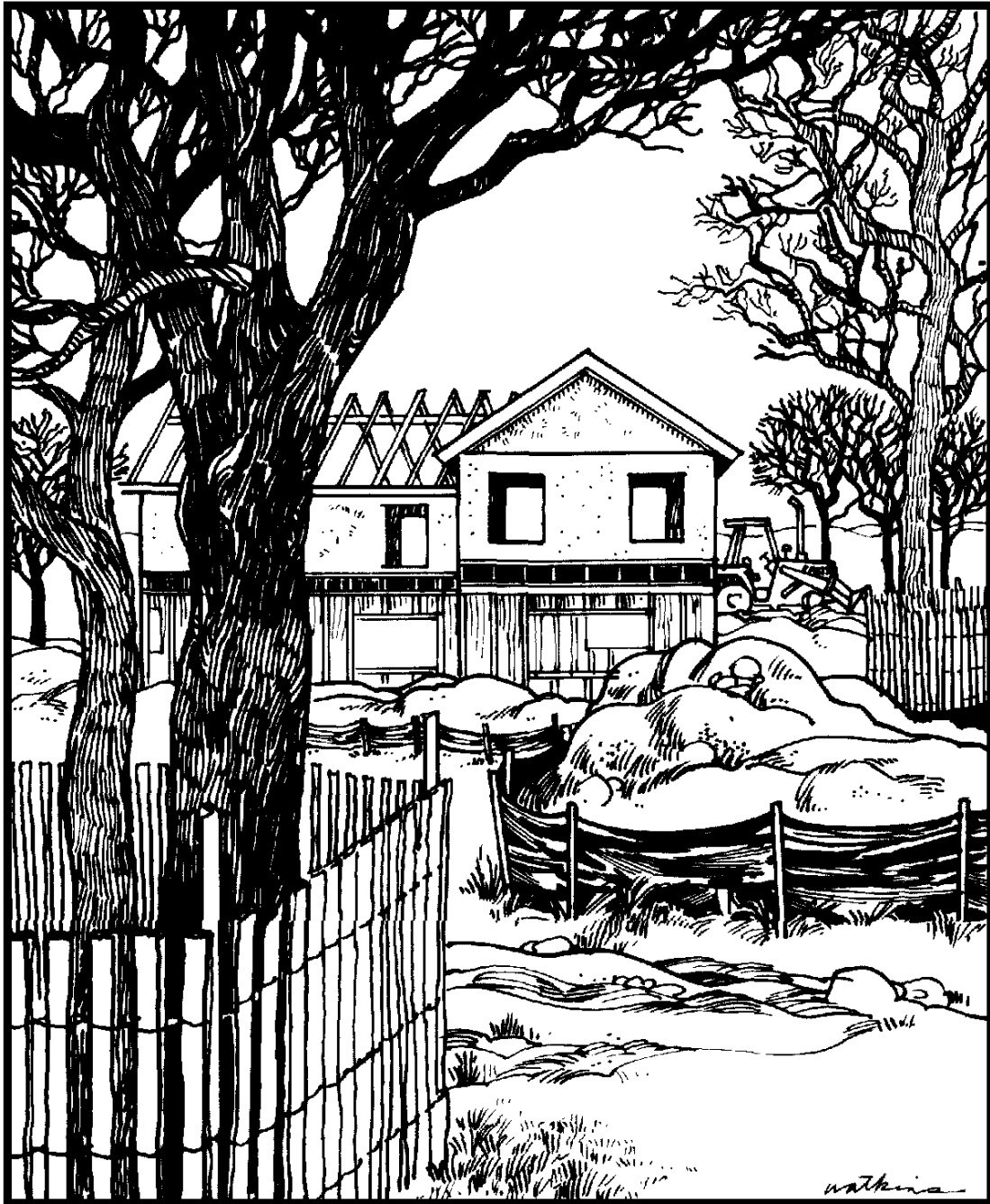




# STORMWATER RUNOFF ORDINANCE



Adams County LWCD November 19, 2007  
(11/20/09 version correcting Section 8.0, 9.0, and 10.0 numbering)

