

**CHAPTER 34**

**CONSTRUCTION SITE EROSION CONTROL**

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**34.01 AUTHORITY.**

(1) This ordinance is adopted under the authority granted by s. 62.234, Wis. Stats., for cities. This ordinance supersedes all provisions of an ordinance previously enacted under s. 62.23, Wis. Stats., that relate to construction site erosion control. Except as otherwise specified in s. 62.234 Wis. Stats., s. 62.23, 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 same governing body.

(3) The City Council hereby designates the Planning Director to administer and enforce the provisions of this ordinance within Private Property and the Director of Public Works to administer and enforce the provisions of this ordinance within the Public Right-of-Way hereby known as the Administering Authority.

(4) The requirements of this ordinance do not pre-empt 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.

**34.02 FINDINGS OF FACT.** The City Council finds that runoff from land disturbing construction activities and land development activities carries significant amount of sediment and other pollutants to the waters of the state in the City of Green Bay.

**34.03 PURPOSE.** It is the purpose of this ordinance to protect and promote the health, safety and welfare of the people; prevent and control water pollution; prevent and control soil erosion; protect spawning grounds, fish and aquatic life; preserve the natural resources, control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth, to the maximum extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing or construction activity to lakes, streams and wetlands in the City of Green Bay.

**34.04 APPLICABILITY AND JURISDICTION.**

**(1) APPLICABILITY.**

(a) This ordinance applies to the following types of land development or land disturbing construction activities except as provided under sub. (b):

1. Those involving grading, removal of protective ground cover or vegetation, excavation, land filling, or other land-disturbing construction activity affecting a surface area of 4,000 sq. ft. or more.

2. Those requiring a subdivision plat approval or the construction of houses or commercial, industrial, or institutional buildings on lots of approved subdivision plats.

3. Those requiring a certified survey approval or the construction of houses or commercial, industrial, or institutional buildings on lots of approved certified surveys.

4. Those involving street, highway, road, or bridge construction, enlargement, relocation, or reconstruction.

5. A construction site, which has 100 linear feet or greater of land disturbance to a highway, street, driveway, swale, ditch, waters of the state, wetland, protective area, or other non-agricultural drainage facility which conveys concentrated flow. Wetlands shall be delineated in accordance with s. NR 103.08(1m).

6. Those involving the laying, repairing, replacing, or enlarging of an underground pipe, wire, cable, or facility for a distance of 300' or more.

7. A construction site which has 100 cubic yards or greater of excavation volume, filling volume, or some combination of excavation and filling volume.

(b) This ordinance does not apply to the following:

1. Land disturbing construction activity that includes the construction of 1- and 2-family residential dwellings that are not part of a larger common plan of development or sale and that result in less than 1 acre of disturbance. These construction sites are regulated by the Wisconsin Department of Commerce under s. COMM 21.125 Wis. Adm. Code.

2. 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.

3. Nonpoint discharges from agricultural activity areas.

4. Nonpoint discharges from silviculture activities.

5. Mill and crush operations.

(c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites of any size that, in the opinion of the Administering Authority, are 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.

(2) **JURISDICTION.** This ordinance applies to land disturbing construction activity on construction sites and land-developing activities located within the boundaries and jurisdiction of the City of Green Bay.

(3) **EXCLUSIONS.** This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

34.05 **DEFINITIONS.**

(1) “Administering Authority” means a governmental employee, or a regional planning commission empowered under s. 62.234, Wis. Stats., that is designated by the City Council to administer this ordinance.

(2) “Agricultural activity area” means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

(3) “Agricultural production area” means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.

(4) “Average annual rainfall” means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

(5) “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.

(6) “Business day” means a day the office of the Planning Director or Director of Public Works is routinely and customarily open for business.

(7) “Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.

(8) “Common plan of development or sale” means a 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 common plan of development or sale includes, but is not limited to, subdivision plats, certified survey maps, and other developments.

(9) “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.

(10) “Development” means residential, commercial, industrial, institutional, or other land uses and associated roads.

