

CHAPTER 34

CONSTRUCTION SITE EROSION CONTROL
(Amd. GO 13-16)

34.01 Authority
34.02 Findings of Fact
34.03 Purpose
34.04 Applicability and Jurisdiction
34.05 Definitions
34.06 Applicability of Maximum Extent Practicable
34.07 Technical Standards
34.08 Performance Standards for Construction Sites Not Required to be Permitted
34.09 Performance Standards for Construction Sites Required to be Permitted
34.10 Permitting Requirements, Procedures and Fees
34.11 Erosion and Sediment Control Plan, Statement and Amendments
34.12 Fee Schedule
34.13 Inspection
34.14 Enforcement
34.15 Appeals
34.16 Severability

34.01 AUTHORITY.

- (1) This ordinance is adopted under the authority granted by s. 62.234, Wis. Stats. 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 Director of Public Works to administer and enforce the provisions of this ordinance 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; maintain safe and healthful conditions; 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 construction activity to waters of the state, lakes, streams and wetlands in the City of Green Bay.

34.04 APPLICABILITY AND JURISDICTION.

(1) APPLICABILITY.

- (a) The following types of land development or land disturbing construction activities are required to be permitted 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 or certified survey approval or the construction of 1- and 2-family residential dwellings 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. Transportation facilities, except transportation facility construction projects that are part of a larger common plan of development such as local roads within a residential or industrial development.
 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 facilities and practices.
 4. Nonpoint discharges from silviculture activities.
 5. Mill and crush operations.
 6. Routine maintenance for project sites that have less than 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic, capacity or original purpose of the facility.
- (c) Land development or land disturbance activities that do not meet the criteria in (a) or (b) above are non-permitted sites and shall meet the requirements within s.34.08.
- (d) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to construction sites of any size that, as determined by 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) “Agricultural facilities and practices” has the meaning in s. 281.16(1), Wis. Stats.
- (5) “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.
- (6) “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.
- (7) “Business day” means a day that the office of the Director of Public Works is routinely and customarily open for business.
- (8) “Cease and desist order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit or in violation of a permit issued by the Administering Authority.
- (9) “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.
- (10) “Construction site” means an area upon which one or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale where multiple separate and distinct land disturbing construction activities may be taking place at different times on different schedules but under one plan.

- (11) “Design Storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency and total depth of rainfall. The TR-55, Type II, 24-hour design storms for the City of Green Bay are: 1-year, 2.2-inches; 2-year, 2.5-inches; 5-year, 3.3-inches; 10-year, 3.8-inches; 25-year, 4.4-inches; and 100-year, 5.3-inches.
- (12) “Development” means residential, commercial, industrial, institutional, or other land uses and associated roads.
- (13) “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.
- (14) “Erosion” means the process by which the land’s surface is worn away by the action of wind, water, ice or gravity.
- (15) “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.
- (16) “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.
- (17) “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.
- (18) “Governing body” means City of Green Bay Common Council.
- (19) “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.
- (20) “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.
- (21) “Performance standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (22) “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.

- (23) “Pollutant” has the meaning given in s. 283.01 (13), Wis. Stats.
- (24) “Pollution” has the meaning given in s. 281.01 (10), Wis. Stats.
- (25) “Protective area” has the meaning given in S.30.06(6) of the City of Green Bay Post-Construction Storm Water Management Ordinance.
- (26) “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.
- (27) “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.
- (28) “Sediment” means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- (29) “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.
- (30) “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.
- (31) “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.
- (32) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (33) “Transportation facility” means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095 (1)(b), Wis. Stats. “Transportation facility” does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33, Wis. Stats.
- (34) “Type II distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
- (35) “Waters of the state” has the meaning given in s. 281.01 (18), Wis. Stats.

34.06 APPLICABILITY OF MAXIMUM EXTENT PRACTICABLE. Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the administering authority's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making the assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

34.07 TECHNICAL STANDARDS.

- (1) DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS. All BMPs required for compliance 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) Soil loss prediction tools (such as the Universal Soil Loss Equation (USLE)) when using an appropriate rainfall or runoff factor (also referred to as the R factor) or an equivalent design Type II distribution storm, and when considering the geographic location of the site and the period of disturbance.

Note to Users: 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.

- (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.

34.08 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES NOT REQUIRED TO BE PERMITTED.

- (1) RESPONSIBLE PARTY. The landowner of the construction site or other person contracted or obligated by other agreement with the landowner to implement and maintain construction site BMPs is the responsible party and shall comply with this section.
- (2) EROSION AND SEDIMENT CONTROL PRACTICES. Erosion and sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following:
 - (a) The deposition of soil from being tracked onto streets by vehicles.