**Adams County  
Stormwater Runoff Ordinance**

**Ordinance #XX-2007**

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Is the Activity:

- Creation or Ultimately Resulting in 4000 Square Feet Impervious Surface?
- Subdivision, Multi-Family Dwelling Units, Commercial, or Industrial Land Development?
- Other Activity Determined to Cause Adverse Impact to Sensitive Area

NO

Site Visit:

- Determine Applicability

YES

Exemptions

- Internally Drained
- 1 & 2 Family Dwelling
- Regulated by Other Agency
- Sites within Incorporated Area

Site Does Not Qualify for Exemptions under Section 8.0  
Permit Process Required see Section 9.0 of Ordinance

Is the Activity:

- Creating Rill or Gully Erosion?
- Unfiltered Runoff Into Waters of The State?

NO

YES

Violation:  
Notice of Violation  
Immediate Corrective Action

Activity is exempt and no permit required under Stormwater Runoff Ordinance

Stormwater Runoff Control Plan  
Stormwater Maintenance Agreement

Adams Natural Resource Manual

- Control Plan Standards
- Maintenance Standards

## **Section 1.0 Title**

- 1.1 Adams County Stormwater Runoff Ordinance for the County of Adams; hereafter referred to as the Ordinance.

## **Section 2.0 Authority for Ordinance**

- 2.1 This ordinance is adopted by the Adams County Board under the authority granted by Sections 59.693 and 92.07(15) and 281 and Chapter 236 Wisconsin Statutes.
- 2.2 Repeal of conflicting Ordinances. This ordinance repeals all provisions of any ordinance previously enacted under s. 59.693 relating to construction site erosion control and storm water management regulations. Wherever there may be a conflict with other county ordinances relating to erosion control, storm water management or site drainage, the more restrictive provision shall apply, as determined by the LWCD.

## **Section 3.0 Findings of Fact**

- 3.1 The Adams County Board of Supervisors finds that unfiltered stormwater runoff and erosion from land disturbance activities can have significant adverse impacts on local surface and ground water resources; on the health, safety, and general welfare of the community; and diminishes the public enjoyment and use of natural resources within Adams County. Specifically, unfiltered post-construction stormwater runoff and erosion from land disturbance activities can:
- Degrade lakes and streams by increasing bank erosion, and negatively altering groundwater recharge and baseflows rates;
  - Diminish the capacity of lakes, streams, and wetlands to support fish, invertebrates, aquatic vegetation, and water supply by increasing pollutants, suspended solids, and heavy metals;
  - Threaten public health, safety, property and general welfare by increasing flood peaks, flood volumes, and overtaxing drainage ways;
  - Diminish water quality due to sediment and nutrient delivery.

## **Section 4.0 Purpose and Intent**

- 4.1 The general purpose of this ordinance is to establish a permit process, require a stormwater runoff control plan and stormwater runoff maintenance plan for applicable projects listed below, regulate all disturbance/development violations within the jurisdictional boundaries, and:
- Prevent and control uncontained rill and gully erosion from negatively impacting waters ways, wetlands, and downstream properties; and
  - Prevent and control the adverse effects of uncontrolled storm water from reaching Waters of the State; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth..
- 4.2 It is the intent of the Adams County Board of Supervisors to regulate stormwater runoff and erosion through a permit process, stormwater runoff control plans, stormwater runoff maintenance plans, and regulate violations within jurisdictional boundaries.

## **Section 5.0 General Administration**

- 5.1 The Adams County Land and Water Conservation Department, under direction of the Adams County Planning and Development Committee, is designated to administer and enforce this ordinance.

## **Section 6.0 Jurisdiction**

6.1 This ordinance applies to towns, and unincorporated areas within the jurisdictional boundaries of Adams County.

## **Section 7.0 Definitions**

(a) “Applicable review authorities” means the Town, the County Zoning Administrator or the County Parks Director, depending on the type of project and its location.

