, stripping, grading, excavating, filling of land, and soil storage on land.

**1060.03.24** “Landowner” is the legal or beneficial owner of the land upon which the land disturbance activity is conducted.

**1060.03.25** “National pollutant discharge elimination system permit” or “NPDES permit” is a permit issued by the U.S. Environmental Protection Agency (or the State of Minnesota under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

**1060.03.26** “One hundred (100) year floodplain” is that area adjoining a watercourse which could be inundated by a flood that has a one (1) percent chance of being equaled or exceeded in any given year and is delineated on the Federal Emergency Management Agency floodway maps for Hermantown.

**1060.03.27** “Permit” is any permit issued by the City authorizing a land disturbance activity.

**1060.03.28** “Permittee” is a person or entity in whose name a permit is duly issued for a land disturbance activity and his/her agents, employees, and others acting under his/her direction.

**1060.03.29** “Perimeter control” is a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

**1060.03.30** “Phasing” is the clearing of land in distinct phases, with the stabilization of each area completed before the clearing of the next.

**1060.03.31** “Professional engineer” is an individual who is licensed and registered to practice engineering in the State of Minnesota.

**1060.03.32** “Professionally-prepared erosion and sediment control plan” or “PESC plan” is an ESC plan that is prepared and certified by a professional engineer who is knowledgeable on the topic of erosion and sediment control BMPs, or another qualified individual acceptable to the Issuing Authority.

**1060.03.33** “Project” is the entire land disturbance activity conducted on a site. A single project may involve multiple, separate and distinct land disturbance activities that take place at different times on different schedules and on more than one parcel of land.

**1060.03.34** “Retention basin” is a temporary or permanent structure that provides for the storage of stormwater runoff and settling of sediments and has a permanent pool of water.

**1060.03.35** “Runoff” is rainfall, snowmelt, or other water flowing over the ground surface.

**1060.03.36** “Sediment” is soils or other surficial materials transported by surface water as a product of erosion.

**1060.03.37** “Sediment control” is a method employed to prevent eroded sediment from leaving a land disturbance site. Sediment control practices include, but are not limited to, silt fences, sediment logs, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, storm drain inlet protection, and temporary or permanent sediment basins.

**1060.03.38** “Sedimentation” is the process or action of deposition sediment that is determined to have been caused by erosion.

**1060.03.39** “Site” is the land upon which a land disturbance activity is conducted.

**1060.03.40** “Site plan” is a plan or set of plans showing the details of any land disturbance activity including but not limited to the construction of: structures, open, underground, and enclosed drainage facilities, stormwater management facilities, parking lots, driveways, curbs, pavements, sidewalks, bike paths, recreational facilities, ground covers, plantings, landscaping and any grading activities.

**1060.03.41** “Slope” is the incline of a ground surface expressed as a ratio of vertical distance to horizontal distance.

**1060.03.42** “Soil” is naturally occurring surficial deposits overlying bedrock.

**1060.03.43** “Soils engineer” or “geotechnical engineer” is a professional engineer experienced and knowledgeable in the practice of soils engineering.

**1060.03.44** “Soils engineering” or “geotechnical engineering” is the application of the principles of soils mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and/or testing of the construction thereof.

**1060.03.45** “Stabilized” means the disturbed ground surface is fully and uniformly covered by a material that effectively prevents erosion from occurring, with no bare soil exposed. Such materials include, but are not limited to, vegetation, mulch, staked sod, riprap, erosion control blankets, mats, hydromulch and tackifier.

**1060.03.46** “Stripping” is any activity that removes or significantly disturbs the vegetative surface cover including clearing, grubbing of stumps and root mat, and topsoil removal.

**1060.03.47** “Structure” is anything manufactured, constructed or erected which is normally attached to or positioned on land, including buildings, portable structures, earthen structures, roads, parking lots, and paved storage areas.

**1060.03.48** “Topsoil” is the upper layer of soil.

**1060.03.49** “Utility” is any infrastructure used to produce, store, convey, transmit, or distribute communications, data, electricity, power, heat, gas, oil, petroleum products, water (including stormwater), steam, sewage and other similar substances.

**1060.03.50** “Watercourse” means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

**1060.03.51** “Wetland” means transitional land between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, a wetland must: have a predominance of hydric soils; be inundated or saturated by surface water or groundwater at a frequency and duration to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and, under normal circumstances, support a prevalence of hydrophytic vegetation.

**1060.03.52** “Zoning Director” is such person as is appointed as the Zoning Director of the City by the City Council from time to time.

