

STORMWATER MANAGEMENT § Table of Contents

CHAPTER 26 STORMWATER MANAGEMENT

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STORMWATER MANAGEMENT § 26.01

STORMWATER MANAGEMENT ORDINANCE (Cr. #579, 2001)

- 26.01 **AUTHORITY.** This Ordinance is adopted under the authority granted by Wis. Stats. § 62.11(5).
- 26.02 **TITLE.** This Ordinance shall be known as, referred to, and may be cited as “Stormwater Management Ordinance,” and is hereinafter referred to as “the Ordinance.”
- 26.03 **FINDINGS AND DECLARATIONS OF POLICY.** The City of Sparta finds that urbanizing land uses have accelerated the process of soil erosion, runoff and sedimentary deposition in the waters of the City of Sparta. It is, therefore, declared to be the policy of the City of Sparta, and the purpose of this Ordinance to provide for the control of and, if possible, the prevention of soil erosion, and thereby to preserve the natural resources, control floods and prevent impairment of dams and reservoirs, protect the quality of public waters, preserve wildlife, protect the tax base, and protect and promote the health, safety and general welfare of the people of the City of Sparta.
- 26.04 **INTENT AND PURPOSE.** The purpose of this Ordinance is to promote the public health, safety, prosperity, and general welfare of the citizens of the City of Sparta, and to conserve the soil, water and related resources and control erosion and sedimentation.
- 26.05 **ABROGATION AND GREATER RESTRICTIONS.** It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing covenants, deed restrictions, agreements, rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, whenever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.
- 26.06 **INTERPRETATION.** In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.
- 26.07 **SEVERABILITY OF ORDINANCE PROVISIONS.** If any section, provisions, or portion of this Ordinance is adjudged unconstitutional or invalid by a court, the remainder of this Ordinance shall not be affected thereby.
- 26.08 **DEFINITIONS.** The following terms, whenever they occur in this Ordinance, are defined as follows:

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- (1) “Agricultural land use” includes use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock, including sod farms and tree nurseries, but does not include the construction of buildings or facilities used for agriculture.
- (2) “Best management practice” or “BMP” means a structural or non-structural practice, technique or measure, facility, system or practices or device that reduces soil, sediment or pollutants carried in runoff to waters of the state to a level compatible with the pollution control requirements of this ordinance.
- (3) “City Engineer” means the City employee designated by the Common Council to administer this Ordinance.
- (4) “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.
- (5) “Control Plan” means a comprehensive plan developed to address runoff and pollution caused by erosion and sedimentation of soil particles or rock fragments during construction or after development.
- (6) “Erosion” means the detachment and movement of soil, sediment particles or rock fragments by water, wind, ice or gravity.
- (7) “Excavation” means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, or bulldozed, and shall include the resulting conditions.
- (8) “Existing Grade” means the vertical location of the existing ground surface prior to excavation or filling.
- (9) “Fill” means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by humans to a new location and shall include the resulting conditions.
- (10) “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% of the cover, for the unpaved areas and areas not covered by permanent

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structures or employment of equivalent permanent stabilization measures.

- (11) “Grading” is altering the elevation of the land surface by stripping, excavating, filling, or stockpiling of soil materials or any combination thereof, and shall include altering the elevation of the land from which the material was taken or upon which it was placed.
- (12) “Governing body” means the Common Council of the City of Sparta.
- (13) “Land disturbing construction activity” 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, but does not include agricultural land uses, silviculture activities or routine maintenance for project sites that involve under 5 acres of land disturbance that is performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
- (14) “Land Treatment Measures” means structural or vegetative practices--or a combination thereof--used to control erosion and sediment production, including areas to be protected by fencing.
- (15) “Landowner” means any person holding fee title, an easement or other interest in property, which allows a person to undertake land disturbing construction activity on the property.
- (16) “Minor-impact permit” means a stormwater permit required for a land-disturbing activity of a small enough scope or impact that a formal control plan and full permit fee may not be necessary. The definition of such activities shall be at the discretion of the City Engineer.
- (17) “Pollutant” has the meaning in § 283.01 (13), Stats.
- (18) “Pollution” has the meaning in § 281.01 (10), Stats.
- (19) “Predevelopment condition” means the state and condition of the land prior to the construction of any improvements, including grading.
- (20) “Public Lands” means all lands that are subject to regulation by the City, including but not limited to all lands owned or controlled by the City, or all lands within the boundaries or extraterritorial control of the City which are

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owned by another unit of government that is acting in a proprietary rather than governmental function.