(b) “Applicant” means any person or entity holding fee title to the property or their representative. The applicant shall become the “permit holder” once a permit is issued.

(c) “Best management practice” (or “BMP”) means structural and non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or other pollutants carried in runoff. To determine Stormwater Runoff Control BMPs, reference Adams Natural Resources Manual or obtain Department Approval prior to construction.

(d) “Commercial” means an entity involved in the production, processing, or merchandising of a commodity.

(e) “Common plan of development” means all lands included within the boundary of a certified survey map or subdivision plat created for the purpose of development or sale of property where integrated, multiple, separate and distinct land developing activity may take place at different times by future owners.

(f) “Condominium” means a structure of three or more units, the interior space of which are individually owned; the balance of the property is owned in common by the owners of the individual units.

(g) “County mapping standards” means that the maps are drawn to specifications of the Adams County Automated Land Information Standards, Manual of Standards and Procedures.

(h) “County Zoning Administrator” means the department head of county Planning and Zoning Department.

(i) “Department” means the Adams County Land and Water Conservation Department.

(j) “Erosion” means the process of detachment, transport and deposition of soil, sediment or rock fragments by action of water, wind, ice or gravity.

(k) “Gullies” means large channels cut within the soil surface due to concentrated flow of water

(l) “Individualized Activity” means any stand-alone practice, building, or construction that may or not be associated with a larger purpose.

(m) “Impervious surface” means an area that releases all or a large portion of the precipitation that falls on it, except for frozen soil. Conventional rooftops and asphalt or concrete sidewalks, driveways, parking lots and streets are typical examples of impervious surfaces. For purposes of this ordinance, typical gravel driveways and other examples listed shall be considered impervious unless specifically designed to encourage infiltration or storage of runoff.

- (n) “Industrial” means systematic labor especially for some useful purpose or the creation of something of value
- (o) “Internally Drained Site” means the site shall exhibit all of the following:
- a. Stabilized
  - b. All stormwater runoff is confined within property boundaries during and post construction
  - c. Site is not in violation of Ordinance
- (p) “Land Disturbance Activity” means any of the following:
- a. Structural development, including construction of a new building, parking lot, or other such structures or;
  - b. Expansion or alternation of an existing structure that results in an increase in the surface dimensions of the building, parking lot or other such structures or;
  - c. Creation or expansion of impervious surface or;
  - d. Will ultimately result in the creation or maintenance of a subdivision, condominium, industrial or commercial development.
- (q) “LWCD” means the Land and Water Conservation Department of Adams County. The LWCD County Conservationist supervises the daily activities of the Department, including the administration of this ordinance.
- (r) “Multi-Family Dwelling” means a residential structure designed for or occupied by three or more families including, but not limited to community based residential living facilities, hotels, apartments, condominiums, and quadplexes. The number of families in residence not exceeding the number of dwelling units provided.
- (s) “Permit Holder means any person or entity holding fee title to the property or acting as the owners representative, including any person, firm, corporation or other entity performing services, contracted, subcontracted or obligated by other agreement to design, implement, inspect, verify or maintain the BMPs and other approved elements of erosion control and storm water plans and permits under this ordinance.
- (t) “Pollutant”, as per s. 283.01(13) Wisconsin Statutes, means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, sewage sludge, munitions, chemical wastes, biological materials, biological nutrients, radioactive substance, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.
- (u) “Pollution”, as per s. 283.01(10) Wisconsin Statutes, means man-made or man- induced alteration of the chemical, physical, biological or radiological integrity of water.
- (v) “Publicly funded” means a land development, such as a public road or municipal building, that is being funded solely by a unit of government. It does not include new roads or other structures built with private funds, or a combination of public and private funds, and subsequently dedicated to a unit of government.
- (w) “Qualified Professional” means a person holding specific credentials relevant to the work to be done.
- (x) “Regulatory agency” means a public agency that the LWCD recognizes as having the legal authority to review and approve erosion control and storm water management plans and enforce their implementation, with requirements at least as restrictive as this ordinance.
- (y) “Rill” means small channels cut within the soil surface due to concentrated flow of water