(11) “Division of land” means the creation from one or more parcels or building sites of additional parcels or building sites where such creation occurs at one time or through the successive partition within a 5 year period.

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

(13) “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.

(14) “Extraterritorial” means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.

(15) “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.

(16) “Governing body” means City of Green Bay Common Council.

(17) “Land disturbing construction activity” (or “disturbance”) 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 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, and soil stockpiling.

(18) “MEP” or “maximum extent practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.

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

(20) “Permit” means a written authorization made by the Administering Authority to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

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

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

(23) “Protective area” has the meaning given in S.30.06(6) of the City of Green Bay Post-Construction Storm Water Management Ordinance.

(24) “Responsible party” means any entity holding fee title to the property or performing services to meet the performance standards of this ordinance through a contract or other agreement.

(25) “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.

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

(27) “Separate storm sewer” means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

- (a) Is designed or used for collecting water or conveying runoff.
- (b) Is not part of a combined sewer system.
- (c) Is not draining to a storm water treatment device or system.
- (d) Discharges directly or indirectly to waters of the state.

(28) “Site” means the entire area included in the legal description of the land on which the land disturbing construction activity is proposed in the permit application.

(29) “Stop work order” means an order issued by the Planning Director or Director of Public Works, which requires that all construction activity on the site be stopped.

(30) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.

(31) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats.

#### 34.06 **TECHNICAL STANDARDS.**

(1) **DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS.** All BMPs required to comply with this ordinance shall meet the 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) Technical standards and other guidance identified within the City of Green Bay Storm Water Reference Guide.

(c) For this ordinance, average annual basis is calculated using the appropriate annual rainfall or runoff factor, also referred to as the R factor, or an equivalent design storm using a type II distribution, with consideration given to the geographic location of the site and the period of disturbance.

(d) The USLE and its successors RUSLE and RUSLE2, utilize an R factor which has been developed to estimate annual soil erosion, averaged over extended time periods. The R factor can be modified to estimate monthly and single-storm erosion. A design storm can be statistically calculated to provide an equivalent R factor as an average annual calculation.

(2) **OTHER STANDARDS.** Other technical standards not identified or developed in sub. (1), may be used provided that the methods have been approved by the Administering Authority.

34.07 **PERFORMANCE STANDARDS.**

(1) **RESPONSIBLE PARTY.** The responsible party shall implement an erosion and sediment control plan, developed in accordance with S.34.09 that incorporates the requirements of this section.

(2) **PLAN.** A written erosion and sediment control plan shall be developed in accordance with S.34.09 and implemented for each construction site.

(3) **REQUIREMENTS.** The erosion and sediment control plan shall meet the following minimum requirements to the maximum extent practicable:

(a) **BMPs** shall be designed, installed and maintained to control total suspended solids carried in runoff from the construction site as follows.

1. For construction sites with 1 acre or greater of land disturbing construction activity, reduce the total suspended solids load by 80%, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

2. For construction sites with less than 1 acre of land disturbing construction activity, reduce the total suspended solids load by 80%, on an average annual basis, as compared with no sediment or erosion controls until the construction site has undergone final stabilization. No person shall be required to exceed an 80% sediment reduction to meet the requirements of this paragraph. Erosion and sediment control BMPs may be used alone or in combination to meet the requirements of this paragraph. Credit toward meeting the sediment reduction shall be given for limiting the duration or area, or both, of land disturbing construction activity, or other appropriate mechanism.

3. Soil loss prediction tools that estimate the sediment load leaving the construction site under varying land and management conditions, or methodology identified in subch. V. of ch. NR 151, Wis. Adm. Code, may be used to calculate sediment reduction.

(b) Notwithstanding par. (a), if BMPs cannot be designed and implemented to reduce the sediment load by 80%, on an average annual basis, the plan shall include a written and site-specific explanation as to why the 80% reduction goal is not attainable and the sediment load shall be reduced to the maximum extent practicable.

(c) Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:

1. Prevent tracking of sediment from the construction site onto roads and other paved surfaces. Each site shall have graveled roads, access drives, and parking

areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed at a minimum before the end of each workday, and more frequently if tracking is occurring.

