

CHAPTER 28

STORMWATER MANAGEMENT

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28.01 AUTHORITY

- (1) This ordinance is adopted by the City of Manitowoc (City) under the authority granted by section 62.234 Wis. Stats. This ordinance, and any amendments thereto, supersedes all conflicting and contradictory stormwater management regulations previously enacted under section 62.234 Wis. Stats., and section 62.23 Wis. Stats.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City.
- (3) The City hereby designates the Director of Public Works as the administering authority to administer

and enforce the provisions of this ordinance.

- (4) The requirements of this ordinance do not pre-empt more stringent stormwater management requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources ("WDNR") administrative rules, permits or approvals including those authorized under s. 281.16 and s. 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the WDNR under s. NR 151.004, Wis. Adm. Code.

28.02 FINDINGS OF FACT

The City finds that uncontrolled stormwater runoff from land development and redevelopment activity has a significant impact upon water resources and the health, safety, and general welfare of the community. Specifically, uncontrolled stormwater runoff can:

- (1) degrade physical stream habitat by increasing stream bank erosion, increase stream bed scour, diminish groundwater recharge, and diminish stream base flow;
- (2) diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing loadings of nutrients and other urban pollutants;
- (3) alter wetland communities by changing wetland hydrology and by increasing pollutant loads;
- (4) reduce the quality of groundwater by increasing pollutant loads;
- (5) threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways, other minor drainage facilities, and increasing major flood peaks and volumes;
- (6) undermine floodplain management efforts by increasing the incidence and levels of flooding;

and

- (7) diminish the public enjoyment of natural resources.

28.03 PURPOSE AND INTENT

- (1) **PURPOSE.** The purpose of this ordinance is to set forth stormwater requirements and criteria, which will prevent and control water pollution and diminish the threats to public health, safety, welfare, and aquatic life due to runoff of stormwater from development and redevelopment. Specific purposes are to:
 - (a) Further the maintenance of safe and healthful conditions;
 - (b) Prevent and control the adverse effects of stormwater; 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;
 - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property; and
 - (d) Assure that site plans pursuant to section 15.37(2) comply with the provisions of this chapter.
- (2) **INTENT.** It is the general intent of the City that this ordinance achieve its purpose through:
 - (a) regulating long-term, post-construction stormwater discharges from land development activities;
 - (b) controlling the quantity, peak flow rates,

and quality of stormwater discharges from land development activities; and

- (c) maintaining and enhancing the quality of life within the community.

Towards this end, the City will manage stormwater to protect, maintain and enhance the natural environment; diversity of fish and wildlife; human life; property; and recreational use of waterways within the City.

- (d) The City recognizes, however, that the preferred method of achieving the stormwater performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional stormwater management measures and have been approved by the City, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

28.04 DEFINITIONS

- (1) "Administering Authority" means the City's Director of Public Works, or his/her designee to administer this ordinance.
- (2) "Agricultural activity area" means the part of a farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices.

The agricultural activity area does not include the agricultural production area.

- (3) "Applicant" means any public or private property owner, tenant, developer or agent responsible for submitting and carrying out the requirements of this ordinance. Applicant shall also mean any subsequent landowner to which this ordinance applies.
- (4) "Average annual rainfall" means a calendar year of precipitation, excluding snow, which is considered typical. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.
- (5) "Best Management Practices" or "BMP" means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants in runoff to waters of the state.
- (6) "Business day" means a day which offices of the City are routinely and customarily open for business.
- (7) "Cease and desist order" means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (8) "Common plan of development or sale" means all lands included within the boundary of a certified survey map or subdivision plat pursuant to Chapter 21 of the City's Municipal Code and Chapter 236 of Wis. Stats., created for the development or sale of property, where multiple, separate, and distinct land developing activities may take place at a different times and on different schedules.
- (9) "Connected imperviousness" means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (10) "Construction site" means an area upon which one

(1) or more land disturbing construction activities occur, including areas that are part of a larger common plan of development or sale.

- (11) "City" means the City of Manitowoc, Wisconsin
- (12) "Director of Public Works" means the City of Manitowoc Director of Public Works or designee.
- (13) "Design rainfall event" means a discrete rainstorm characterized by a specific duration, rainfall intensity and/or return frequency.
- (14) "Design storm" means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The TR-55, Type II, 24-hour design storms for the City of Manitowoc are: 1-year, 2.2 inches; 2-year, 2.4 inches; 5-year, 3.3 inches; 10-year, 3.7 inches; 25-year, 4.4 inches; and 100-year, 5.0 inches.
- (15) "Discharge volume" means the quantity of runoff discharged from the land surface as the result of a rainfall event.
- (16) "Division of land" means the creation of an additional legal lot of record or a building site within the City or its extraterritorial jurisdiction.
- (17) "Effective infiltration area" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.
- (18) "Erosion" means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (19) "Existing land use condition" means the use of a lot or structure, or the condition of the proposed development site and adjacent properties that are present prior to the contemplated development or site alteration. This term applies for the purpose of properly sizing the stormwater conveyance system in accordance with the

requirements of this ordinance.

- (20) "Extraterritorial" means the unincorporated area within three (3) miles of the corporate limits of the City pursuant to s. 62.23(7a), Wis. Stats.
- (21) "Fee-in-lieu" means a payment of money, land dedication or other consideration acceptable to the City, in place of meeting all or part of the stormwater performance standards required by this ordinance.
- (22) "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 structures, or employment of equivalent permanent stabilization measures.
- (23) "Future proposed land use or Post-development conditions" means any proposed land alterations or disturbances including, but not limited to, the removal of vegetative cover; excavating; filling/grading; and the construction of buildings, roads, parking lots, paved storage areas and similar facilities.
- (24) "Gross aggregate area" means the total area, in acres, of all land located within the property boundary or the common plan of development or sale containing the land development activity, as measured by the outside dimensions of said property.
- (25) "Groundwater enforcement standard" means a numerical value expressing the concentration of a substance in groundwater, which is, adopted under section 160.07 Wis. Stats., and Wis. Admin. Code chapter NR 140.10 or section 160.09 Wis. Stats., and Wis. Admin. Code chapter NR 140.12.
- (26) "Groundwater preventive action limit" means a numerical value expressing the concentration of a substance in groundwater that is adopted under section 160.15 Wis. Stats., and Wis. Admin. Code chapter NR 140.12 or 140.20.