**1060.04 Liability and Relation to Other Laws.** Neither this Section 1060 nor any administrative decision made under it exempts the permittee, landowner, or any other person from procuring other required permits or complying with the requirements and conditions of such a permit, or limits the right of any person to maintain, at any time, any appropriate action, at law or in equity, for relief or damages against the permittee or any other person arising from the activity regulated by this Section 1060.

The permittee and landowner are jointly and severally responsible for safely and legally completing the project. Neither the approval of a plan under the provisions of this Section 1060, nor the compliance with the provisions hereto or with any condition imposed by the Issuing Authority, shall relieve any person from responsibility for damage to persons or property resulting therefrom, or as otherwise imposed by law, nor impose any liability upon the City for damages to persons or property.

**1060.05 Exemptions.** The following activities are exempt from the plan approval and permitting provisions of this Section 1060:

**1060.05.01** Emergency work to protect life, limb, or property and emergency repairs. If the land disturbing activity would have required an approved PESC or AESC plan except for the emergency, then, as soon as possible after the emergency is done, the land area disturbed shall be stabilized in accordance with the requirements of this Section 1060.

**1060.05.02** Existing nursery and agricultural operations conducted as a permitted main or accessory use.

**1060.05.03** Construction, installation and maintenance of utility lines (electric, telephone, cable television, water, sewer, and gas) or individual service connections to these utilities, unless one (1) acre or more is impacted.

**1060.05.04** Installation of septic tank lines or drainage fields unless included in an overall plan for a land disturbance activity relating to construction of a building to be served by the septic tank system.

**1060.05.05** Tilling, planting or harvesting of agricultural, horticultural or silviculture crops.

**1060.05.06** Land disturbance activities impacting less than one-half (1/2) acre and/or involving placement of less than seventy-five (75) cubic yards of fill material for which a PESC plan or AESC plan is not required under this Section 1060.

**1060.06 Manner of Work.** Any land disturbance activity whether subject to this Section 1060 or otherwise, shall be undertaken in a manner designed to minimize surface runoff, erosion and sedimentation. Whenever the Erosion Control Inspector determines that any land disturbance activity on any private property has become a hazard to life or limb, or endangers the property of another, or adversely affects the safety, use, slope, or soil stability of a public road, publicly controlled wetland, or watercourse, then the landowner of the property upon which the land disturbance activity is located, or other person or agent in control of said property, upon receipt of notice in writing, shall within the period specified therein repair or eliminate such conditions. Exempt activities under Section 1060.05 are also subject to the provisions of this Section and Section 1060.20.

**1060.07 Erosion and Sediment Control Plan Required.** A PESC or AESC plan that identifies the materials, methods, and practices to be used to meet the requirements of this

Section 1060 must be submitted to the Issuing Authority for review and approval before any City permit is issued for a project subject to the provisions of this Section. The plans shall be drawn to an appropriate scale and shall include sufficient information to evaluate the environmental characteristics of the affected areas, the potential impacts of the proposed grading on water resources, and measures proposed to minimize soil erosion and off-site sedimentation. Plans are required as follows:

**1060.07.01 Projects disturbing one-half (1/2) acre or more.** A PESC plan is required for any land disturbance activity disturbing one-half (1/2) acre or more. This applies to all commercial, institutional, industrial, and residential projects. The plan shall be prepared in accordance with Section 1060.09. If such construction activities are part of a larger common plan of development or site disturbing one (1) acre or more, the permittee must also obtain an NPDES permit from the Minnesota Pollution Control Agency and comply with all requirements contained therein.

**1060.07.02 Projects disturbing less than one-half (1/2) acre.** For land disturbance activities impacting less than one-half (1/2) acre, a PESC or AESC plan is required in accordance with this Section. If such construction activities are part of a larger common plan of development or site disturbing one (1) acre or more, the permittee must also obtain an NPDES permit from the Minnesota Pollution Control Agency and comply with all requirements contained therein.

**1060.07.02.01** An AESC plan, prepared in accordance with Section 1060.10, is required for the construction of new homes, multi-family dwellings, and commercial buildings of any size.

**1060.07.02.02** An AESC plan, prepared in accordance with Section 1060.10, is required for the construction of new garages, accessory structures, or additions four hundred (400) square feet or more in size. An AESC plan may also be required for smaller structures if the Issuing Authority determines it is necessary based on the nature of the project and site conditions.

**1060.07.02.03** A PESC or AESC plan may be required for any project subject to a land alteration permit, wetland replacement plan, de minimus exemption, special use permit, or any other City permit or authorization, if the Issuing Authority determines it is necessary based on the nature of the project and site conditions.

