

TOWN OF GREENVILLE
EROSION AND SEDIMENT CONTROL ORDINANCE

July 23, 2004

(Administrative Revisions 4/6/2006)

TABLE OF CONTENTS

TABLE OF CONTENTS	1
TOWN OF GREENVILLE EROSION and SEDIMENT CONTROL ORDINANCE.....	2
FOREWORD	2
GENERAL REQUIREMENTS.....	2
8.01 AUTHORITY	2
8.02 FINDINGS OF FACT.....	2
8.03 PURPOSE.....	2
8.04 DEFINITIONS.....	3
8.05 APPLICABILITY AND JURISDICTION	4
TECHNICAL REQUIREMENTS	6
8.06 TECHNICAL STANDARDS.....	6
8.07 PERFORMANCE STANDARDS	7
8.08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES.....	8
8.09 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT AND AMENDMENTS	9
ADMINISTRATION.....	10
8.10 FINANCIAL GUARANTEE.....	10
8.11 FEE SCHEDULE.....	11
8.12 INSPECTION	11
8.13 ENFORCEMENT AND PENALTIES	11
8.14 APPEALS	12
8.15 SEVERABILITY.....	13
8.16 EFFECTIVE DATE.....	13

TOWN OF GREENVILLE EROSION and SEDIMENT CONTROL ORDINANCE

FOREWORD

The intent of this ordinance is to require use of best management practices to reduce the amount of sediment and other pollutants resulting from land disturbing construction activities on development sites. Use of this ordinance will foster consistent, town-wide application of the construction site performance standards for new development and redevelopment contained in subchapters III and IV of ch. NR 151, Wis. Adm. Code.

The Town Board of the Town of Greenville does hereby ordain that Town of Greenville Erosion and Sediment Control Ordinance is created to read as follows:

GENERAL REQUIREMENTS

8.01 AUTHORITY

This ordinance is adopted under the authority granted Sections 60.627 and 236.45 of the Wisconsin Statutes.

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.

8.02 FINDINGS OF FACT

The Town of Greenville Board finds that uncontrolled runoff from land disturbing construction activity carries a significant amount of sediment and other pollutants to the waters of the state in the Town of Greenville.

8.03 PURPOSE

It is the purpose of this ordinance to further the maintenance of safe and healthful conditions, prevent and control water pollution, prevent and control soil erosion, protect spawning grounds, protect fish and aquatic life, control building sites, control placement of structures and land uses, preserve ground cover and scenic beauty, and promote sound economic growth. This will be done by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the Town of Greenville.

It is also the purpose to meet the performance standards in subchapters III and IV of ch. NR 151, Wis. Adm. Code and to meet the requirements for construction erosion in the Phase II National Pollutant Discharge Elimination System (NPDES) administered by the Federal Environmental Protection Agency (EPA).

8.04 DEFINITIONS

- 1) For the purpose of this chapter, the following shall apply as indicated throughout the chapter:
 - a) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
 - b) The present tense includes the future tense and the singular includes plural.
 - c) The word "shall" is mandatory; the word "may" is permissive.
 - d) The words "used" or "occupied" also mean intended, designed or arranged to be used or occupied.
- 2) DEFINITION OF TERMS. For the purpose of this chapter, the following terms are defined:
 - a) "Administering authority" means the Town of Greenville, its employees, designees, or consultants, authorized to administer and enforce this Ordinance.
 - b) "Agricultural activity" means planting, growing, cultivating and harvesting crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. This includes waterways, drainage ditches, diversions, terraces, excavating, filling, and similar practices on farm fields.
 - c) "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.
 - d) "Business day" means a day the office of the administering authority is routinely and customarily open for business.
 - e) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
 - f) "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.
 - g) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
 - h) "Erosion and sediment control plan" means a comprehensive plan developed to address pollution caused by soil erosion and sedimentation during land disturbing construction activity.
 - i) "Erosion and Sediment Control Reference Guide" means a handbook containing technical and administrative material use by an administering authority to implement and administer this ordinance. It will be maintained at the Town of Greenville Town Hall.
 - j) "Final stabilization" means that all land disturbing construction activities at the construction site have been completed and that a perennial vegetative cover has been established with a density of 70% of the cover for the unpaved areas and areas not covered by permanent structures or that equivalent permanent stabilization measures have been employed.
 - k) "Land disturbing construction activity" means any man-made change of the land surface resulting in a change in the topography, existing vegetative and non-vegetative soil cover or the existing topography which may result in storm water runoff and lead to increased soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes, but

is not limited to clearing and grubbing, demolition, excavating, pit trench dewatering, stockpiling, filling and grading activities, but does not include agricultural activities as defined in this document.