- (27) "Impervious surface" means a surface that severely reduces or does not allow infiltration during precipitation events. Rooftops, sidewalks, parking lots, and street surfaces are examples of impervious surface. Gravel surfaces are considered impervious.
- (28) "In-fill area" means a new development area less than 5 acres in size that is located within existing urban sewer service areas, surrounded by already existing development or existing development and natural or man-made features where development cannot occur.
- (29) "Infiltration" means the process by which rain or surface runoff penetrates into the underlying soil.
- (30) "Infiltration system" means a device or practice such as a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns or minimal infiltration from practices, such as swales or road side channels designed for conveyance and pollutant removal only.
- (31) "Karst feature" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.
- (32) "Land development activity" means any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface. This term does not include agricultural cropping activities.
- (33) "Land disturbing construction activity" (or "disturbance") means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state.

Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities, and soil stockpiling.

- (34) "Maintenance agreement" means a legal document approved by the City that is recorded at the Manitowoc County Register of Deeds as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.
- (35) "MEP" or "maximum extent practicable" means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance 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.
- (36) "Natural 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. These wetlands include existing, mitigated and restored wetlands.
- (37) "New development" means that portion of a post-construction site where impervious surfaces are being created or expanded. Any disturbance where the amount of impervious area for the post-development condition is greater than the pre-development condition is classified as new development. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- (38) "Non-stormwater discharge" means a discharge to the storm sewer system created by a process other than the runoff from precipitation.
- (39) "Non-structural measure" means a practice, technique, or measure to reduce the volume, peak

flow rate, or pollutants, in stormwater that does not require the design or installation of fixed stormwater management facilities.

- (40) "Off-site" means lands located outside the property boundary described in the permit application for land development activity, or in a site plan approved pursuant to section 15.37(2) of the City's Municipal Code.
- (41) "On-site" means located within the property boundary described in the permit application, or in a site plan approved pursuant to section 15.37(2) of the City's Municipal Code.
- (42) "Other than residential development" means development of the following land uses: retail; commercial; industrial; government and institutional; recreation; transportation, communication, and utilities, or mixed use being a combination of the above.
- (43) "Peak flow discharge rate" means the maximum rate at which a unit volume of stormwater is discharged.
- (44) "Permit" means a written authorization made by the City to the applicant to conduct land development activities.
- (45) "Permit administration fee" means a sum of money paid to the City by the permit applicant for the purpose of partially or fully recouping the expenses incurred by the City in administering the permit.
- (46) "Pervious surface" means a surface that allows infiltration of precipitation or surface flow. Lawns, fields and woodlands are examples of pervious surfaces.
- (47) "Post-construction stormwater discharge" means any stormwater discharged from a site following the completion of land disturbing construction activity and final site stabilization.
- (48) "Post-development land use condition" means the

extent and distribution of land cover types, anticipated to occur under conditions of full development, that will influence precipitation runoff and infiltration (see also "Future proposed land use condition.")

- (49) "Pre-development land use condition" means land which has runoff characteristics equivalent to runoff Curve Numbers (CNs) of: 30, 58, 71, and 78 for Hydrologic Soil Groups A, B, C, and D, respectively. This term is used for the purpose of matching of pre- and post-development stormwater peak flows and volumes as required by this ordinance. 28.06(1)(a). (see also "Existing land use condition.")
- (50) "Pre-treatment" means the treatment of stormwater prior to its discharge to wetlands, infiltration practices, or the primary stormwater treatment practice in order to reduce pollutant loads to a level compatible with the capability of the wetland, infiltration or primary stormwater treatment practice.
- (51) "Public drainage system" means all facilities owned and operated by the City, Manitowoc County or the Wisconsin Department of Transportation for the purpose of collecting, conveying, storing, treating and properly disposing of stormwater runoff.
- (52) "Redevelopment" means areas where development is replacing older development.
- (53) "Residential land development" means residential dwellings as well as all affected portions of a development including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single and two family, multi-family, condominium, apartment, mobile and manufactured homes.
- (54) "Responsible party" means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMPs.

- (55) "Routine maintenance" means that portion of a post-construction site where pre-development impervious surfaces are being maintained to preserve the original line and grade, hydraulic capacity, drainage pattern, configuration, or purpose of the facility. Remodeling of buildings and resurfacing of parking lots, streets, driveways, and sidewalks are examples of routine maintenance, provided the lower one-half of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower one-half of the granular base associated with the pre-development impervious surface is disturbed or if the soil located beneath the impervious surface is exposed. For purposes of this ordinance, a post-construction site is classified as new development, redevelopment, routine maintenance, or some combination of these three classifications as appropriate.
- (56) "Runoff" means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (57) "Separate storm sewer" means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
- (a) Is designed or used for collecting water or conveying runoff.
 - (b) Is not part of a combined sewer system.
 - (c) Is not draining to a stormwater treatment device or system.
 - (d) Discharges directly or indirectly to waters of the state.
- (58) "Security Instrument" means an irrevocable letter of credit, or similar financial guarantee submitted to the City by the permit holder meeting the requirements under section 15.37(2)(k) of the

City's Municipal Code, to assure that installation and maintenance requirements of the ordinance are carried out in compliance with the stormwater management plan. The Director of Public Works must preapprove security instrument.