- (b) The discharge of sediment from disturbed areas into on-site storm water inlets.
 - (c) The discharge of sediment from disturbed areas into adjacent waters of the state.
 - (d) The discharge of sediment from drainage ways that flow off the site.
 - (e) The discharge of sediment by dewatering activities.
 - (f) The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 - (g) The transport by runoff into waters of the state of chemicals, cement, and other building compounds and materials on the construction site during the construction period. 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 subdivision.
- (3) LOCATION. The BMPs shall be located so that treatment occurs before runoff enters waters of the state.
- (4) IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:
- (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin.
 - (b) Erosion and sediment control practices shall be maintained until final stabilization.
 - (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
 - (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.

34.09 PERFORMANCE STANDARDS FOR CONSTRUCTION SITES REQUIRED TO BE PERMITTED.

- (1) RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with S.34.11 that incorporates the requirements of this section.
- (2) EROSION AND SEDIMENT CONTROL PLAN. A written site specific erosion and sediment control plan shall be developed in accordance with S.34.11 and implemented for each construction site.
- (a) PREVENTIVE MEASURES. The erosion and sediment control plan shall also incorporate all of the following:

1. Maintenance of existing vegetation, especially adjacent to surface waters whenever possible.
 2. Minimization of soil compaction and preservation of topsoil.
 3. Minimization of land disturbing construction activity on slopes of 20 percent or more.
 4. Development of spill prevention and response procedures.
- (b) Where appropriate, the plan shall include sediment control practices at each site where land disturbing construction activity is to occur shall be used to prevent or reduce all of the following 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.
 4. The discharge of sediment from disturbed areas into adjacent waters of the state.
 5. The discharge of sediment from drainage ways that flow off the site.
 6. The discharge of sediment eroding from soil stockpiles existing for more than 7 days.
 7. The discharge of sediment from erosive flows at outlets and in downstream channels.
 8. The transport by runoff into waters of the state of untreated wash water from vehicle and wheel washing.
 9. 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.
- (3) **EROSION AND SEDIMENT CONTROL REQUIREMENTS.** The erosion and sediment control plan shall meet the following minimum requirements to the maximum extent practicable:

- (a) BMPs shall be designed, installed, inspected and maintained to control total suspended solids carried in runoff from the construction site as follows.
1. For permitted construction sites 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. 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, shall be used to calculate sediment reduction. The soil loss prediction tool must show that BMPs that, by design, discharge no more than 5 tons per acre per year, or to the maximum extent practicable, of the sediment load carried in runoff from initial grading to final stabilization.
 3. No person shall be required to employ more BMPs than are needed to meet a performance standard in order to comply with maximum extent practicable. Erosion and sediment control BMPs may be combined to meet the requirements of this paragraph. Credit may be given toward meeting the sediment performance standard of this paragraph for limiting the duration or area, or both, of land disturbing construction activity, or for other appropriate mechanisms.
- (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) 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(b) or 3(c). Sheet flow 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 Section 3 above.
- (d) 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) IMPLEMENTATION. The BMPs used to comply with this section shall be implemented as follows:
- (a) Erosion and sediment control practices shall be constructed or installed before land disturbing construction activities begin in accordance with the erosion and sediment control plan developed in S. 34.11.

- (b) Erosion and sediment control practices shall be inspected and maintained until final stabilization.
 - (c) Final stabilization activity shall commence when land disturbing activities cease and final grade has been reached on any portion of the site.
 - (d) Temporary stabilization activity shall commence when land disturbing activities have temporarily ceased and will not resume for a period exceeding 14 calendar days.
 - (e) BMPs that are no longer necessary for erosion and sediment control shall be removed by the responsible party.
- (6) **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.

34.10 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.

- (1) **PERMIT REQUIRED.** No landowner, land user or responsible party may commence a land disturbing 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, party desiring to, or responsible party that will 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.34.11 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) **PERMIT APPLICATION REVIEW AND APPROVAL.** 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 erosion and sediment control plan are approved, the Administering Authority shall issue the permit.
 - (c) If the permit application or erosion and sediment control 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 erosion and sediment control 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 shall 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) Install all BMPs as identified in the approved erosion and sediment control plan.
 - (b) Notify the Administering Authority upon completion of the initial BMP installation to request a BMP inspection prior to commencing further land disturbing construction activity or land developing activity.
 - (c) Notify the Administering Authority within 48 hours of commencing any land disturbing construction activity or land developing activity.
 - (d) Notify the Administering Authority of completion of any supplemental BMPs within 7 calendar days after their installation.
 - (e) Obtain permission in writing from the Administering Authority prior to any modification pursuant to S.34.11(3) of the erosion and sediment control plan.
 - (f) Maintain all road drainage systems, storm water drainage systems, BMPs and other facilities identified in the erosion and sediment control plan.
 - (g) 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 site inspection reports.
 - (h) 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. Submit a copy of the weekly inspection report electronically to the Administering Authority.
 - (i) 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 erosion and sediment control plan.
 - (j) 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.