- l) "Landowner" means any person holding title to or having an interest in land.
- m) "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.
- n) "Performance standard" means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- o) "Permit" means a written authorization made by the administering authority to the applicant to conduct land disturbing construction activity.
- p) "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.
- q) "Runoff" means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet, shallow concentrated, or channelized flow.
- r) "Sediment" means settleable solid material that is transported by runoff, suspended within runoff or deposited by runoff away from its original location.
- s) "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.
- t) "Stop work order" means an order issued by the administering authority that requires that all construction activity on the site be stopped.
- u) "Watercourse" means a natural or artificial channel through which water flows. These channels include: all blue and dashed blue lines on the USGS quadrangle maps, all channels shown on the soils maps in the NRCS soils book for Town of Greenville, all channels identified on the site, and new channels that are created as part of a development. The term watercourse includes waters of the state as herein defined.
- v) "Waters of the state" means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, 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 Wisconsin or its jurisdiction.

8.05 APPLICABILITY AND JURISDICTION

- 1) **APPLICABILITY.** These general applicability provisions apply to the following land disturbing construction activities, unless exempted in section 8.05(3):
 - a) Those activities involving grading, removal of protective ground cover or vegetation, filling, excavation or other activity affecting a surface area of 4,000 square feet, including those associated with the construction of a structure;

- b) Those involving excavation or filling or a combination of excavation and filling affecting 100 cubic yards or more of soil, sand, or other excavation or fill material;
- c) Those involving street (public or private) or driveway construction, enlargement, relocation or reconstruction longer than 100 feet;
- d) Utility work and other disturbances of a continuous distance of 100 feet of road ditch, non-agricultural grass waterway, or other non-agricultural land area where drainage occurs in a watercourse;
- e) Those involving a continuous distance of 100 feet of land disturbing construction activity within a Protective Area as defined below:

In this paragraph "Protective Areas" means an area of land that commences at the top of the bank for lakes and navigable streams, at the centerline of non-navigable watercourses, and at the delineated boundary of wetlands. Permanent vegetative cover will provide for bank stability, maintenance of fish habitat, and filtering of pollutants from up-slope overland flow areas (cover can be mowed lawn). The protective area will keep the watercourse open to convey runoff and to provide some flood storage. No structures will be allowed in the protective area except road and utility crossings, boathouses where adjacent to navigable water, structures which are part of the stormwater management plan, and structures allowed by S. 59.692(1v), i.e., the "Gazebo Rule," when adjacent to navigable water.

- i) Watercourses - The protective area shall be provided on each side of the watercourse, except one side for road ditches, and the minimum width on each side of the watercourse is as follows:
 - (1) For navigable streams, the protective area shall be 75 feet from the ordinary high water mark (OHWM- generally the top of the watercourse, bank).
 - (2) For non-navigable watercourses having watersheds greater than 80 acres, the protective area shall be 50 feet from the watercourse centerline for platted subdivisions and commercial development and shall be 75 feet for single family detached residential.
 - (3) For non-navigable watercourses having watersheds 80 acres or less, the protective area shall be 25 feet from the watercourse centerline.
 - (4) Within a planned development or redevelopment site the watercourses may be moved or graded. The protective area dimensions move with the watercourse, and the protective area shall be contained within the property being developed. The watercourse shall be designed to be non-erosive and to have adequate capacity within the protective area using a 100-year, 24-hour storm. If watercourses are moved and leave the property at a different location, the watercourse downstream shall be protected from adverse impacts.
- ii) Wetlands - The protective area shall be 50 feet. All wetlands shall be delineated whenever the site includes soils that are rated as poorly or somewhat poorly drained according to the Soil Survey for Outagamie County. Delineation shall be by a person knowledgeable in the wetland soils, plants, and hydrology. The wetland delineator must be approved by the administering authority.
- f) Utility work and other disturbances for a continuous distance of 500 feet or more located out of road ditch, non-agricultural grass waterway, or other non-agricultural land area where drainage occurs in a watercourse.