- (21) “Recurrence Interval” of a storm’s given intensity and duration means the average period of time between storms of the same duration and equal or greater intensity.
- (22) “Runoff” means storm water or precipitation including rain, snow or ice melt that moves on the land surface via sheet or channelized flow.
- (23) “Sediment” means settleable soil, rock fragments and other solids carried in runoff.
- (24) “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: is designed or used for collecting water or conveying runoff, is not part of a combined sewer system, is not draining to a storm water treatment device or system, and discharges directly or indirectly to waters of the state.
- (25) “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.
- (26) “Storm Runoff” means the portion of a rainfall that reaches a stream, lake or other water body during and soon after a storm.
- (27) “Structural Measures” means works of improvement for land stabilization to prevent erosion, sediment or runoff, including but not limited to gully control structures, grass waterways, riprap, detention basins, sediment basins, flood retention dams, diversions, lining channels with rock, concrete or other materials. Contour strip cropping is not a structural measure.
- (28) “Technical standard” means an established minimum criterion for planning, performance, design, operation or maintenance for a BMP.
- (29) “Waters of the state” has the meaning in § 283.01 (20), Stats.

26.09 **SCOPE OF GEOGRAPHIC COVERAGE.**

STORMWATER MANAGEMENT § 26.09(1)

- (1) **WITHIN THE CITY:** Unless specifically excluded herein, this Ordinance applies to all division of land, land disturbing and land developing activities occurring within the corporate limits of the City.
- (2) **WITHIN THE EXTRATERRITORIAL AREA:** This Ordinance shall apply to the division of land within the City's extraterritorial plat approval jurisdiction.
- (3) **EXCLUSIONS:** The following activities are generally excluded from coverage under this Ordinance:
 - (a) State-funded or conducted activities that are subject to the State Site Erosion Control and Stormwater Runoff Plan.
 - (b) Agricultural land uses as defined in this ordinance and quarries except where the City Engineer determines that erosion or runoff from such uses is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.
 - (c) Small land disturbing activities such as gardens, minor landscaping modifications, and minor repair of sidewalks, paths, or driveways, except where the City Engineer determines that erosion or runoff is likely to occur which will threaten watercourses or other environmentally sensitive areas unless control measures are taken.

26.10 **LAND DISTURBING ACTIVITIES SUBJECT TO STORMWATER MANAGEMENT.**

The following activities require a stormwater permit:

- (1) Land disturbing activities on public lands as defined in s. 14.69 Stats.
- (2) Land disturbing activities on all private lands shall be subject to this Ordinance if the land disturbing activity will be:
 - (a) A residential development having a gross aggregate area of five acres or more,
 - (b) New construction of houses or apartment buildings on an existing subdivision, certified survey, or other development with a gross aggregate area of five acres or more,

STORMWATER MANAGEMENT § 26.10(2) (c)

- (c) A residential development having a gross aggregate area of less than five acres having 50% or more of the area as impervious surfaces including roads, buildings, parking facilities, and other improvements,
 - (d) New construction of houses or apartment buildings on an existing subdivision, certified survey or other development with a gross aggregate area of less than five acres having 50% or more of the area as impervious surfaces including roads, buildings, parking facilities, and other improvements,
 - (e) An industrial or commercial development with a gross aggregate area of 0.5 acres or more,
 - (f) Any other type of development with a gross aggregate area of three acres or more, or
 - (g) Any development not covered above the runoff of which, in the opinion of the City Engineer, will increase the downstream flood hazard, will cause undue channel erosion or an undue increase in water pollution by increased scour and transport of particles, or will otherwise endanger the downstream property owners or their property.
- (3) Notwithstanding any other provisions of this Ordinance, it shall be a violation of this Ordinance for any person to create, permit, establish, maintain, or allow to be maintained any condition or activity that causes excessive runoff or erosion to adjacent land, public streets, or water bodies. Penalties and remedies may be sought for such activities. Erosion and runoff is excessive when, in the opinion of the City Engineer or Building Inspector, an unsafe condition results in the streets, sedimentation occurs in lakes and streams, environmentally-sensitive lands are threatened, runoff endangers downstream property, or the public health, safety, or general welfare of the citizens of the City is otherwise threatened or harmed. Compliance with the standards and criteria in this Ordinance shall not bar a nuisance action or other civil action brought by an injured public or private party for damage to property or other rights that were damaged by runoff.

26.11 **BEST MANAGEMENT PRACTICES (BMPs).**

The control plan shall include all of the following BMPs that are relevant and practicable for each development. Where these procedures are found to be unacceptable or infeasible by the City Engineer or where adequate stormwater facilities have been provided by the City downstream of the proposed development, the applicant shall be required to make a suitable alternative

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contribution as determined in negotiation with the City Engineer and Public Works Board.