- (59) Significant modification to practice or installation" means any alteration that alters the performance of the practice or installation by more than five (5) percent (based upon cost, efficiency, or effectiveness) or alters the method of practice or installation.
- (60) "Site" means the entire area included in the legal description of the land on which the land disturbing construction activity occurred or lands covered by a site plan pursuant to section 15.37(2) of the City's Municipal Code.
- (61) "Site restrictions" means any physical characteristics that limit the use of a stormwater best management practice.
- (62) "Stop work order" means a written order issued by the City, which requires all construction activity at a site be stopped.
- (63) "Stormwater conveyance system" means any method employed to hold, carry or transport stormwater runoff from a development to waters of the State. Examples of methods include swales, channels, and storm sewers.
- (64) "Stormwater management plan" means the latest approved City stormwater management document(s), policies, or procedures that identify what actions will be taken to reduce stormwater quantity and pollutant loads from the post-development land use condition, to levels meeting the requirements of this ordinance.
- (65) "Stormwater management system plan" is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.

- (66) "Stormwater runoff" means that portion of precipitation that does not soak into the soil, and flows off the surface of the land and into the natural or artificial conveyance system.
- (67) "Stormwater management measure" means structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and peak flow discharge rates.
- (68) "Structural measure" means source area practices, conveyance measures, and end-of -pipe treatment that are designed to control stormwater runoff pollutant loads, discharge volumes, and peak flow rates.
- (69) "Technical standard" means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (70) "Top of the channel" means an edge, or point on the landscape, landward from the ordinary high-water mark of a surface water of the state, where the slope of the land begins to be less than twelve (12) percent continually for at least fifty (50) feet. If the slope of the land is twelve (12) percent or less continually for the initial fifty (50) feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (71) "TR-55" means the United States Department of Agriculture, Natural Resources Conservation Service (previously Soil Conservation Service), Urban Hydrology for Small Watersheds, Second Edition, Technical Release 55, June 1986.
- (72) "Transportation facility" means a public street, a public road, a public highway, a public mass transit facility, a public-use airport, a public trail, or any other public work for transportation purposes such as harbor improvements under s. 85.095(1) (b), Wis. Stats.
- (73) "Type II distribution" means a rainfall type curve as established in the "United States Department of

Agriculture, Soil Conservation Service, Technical Paper 149, published 1973". The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.

- (74) "Waters of the State" has the meaning given in s. 281.01(18), Wis. Stats.
- (75) "Wetland functional value" means the type, quality, and significance of the ecological and cultural benefits provided by wetland resources, including, but not limited to flood storage, water quality protection, groundwater recharge and discharge, shoreline protection, fish and wildlife habitat, floral diversity, aesthetics, recreation, and education.
- (76) "WPDES" means Wisconsin Pollutant Discharge Elimination System.
- (77) "WPDES Stormwater Permit" means a permit issued by the Wisconsin Department of Natural Resources under section 147.021 Wis. Stats. that authorizes the point source discharge of stormwater to waters of the State, and is regulated by Wis. Admin. Code Chapter NR 216 "Stormwater Discharge Permit".

28.05 APPLICABILITY AND JURISDICTION

- (1) **APPLICABILITY.** This ordinance applies to land development activities which meet the following applicability criteria. The ordinance applies to land development activities that are smaller than the minimum applicability criteria if such activities are part of a larger common plan of development or sale that meets the following criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.
 - (a) A post construction site with one (1) or more acres of land disturbing construction activity; or
 - (b) A post construction site with a cumulative addition of 20,000 square feet or greater of

impervious surface disturbance after the effective date of the ordinance.

- (c) In the opinion of the Administering Authority, is likely to result in stormwater runoff which causes undue channel erosion, increases water pollution, or which endangers downstream property or public safety.
- (2) A land development activity that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.
- (a) Single and two family residential dwellings that are not part of a larger common plan of development or sale that result in less than one (1) acre of disturbance;
 - (b) A post construction site with no increase in exposed parking lots or roads;
 - (c) Non-point discharges from agricultural activity areas;
 - (d) Non-point discharges from silviculture activities; or
 - (e) Mill and crush operations.
- (3) **JURISDICTION.** This ordinance applies to land development activities within the corporate boundaries of the City.
- (4) **EXCLUSIONS.** This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.

28.06 STORMWATER MANAGEMENT STANDARDS

- (1) **RESPONSIBLE PARTY.** The responsible party shall develop and implement a written post-construction

stormwater management plan that incorporates the requirements of this section.

(2) STORMWATER DISCHARGE QUANTITY. Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the peak flow rates of stormwater discharged from a site as described in this ordinance. The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or land disturbance. Infiltration of stormwater runoff shall be in accordance with NR 151 and WDNR Technical Standards. On-site management practices shall be used to meet the following minimum performance standards:

(a) No development in the City shall increase peak flow rates of stormwater runoff from that which would have resulted from the same storm occurring over the site with the land in its pre-development conditions for design rainfall events with recurrence intervals of two (2), ten (10), and one hundred (100) years.

(b) All stormwater conveyance systems within a proposed development, and receiving surface runoff from a proposed development, shall be designed to completely contain peak storm flows as described in section 28.06(1)(b)(1) and (2) of this ordinance. Calculations for determining peak flows for conveyance system sizing shall be based on the existing or future proposed land use conditions for off-site areas (which ever results in the highest peak flows), and the future proposed land use conditions for the on-site areas:

1. For open channel conveyance systems the peak flow from the twenty-five (25) year, storm shall be completely contained within a channels bottom and banks.
2. For storm sewer pipes, the peak flow from the ten (10) year storm, shall be

completely contained within the pipes with no surcharging or pressurized flow. There shall be incorporated into the design, above ground emergency flow for the one hundred (100) year storm. Easements shall be granted to the City for emergency flow paths that are not wholly contained in the public right-of-way (ROW).