- g) Notwithstanding the applicability requirements in paragraphs (a) through (f), 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 activities within the Town of Greenville.
 - 3) EXEMPTIONS.
 - a) Any land disturbing or land development activity conducted by or contracted for any State agency, as defined under S.227.01 (1), Wisconsin Statutes, including but not limited to road construction projects administered by the Wisconsin Department of Transportation. This would include county or Town projects that receive state or federal funding assistance. These activities must meet the erosion control and stormwater management requirements of the state.
 - b) All activities directly relating to agricultural activity, as defined in section 8.04 herein.
 - c) Replacement or repair of private septic systems.
 - d) Activities associated with non-metallic mining. (Non-metallic mining is addressed through the Non-Metallic Mining Ordinance.)
 - e) Farm buildings, paved areas, and other land disturbing construction activity around the farm buildings having less than 20,000 square feet of total impervious surface on farms larger than 35 acres in size.
 - f) The construction of one and two family residential buildings under Wisconsin Administrative Code COMM 21.125, which must meet the erosion control requirements of the Wisconsin Uniform Dwelling Code (UDC). UDC soil erosion standards are included in the Reference Guide. One and two family residential building construction commenced prior to obtaining a building permit may require an erosion control permit, if the applicability conditions of section 8.05(1) are met.

TECHNICAL REQUIREMENTS

8.06 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, or the most recently adopted version thereof:
 - a) Applicable design criteria, standards and specifications identified in the latest edition of the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222 November 1993 Revision. As individual practices from Pub. WR-222 are published as DNR practice standards, the standard shall govern.
 - b) Other 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.
 - 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) Section IV of the Field Office Technical Guide, published by the USDA Natural Resources Conservation Service as adopted and maintained by the Outagamie County Land Conservation Committee and Land & Water Conservation Department.
 - e) The Outagamie County Erosion and Sediment Control Reference guide, which is adopted by reference as a companion piece to this Ordinance.
 - f) Other technical standards published or adopted by the above noted agencies, the Wisconsin Standards Oversight Council, or the Outagamie County Land Conservation Committee and the Land Conservation Department.
- 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.

8.07 PERFORMANCE STANDARDS

- 1) RESPONSIBLE PARTY. The responsible party shall implement an erosion and sediment control plan, developed in accordance with 8.09, that incorporates the requirements of this section.
- 2) PLAN. A written plan shall be developed in accordance with 8.09 and implemented for each land disturbance site.
- 3) EROSION AND OTHER POLLUTANT CONTROL REQUIREMENTS. The plan required under sub. (2) shall include the following:
 - a) BMPs that, by design, achieve to the maximum extent practicable, a reduction of 80% of the sediment load carried in runoff, 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. Design methods used shall be approved by the administering authority. Approved methods are shown in the Erosion and Sediment Control Reference Guide.
 - 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:
 - i) TRACKING – Minimize tracking of sediment from the 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 by street cleaning (not flushing) before the end of each workday. Sediment tracked by construction equipment from a site onto an offsite public or private paved road or sidewalk shall be minimized by providing a non-tracking access roadway. The access roadway shall be installed as approved on the plan.

- ii) STORAGE AND DISPOSAL - Assure proper use, storage and disposal of chemicals, cement and other compounds used on construction sites. All building material waste shall be properly managed and disposed of to prevent pollutants and debris from being carried off site by runoff.
 - iii) DEWATERING - Minimize the discharge of sediment as part of site dewatering. Discharge of sediment as a result of dewatering shall be treated using BMPs.
 - iv) STORM SEDIMENT - After a storm event, clean up sediments deposited on roadways or off site by the end of the next working day following the occurrence.
 - v) STORM SEWER INLETS - Provide storm sewer inlet protection. All downslope storm sewer inlets shall be protected.
- d) LOCATION. The BMPs used to comply with this section shall be located prior to runoff leaving the site and entering navigable waters of the state.
 - e) ALTERNATE REQUIREMENTS. The administering authority may establish storm water management 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.

8.08 PERMITTING REQUIREMENTS, PROCEDURES AND FEES

- 1) PERMIT REQUIRED. No 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.
- 2) PERMIT APPLICATION AND FEES. At least one responsible party desiring to undertake a land disturbing construction activity subject to this ordinance shall submit an application for a permit and an erosion and sediment control plan that meets the requirements of 8.09 and shall pay an application fee according to 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 20 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 a 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 20 business days from the date the additional information is received to inform the applicant that the plan is either approved or disapproved.
 - e) Failure by the administering authority to inform the permit applicant of a decision within 20 business days of a required submittal shall be deemed to mean approval of the submittal and the applicant may proceed as if a permit had been issued.