2. Prevent the discharge of sediment as part of site de-watering. Water pumped from the site shall be treated by temporary sedimentation basins or other appropriate controls for the highest dewatering pumping rate. Dewatering must also comply with WDNR rules. Water may not be discharged in a manner that causes erosion of the site or receiving channels.

3. Protect the separate storm drain inlet structure from receiving sediment.

(d) The use, storage and disposal of building materials, debris, garbage, chemicals, cement, concrete truck washout, litter, sanitary waste, toxic materials, hazardous materials, cleaning wastes, and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into storm sewers and waters of the state. However, 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 paragraph provided they have appropriate permits.

(e) Site Erosion Control. The following criteria apply only to land development or land-disturbing construction activities that result in runoff leaving the site:

1. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below in par. 3.(iii). Sheetflow runoff from adjacent areas greater than 10,000 sq. ft. in area shall also be diverted around disturbed areas, unless shown to have resultant runoff velocities of less than 0.5Ft./sec. across the disturbed area for the set of one year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.

2. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.

3. Runoff from the entire disturbed area on the site shall be controlled by meeting either sub. a. and b. or a. and c. and WDNR Technical Standards, whichever is more restrictive.

a. All disturbed ground left inactive for 15 or more days shall be stabilized by mulching, temporary or permanent seeding, sodding, covering with tarps, or equivalent control measures. Seeding and sodding may only be used from May 1 to September 15 of any year. If temporary seeding is used, a permanent cover shall also be required as part of the final site stabilization.

b. For sites with 10 or more acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Sedimentation basins shall be designed, constructed and maintained per WDNR Technical Standards. At a minimum each sedimentation basin shall have a surface area of at least 1% of the area draining to the basin and

at least 3' of depth. Sediment shall be removed to maintain a depth of 3'. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of 1-year design storms having duration from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.

c. For sites with less than 10 acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.

d. Runoff from sites or slopes of 12% or more may require additional or different control methods which are not listed in 3. above.

(f) Any soil or dirt storage piles containing more than 10 cu. yds. of material should not be located with a down slope drainage length of less than 25' to a roadway or drainage channel. If remaining for 15 days or more, the piles shall be stabilized by mulching, vegetative cover, tarps, or other means. Erosion from piles which will be in existence for less than 15 days shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction, soil or dirt storage piles located closer than 25' of a roadway or drainage channel must be covered with tarps or suitable alternative control, when exposed for more than 15 days, and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers.

(4) LOCATION. The BMPs used to comply with this section shall be located prior to runoff entering waters of the state or regional storm water treatment facilities. Regional storm water treatment facilities are appropriate for control of post-construction pollutants, they should not be used for construction site sediment removal.

(5) ALTERNATE REQUIREMENTS. The Administering Authority may establish requirements more stringent than those set forth in this section if the Administering Authority determines that an added level of protection is needed for sensitive resources.

34.08 **PERMITTING REQUIREMENTS, PROCEDURES AND FEES.**

(1) PERMIT REQUIRED. No landowner, land user or responsible party may commence a land disturbing construction activity subject to this ordinance without receiving prior approval of an erosion and sediment control plan for the site and a permit from the Administering Authority.

(2) PERMIT APPLICATION AND FEE. At least one landowner, land user controlling or using the site responsible, or party desiring to undertake a land disturbing construction activity or land developing activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of S.34.09 and shall pay an application fee as shown in the Fee Schedule to the Administering Authority. By submitting an application, the applicant is authorizing the Administering Authority to enter the site to obtain information required for the review of the erosion and sediment control plan.

(3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The Administering Authority shall review any permit application that is submitted with an erosion and sediment control plan, and the required fee. The following approval procedure shall be used:

(a) Within 15 business days of the receipt of a complete permit application, as required by sub. (2), the Administering Authority 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 Administering Authority shall issue the permit.

(c) If the permit application or plan is disapproved, the Administering Authority shall state in writing the reasons for disapproval.