- (c) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of section 28.06(2)(a) and (b) of this ordinance shall be computed by procedures based on the principals and procedures approved by the Director of Public Works and that are described in the City's "Engineering Design Manual", as may be amended from time to time.
- (d) The amount of peak discharge control previously required for the site shall not be reduced as a result of the proposed development or disturbance.
- (e) An adequate outfall shall be provided for each point of concentrated discharge from the post-construction site. An adequate outfall consists of non-erosive discharge velocities and reasonable downstream conveyance.
- (f) More stringent discharge limits may be required at the discretion of the Director of Public Works for reasons such as, but not limited to, insufficient downstream system capacity, potential erosion of stream channels, or impacts on flood stages.
- (g) All point discharges will be restricted to public drainage systems (including storm sewers and ditches) or to waters of the State. The applicant is responsible to obtain, from adjacent property owners, any easements or other necessary approvals regarding the flow of water from the proposed development onto private lands.
- (h) Increases or decreases in the hydrology of

natural wetlands shall be minimized to the fullest extent practical. Where such changes are proposed, the impact of the proposal on wetlands shall be assessed and meet the requirements of Wis. Admin. Code, Chapter NR 103.

- (i) Emergency overland flow for all stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.

(3) STORMWATER DISCHARGE QUALITY. After January 1, 2004, and unless otherwise provided for in this ordinance, all land development activities subject to Section 28.05 (1) of this ordinance shall establish on-site management practices to control the quality of stormwater discharge from a site. The following on-site management practices shall be used to meet the following minimum standards:

- (a) Stormwater management measures shall be designed to remove, on an average annual basis, a minimum of eighty (80) percent of the total suspended solids load from a proposed on-site development when compared to a proposed on-site development without stormwater management measures.
- (b) Stormwater management measures on redevelopment sites shall be designed to remove, on an average annual basis, a minimum of forty (40) percent of the total suspended solids load from a proposed on-site development when compared to a proposed on-site development without stormwater management measures.
- (c) Discharge of urban stormwater pollutants to natural wetlands shall have pre-treatment and vegetative buffers, unless otherwise exempted by the Director of Public Works. Where pre-treatment meets the standards described herein, the impacts of the proposal on wetland functional values shall be assessed using a method acceptable to the Director of

Public Works. Significant changes to wetland functional values due to storm water pollutant loads shall be avoided.

- (d) Infiltration of stormwater runoff shall be in accordance with NR. 151 and WDNR Technical Standards. When, infiltration basins, bio-filtration or bio-infiltration basins or other such practices are proposed as a BMP for a site, a soils investigation following WDNR Technical Standard 1002 shall be prepared.
- (e) Stormwater discharges shall have pre-treatment prior to infiltration, to prolong maintenance of the infiltration practice and to prevent discharge of stormwater pollutants at concentrations that will exceed groundwater preventive action limits or enforcement standards established by the Department of Natural Resources in Wis. Admin. Code Chapter NR 140. Stormwater infiltration is prohibited under the following circumstances:
 - 1. Stormwater is generated from highly contaminated source areas at manufacturing industrial sites;
 - 2. Stormwater is carried in a conveyance system that also carries contaminated, non-stormwater discharges; or
 - 3. Stormwater is generated from active construction sites.
- (f) Petroleum products in runoff from fueling and vehicle maintenance areas shall be controlled with a properly designed and maintained oil and grease separator, or other equivalent practice. The structure or practice shall remove all visible sheen from the runoff prior to discharge to waters of the State or the City's storm water system.
- (g) Stormwater ponds and infiltration devices

shall not be located closer to water supply wells than indicated below, without prior written approval by the Director of Public Works:

1. One hundred (100) feet from a non-public water supply well;
2. One thousand, two hundred (1,200) feet from a City water supply well;
3. the boundary of a recharge area to a well identified in a wellhead area protection plan, if it exists.

(h) The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or disturbance.

(i) Pollutant loading models such as SLAMM, P8 or equivalent methodology may be used to evaluate the efficiency of the design in reducing total suspended solids.

(j) If the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.

(k) More or less stringent treatment limits may be required at the discretion of the Director of Public Works.

(4) **TECHNICAL STANDARDS.** The following methods shall be used in designing and maintaining the water quality, peak discharges, infiltration, protective areas, and fueling / vehicle maintenance components of the stormwater practices needed to meet the water quality standards of this ordinance:

(a) Technical standards identified, developed or disseminated by the Wisconsin Department of

Natural Resources under subchapter V of Chapter NR 151, Wis. Adm. Code.

- (b) Technical standards and guidance identified within the City's "Engineering Design Manual", as may be amended from time to time.
 - (c) Where technical standards have not been identified or developed by the WDNR, other technical standards may be used provided that the methods have been approved by the Director of Public Works.
- (5) **PROTECTIVE AREAS.** Stormwater runoff through and around Protective Areas shall be in conformance with NR 151.
- (a) "Protective area" means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, "protective area" does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
 1. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in NR 103.04, seventy-five (75) feet.
 2. For perennial and intermittent streams identified on a United States geological survey 7.5-minute series topographic map, or a county soil survey map, whichever is more current, fifty (50) feet.
 3. For lakes, fifty (50) feet.
 4. For highly susceptible wetlands, fifty

(50) feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins.

5. For less susceptible wetlands, ten (10) percent of the average wetland width, but no less than ten (10) feet nor more than thirty (30) feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
6. In subd. a. 1., 4. and 5., determinations of the extent of the protective area adjacent to wetlands shall be made on the basis of the sensitivity and runoff susceptibility of the wetland in accordance with the standards and criteria in NR 103.03.
7. For concentrated flow channels with drainage areas greater than 130 acres, ten (10) feet.