All control measures shall be maintained by the permittee in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions during the period of land disturbance. A longer period of maintenance time may be required by the permit. If the City accepts a public dedication of a control measure, then the City will physically maintain the measure unless otherwise agreed in writing. The method of payment of any or all maintenance costs may be determined by the Common Council as appropriate.

- (1) All roof drainage shall discharge to either pervious surfaces to the extent practicable or an infiltration device.
- (2) All driveways shall slope to adjacent lawns to the extent practicable.
- (3) The stormwater drainage system for the development shall include grassed swales for area drainage and/or underground perforated drainage pipe for storm runoff conveyance. The applicant shall be responsible for documenting to the City Engineer areas to be exempted from these measures, in which cases other means may be accepted.
- (4) Residential developments of five acres or greater and commercial or industrial sites with more than half an acre of impervious area shall discharge to one or more detention basins. These basins shall have an aggregate area of at least 3% of the impervious area draining to it.
(Am. #793, 08/18/2009)
- (5) Regardless of the proposed land use, the proposed development shall limit peak flow rates of storm runoff after development to 100% of that which would have resulted from the same storm occurring over the site with the land in its predevelopment condition for storms of 24-hour duration and recurrence intervals of two, five, ten, 25, 50 and 100 years. Determination of peak flow rates, volume runoff, and on-site detention volumes shall be computed by procedures based on those established by the Natural Resource Soil Conservation Service in its National Engineering Handbook or the technical publication entitled "Urban Hydrology for Small Watersheds, TR-55."
- (6) The following general principles shall be incorporated *during* development:
 - (a) The smallest practical area of land shall be exposed at any given time.

STORMWATER MANAGEMENT § 26.11(6)(b)

- (b) Such minimum area exposure shall be kept to as short a duration of time as possible.
- (c) If at all practicable, temporary vegetation, mulching, or other cover shall be used to protect areas during development.
- (d) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development according to the standards contained in this Ordinance.
- (e) Permanent, final plant covering or structures shall be installed as soon as possible.
- (f) Natural plant covering shall be retained and protected and shall be deemed a dominating factor in developing the site.
- (g) Water pumped from the site shall be treated by temporary sedimentation basins or other appropriate control measures. Water may not be discharged in a manner that causes erosion of the site, a neighboring site, or the bed or banks of the receiving water. Dewatering or other pumping activities shall not discharge directly into a storm sewer system.
- (h) All waste and unused building materials and construction debris shall be properly disposed of and not allowed to be carried off site by wind and/or runoff into a receiving channel or storm sewer system.
- (i) Each site shall have a graveled entrance pad of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Sediment reaching a public or private road shall be removed by street cleaning (not hydraulic flushing) before the end of each workday.
- (j) Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if determined practical by the City Engineer.
- (k) All activities on the site shall be conducted in such a sequence as to minimize the area of bare soil exposed at any one time and the amount of soil leaving the site.
- (l) All disturbed ground and soil or dirt storage piles shall be contained on the site by filter barriers or other suitable means. The containment measures shall be installed as soon as the

STORMWATER MANAGEMENT § 26.11(6)(I)

disturbance takes place. The containment measures shall remain in place until the site is adequately stabilized as determined by the City Engineer.

- (m) Filter fences, straw bales, or equivalent control measures shall be placed continuously along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter barriers shall be placed continuously along the channel edges to reduce sediment reaching the channel.
- (n) Affected storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier as approved by the City Engineer.

26.12 **STORMWATER PERMITS.**

- (1) **PERMIT REQUIRED:** Unless specifically excluded by this Ordinance, no land occupier or land user may undertake a land disturbing activity subject to this Ordinance without receiving a permit from the City Engineer prior to commencing the proposed activity. The Building Inspector shall determine whether a permit is required under this Ordinance, and if necessary, shall not issue a building permit or construction site permit until the stormwater permit is issued. The developer shall submit a permit application with the appropriate fee as adopted by the Common Council of the City of Sparta.
- (2) **CONTROL PLAN REQUIRED:** Unless specifically exempted by this Ordinance, every applicant for a stormwater permit shall develop and submit a plan to control runoff that would result from the proposed activity. Should any development requiring a permit be required to develop a stormwater control plan for the Wisconsin Department of Natural Resources or other governmental authority, the City Engineer may accept that authority's acceptance of the control plan as meeting the intent of this Ordinance. If, however, this Ordinance contains more stringent requirements than those of the other governmental body, the City reserves the right to enforce this Ordinance. If the developer has received approval from the DNR for a control plan, this control plan and evidence of DNR approval shall accompany the permit application. A minor-impact permit may be issued for developments not described under section 26.10 (1) and (2) a-f, in which case a less formal control plan may be accepted.
- (3) **CONTROL PLAN CONTENTS:** The control plan shall contain any such information the City Engineer may need to determine requirements for runoff control. Any required map shall be at a scale appropriate for the site as approved by the City Engineer, but shall not be smaller than 1" =