- f) Annual Permits will be available to utilities for projects that are planned to take place during the upcoming year. All eligible projects shall utilize the best management practices for the given circumstances. The project list shall be submitted to the administering authority for review and determination of eligibility. An annual fee shall be required.
- 4) PERMIT REQUIREMENTS. The permit requirements shall be set forth in the Permit Approval.
 - a) The administering authority shall have the right to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan or for performing any work necessary to bring the site into compliance with the control plan.
 - b) A copy of the erosion and sediment control plan shall be kept at the site.
- 5) PERMIT CONDITIONS. Permits issued under this section may include conditions established by the administering authority in addition to the requirements set forth in the permit approval letter where needed to assure compliance with the performance standards in 8.07.
- 6) PERMIT DURATION. The permit duration will be set forth in the Permit Approval.
- 7) 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 and final acceptance by the administering authority. Upon failure to perform the necessary maintenance of the erosion control practices, the administering authority retains the right to perform maintenance and/or repairs. The costs shall be assessed to the developer or among the property owners within the development.

8.09 EROSION AND SEDIMENT CONTROL PLAN, STATEMENT AND AMENDMENTS

- 1) EROSION AND SEDIMENT CONTROL PLAN
 - a) An erosion and sediment control plan shall be prepared and submitted to the administering authority.
 - b) The erosion and sediment control plan shall be designed to meet the performance standards in 8.07 and other requirements of this ordinance.
 - c) The erosion and sediment control plan shall address pollution caused by soil erosion and sedimentation during construction and up to final stabilization of the site. The erosion and sediment control plan shall include, at a minimum, the items specified in the Erosion and Sediment Control Reference Guide.
 - d) The erosion and sediment control plan shall include a site map. The map shall include all items specified in the Erosion and Sediment Control Reference Guide.
 - e) Each erosion and sediment control plan shall include a description of appropriate controls and measures that will be performed at the site to prevent pollutants from reaching waters of the state. The plan shall clearly describe the appropriate control measures for each major activity and the timing during the construction process that the measures will be implemented. The description of erosion controls shall include items as listed in the Erosion and Sediment Control Reference Guide.
 - f) The erosion and sediment control plan shall include measures to prevent erosion at all stormwater discharge locations so that the natural physical and biological characteristics and functions are maintained and protected.

- 2) 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 pollution carried by construction site runoff.
 - c) The administering authority notifies the applicant of changes needed in the plan.

ADMINISTRATION

8.10 FINANCIAL GUARANTEE

- 1) ESTABLISHMENT OF THE GUARANTEE. The administering authority shall require the submittal of a financial guarantee. The financial guarantee shall be in an amount determined by the administering authority for the estimated costs of the erosion and sedimentation control practices and measures. The financial guarantee shall give the Town of Greenville the funds necessary to complete the erosion and sediment control practices and measures in the event the owner defaults or does not properly implement the practices or construct the practices and measures required pursuant to the approved erosion and sediment control plan. The financial guarantee shall be in an amount of 100 percent of the estimated cost to implement the erosion and sediment control plan and construct the erosion and sediment control practices and measures. The financial guarantee may combine a required erosion and sediment control financial guarantee with a stormwater management financial guarantee.
- 2) FORM OF GUARANTEE
 - a) **Cash Bond.** The owner may fulfill the financial guarantee requirements of this section by a cash deposit of funds in the Town of Greenville Erosion and Sediment Control Trust Fund administered by the Town of Greenville. The Town of Greenville Erosion and Sediment Control Trust Fund shall provide a separate numbered account for each owner/erosion and sediment control permit. A deposit agreement shall provide that the Town may draw all or a portion of the account funds to complete erosion and sediment control practices and measures pursuant to a draw request signed by the Town Chairman and attested to by the Town Clerk.
 - b) **Escrow Account.** In lieu of a cash bond, the owner may fulfill the financial guarantee requirements of this section by the establishment of an escrow account for the benefit of the Town of Greenville and in the name of the Town of Greenville. The escrow instructions shall provide: (1) that the owner shall have no right to a return of any of the funds except as authorized by the Town upon completion of the erosion and sediment control practices and measures; and (2) that the escrow agent shall have a legal duty to deliver all or a portion of the escrowed funds to the Town of Greenville upon receipt of written notice from the Town of Greenville signed by the Town Board Chairman and attested to by the Town Clerk, whether or not the owner protests delivery of all or a portion of the funds. The escrow agent shall be acceptable to the Town of Greenville.
 - c) **Letter of Credit.** In lieu of a cash bond or escrow account, the owner may fulfill the financial guarantee requirements of this section by a letter of credit for the benefit of the Town of Greenville and in the name of the Town of Greenville. The letter of credit shall be: (1) irrevocable; (2) for a term sufficient for the completion and inspection of erosion and sediment

control practices and measures; and (3) require only that the Town of Greenville present the credit with a sight draft and written notice signed by the Town Board Chairman and attested to by the Town Clerk of the Town's right to draw funds under the credit. The issuer of the letter of credit shall be acceptable to the Town of Greenville.