(d) The Administering Authority may request additional information from the applicant. If additional information is submitted, the Administering Authority shall have 15 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 Administering Authority to inform the permit applicant of a decision within 15 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.

(4) **SURETY BOND.** As a condition of approval and issuance of the permit, the Administering Authority may require the applicant to deposit a surety bond, cash escrow, or irrevocable letter of credit to guarantee a good faith execution of the approved erosion control plan and any permit conditions.

(5) **PERMIT REQUIREMENTS.** All permits shall require the responsible party to:

(a) Notify the Administering Authority within 48 hours of commencing any land disturbing construction activity or land developing activity.

(b) Notify the Administering Authority of completion of any BMPs within 5 business days after their installation.

(c) Obtain permission in writing from the Administering Authority prior to any modification pursuant to S.34.09(3) 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, stormwater 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 construction activities or land developing activity and document repairs in weekly inspection reports.

(g) Conduct construction site inspections at least once per week and within 24 hours after a precipitation event of 0.5 inches or greater. Repair or replace erosion and sediment control BMPs as necessary within 24 hours of an inspection or notification that repair or replacement is

needed. Maintain, at the construction site, weekly written reports of all inspections. Weekly inspection reports shall include all of the following: date, time and location of the construction site inspection; the name of individual who performed the inspection; an assessment of the condition of erosion and sediment controls; a description of any erosion and sediment control BMP implementation and maintenance performed; and a description of the present phase of land disturbing construction activity at the construction site.

(h) Allow the Administering Authority 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 control plan.

(i) Keep a copy of the erosion and sediment control plan, storm water management plan, amendments, weekly inspection reports, and permit at the construction site until permit coverage is terminated.

(j) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.

(6) **PERMIT CONDITIONS.** Permits issued under this section may include conditions established by Administering Authority in addition to the requirements set forth in sub. (5), where needed to assure compliance with the performance standards in S.34.07.

(7) **PERMIT DURATION.** 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, from the date of issuance. The Administering Authority may extend the period one or more times for up to an additional 180 days. The Administering Authority may require additional BMPs as a condition of the extension if they are necessary to meet the requirements of this ordinance.

(8) **MAINTENANCE.** 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.

(9) **ALTERNATE REQUIREMENTS.** The Administering Authority may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

(10) **FINAL STABILIZATION.** Upon final stabilization and vegetation of disturbed areas, the best management practices shall be removed.

**34.09 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.**

(1) **PLAN REQUIREMENTS.** The erosion and sediment control plan required under S.34.07(2) shall comply with the City of Green Bay Storm Water Reference Guide and contain at a minimum the following information:

- (a) Name, address, and telephone number of the landowner and responsible parties.
- (b) A legal description of the property proposed to be developed.

(c) A site map of existing site conditions on a scale of at least 1" equals 100' showing the site and immediately adjacent areas:

1. Site boundaries and adjacent lands which accurately identify site location;
2. Lakes, streams, wetlands, channels, ditches, and other water courses on the site and adjacent lands;
3. Location of the 100-year floodplain/floodfringe and floodway.
4. Identification of the predominant soil types;
5. Location and general identification of the vegetative cover;
6. Location and dimensions of stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site;
7. Locations and dimensions of utilities, structures, roads, highways, and paving; and
8. Site topography at a contour interval not to exceed 2'.

(d) Plan of Final Site Conditions. A plan of final site conditions at the same scale as the existing site map showing the site changes.

(e) Site Construction Plan. A site construction plan including:

1. Location and dimensions of all proposed land-disturbing construction or land-developing activities;
2. Locations and dimensions of all temporary soil or dirt stockpiles;
3. Performance standards applicable to the site;
4. Proposed best management practices;
5. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this ordinance;
6. Schedule of anticipated starting and completion date of each land-disturbing construction or land-developing activity, including the installation of construction site erosion control measures needed to meet the requirements of this ordinance; and
7. Provisions for maintenance of the construction site erosion control measures during construction.

(2) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under 34.04(1)(c), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Administering Authority. The control plan statement shall briefly

describe the site, including a site map. Further, it shall also include the best management practices that will be used to meet the requirements of the ordinance, including the site development schedule.