STORMWATER MANAGEMENT § 26.12(3)

100'. The City Engineer may require the following information and other information which, in his or her opinion, is needed to evaluate the control plan.

- (a) The following items will be required to show existing conditions:
1. A site map showing the location of the predominant soil types, existing vegetative cover, and existing impervious surfaces and structures.
 2. A topographic map of the site location and site boundaries, including enough of the adjacent contiguous properties to show existing drainage patterns and water courses that may affect or be affected by the proposed development of the site. Existing topography shall be shown as contours at an interval suitable to the site and as approved by the City Engineer up to a maximum of a five-foot contour interval.
- (b) A site plan showing proposed conditions shall include the following:
1. The name, address and phone number of the land occupier, as well as the name and phone number of the party responsible for maintaining erosion control structures. The site plan shall also include the limits of the 100-year natural floodplain, if any.
 2. The proposed vertical topography at a contour interval appropriate for the site and approved by the City Engineer up to a maximum five-foot contour interval. It is preferred that this drawing show the same scale contours as the topographic map of the predevelopment conditions.
 3. The location of the proposed land disturbing activity, disturbance of protective cover, any proposed additional structure on the site, areas to be left seeded or mulched, areas to be vegetatively stabilized, and areas to be left undisturbed. It shall include the finished grade, stated in feet horizontal to the vertical, or cut and fill slopes.
 4. Existing and proposed structures, utilities and paved areas, as well as the proposed type of cover on areas not covered by buildings, structures or pavement. The description shall

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be in terms such as lawn, turfgrass, shrubbery, trees, forest cover, riprap, mulch, etc.

5. A detailed description of on-site detention facilities and provisions provided which will carry runoff to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way. Calculations determining the size and depth of any required detention facility shall accompany the control plan.
 6. A summary of provisions for maintenance of control facilities, including easements if necessary, inspection schedule, maintenance cost estimate, and identifying the party responsible for such maintenance.
- (4) **REVIEW OF APPLICATION:** The City Engineer shall receive and review all permit applications that are accompanied by the appropriate fee and control plan if required. The City Engineer shall determine whether measures included in the plan to control erosion, sedimentation and runoff during and after the land disturbing activities are adequate to meet all applicable standards. The City Engineer shall, within 30 calendar days from the receipt of the permit application, control plan and appropriate fee, inform the applicant in writing whether the plan is approved, disapproved, or approved conditionally. Should the applicant modify a conditionally approved plan, there shall be no additional permit fee. The City Engineer has 30 days to review the modified plan and issue a decision. Failure to render a written decision within 30 days shall be deemed to mean approval of the plan as submitted, and the applicant may proceed as if a permit has been issued. If a plan is disapproved, the applicant may resubmit a new control plan or may appeal the City Engineer's decision to the Public Works Board.
- (5) **CONSULTANT SERVICES:** If the City retains the services of professional consultants to assist the City in its review of a proposed permit application and/or control plan, the applicant may be required to reimburse the City for the costs incurred by the City to retain such services. Such reimbursement shall be in addition to the permit fees and other fees paid by the applicant. Such consultants may include, but are not limited to, planners, engineers, architects, attorneys, and/or environmental specialists. The City may require the applicant to enter into an agreement providing for the reimbursement to the City of said costs, which may be required to include an irrevocable letter of credit or other appropriate sureties equal to the cost of said services.