**1060.08 Erosion and Sediment Control Plan Approval.** In accordance with Section 1060.07, a PESC or AESC plan must be submitted for review and approval before a project is authorized and before any land disturbing activities begin. Prior to plan approval, the Issuing Authority may require an onsite pre-construction meeting with the applicant, landowner, contractor and/or their agents to better assess field conditions and the adequacy of a submitted PESC or AESC plan. No City permit will be issued for any land disturbing activity for which a PESC or AESC plan is required without an approved PESC or AESC plan.

**1060.08.01** If the Issuing Authority determines that a PESC or AESC plan does not meet the requirements of this Section 1060, he/she shall notify the applicant in writing. The PESC or AESC plan must then be revised and resubmitted for review and approval. No permit will be issued for the project until the PESC or AESC plan is approved.

**1060.09 Professionally-Prepared Erosion and Sediment Control Plan.** A PESC plan must be prepared and certified by a professional engineer or another qualified individual acceptable to the Issuing Authority. The PESC plan shall incorporate measures sufficient to meet the requirements of Section 1060.12. At a minimum, the information listed below must be included in the PESC plan.

**1060.09.01 Narrative Description.** The narrative description of the project shall include:

**1060.09.01.01** The names, addresses, and telephone numbers of the landowner, the applicant, the person responsible for executing the plan during construction, and the person who prepared the plan.

**1060.09.01.02** A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).

**1060.09.01.03** Total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavation, filling or grading, including off-site borrow areas).

**1060.09.01.04** An estimate of the impervious area and percent of imperviousness created by the land disturbance activity.

**1060.09.01.05** Existing data describing the soil and, if available, the quality of any known pollutant discharge from the site that may result from previous contamination caused by prior land uses.

**1060.09.01.06** A description of prior land uses at the site.

**1060.09.01.07** A description of wetlands, streams, and other surface waters within one (1) mile of the project boundaries, which will be disturbed or which will receive stormwater runoff discharges from disturbed areas of the project.

**1060.09.01.08** A chronological implementation schedule which describes the sequence of major soil disturbing operations (i.e., grubbing, excavating, grading, utilities and infrastructure installation) and the corresponding erosion and sediment controls to be employed during each step of the sequence. The schedule must provide for stabilization of exposed soils within seven (7) days of inactivity.

**1060.09.01.09** A description of, and specifications for, all temporary and permanent erosion and sediment control measures to be implemented throughout construction, from ground breaking through final stabilization, including:

construction phasing, erosion control methods and materials, dewatering methods, inlet protection methods, perimeter controls, stockpile controls, sediment retention structures, temporary and permanent vegetative controls, seeding mixture and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of fertilizer application, and quantity and type of mulch. Estimated quantities and costs for all materials shall be included.

**1060.09.01.10** A description of practices to be implemented for management of solid and liquid wastes and concrete washout.

**1060.09.02 Site Map.** The site map shall show:

**1060.09.02.01** The location of the project site in relationship to the surrounding area, including streams, wetlands, lakes, roads, and other significant structures and geographic features.

**1060.09.02.02** Limits of land disturbance activity, including off-site spoil and borrow areas.

**1060.09.02.03** Clear delineation of any areas not to be disturbed (such as wetlands, required buffer areas, or other areas of vegetation or trees to be saved).

**1060.09.02.04** Soils types should be depicted for all areas of the site, including locations of unstable or highly erodible soils.

**1060.09.02.05** Contours for existing and proposed topography. Dividing lines and direction of flow for all pre- and post-construction stormwater runoff drainage areas within the project limits must be included.

**1060.09.02.06** Locations of wetlands, streams, lakes, water wells, the one hundred (100) year floodplain, and any other significant water features on or adjacent to the site.

**1060.09.02.07** Storm drainage system, including natural or artificial water storage detention areas, and drainage ditches. Quantities of flow and site conditions around all points of surface water discharge from the site shall be included.

**1060.09.02.08** Existing and planned locations of buildings, roads, parking facilities, and utilities.

**1060.09.02.09** The locations of all erosion and sediment control practices, including areas designated for stockpiles and areas likely to require temporary stabilization during the course of site development.

**1060.09.02.10** Sediment ponds, including their sediment settling volume and contributing drainage area.

**1060.09.02.11** Areas designated for the storage or disposal of solid, sanitary and toxic wastes, including dumpster areas, areas designated for concrete washout, and vehicle fueling.

**1060.09.02.12** The location of designated stoned construction entrances where the vehicles will enter and exit the construction site.

**1060.09.02.13** The location of any in-stream activities including stream crossings.

**1060.09.02.14** For subdivided developments where the PESC plan does not call for a centralized sediment control capable of controlling multiple individual lots, a detailed drawing of a typical individual lot showing standard individual lot erosion and sediment control practices may also be required.