(b) Wetlands shall be delineated. Wetland boundary delineations shall be made in accordance with NR 103.08(1m). This paragraph (5) does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.

(c) This paragraph (5) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. f. below.

(d) The following shall be met:

1. Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
2. Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of seventy (70) percent or greater shall be established and maintained. The adequate sod or self-sustaining vegetative cover shall be sufficient to provide for bank stability, maintenance of fish habitat and filtering of pollutants from upslope overland flow areas under sheet flow conditions. Non-vegetative materials, such as rock riprap, may be employed on the bank as necessary to prevent erosion, such as on steep slopes or where high velocity flows occur.

Note to Users: *It is recommended that seeding of non-aggressive vegetative cover be used in the protective areas. Vegetation that is flood and drought tolerant and can provide long-term bank stability because of an extensive root system is preferable. Vegetative cover can be measured using the line transect method described in the University of Wisconsin Extension publication number A3533, titled "Estimating Residue Using the Line Transect Method".*

3. Best Management Practices such as filter strips, swales, or wet detention basins that are designed to control pollutants from non-point sources may be located in the protective area.

Note to Users: *Other regulations, such as chapter 30, Wis. Stats., and chs. NR 103, 115, 116 and 117, Wis. Adm. Code, and their associated review and approval process may*

apply in the protective area.

- (e) A protective area established or created after the effective date of this ordinance shall not be eliminated or reduced, except as allowed in subd. f. 1, 2, 3 or 4 below.
- (f) Exemptions. The following areas are not required to meet the protective area requirements of this paragraph (5):
 - 1. Redevelopment and routine maintenance areas provided the minimum requirements within in subd. 5 above are satisfied.
 - 2. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - 3. Structures constructed in accordance with s. 59.692(1v), Wis. Stats.
 - 4. Post-construction sites from which runoff does not enter the surface water, except to the extent that vegetative ground cover is necessary to maintain bank stability.

Note to Users: *A vegetated protective area to filter runoff pollutants from post-construction sites described in subd. 6.d is not necessary since runoff is not entering the surface water at that location. Other practices, necessary to meet the requirements of this section, such as a swale or basin, will need to be designed and implemented to reduce runoff pollutants before the runoff enters a surface water of the state.*

- (6) **EXCEPTIONS.** The Director of Public Works may waive the minimum requirements for on-site stormwater management practices established in section 28.06(2) and (3) of this ordinance upon written request of the applicant, in which a site-specific explanation as to why that level of reduction is not attained and the total solids load shall be reduced to the maximum extent practicable, and provided that at least one (1) of

the following conditions applies:

- (a) Alternative minimum requirements for on-site management of stormwater discharges have been established in a stormwater management plan that has been approved by the Director of Public Works.
 - (b) Provisions are made to manage stormwater by an off-site facility. This requires that a off-site facility is in place, is fully functional, and is designed and adequately sized to provide a level of stormwater control that is equal to or greater than that which would be afforded by on-site practices meeting the requirements of this ordinance, and has a legally obligated applicant responsible for long-term operation and maintenance of the stormwater practice.
 - (c) The Director of Public Works finds that meeting the minimum on-site management requirements is not feasible due to site restrictions. The Director of Public Works shall not use financial hardship as the sole criteria in determining feasibility.
- (7) **FEE IN LIEU OF ON-SITE STORMWATER MANAGEMENT PRACTICES.** Where the Director of Public Works waives all or part of the minimum on-site stormwater management requirements under section 28.06(3)(c) of this ordinance, or where the waiver is based on the provision of adequate stormwater facilities provided by the City downstream of the proposed development, as provided for under section 28.06(3)(b) of this ordinance, the applicant shall be required to pay a fee, in an amount determined by the Resolution of the Common Council, or alternative consideration. In setting the fee for land development projects, the City shall consider an equitable distribution of the cost of land, engineering design, construction, and maintenance. The minimum fee shall be as determined by the Common Council through Resolution. Partial detention will be credited towards the fee, if approved by the Director of Public Works.

28.07 PERMITTING REQUIREMENT, PROCEDURES AND FEES

- (1) PERMIT REQUIRED.** No applicant may commence or undertake a land development activity in the City subject to this ordinance, and without first receiving a permit from the Director of Public Works.
- (2) PERMIT APPLICATION AND FEE.** Unless specifically excluded by this ordinance, any applicant desiring a stormwater management permit shall submit to the Director of Public Works a written permit application containing all necessary information as required by the official City stormwater management form.

 - (a)** Unless otherwise exempted by this ordinance, a permit application must be accompanied by the following information in order to be considered by the Director of Public Works:

 1. a stormwater management plan in accordance with section 28.08 of this ordinance;
 2. a maintenance agreement in recordable form in accordance with section 28.09 of this ordinance;
 3. any payment of a Fee-in-lieu, as provided for under section 28.06(7) of this ordinance;
 4. a non-refundable permit administration fee to cover costs incurred by the City for review and analysis of the permit application materials, at rates established by resolution of the Common Council; and
 5. any easements or land approvals which may be required.

In addition to a permit administration fee, the Director of Public Works will invoice the applicant for actual

expenses incurred by the City or its consultant to review a stormwater management plan. The applicant will be invoiced for the amount of these expenses which are more than double the amount of the permit administration fee.