- (z) “Road” means any access drive that serves more than two (2) residences or businesses.
- (aa) “Shoreland” means the area landward of the ordinary high water mark within the following distances: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- (bb) “Site” means the entire area included in the legal description of which the land disturbing or land development activity will occur.
- (cc) “Stabilized” means that all land disturbing activities are completed and that a uniform, perennial vegetative cover has been established on at least 80% of the soil surface or other surfacing material is in place and the risk of further soil erosion is minimal, as determined by the LWCD.
- (dd) “Stormwater Permit” means a written authorization made by the LWCD to the applicant to conduct land development activities in accordance with the requirements of this ordinance. A storm water permit regulates both site erosion and post-construction stormwater runoff from a site.
- (ee) “Stormwater Runoff” means water from rain, snow or ice melt, or dewatering that moves over the land surface via sheet or channelized flow.
- (ff) “Subdivision” means a division of a lot, parcel, or tract of land by the owner thereof or the owner’s agent for the purpose of sale of building development, where:
1. The act of division creates 5 or more parcels or building sites of 1.5 acres each or less in area; or
  2. Five or more parcels or building sites of 1.5 acres each or less in area are created by successive divisions within a period of 5 years.
- (gg) “Technical standard” means a document that specifies design, predicted performance and operation and maintenance requirements for a material, device or method.
- (hh) “Unfiltered” means all stormwater not flowing through a best management practice.
- (ii) “Utility” means a wire, pipe, tube or other conduit designed to distribute or collect a product or service, including but not limited to electricity, natural gas, oil, telecommunications, drinking water, storm water, sewage, or any combination of these items.
- (jj) “Vegetative plantings” means seed or plant stock upon maturity, generally has a deep root system, which enhances infiltration and prevents erosion.
- (kk) “Waters of the state”, as per s. 281.01 (18), Wisconsin Statutes, includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.
- (ll) “Wetlands” means an area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.
- (mm) “Working day” means any day the office of the LWCD is routinely and customarily open for business and does not include Saturday, Sunday and any official county holidays.

## **Section 8.0 Exemptions and Applicability**

8.1 The following activities shall be exempt from a **Stormwater Permit**:



- A. Land disturbing activities exempted by state or federal law, including, but not limited to, highway construction and other projects conducted by a state or other governmental agency, as defined under s. 227.01 (1), Wisconsin Statutes, or under a memorandum of understanding entered into under s. 281.33 (2), Wisconsin Statutes. To recognize an exemption under this paragraph, the LWCD shall require documentation of the person(s) and regulatory agency charged with enforcing erosion control and storm water management for the project.
  - B. All activities regulated under Comm. 21.125 Uniform Dwelling Code for construction of one and two family residential dwellings.
  - C. Land disturbing activities directly involved with planting, growing and harvesting of any plant grown for human or livestock consumption/use, including sod farms and tree nurseries.
  - D. All agricultural structures regulated under NR151, NR243 and ss.281 will be exempted.
- 8.2 Technical Exemptions for Stormwater Runoff Control Plan. The LWCD may exempt a site or a portion of a site from meeting certain technical requirements of this section if the LWCD determines that one or more of the following applies: The landowner is encouraged to contact the LWCD Office to schedule a no charge site visit for exemption/applicability determination
- A. Off-Site BMP(s). The requirement has been satisfied through the use of off-site BMP(s). Off-site BMPs could be installed beyond the boundaries of the property covered by the application as part of a regional storm water management plan or through other legal arrangements. However, to be eligible for this exemption, the off-site BMP(s) must treat runoff from the site covered by the application;
  - B. Internally Drained Sites. The site is internally drained and stabilized and therefore will not discharge runoff from the site after development occurs;
- 8.3 The following land development activities apply to the requirements of this ordinance and shall require an approved Stormwater Permit per Sec. 9 prior to commencement of all proposed land development activities:
- A. Is the creation or addition ultimately resulting in a total of 4000 square feet impervious surface from land disturbance activities or;
  - B. Is a subdivision, multi-dwelling unit, industrial, or commercial development or;
  - C. Is a land disturbance activity, regardless of size, that the LWCD determines is likely to cause a high risk of soil erosion, water pollution, or chronic wetness to an environmentally sensitive area or may violate any other erosion control and stormwater management standard set forth in this ordinance or the associated manual.