**1060.09.03 Soils Engineering Report.** A soils engineering report prepared by a qualified soils engineer may be required if the Issuing Authority determines that the condition of the soils is unknown or unclear to the extent that additional information is required to protect against erosion or other hazard. The report shall be based on adequate and necessary test borings and shall contain data regarding the nature of the soils at the site as well as recommendations for grading procedures and stabilization measures. Appropriate measures shall be incorporated in the project's grading plans and/or specifications based on the results of the report.

**1060.09.04 Signed Statement.** The applicant must provide a signed statement that the proposed land disturbing activities will be done pursuant to the PESC plan. If the applicant is not the landowner, then both parties must provide a signed statement.

**1060.09.05 Verification of NPDES Permit Coverage.** For any project subject to the NPDES permit, the applicant may also be required to provide copies of documents such as the NPDES permit application and/or the permit modification form to demonstrate that proper NPDES permit coverage has been obtained.

**1060.10 Abbreviated Erosion and Sediment Control Plan.** An AESC plan is prepared by completing a form provided by the City. An AESC plan may be completed by the applicant or landowner and does not need professional certification. An AESC plan must provide the following information:

**1060.10.01** The names, addresses, and telephone numbers of the applicant and the landowner.

**1060.10.02** A description of the project including location, area to be disturbed, and the type of project (e.g., new home construction, fill project, etc.).

**1060.10.03** Materials and methods to be used for erosion and sediment control (including soil stabilization, perimeter control, entrance stabilization, and inlet protection method) and waste control (including solid waste and concrete washout).

Additional information may be required if deemed necessary by the Issuing Authority.

**1060.10.04** A site plan showing the limits of disturbance, grade, property boundaries, existing and proposed structures, surface waters, and the locations of all erosion and sediment control devices.

**1060.10.05** A signed statement assuring that the proposed land disturbing activities will be done pursuant to the AESC plan. If the applicant is not the landowner, then both the applicant and the landowner must sign the form.

**1060.10.06** For any project subject to the NPDES permit, the applicant may also be required to provide copies of documents such as the NPDES permit application and/or the permit modification form to demonstrate that proper NPDES permit coverage has been obtained.

**1060.11 Changes to Plans.** All changes or modifications to an approved PESC or AESC plan must adhere to the following conditions:

**1060.11.01** If site inspections reveal that the BMPs included in an approved PESC or AESC plan are not effective or are inadequate, then the plan must be amended to include additional or modified BMPs. Such changes must be documented in written form, kept onsite, and provided to the Erosion Control Inspector upon request.

**1060.11.02** If work is not being done in conformance with an approved PESC or AESC plan due to delays in obtaining materials, machinery, services or manpower necessary to implement the plan as scheduled, the permittee shall notify the Issuing Authority.

**1060.11.03** Requests for major modifications to an approved PESC or AESC plan, as determined by the Issuing Authority, must be submitted in writing to the Issuing Authority for review and approval.

**1060.12 Best Management Practices.** Best management practices (BMPs) for erosion and sediment control must be implemented throughout construction in accordance the approved PESC or AESC plan. The BMPs identified in the PESC or AESC plan must be selected, installed, and maintained in an appropriate and functional manner that is in accordance with relevant manufacturer specifications, accepted engineering practices, and the requirements of this Section. The BMPs employed must be adequate to prevent transportation of sediment from the site.

**1060.12.01 Erosion Prevention Practices**

**1060.12.01.01** The area of disturbance shall be minimized to the extent possible.

**1060.12.01.02** The permittee must plan for and implement appropriate construction phasing, vegetative buffer strips, horizontal slope grading, and other construction practices that minimize erosion. The location of areas not to be

disturbed must be delineated (e.g. with flags, stakes, signs, silt fence etc.) on the development site before work begins.

**1060.12.01.03** All exposed soil areas must be stabilized as soon as possible to limit soil erosion but in no case later than seven (7) days after the construction activity in that portion of the site has temporarily or permanently ceased. Temporary stockpiles without significant silt, clay or organic components (e.g., clean aggregate stockpiles, demolition concrete stockpiles, sand stockpiles) and the constructed base components of roads, parking lots and similar surfaces are exempt from this requirement.

**1060.12.01.04** Any temporary or permanent drainage ditch or swale that drains water from any portion of the construction site, or diverts water around the site, must be stabilized within two hundred (200) lineal feet from the property edge, or from the point of discharge into any surface water. Stabilization must be completed within twenty-four (24) hours after connecting to a surface water.

**1060.12.01.05** Pipe outlets must be stabilized with temporary or permanent measures adequate to prevent erosion and scouring within twenty-four (24) hours after connection to a surface water.