(3) REVIEW AND APPROVAL PERMIT APPLICATION. The Director of Public Works shall review all permit applications. The following approval procedure shall be used:

- (a)** Within ten (10) business days of the receipt of a complete permit application, including all documents as required by section 28.07(2)(a) of this ordinance, the Director of Public Works shall inform the applicant in writing whether the application, plan, maintenance agreement and easements are approved or disapproved or if additional information is required under (d). The Director of Public Works shall base the decision on requirements set forth in sections 28.06, 28.08, and 28.09 of this ordinance. In the case of a complex permit application or other extenuating circumstances, the Director of Public Works may extend the time of permit review an additional ten (10) business days. If an extension occurs, the permit applicant will be notified of the extension in the first ten (10) business days.
- (b)** If a stormwater permit application, plan, maintenance agreements or easements are approved, the Director of Public Works shall issue the permit provided all fees and costs are paid contemporaneous with the issuance of said permit.
- (c)** If a stormwater permit application, plan, maintenance agreements or easements are disapproved, the applicant may revise the stormwater management plan or agreement, or may appeal the decision as provided for in section 28.11 of this ordinance.
- (d)** If additional information is submitted, the

Director of Public Works shall have twenty (20) business days from the date the additional information is received to inform the applicant that the application, plan, maintenance agreement and easements are either approved or disapproved.

- (e) Failure by the Director of Public Works to inform the permit applicant in writing of a decision within twenty (20) business days of a required submittal shall be deemed a disapproval of the submittal.

(4) PRACTICE, INSTALLATION, SECURITY INSTRUMENT AND MAINTENANCE. The Director of Public Works may, at his/her discretion, require the submittal of a security instrument prior to issuance of a permit, in order to insure that the stormwater practices will be installed and maintained by the applicant as required by the stormwater management plan. The Director of Public Works shall determine the amount and type of security instrument, and shall set the terms and conditions of the security instrument to meet the requirements under section 15.37(2)(k) of the City's Municipal Code, and subject to the following parameters:

- (a) The security instrument shall not exceed the total estimated construction cost of the stormwater management practices approved under a permit, plus fifteen percent;
- (b) The amount of the maintenance agreement shall be determined by the Director of Public Works, and shall not exceed the maintenance costs estimated in the stormwater plan for the period during which the applicant has maintenance responsibility; and
- (c) The security instrument shall contain forfeiture or liquidated damages provisions for failure to complete work specified in a stormwater management plan, and for failure to maintain the improvements. Conditions for the release of a security instrument are as follows:

1. The security instrument for the completion of all required improvements shall be released in full only upon submission of "as built plans" within sixty (60) consecutive calendar days after completion of construction, and written certification by a professional engineer registered in the State of Wisconsin, that the stormwater practice has been installed in accordance with the approved plan and other applicable provisions of this ordinance. The Director of Public Works may make provisions for a partial pro-rata release of the security instrument based on the completion of various development stages.
2. The security instrument for site maintenance, minus any actual costs or expenses incurred by the City to conduct required maintenance at the site, shall be released at such time that the responsibility for maintenance is assigned or transferred to another entity, subject to assignment of the approved maintenance agreement to the entity, and written consent of the City.

(5) PERMIT CONDITIONS. The Director of Public Works may suspend or revoke a permit for violation of a permit condition, following written notification to the applicant. An action by the Director of Public Works to suspend or revoke a permit may be appealed in accordance with section 28.11 of this ordinance. All permits issued under this ordinance shall be subject to the following conditions, and applicant issued permits under this ordinance shall be deemed to have accepted these conditions:

- (a)** Compliance with a permit does not relieve the applicant of the responsibility to comply with all federal, state, and local laws and regulations.
- (b)** The applicant shall design, install, and

maintain all structural and nonstructural stormwater management measures in accordance with the approved stormwater management plan, maintenance agreement, and permit.

- (c) The applicant shall notify the Director of Public Works during regular working hours at least three (3) business days before commencing any work in conjunction with the stormwater management plan, and within five (5) business days upon completion of the stormwater management practices. Such notification must include a contact person's name, phone and address. If required as a condition of the permit, the applicant shall make additional notification according to a schedule set forth by the Director of Public Works, so that practices and installations can be inspected during construction.
- (d) Completed stormwater management practices must pass a final inspection to determine if they are in accordance with the approved stormwater management plan and this ordinance. The Director of Public Works, or other competent professionals identified by the Director of Public Works, shall perform the required inspection, the costs of which shall be the sole responsibility of the applicant. The Director of Public Works shall notify the applicant in writing of any changes required in such practices to bring the improvements into compliance with the conditions of a permit. The applicant is further required to submit a certificate of completion, stating the completion of the permitted work in accordance with the plans, City, federal, state and local laws and regulations. The applicant, the applicant's contractor, and the applicant's designer engineer shall sign the certificate.
- (e) The applicant shall notify the Director of Public Works of any significant modifications to practices or installations the applicant intends to make to an approved stormwater management plan. The Director of Public Works may require that the proposed

modifications be submitted for approval, prior to incorporation of any modifications to a stormwater management plan.

- (f)** The applicant shall maintain all stormwater management practices, specified in the approved stormwater management plan, until the practices either become the responsibility of the City, or are assigned or transferred to a subsequent private owner(s) as specified in an approved maintenance agreement. If such maintenance does not occur, the applicant is deemed to have authorized the City to perform maintenance at the owner's expense, and to draw upon the performance security under section 28.07(4) of this ordinance.
- (g)** The applicant authorizes the Director of Public Works to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, when necessary to complete the work after in completion, notification or when required for public safety. The City shall utilize any remedies at law to collect any unpaid costs, including but not limited to placing associated costs upon the tax roll as a lien against the applicant's property, or charging such costs against the performance security posted for the project.
- (h)** If so directed by the Director of Public Works, the applicant shall repair, at the applicant's own expense, all damages to adjoining municipal, and privately owned facilities and drainage ways caused by stormwater runoff, where such damage is caused or proximately caused by activities that are not in compliance with the approved stormwater management plan or in compliance with BMP's or DNR regulations.
- (i)** The applicant shall permit the Director of Public Works access to the property for the purpose of inspecting the property for compliance with the approved stormwater

management plan and this permit.