- (k) 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.34.09.
- (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 number of periods one or more times for up to an additional 180 days for each extension. 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.

34.11 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT, AND AMENDMENTS.

- (1) EROSION AND SEDIMENT CONTROL PLAN REQUIREMENTS. The erosion and sediment control plan required under S.34.09(2) shall 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/flood fringe and floodway.
 4. Identification of the predominant soil types;
 5. Location and general identification of the vegetative cover;
 6. Location and dimensions of storm water 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 with installation details;
 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.
- (f) Submittal of all soil loss prediction tool results and iterations.
- (2) EROSION AND SEDIMENT CONTROL PLAN STATEMENT. For each construction site identified under 34.04(1)(a), 34.04(1)(c) and 34.04(1)(d), an erosion and sediment control plan statement shall be prepared. This statement shall be submitted to the Administering Authority. The erosion and sediment control plan statement shall briefly describe the site, the development schedule, and the BMPs that will be used to meet the requirements of the ordinance. A site map shall also accompany the erosion and sediment control plan statement. 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 erosion and sediment control plan if any of the following occur:
- (a) There is a change in design, construction, operation or maintenance at the site which has the reasonable potential for the discharge of pollutants to waters of the state and which has not otherwise been addressed in the erosion and sediment control plan.
 - (b) There is a change in construction schedule which will impact the duration the construction site is not temporarily or permanently restored.

- (c) The actions required by the erosion and sediment control plan fail to reduce the impacts of pollutants carried by construction site runoff.
- (d) The Administering Authority notifies the applicant of changes that are required in the erosion and sediment control 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.

34.12 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 Department of Public Works – Engineering or Planning / Building Inspection Department.

34.13 INSPECTION. If land disturbing construction activities are occurring 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.

34.14 ENFORCEMENT.

(1) Building, Site Development, and Services not included in a Public Works Contract.

(a) The Administering Authority may post a stop-work order if any of the following occur:

1. Any land-disturbing construction activity or land-developing activity regulated under this ordinance is occurring without a permit;
2. The erosion and sediment control plan is not being implemented in a good faith manner;
or
3. The conditions of the permit are not being satisfied.

(b) If the permittee, responsible party or individual performing the land-disturbing activity does not cease the activity as required in a stop work order posted under this section or fails to comply with the erosion and sediment control plan or permit conditions within 5 days, the Administering Authority shall revoke the permit.

(c) If the landowner or land user, responsible party or individual performing the land-disturbing activity, where no permit has been issued or the permit has been revoked, does not cease the activity within 5 days after being notified by the Administering Authority, or if a responsible party violates a stop work order posted under sub. (a), the Administering Authority shall request the City Attorney to obtain a cease and desist order.

(d) The Administering Authority or the Improvement and Service Committee may retract the stop-work order under sub. (a) or the permit revocation under sub. (b).

(e) Five days after posting a stop-work order under sub. (a), the Administering Authority may issue a notice of intent to the permittee, landowner, land user or responsible party 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, landowner, land user or responsible party. In the event a permittee, landowner, land user or responsible party 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) Any person violating any of the provisions of this ordinance may be subject to forfeiture of not less than \$50 nor more than \$500 and the costs of prosecution of each violation. Each day a violation exists shall constitute a separate offense.
- (g) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction, abatement of nuisance, or other available and appropriate remedies. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (h) 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 and sediment 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 erosion and sediment control 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 or City forces, plus interest, shall be billed to the permittee.

34.15 APPEALS.

- (1) **IMPROVEMENT AND SERVICE COMMITTEE.** The Improvement and Service Committee:
 - (a) Shall hear and decide appeals for all 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.34.14(1)(c).
 - (b) May authorize, upon appeal, 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 in hearing and deciding appeals and authorizing variances.

- (d) Shall forward its recommendation to the Common Council for final action.
- (2) **WHO MAY APPEAL.** Appeals to the Improvement and Service Committee 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 made by the Administering Authority in administering this ordinance.
- (3) A written notice to the Director of Public Works shall be made requesting the appeal to be heard by the Improvement and Service Committee.
- 34.16 **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.