## **1060.12.02 Sediment Control Practices**

**1060.12.02.01** Sediment control practices must be established on all down gradient perimeters before any up gradient land disturbing activities begin. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed. These practices shall remain in place until final stabilization has been established.

**1060.12.02.02** Sediment control practices must minimize sediment from entering adjacent properties and surface waters, including curb and gutter systems and storm sewer inlets.

**1060.12.02.02.01** Temporary or permanent drainage ditches and sediment basins that are designed as part of a sediment containment system (e.g., ditches with rock check dams) require sediment control practices only as appropriate for site conditions.

**1060.12.02.02.02** If the down gradient treatment system is overloaded, additional upgradient sediment control practices or redundant BMPs must be installed to eliminate the overloading.

**1060.12.02.02.03** In order to maintain sheet flow and minimize rills and/or gullies, there shall be no unbroken slope length of greater than seventy-five (75) feet for slopes with a grade of 1:3 (vertical: horizontal), or steeper.

**1060.12.02.02.04** Redundant sediment controls, with a ten (10)-foot

undisturbed vegetative buffer strip in between, may be required at the base of any disturbed slope and/or stockpile in the project area that is immediately adjacent to a wetland or other sensitive surface water.

**1060.12.02.03** The timing of the installation of sediment control practices may be adjusted to accommodate short-term activities such as clearing or grubbing, or passage of vehicles. Any short-term activity must be completed as quickly as possible and the sediment control practices must be installed immediately after the activity is completed. However, sediment control practices must be installed before the next precipitation event even if the activity is not complete.

**1060.12.02.04** All storm drain inlets must be protected during construction until all sources with potential for discharging to the inlet have been stabilized. Inlet protection may be removed for a particular inlet if a specific safety concern (street flooding/freezing) has been identified and approved by the Erosion Control Inspector.

**1060.12.02.05** Temporary soil stockpiles must have silt fence or other effective sediment controls, and cannot be placed in surface waters, including stormwater conveyances such as curb and gutter systems, or conduits and ditches unless there is a bypass in place for the stormwater. Redundant controls may be required if a stockpile is positioned immediately adjacent to a wetland or other sensitive surface water.

**1060.12.02.06** Vehicle tracking of sediment from the construction site (or onto streets within the site) must be minimized by the use of measures such as stone pads, concrete or steel wash racks, or equivalent systems at the designated construction site access road. Street sweeping must be used if such practices are not adequate to prevent sediment from being tracked onto the street. Tracked sediment must be removed from all paved surfaces within twenty-four (24) hours of discovery.

**1060.12.02.07** Adequate control measures are required for discharge water that contains suspended solids. All water from dewatering or basin draining activities must be discharged in a manner that does not cause nuisance conditions, erosion in receiving channels or on downslope properties, or adverse impacts to wetlands.

**1060.12.02.08** For projects covered by an NPDES permit, temporary sedimentation basins must be installed in accordance with Part III.B of the permit.

**1060.12.02.09** Sediment traps and basins located within a densely populated area or in the proximity of an elementary school, playground or other area where small children may congregate without adult supervision may require additional safety related devices.

**1060.12.03 Non-Sediment Pollutant Controls.** No solid or liquid waste, including building materials, shall be discharged from the construction site into stormwater

runoff. The permittee must implement appropriate management practices to prevent toxic materials, hazardous materials, or other debris from entering streets, storm sewers, ditches, streams, wetlands, and other surface waters.

**1060.12.03.01 Solid Waste Materials.** All solid waste materials, including asphalt, sediment, garbage, plastic, plaster, drywall, fabric, grout, gypsum, and any other construction or demolition debris, must be managed to prevent flow obstructions and offsite discharges. Disposal shall be in accordance with state regulations.

**1060.12.03.02 Concrete Washout.** Onsite concrete washout materials must be fully contained and limited to a designated area. The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. Disposal shall be in accordance with state regulations.

**1060.12.03.03 Toxic or Hazardous Waste Materials.** Oil, gasoline, paint and any other toxic or hazardous substances shall be stored in a manner to prevent spills, leaks, or other discharges. Disposal shall be in compliance with state regulations.

**1060.12.04 Inspections And Maintenance.** The permittee, landowner, or his/her agent shall make regular inspections of all erosion and sediment control BMPs to determine their overall effectiveness, the need for maintenance, and need for additional control measures. All nonfunctional BMPs must be repaired, replaced, or supplemented with functional BMPs at the cost and expense of the permittee or landowner as the case may be. All inspections and maintenance shall be documented in written form, kept onsite, and provided to the Erosion Control Inspector upon request.