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- (6) PERMIT CONDITIONS: All permits issued under this Ordinance shall be subject to the following conditions and requirements. Any permittee shall be deemed to accepted all of these conditions.
- (a) That all disturbances, construction, and development shall be done pursuant to the control plan as approved by the City Engineer.
 - (b) That the permittee shall give at least two working days notice to the City Engineer in advance of the start of any land disturbing activity.
 - (c) That the permittee shall file a notice of completion of all land disturbing activities and/or the completion of installation of all on-site detention facilities within 10 days after completion.
 - (d) That approval in writing must be obtained prior to any modifications to the approved control plan.
 - (e) That the permittee shall be responsible for maintaining all roads, rights of way, runoff and drainage facilities and drainageways as specified in the approved plan until they are accepted and become the responsibility of the City.
 - (f) That the permittee will be responsible for repairing any damage at his or her expense to all adjoining surfaces and drainageways caused by runoff and/or sedimentation resulting from activities not in compliance with the permit.
 - (g) That the permittee must provide and install at his or her expense all drainage and runoff control improvements as required by this Ordinance and the approved control plan. The permittee must also bear his or her proportionate cost of off-site improvements to drainageways based upon the existing developed drainage area or planned development of the drainage area.
 - (h) That no portion of the land which undergoes the land disturbing activity will be allowed to remain uncovered for more than two weeks after notice is given to the City Engineer that the land disturbing activity is completed.
 - (i) That the permittee agrees to allow the City Engineer to enter onto the land regulated under this Ordinance for the purposes of inspecting for compliance with the approved control plan and permit.

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- (j) That the permittee authorizes the City Engineer to perform any work or operations necessary to bring the condition of the lands into conformity with the approved control plan and further consents to the City billing the permittee the total costs and expenses of such work and operations.
- (7) **PERMIT DURATION:** Permits issued under this Ordinance shall be valid for a period of one year from the date of issuance, and all work must be completed prior to the expiration date. However, the City Engineer is authorized to extend the expiration date of the permit if the extension is justified by the large scope of the project or situations beyond the permittee's control, and if he or she finds that such an extension will not cause an increase in runoff. The City Engineer is further authorized to modify the plans if necessary to prevent any increase in runoff resulting from any extension.
- (8) **PERMIT FEE:** The owner and occupier of public lands are exempt from paying any permit fees. All permit applications filed under this Ordinance shall be accompanied by a \$50 payment for any development listed under section 26.11 (1) and (2) a-f of this Ordinance. This fee may be waived if the permittee has received DNR approval for a control plan, thereby minimizing the review required by the City. The fee may also be reduced or waived if only a minor-impact permit is required.
- (9) **ADMINISTRATION:** The Sparta Common Council hereby designates the City Engineer to administer and enforce the provisions of this Ordinance under the direction of the Public Works Board. The City Engineer may appoint assistants to aid in the performance of duties and may seek technical advice from State and County agencies. In the administration and enforcement of this Ordinance, the City Engineer shall keep an accurate record of all plan data received, plans approved, permits issued, inspections made, and other official actions. He or she shall review all plans and permit applications received when accompanied by the necessary information and the appropriate fee, and shall issue the permits required if appropriate. The City Engineer shall investigate all complaints made concerning the application of this Ordinance. He or she shall revoke any permit granted under this Ordinance if it is found that the holder of the permit has misrepresented any material fact in his or her permit applications or plan, or has failed to comply with the plan as approved, or has violated any of the other conditions of the permit as issued.
- (10) **INSPECTION AUTHORITY:** The City Engineer is authorized to enter upon any public or private lands affected by this Ordinance to inspect the land prior to permit issuance for the purpose of determining whether to approve the plan and after permit issuance to determine compliance with

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this Ordinance. If permission cannot be received from the land owner or user, entry by the City Engineer shall be according to Wis. Stats. 66.122 and 66.123.

- (11) **ENFORCEMENT AUTHORITY:** The City Engineer is authorized to post a stop work order upon land which has had a permit revoked or to post a stop work order upon land which is currently undergoing any land disturbing activity in violation of this Ordinance. The City Engineer shall supply a copy of each stop work order to the City Attorney. In lieu of the stop work order, the City Engineer may issue a written cease and desist order to any land occupier or land user whose activity is in violation of this Ordinance. These orders shall specify that the activity must be ceased or brought into compliance with the Ordinance within seven days. Any revocation, stop work order or cease and desist order shall remain in effect unless retracted by the Public Works Board, the City Engineer, or by a court of general jurisdiction; or until the land disturbing activity is brought into compliance with the Ordinance. The City Engineer 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 City Attorney for the commencement of legal proceedings.
- (12) **APPEALS:** The Public Works Board shall hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by the City Engineer in administering this Ordinance. The Board may authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to public interest, where owing to special conditions a literal enforcement of this Ordinance will result in unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The rules, procedures, duties, and powers established by the City for the Board of Zoning Appeals shall apply to appeals to the Public Works Board under this Ordinance. Appeals may be made by any person aggrieved or by any officer, department, board or bureau of the City affected by the order, requirement, decision or determination made by the City Engineer. For the purpose of this Ordinance, an aggrieved person may include a permit applicant and property owners of land subject to this Ordinance.