3) **CONDITIONS FOR RELEASE.** Conditions for the release of the financial guarantee are as follows:

- a) The Town of Greenville shall provide a full release of the financial guarantee upon full and satisfactory completion and inspection of the required erosion and sediment control practices and measures. The Town of Greenville may require the submission of "as built" plans by a professional engineer as a condition of release.
- b) The Town of Greenville may provide a partial pro-rata release of the financial guarantee based upon the completion of various items of the required and approved erosion and sediment control practices and measures. Any pro-rata release shall correspond directly to the itemized cost and itemized schedule of each aspect of the erosion and sediment control plan.
- c) The Town of Greenville shall retain the financial guarantee or provide a partial pro-rata release of the financial guarantee corresponding directly to any costs incurred by the Town of Greenville to properly implement the procedures or construct the practices and measures required pursuant to the approved erosion and sediment control plan in the event of owner default or failure. The Town of Greenville shall provide the owner with an itemized list of Town of Greenville costs.

8.11 FEE SCHEDULE

The administrating authority shall establish by resolution the fees referred to in other sections of this ordinance. The Town Board may, from time to time, modify the fees based upon justified program administration costs. Such modifications will not require that a public hearing be held; however, proposed changes will be public notices prior to Town Board action. All after the fact permits shall be subject to double fees.

8.12 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.

8.13 ENFORCEMENT AND PENALTIES

- 1) Any land disturbing construction activity initiated after the effective date of this ordinance by any person, firm, association, or corporation subject to the ordinance provisions shall be deemed a violation unless conducted in accordance with the requirements of this ordinance.
- 2) The administering authority shall notify the responsible owner or operator by certified mail of any non-complying land disturbing construction activity. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforce merit action that maybe taken.
- 3) Upon receipt of written notification from the administering authority under subsection (2), the permit holder, or landowner, shall obtain a permit where required, and/or correct work which does not comply with the erosion control plan or other provisions of the permit. The permit holder, or landowner, shall make corrections as necessary to meet the specifications and schedules set forth by the administering authority in the notice.

- 4) If the violations to this ordinance, either during construction of erosion control facilities or the maintenance of those facilities, are likely to result in damage to properties, public facilities, or waters of the state, the administering authority may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the administering authority plus interest and legal costs shall be billed to the owner of title of the property.
- 5) The administering authority is authorized to post a stop work order on all land disturbing construction activity in violation of this ordinance, or to request the Town Attorney to obtain a cease and desist order in any court with jurisdiction. When such a stop work order has been posted, it shall have the effect of causing the original permit to be revoked and in all cases, it shall be unlawful for any further work to proceed until the permit is either issued or reinstated.
- 6) The administering authority may revoke a permit issued under this ordinance for noncompliance with ordinance provisions.
- 7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the administering authority or by a court with jurisdiction.
- 8) The administering authority is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the Town Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- 9) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than 50 dollars nor more than 1,000 dollars (\$1,000.00) per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- 10) Every violation of this ordinance is a public nuisance. Compliance with this Ordinance may be enforced by injunctive order at the suit of the administering authority pursuant to Section 62.23(7)(f) Wisconsin Statutes. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

8.14 APPEALS

- 1) **APPEALS.** The Board of Appeals, created under section 7.29 of the Town of Greenville Zoning Ordinance zoning ordinance pursuant to Section 62.23(7)(e) Wisconsin Statutes, shall hear appeals of the provisions of this ordinance. The Board shall use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals.
- 2) **WHO MAY APPEAL.** Appeals to the Board of Appeals may be taken by any aggrieved person or by an officer or department, board, or bureau of the Town affected by any decision of the administering authority.
- 3) **VARIANCES.** In any particular case where the landowner can show that, by reason of exceptional topography or other physical condition, strict compliance with any requirement of this chapter would cause unnecessary hardship, Board of Appeals may grant a variance, provided such relief may be granted without detriment to the public good and without impairing the intent and purpose of this chapter or the desirable general development of the Town. A majority vote of the entire membership of the Board of Appeals shall be required to grant any modification to these regulations and any modification thus granted shall be entered in the minutes of the Board, setting forth the reasons, which in the opinion of the Board, justified the modification. No variance shall be granted by the Board, which is contrary to provisions of the Wisconsin Administrative Code or the Wisconsin Statutes.

8.15 SEVERABILITY

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

8.16 EFFECTIVE DATE

This ordinance shall be in force and effect from and after its adoption and publication.

The above ordinance was duly adopted by the Town of Greenville Board of Supervisors ----- and published in the official newspaper of the Town on ----- . The effective date is-----

- .