**1060.12.04.01** The entire construction site must be routinely inspected at least once every seven (7) days during active construction and within twenty-four (24) hours after a rainfall event greater than one-half (1/2) inch in twenty-four (24) hours. Following an inspection which occurs within twenty-four (24) hours after a rainfall event, the next inspection must be conducted within seven (7) days after that.

**1060.12.04.02** Silt fences must be repaired, replaced, or supplemented when they become non-functional or the sediment reaches one-third (1/3) of the height of the fence. Repairs must be made within twenty-four (24) hours after discovery, or as soon as field conditions allow.

**1060.12.04.03** Temporary or permanent sedimentation basins must be drained and sediment removed when the depth of sediment collected in the basin reaches 1/2 the storage volume.

**1060.12.04.04** Surface waters, including drainage ditches and conveyance systems must be inspected for evidence of erosion and sediment deposition. Deposited sediments must be removed.

**1060.12.04.05** Infiltration areas must be inspected to ensure that no sediment from the construction activity is reaching the infiltration area and that the area is protected from compaction from construction equipment.

**1060.12.04.06** If sediment escapes the construction site, offsite accumulations must be removed in a manner and at a frequency sufficient to minimize offsite impacts.

**1060.12.04.07** Temporary stabilization measures must be maintained and enhanced as needed to limit soil erosion until final stabilization has been established in accordance with Section 1060.12.05. Uniform coverage must be maintained on all disturbed areas, leaving no bare soil exposed.

**1060.12.04.08** After construction is complete, the landowner, permittee, or their agent shall continue to regularly inspect the vegetation until adequate turf establishment or other suitable vegetative cover is established.

#### **1060.12.05 Final Stabilization.**

**1060.12.05.01** To achieve final stabilization after completion of land disturbance activities, all soils must be stabilized by a uniform perennial vegetative cover with a density of 70% over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions.

**1060.12.05.02** Temporary, synthetic sediment control devices must be removed after vegetation is established.

**1060.12.05.03** The permanent stormwater management system must be fully functional and in conformance with the requirements of Section 1080 of the Hermantown City Code and the NPDES permit. Sediments shall be removed from retention basins as needed to restore the basins to their original design capacity.

**1060.13 Land Alteration Permit Required.** Except as exempted in Section 1060.05, no person may authorize or engage in any of the following land disturbance activities without first obtaining a land alteration permit from the Zoning Director, unless that same activity is already authorized by an active building permit, commercial development permit, or another permit issued by the City.

**1060.13.01** Placement of seventy-five (75) or more cubic yards of fill material on any site, regardless of the size of the area disturbed.

**1060.13.02** Any land disturbance activity impacting one-half (1/2) or more acre(s).

**1060.13.03** Any land disturbance activity impacting less than one-half (1/2) acre, if the Zoning Director determines that a PESC or AESC plan is needed to protect life or limb, protect the property of another, protect the safety, use, slope or soil stability of a public road, protect wetland(s) or watercourse(s) or otherwise protect the health, safety and general welfare of the public.

**1060.13.04** Placement of less than seventy-five (75) cubic yards of fill material, if the Zoning Director determines that a PESC or AESC plan is needed to protect life or limb, protect the property of another, protect the safety, use, slope or soil stability of a public road, protect wetland(s) or watercourse(s) or otherwise protect the health, safety and general welfare of the public.

**1060.14 Land Disturbances in Wetlands, Shorelands, and Floodplain Areas.** The exemptions and conditions for obtaining land alteration permits issued under this Section 1060 apply only to upland sites. Any land disturbance activity within a designated wetland, shoreland area, or floodplain management area, regardless of the area disturbed or the quantity of fill material placed, must be carried out in accordance with all applicable zoning restrictions and regulations.

**1060.15 Permit Duration.** Land alteration permits issued under this Section 1060 shall be valid for the period during which the proposed land disturbance activity takes place or is scheduled to take place, whichever is shorter, but in no event shall such a permit be valid for more than one (1) year.

**1060.15.01 Permit Renewals/Extensions.** The permittee shall fully perform and complete all of the work required in the sequence shown on the PESC or AESC plan within the time limit specified in the permit. Prior to the expiration of a permit issued under this Section 1060, the permittee may present a written request for an extension to the Issuing Authority. If, in the opinion of the Issuing Authority, an extension is warranted, a one-time no fee extension, not to exceed one (1) year, may be granted. The Issuing Authority may authorize additional extensions for a period to be determined by the Issuing Authority for a fee determined from time to time by the City Council.

**1060.16 Conditions of Approval.** In granting any permit pursuant to Section 1060, the Issuing Authority may impose such conditions as may be reasonably necessary to prevent creation of a nuisance or unreasonable hazard to persons or to a public or private property. Such conditions shall include (even if not specifically written in the permit), but need not be limited to:

**1060.16.01** The granting (or securing from others) and the recording in St. Louis County land records of easements for drainage facilities, including the acceptance of their discharge on the property of others, and for the maintenance of slopes or erosion control facilities.