(j) Where a stormwater management plan involves direction of some or all runoff off from a site, it shall be the responsibility of the applicant to obtain, from adjacent property owners, any easements or other necessary property approvals concerning flowage of water per section 28.06(1)(e) of this ordinance. Issuance of a permit does not create any easements, approvals on water flowage or affect any other rights of adjacent property owner.

(k) The applicant is subject to the enforceable actions detailed in section 28.10 of this ordinance if the applicant fails to comply with the terms of a permit.

(6) **PERMIT DURATION.** Permits issued under this ordinance shall be valid from the date of issuance through the date the Director of Public Works notifies the applicant that all stormwater management practices have passed the final inspection required under section 28.07(5) of this ordinance. However, the applicant's permit shall expire twenty-four (24) months from the date of issuance under all circumstances, unless extended in writing by permission of the Director of Public Works. The applicant must reapply, and must meet all conditions of the first application as well as any new conditions and regulations in place at the time of the re-application, if the permit expires.

28.08 STORMWATER MANAGEMENT PLANS

(1) **PLAN REQUIREMENTS.** The stormwater management plan required under section 28.07 of the ordinance shall contain any information the Director of Public Works may need to evaluate the environmental characteristics of: (a) an area affected by land development activity; (b) the potential impacts of the proposed development upon the quality and quantity of stormwater discharges; (c) the potential impacts upon the areas water resources and drainage utilities; and (d) the effectiveness and acceptability of proposed

stormwater management measures in meeting the performance standards set forth in this ordinance. Stormwater management plans shall contain the following:

- (a)** Name, address, and telephone number for the following or their designees: landowner; developer; project engineer for design and certification of structural measures and non-structural measures; person(s) responsible for installation of structural measures and non-structural measures; person(s) temporarily and permanently responsible for maintenance of structural measures and non-structural measures.
- (b)** A legal description of the property where the land development activity will take place referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.
- (c)** Existing site conditions, including:

 - 1.** One or more site maps at a scale of not less than 1 inch equals one hundred (100) feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed two (2) feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; watershed boundaries used in determinations of peak flow rates and discharge volumes from the site; lakes, streams, wetlands, channels, ditches, and other watercourses on and within five hundred (500) feet of the site

boundary; limits of the one hundred (100) year floodplain; location of all public and private wells which are within one thousand two hundred (1,200) feet of the site; and the distance from any Well Head Protection Overlay Zoning District.

2. Computations of peak flow rates and discharge volumes for the two (2) year/24 hour, ten (10) year/24 hour, and one hundred (100) year/24 hour storm events. All major assumptions used in developing input parameters for these computations shall be clearly stated. The computations shall be made for each stormwater discharge point on the site development, and the geographic areas used in making the computations shall be clearly cross-referenced to the required map(s).

(d) Proposed post-development conditions, including:

1. Explanation of the provisions which will be implemented to preserve and use natural topography and land cover features to minimize changes in the peak flow rates and discharge volumes to surface waters and wetlands.
2. Explanation of any restrictions on structural measures and non-structural measures on the site imposed by a well head protection plan or Well Head Protection Overlay Zoning District.
3. One (1) or more site maps at a scale of not less than one (1) inch equals one hundred (100) feet showing: changes in land use including vegetative cover type and condition; proposed impervious surfaces including all buildings, structures, and pavement; changes to the topographic contours of the site at a scale not to exceed two (2) feet;

changes to the drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all stormwater conveyance sections, including time of travel and time of concentration applicable to each; location and type of all stormwater management conveyance and treatment practices including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in determinations of peak flow rates and discharge volumes; any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

4. Computation of the runoff volume resulting from the 1.5-inch rainfall over a four (4) hour period and computations of peak flow rates and discharge volumes for the two (2) year/24 hour, ten (10) year/24 hour, and one hundred (100) year/24 hour storm events. All major assumptions used in developing input parameters shall be clearly stated. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
5. Results of investigations of soils and groundwater required for the placement and design of structural measures.
6. Results of impact assessments on wetland

functional values.

7. Design computations and all applicable assumptions for the stormwater conveyance (open channel, closed pipe) system.
 8. Design computations and all applicable assumptions for stormwater quality practices (sedimentation type, filtration-type, infiltration-type) as needed to show that practices are appropriately sized.
 9. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment measures.
- (e) A schedule for completing all structural measures and non-structural measures.
 - (f) A maintenance program which covers the life of each structural measure and non-structural measure including the required maintenance activities and maintenance activity schedule.
 - (g) Cost estimates for the construction, operation, and maintenance of each structural measure and non-structural measure.
 - (h) Other information as required by the Director of Public Works to determine whether implementation of the proposed stormwater management plan will further the purpose of this ordinance.
 - (i) All site investigations, plans, designs, computations, and drawings shall be certified by a professional engineer, registered with the State of Wisconsin, that they have been prepared in accordance with accepted engineering practices and in accordance with WDNR Technical Standards.
 - (j) Any other information as specified by the Director of Public Works.

- (2) **EXCEPTIONS.** The Director of Public Works may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under section 28.06(3) of this ordinance.

28.09 MAINTENANCE AGREEMENT

- (1) **MAINTENANCE AGREEMENT REQUIRED.** A maintenance agreement between the City and the applicant shall be required for stormwater management practices under section 28.07(2) of this ordinance. The agreement shall be recorded as a property deed restriction at the Manitowoc County Register of Deeds, and shall be deemed to be a covenant running with the land, and shall further be binding upon all subsequent owners, lessees, licensees and the like, of the land served by the stormwater management agreement and practices. The cost and responsibility for such recording shall be borne by the applicant.
- (2) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain at a minimum, the following:
- (a) The applicant permit holder shall maintain stormwater management practices in accordance with the stormwater practice maintenance provisions contained in the approved stormwater management plan submitted under section 28.07(2) of this ordinance.
 - (b) Legal description of the property for which the agreement applies.
 - (c) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
 - (d) The detention basin(s)/pond(s) shall be inspected in compliance with the Inspection Report Form supplied by the City. A copy of the report form not limited to photographs or diagrams of the deficiency and corrections with the certification shall be provided to the City Engineer for review and approval.