## **Section 9.0 Permit Process**

- 9.1 A Stormwater Permit shall be obtained before any person commences a land development activity, pursuant to the applicability and exemption provisions of Sec. 8. The Adams LWCD will require the applicant to pay a permit fee.
- 9.2 Required Materials. To request approval for a Stormwater Permit under this ordinance, the applicant shall submit to the Adams LWCD all of the following:

- A. A completed and signed application; and
- B. A completed and approved inventory worksheet; and
- C. The applicable fee(s); and
- D. A final stormwater runoff control plan in accordance with Sec 12; and
- E. A stormwater runoff control maintenance agreement in accordance with Sec. 13; and
- F. A financial assurance, in accordance with Sec. 8.11 below.

9.3 Permit Review Processes. By submittal of the materials under Sec. 8.2, the applicant is authorizing the LWCD to enter upon the subject site to obtain information needed to administer this ordinance. The LWCD shall have 30 working days per individualized activity as determined by the LWCD from the date all materials under Sec. 8.2 are received to approve or disapprove the permit based on the requirements of this ordinance. If within the 30 working days, the LWCD determines the materials under Sec. 8.2 are not complete and requests additional information from the applicant or another source (such as another regulatory agency), the LWCD shall have 30 working days from the date additional information is received to approve or disapprove the permit.

9.4 Notification of Results. If the LWCD does not notify the applicant of missing information, approve or disapprove the permit within 30 working days, the applicant may continue pursuing other applicable approvals or deed recording without permit approval and may commence land development activity without a permit. If the LWCD approves the permit, the applicant may proceed with permit implementation requirements. If the LWCD disapproves the permit, the applicant may appeal the decision according to Sec. 10 of this ordinance.

9.5 Permit issuance and Display. The LWCD shall issue a permit to the applicant after verifying that all applicable conditions of this ordinance have been met. The permit shall be publicly displayed within 50 feet of the permitted site 5 days prior to construction, throughout construction, and 5 days post construction of the best management practices.

9.6 Permit duration. The LWCD shall establish an expiration date for all Stormwater Permits based on the construction schedules established in the approved erosion control and storm water control and maintenance plans.

9.7 Permit amendments. The LWCD, upon written request, may amend a Stormwater Permit. The written request shall be submitted to the LWCD and shall include the desired amendments and the desired effective dates of the amendments. The LWCD shall respond to the request per Sec. 8.3 and 8.4. The LWCD may require additional information and requirements as a condition of granting a permit amendment. The LWCD shall charge, and the permitted shall pay, an amendment fee.

9.8 Permit transfer. The LWCD may transfer a Stormwater Permit issued under this ordinance to a new applicant upon a written request and payment of the corresponding fee. The permit transfer shall not take effect until the LWCD verifies in writing that the new applicant has satisfied all conditions of this ordinance, including an updated list of responsible parties and the submittal of a new financial assurance.