**1060.16.02** Adequate control of dust by watering, or other control methods acceptable to the Issuing Authority, and in conformance with applicable air pollution ordinances.

**1060.16.03** Improvements of any existing grading, ground surface or drainage condition on the site (not to exceed the area as proposed for work or development in the application) to meet the standards required under Section 1060 for new grading, drainage and erosion control.

**1060.16.04** Sediment traps and basins located within a densely populated area or in the proximity of an elementary school, playground or other area where small children may congregate without adult supervision may be requested to install additional safety related devices.

**1060.17 City Inspections.** The City may carry out scheduled and/or random inspections at any land disturbance site throughout the duration of the project and until final stabilization is achieved as deemed necessary to determine compliance with the an approved PESC or AESC plan and other provisions of Section 1060.

**1060.17.01** In making application for a permit from the City for any project requiring a PESC or AESC plan, the landowner performing or allowing such work consents to the Erosion Control Inspector having the right 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. This does not include consent to enter into any building which is completed and which has been secured, but does include consent to inspect any area of the site where land disturbance activity is occurring or is thought to be planned at the project site.

**1060.17.02** When deemed necessary by the Issuing Authority, onsite inspection and approval of installed sediment controls may be required before up gradient land disturbing activities can begin.

**1060.17.03** For projects where a security is required, the Erosion Control Inspector shall complete a final inspection with the permittee and/or permittee's representative to assess whether all requirements for final stabilization have been met, in accordance with Section 1060.12.05. Within seven (7) days of the inspection, the Erosion Control Inspector will issue a written notice to the permittee as to whether all requirements for final stabilization have been met. If all requirements have not been met, the notice will include a detailed description of what needs to be accomplished in order to achieve final stabilization. The security shall be released only when all requirements for final stabilization have been met.

**1060.18 Security.** An applicant who is required to submit a PESC plan is also required to file with the City a bond, letter of credit or other surety to insure compliance with the approved plan. The amount of the surety shall be equal to the estimated cost of

implementing the entire PESC plan, from beginning to end (including cost of materials, installation, inspection, and maintenance), plus 25%. The form of such surety shall be subject to approval by the City Attorney.

**1060.18.01** No security will be released until a final inspection has been conducted and the Erosion Control Inspector confirms in writing that final stabilization has been achieved, in accordance with Section 1060.17.03.

**1060.19 Permittee Responsibility.** The permittee, his/her agent, contractors and employees shall carry out the proposed work in accordance with the requirements of Section 1060 and the approved PESC or AESC plan at all times. The design, testing, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards and specifications contained in the approved PESC or AESC plan.

**1060.19.01** A copy of the approved PESC or AESC plan and inspection records shall be onsite and available for inspection during all working hours.

**1060.19.02** The permittee shall take action as needed to prevent soils from being deposited onto adjacent properties, rights-of-ways, public storm drainage system, or wetland or watercourse.

**1060.19.03** Notwithstanding other conditions or provisions of a City-issued permit, or the minimum standards set forth in this Section 1060, the permittee is responsible for the prevention of damage to adjacent property. No person shall grade on land in any manner, or so close to the property line as to endanger or damage any adjoining public street, sidewalk, alley or any other public or private property without supporting and protecting such property from settling, cracking, erosion, sedimentation or other damage or personal injury which might result.

#### **1060.20 Action Upon Noncompliance.**

**1060.20.01 Notice of Violation.** In the event work does not conform to Section 1060 or to an approved PESC or AESC plan or to any instructions of the Erosion Control Inspector, compliance may be ordered by written notice of violation to the violator and/or to the landowner. Failure to address a notice of violation in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this Section.

In the case of work for which there is a permit, the notice of violation shall be mailed by first class mail, postage pre-paid, to the address listed by the permittee on the permit. In the case of work for which there is no permit, the notice of violation shall be mailed to the person(s) listed as the taxpayer and/or landowner by the records of the St. Louis County Auditor.

After a notice of violation is given, the landowner, permittee, or his/her contractor shall be required to make the corrections within the time period determined by the

Issuing Authority. If an imminent hazard exists, the Erosion Control Inspector may require that the corrective work begin immediately. The notice of violation shall contain:

**1060.20.01.01** the name and address of the landowner and/or to the violator;

**1060.20.01.02** the address when available or a description of the building, structure or land upon which the violation is occurring;

**1060.20.01.03** a statement specifying the nature of the violation;

**1060.20.01.04** a description of the remedial measures necessary to achieve compliance with this Section and a deadline for the completion of such remedial action;

**1060.20.01.05** a statement advising that, should the violation not be remedied or restored within the established deadline, the work may be done by the City or a contractor, and the expense thereof shall be charged to the land, landowner and/or violator; and

**1060.20.01.06** a statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed or against the land upon which the violation is originating or occurring.