Specific areas shall include, but not limited to:

1. Sediment accumulation
 2. Vegetative cover
 3. Invasive species
 4. Erosion
 5. Pond containment berms are stable and free of animal burrows
 6. Inlet pipes
 7. Outlet structures
- (e) Inspections shall be completed in April and September of every year and after each rainfall event of greater than 2 inches away within any 24-hour period. Reports are to be submitted to the City of Manitowoc prior to October 1st of each year.
- (f) The City Engineer has the authority to stop work, amend, or alter any construction or reconstruction of the stormwater management facilities.
- (g) The application of EPA/State Registered Chemicals to detention basins/ponds is regulated by the Wisconsin Department of Natural Resources. With few exceptions, a permit must be filed with, and approved by the Wisconsin Department of Natural Resources prior to chemical treatment.
- (h) The Director of Public Works is authorized to access the property to conduct inspection of stormwater practices, as necessary, to ascertain that the practices are being maintained and operated in accordance with an approved stormwater management plan.
- (i) The Director of Public Works shall maintain as public records the results of all site

inspections, and shall inform the applicant permit holder, or operator responsible for maintenance of the inspection results, of any corrective actions required to bring a stormwater management practice into proper working condition, and a reasonable time frame during which the corrective actions must be taken.

(j) Authorization for the Director of Public Works to perform the corrected actions identified in any inspection report if the applicant permit holder does not make the required corrections in the specified time period. The City may assess the applicant permit holder for the cost of such work, and may place a lien against the property, which may be collected, as are taxes by the City.

(3) **TERMINATION OF AGREEMENT.** A maintenance agreement shall be automatically terminated by the City at such date that responsibility for maintenance of a stormwater management practice is legally transferred to the City (or an agency acceptable to the City). The termination date of the maintenance agreement required under section 28.09(1) of this ordinance shall be the date upon which the legal transfer of maintenance responsibility is made effective.

28.10 ENFORCEMENT AND PENALTIES

(1) Any land development activity subject to this ordinance and initiated after the effective date of this ordinance by any person, firm, association, or business entity shall be deemed a violation unless conducted in accordance with the provisions contained herein.

(2) The Director of Public Works shall notify the applicant in writing of any noncomplying land development activity. The notice shall describe, at minimum the nature of the violation, remedial actions needed to cure any identified deficiencies, a schedule for remedial actions, and additional enforcement action which may be taken.

- (3) Upon receipt of written notification from the Director of Public Works, the applicant shall correct work, which does not comply with the stormwater management plan or other provisions of a permit, within thirty (30) calendar days, or an alternate timetable acceptable to both the applicant and the Director of Public Works. The applicant shall make corrections as necessary to meet the specifications and schedule set forth by the Director of Public Works in the notice, and if no permit exists, shall first obtain a permit under the guidelines of this ordinance.
- (4) The Director of Public Works is authorized to post a stop work order on all land development activity in violation of this ordinance, or to request the City Attorney to obtain a cease and desist order or injunctive relief.
- (5) The Director of Public Works may revoke a permit issued under this ordinance for noncompliance with ordinance provisions contained herein, and is authorized to cease approval of permits for other land development owned, brokered, operated or contracted to known violators.
- (6) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the Director of Public Works, or by a court of competent jurisdiction.
- (7) The Director of Public Works is authorized to refer any violation of this ordinance to the City's Attorney for the commencement of appropriate legal proceedings.
- (8) Any applicant, which does not comply with the provisions of this ordinance, shall be subject to a daily forfeiture of not less than \$500 dollars, nor more than \$5,000 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (9) Every violation of this ordinance shall be considered a public nuisance. Compliance with this ordinance may be enforced by injunctive order at the suit of the City pursuant to section

62.23(8) Wis. Stats. It shall not be necessary to prosecute for forfeiture before resorting to injunctive proceedings.

- (10) When the Director of Public Works determines that applicant has failed to follow practices set forth in the approved Stormwater Management Plan, or has failed to comply with schedules set forth in said Stormwater Management Plan, the Director of Public Works, may enter upon the applicant's land and perform the work or other operations necessary to bring the condition of said lands into conformance with requirements of the approved plan. The Director of Public Works shall keep a detailed accounting of the costs and expenses of performing any work. These costs and expenses shall be drawn and paid from any security instrument pursuant to section 28.09 of this ordinance. Where such a security instrument has not been established, or where such a security instrument is insufficient to cover these costs, the unpaid costs and expenses shall be entered on the tax roll as a special charge against the property and collected with any other taxes levied thereon for the year in which the work is completed.

28.11 APPEALS

- (1) **BOARD OF APPEALS.** The Zoning Board of Appeals (Board), pursuant to section 15.55 of the City's Municipal Code shall hear and decide appeals and disputes where it is alleged that there is error in any order, decision or determination made by the Director of Public Works in administering the ordinance. The Board shall use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals.

Upon appeal, the Board may authorize variances from the provisions of this ordinance. The Board will consider each case on its own merits and will not rely upon any previous actions as a reason to waive requirements contained herein.

- (2) **WHO MAY APPEAL.** Any officer, department, board or bureau of the City or any aggrieved applicant affected by any decision of the Director of Public

Works may appeal to the Board.

- (3) **FEES.** The fee schedule for an appeal shall be as set for all matters coming to the Board of Appeals as indicated in Chapter 15.

28.12 SEVERABILITY

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

28.13 FEES

Fees referred to in this ordinance shall be established by Resolution of the Common Council.