- 9.9 Permit termination. The LWCD shall issue a permit termination letter to the permit holder upon releasing the financial assurance under Sec. 8.11 (c) below, which shall serve as documentation that all conditions of this ordinance have been satisfied and the permit has been terminated. A copy of this letter shall also be sent to the Wisconsin Department of Natural Resources and shall serve as the “Notice of Termination” under s.s. NR 216.55 Wis. Admin. Code.
- 9.10 Other Permits. Compliance with a Stormwater Permit does not relieve the permit holder or other responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations. The LWCD may require the applicant to obtain other permits or plan approvals prior to issuing a Stormwater Permit.
- 9.11 Financial Assurance. The LWCD may require the applicant to submit a financial assurance to ensure compliance with the approved erosion control and storm water control plans and other permit requirements.
- A. Financial assurance only applies to a subdivision, multi-dwelling unit, industrial, or commercial development
  - B. The LWCD shall determine the acceptable type and form of financial assurance, which may include cash, a bond, an escrow account or irrevocable letter of credit. The LWCD shall, upon written notice to the permit holder, be authorized to use the funds to complete activities required in the approved plans or this ordinance if the permit holder or other responsible party defaults or does not properly implement the requirements.
  - C. The amount of the financial assurance shall be determined by the landowner in the form of individual itemized installed construction of Best Management Practices. All financial assurance submissions are subject to LWCD approval.
  - D. The LWCD shall provide the permit holder or other responsible party a written statement outlining the purpose of the financial assurance.
  - E. The LWCD shall release the financial assurance and issue a termination letter only after determining full compliance with the permit and this ordinance.
  - F. The LWCD shall withhold from the financial assurance amount released to the permit holder any costs incurred by the LWCD to complete installation or maintenance of best management practices through enforcement action or prior to the transfer of maintenance responsibilities through an approved maintenance agreement, or other unpaid fees or costs incurred by the LWCD associated with the enforcement of this ordinance.
  - G. The financial assurance provisions of this ordinance shall be in addition to any other financial assurance requirements of the local community for other site improvements. Any arrangements made to share financial assurances with the local community shall be made at the discretion of the LWCD and shall be at least as restrictive the requirements in this ordinance.
- 9.12 Permit Certification. After completion of construction, the LWCD may conduct a final inspection of all permitted sites and review as-built surveys/plans to determine compliance with the approved plans and other applicable ordinance requirements. If, upon inspection, the LWCD determines that any of the applicable requirements have not been met, the LWCD shall notify the permit holder what changes would be necessary to meet the requirements. At the request of

the permit holder, the LWCD shall provide a notification of noncompliance or a report of final inspection in written or electronic form.

- A. To ensure compliance with this ordinance and to serve as a basis for the engineering verification as-built surveys/plans shall be completed in accordance with LWCD standards. As-built surveys/plans will be required to be certified as accurate by a qualified professional. The LWCD reserves the right to require a professional engineer approval based project scope.
- B. As-built surveys/plans shall contain a statement that the engineer/technician has successfully completed all site inspections outlined in the approved plans and that the stormwater control plans have been implemented as designed. If vegetative plantings are involved, a qualified professional may be required to verify the planting process and its successful establishment, in accordance with the stormwater and erosion control plans when the following applies:
  - a. Subdivision, multi-dwelling unit, industrial, and commercial developments.

9.13 Permit Fees. Application and review fees under this ordinance shall be set by the LWCD and approved by County Board resolution. See most recent copy of Natural Resources Manual for fee schedule.

### **Sec. 10.0 Appeals**

- 10.1 Authority. The Board of Adjustment shall act as the review and appeal authority for any order, requirement, decision or determination by the LWCD under this ordinance.
- 10.2 Procedure. The rules, procedures, duties and powers of the Board of Adjustment shall be as provided in the County Code of Ordinances and the provisions of §59.694, Wisconsin Statutes shall apply to any review or appeal under this ordinance.
- 10.3 Variances. Upon appeal, the Board of Adjustment may authorize variances from the provisions of this ordinance which are not contrary to the public interest or the purposes of this ordinance, and where owing to special conditions beyond the control of the applicant, a literal enforcement of this ordinance will result in unnecessary hardship.
- 10.4 Who May Appeal. Appeals to the Board of Adjustment may be taken by any aggrieved person or by an officer, department, board, or bureau of the County affected by any decision of the LWCD.
- 10.5 Mitigation. Upon appeal, the person(s) may request a formal mitigation process in which a plan must be presented at the time of request. The plan will meet of all the ordinance requirements with the exception of the contested portion(s). The request will first be presented to Board of Adjustment and then to County Board for approval.