**1060.20.02 Stop Work Order.** The Erosion Control Inspector may issue a stop work order for the entire project or any specified part thereof when an imminent hazard exists and/or for failure to comply with the requirements set forth in a notice of violation. Upon issuance of a stop work order, all work must stop immediately except that work which is required to attain compliance with Section 1060. A stop work order shall remain in effect until the Erosion Control Inspector confirms that the land disturbance activity is in compliance and the violation has been satisfactorily addressed.

**1060.20.02.01** For the purposes of this section, a stop work order is validly posted by posting a copy of the stop work order on the site of the land disturbance activity in reasonable proximity to a location where the land disturbance activity is taking place. Additionally, a copy of the order, in the case of work for which there is a permit, shall be mailed by first class mail, postage pre-paid, to the address listed by the permittee on the permit. In the case of work for which there is no permit, a copy of the order shall be mailed to the person(s) listed as the taxpayer and/or landowner by the records of the St. Louis County Auditor.

**1060.20.03 Enforcement Measures.** If a violation has not been corrected pursuant to the requirements set forth in the notice of violation and/or stop work order, then representatives of the City may take any and all measures necessary to abate the violation and/or restore the land. It shall be unlawful for any person, landowner, agent or person in possession of any land to refuse to allow the government agency or

designated representative to enter upon the land for the purposes set forth above. The remedies available to the City shall include:

**1060.20.03.01** Criminal prosecution;

**1060.20.03.02** Injunctive relief pursuant to Section 1060.20.05 of this Section;

**1060.20.03.03** Collection of administrative and remediation costs, including attorney's fees, court costs, labor, use of equipment, sampling and monitoring costs, and other expenses associated with enforcement of this Section;

**1060.20.03.04** Imposition of costs of abatement pursuant to Section 1060.20.04 of this Section;

**1060.20.03.05** Immediate revocation of and/or suspension of the processing of any and all City permits for which the landowner or violator has applied, even if said permits are not connected to the land where the violation is occurring;

**1060.20.03.06** Suspension of City sewer and water services at the property where the violation is occurring;

**1060.20.03.07** Withholding of the certificate of occupancy for the property where the violation is occurring; and

**1060.20.03.08** Enforcing the provisions of Section 1060.20.06 of this Section.

**1060.20.04 Abatement of Violation** If a violation continues for ten (10) days beyond the deadline set forth in the notice of violation and/or stop work order, the Issuing Authority may issue a notice of intent to the landowner and/or violator of the City's intent to perform work necessary to comply with Section 1060. The City may go on the site and commence work fourteen (14) days after issuing the notice of intent. After abatement of the violation, the landowner and/or violator will be notified of the cost of abatement, including attorney's fees and administrative costs. The landowner and/or violator may file a written protest objecting to the amount of the assessment within ten (10) calendar days with the City Clerk of the City.

The costs incurred by the Issuing Authority to perform the abatement work shall be paid by the landowner out of the security referenced in Section 1060.18, to the extent that the amount is covered thereby, with the remainder being directly due and owing to the City by the landowner and/or violator. In the event no permit was issued or no security was posted, the cost, plus interest at the rate authorized by the Issuing Authority, plus a reasonable administrative fee shall be billed to the landowner and/or violator. If in any event the amount due is not paid by the deadline set forth by the decision of the City Council, then the City Clerk shall enter the amount due on the tax roll and collect as a special assessment against the property using the procedures contained in applicable City codes and State law or may collect such amount in whatever manner is allowed or permitted by law.

**1060.20.05 Injunctive Relief.** It shall be unlawful for any person to violate any provision or fail to comply with a notice of violation, a stop work order, or any requirement of this Section 1060. If a person has violated or continues to violate the provisions of this Section, the City may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**1060.20.06 Violations Deemed A Public Nuisance.** In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Section is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's and/or landowner's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**1060.20.07 Criminal Prosecution.** Any person, firm, corporation or agency acting as principal, agent, employee or otherwise, who fails to comply with the provisions of Section 1060 shall be guilty of a misdemeanor. Each day there is a violation of any part of Section 1060 shall constitute a separate offense.

**1060.20.08 Remedies Not Exclusive.** The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Hermantown to seek cumulative remedies.

**Section 2. Effective Date.** The provisions of this Ordinance shall be effective after adoption immediately upon publication once in the official newspaper of the City of Hermantown.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_