(3) **AMENDMENTS.** 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 plan.

(b) The actions required by the plan fail to reduce the impacts of pollutants carried by construction site runoff.

(c) The Administering Authority notifies the applicant of changes needed in the plan.

(4) **ALTERNATE REQUIREMENTS.** The Administering Authority may prescribe requirements less stringent for applicants seeking a permit for a construction site with less than 1 acre of disturbance.

34.10 **FEE SCHEDULE.** The fees referred to in other sections of this ordinance shall be established by the Administering Authority and may from time to time be modified by resolution. A schedule of the fees established by the Administering Authority shall be available for review in the Planning / Building Inspection Department.

34.11 **INSPECTION.** If land disturbing construction activities are being carried out without a permit required by this ordinance, the Administering Authority may enter the land pursuant to the provisions of ss. 66.0119(1), (2), and (3), Wis. Stats.

34.12 **ENFORCEMENT.**

(1) Building, Site Development, and Services not let to Public Works Contract.

(a) The Administering Authority shall post a stop-work order if:

1. Any land-disturbing construction or land-developing activity regulated under this ordinance is being undertaken without a permit;

2. The erosion control plan is not being implemented in a good faith manner; or

3. The conditions of the permit are not being met.

(b) If the permittee does not cease the activity or comply with the erosion control plan or permit conditions within 10 days, the Administering Authority shall revoke the permit.

(c) If the landowner or land user, where no permit has been issued, does not cease the activity within 10 days, the Administering Authority shall request the City Attorney to obtain a cease and desist order.

(d) The Administering Authority or the Board of Appeals may retract the stop-work order or the revocation.

(e) Ten days after posting a stop-work order, the Administering Authority may issue a notice of intent to the permittee or landowner or land user of the Administering Authority's intent to perform work necessary to comply with this ordinance. The Administering Authority may go on the land and commence the work after 14 days from issuing the notice of intent. The costs of the work performed by the Administering Authority, plus interest, shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the City Clerk shall enter the amount due on the tax rolls and collect as a special charge against the property pursuant to §66.60(16), Wis. Stats.

(f) Compliance with the provisions of this ordinance may also be enforced by injunction, abatement of nuisance, or other available and appropriate remedies.

(g) No building occupancy permit may be issued if any provision herein is not complied with.

(2) Right-of-Way and Public Utility Easements; Public Works Contract.

(a) The Administering Authority shall order construction halted if:

1. The activity regulated under this ordinance is undertaken without a permit;
2. The erosion control plan is not being implemented in a good faith manner; or
3. The conditions of the permit are not being met.

(b) After the Administering Authority notifies the offender of non-compliance, the Director shall take whatever steps are necessary to enforce the plan, including, but not limited to, having the permittee make corrections, using its own forces, or engaging other contractors. The cost of such work by other contractors, plus interest, shall be billed to the permittee.

34.13 APPEALS.

(1) **BOARD OF APPEALS** The Board of Appeals created pursuant to S.13-209 of the City's ordinance pursuant to ss. 62.23(7)(e), Wis. Stats.:

(a) Shall hear and decide appeals for all Building and Site Development Sites where it is alleged that there is error in any order, decision or determination made by the Administering Authority in administering this ordinance except for cease and desist orders obtained under S.34.12 (3).

(b) Upon appeal, 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) **WHO MAY APPEAL.** Appeals to the Board of Appeals may be taken by any aggrieved applicant, permittee, landowner, land user, person or by any office, department, board, or bureau of the City of Green Bay affected by any order, decision or determination of the Administering Authority.

(3) **IMPROVEMENT AND SERVICE COMMITTEE.** Any applicant or permittee performing work within the Public Right-of-Way or Public Utility Easement may appeal any order, decision, or determination made by the Administering Authority in administering this ordinance by giving written notice to the Director of Public Works. The Improvement and Service Committee shall hear the appeal and forward its recommendation to the Common Council for final action.

34.14 **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 not be affected by such judgment.