### **Sec. 11.0 Enforcement**

- 11.1 Violations. A violation will be determined by one of the following
  - A. A site that is not complying with any requirement set forth in this ordinance as part of its permit or stormwater management and maintenance plan.
  - B. Any activity permitted or not, visually exhibiting gullies

- C. Any activity contributing unfiltered stormwater runoff that ultimately enters into Waters of the State.
- 11.2 Notice of Violation. The LWCD shall notify the violator of any violation in writing, and copy any other known responsible party involved in the violation. The written notice shall be certified mailed with return receipt by addressee only to the permit holder.
  - 11.3 Notice Content. The notice shall describe the violation, remedial action(s) needed and a schedule for remedial action to be completed. Any enforcement measures shall continue until compliance is achieved.
  - 11.4 Methods of Enforcement. The LWCD is authorized to use the following methods of enforcement in any combination thereof against any responsible party that is found to be in violation of any provision of this ordinance:
    - A. Forfeiture. Any violator shall be subject to a forfeiture of maximum \$500.00 per violation plus the cost of prosecution and mitigation for each violation. Each day that a violation exists shall constitute a separate offense.
    - B. Stop Work Order. Any violator is subject to an order to stop all work except that which is needed as a corrective action to bring the site into compliance.
    - C. Permit Revocation. The LWCD may revoke a permit issued under this ordinance. Upon loss of the permit, all construction shall cease and the site shall be stabilized, with any costs incurred by the County to be charged against the financial assurance.
    - D. Injunction. The County, or any person affected by activities regulated under this ordinance, may enforce the provisions of this ordinance by a temporary restraining order, injunction and other such relief as a court may order.
  - 11.5 Declared nuisances. Any land development activity carried out in violation of the provisions of this Ordinance is hereby declared to be a nuisance per se, and the county may apply to any court of competent jurisdiction to restrain or abate such nuisance.
  - 11.6 Emergency Action. The LWCD may enter upon any property, permitted or not, and take any necessary emergency action to mitigate and reclaim any gully erosion, uncontrolled stormwater runoff, or other violations against this ordinance that the LWCD determines is an threat to public health, safety, welfare, the environment or downstream property, or if the permit holder or other violator refuses to take the corrective action as ordered by the LWCD. Any cost incurred by the LWCD as a result of this action shall be billed to the permit holder or subtracted from the financial assurance. The LWCD shall provide reasonable notice to the permit holder after exercising this authority.

## **Sec. 12.0 Stormwater Runoff Control Plans**

- 12.1 The Stormwater Runoff Control Plan shall describe how the permit holder will meet the standard of no greater than 10% net increase in stormwater discharge and no visual observation of soil due to erosion traveling outside of the property boundaries. The LWCD may recognize other methods for determining compliance with no greater than 10% net increases in stormwater goal and no visual erosion as they are standard, including any methods that may come from procedures under Ch. NR216, Wis. Admin Code.

- 12.2 Stormwater Runoff Control Plan Requirements. Final stormwater control plans shall contain the items from the current version of the departmental maintained and approved Stormwater Runoff Control Plan Standard.

**Sec. 13.0 Stormwater Maintenance Agreement**

- 13.1 Maintenance Agreements Required. A maintenance agreement shall be required for all permanent storm water and erosion control Best Management Practices installed to comply with the requirements of this ordinance. The maintenance agreement shall be independent of all other restrictions or covenants and shall comply with all provisions of this section.
- 13.2 Maintenance Agreement Provisions. The maintenance agreement shall, at a minimum, contain all information from the current version of the departmental maintained and approved Maintenance Standard

**Sec. 14.0 Declaration of Severability**

- 14.1 Severability. The several sections, subsections and paragraphs of this Ordinance are hereby declared to be severable. If any section, subsection, or paragraph or subparagraph of this Ordinance shall be declared by a decision of a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other provisions of the Ordinance, or of the section of which the invalid portion or paragraph may be a part.