

CHAPTER 30

STORM WATER MANAGEMENT

(Rep. & Rec. GO 32-08)

(Amd. GO 12-16)

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30.01 **AUTHORITY**

(1) This ordinance is adopted by the City of Green Bay pursuant to its police powers and under the authority granted by §62.234, Wis. Stats. This ordinance supersedes all conflicting and contradictory storm water management regulations previously enacted under §62.23, Wis. Stats. Except as specifically provided for in §62.234, Wis. Stats., §62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.

(2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.

(3) The City of Green Bay hereby designates the Director of Public Works to have the administering authority to administer and enforce the provisions of this ordinance.

(4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:

(a) Wisconsin Department of Natural Resources administrative rules, permits or approvals, including those authorized under ss. 281.16 and 283.33, Wis. Stats.

(b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under s. NR 151.004, Wis. Adm. Code.

30.02 **FINDINGS OF FACT.** The City of Green Bay finds that uncontrolled storm water runoff from land development activity has a significant impact upon water resources and the health, safety, and general welfare of the community and diminishes the public enjoyment and use of natural resources. Specifically, uncontrolled post-construction land development activity runoff can:

(1) Degrade physical stream habitat by increasing stream bank erosion, increasing stream bed scour, diminishing groundwater recharge, diminishing stream base flows and increasing stream temperature.

(2) Diminish the capacity of lakes and streams to support fish, aquatic life, recreational, and water supply uses by increasing pollutant loadings of sediment, suspended solids, nutrients, heavy metals, bacteria, pathogens 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 loadings.

(5) Threaten public health, safety, property, and general welfare by overtaxing storm sewers, drainage ways and other minor drainage facilities.

(6) Threaten public health, safety, property, and general welfare by increasing major flood peaks and volumes.

(7) Undermine floodplain management efforts by increasing the incidence and levels of flooding.

30.03 **PURPOSE AND INTENT.**

(1) **PURPOSE.** The purpose of this ordinance is to establish long-term storm water management requirements and criteria that will prevent and control water pollution and diminish the threats to public health, safety, welfare, and aquatic environment life due to runoff of storm water from development or redevelopment. Specific purposes are to:

- (a) Further the maintenance of safe and healthful conditions.
- (b) Prevent and control the adverse effects of storm water; 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; and control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.

(2) **INTENT.** It is the general intent of the City of Green Bay that this ordinance achieves its purpose through:

- (a) Regulating long-term, post land development activity storm water discharges to waters of the State and U.S.
- (b) Controlling the quantity, peak flow rates, and quality of storm water discharges from land development activities.
- (c) It is more fully the intent of the City of Green Bay to provide services to maintain and enhance the quality of life within the community. To this end, the City of Green Bay will manage storm water to protect, maintain, and enhance the natural environment, diversity of fish and wildlife, human life, property, and recreational use of waterways within the City of Green Bay area.
- (d) This ordinance may be applied on a site-by-site basis.
- (e) The City of Green Bay recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water 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 storm water management measures and have been approved by the City Council, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

30.04 **DEFINITIONS.**

(1) **ADMINISTERING AUTHORITY** means the governmental employee designated by the City of Green Bay to administer this ordinance. The Director of Public Works has been designated to have the authority to administer this ordinance, §30.01(3).

(2) **AGRICULTURAL ACTIVITY AREA** means the part of the farm where there is planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or outside yarding of livestock, including sod farms and silviculture. Practices in this area may include waterways, drainage ditches, diversions, terraces, farm lanes, excavation, filling and similar practices. The agricultural activity area does not include the agricultural production area.

(3) **AGRICUTURUAL PRODUCTION AREA** means the part of the farm where there is concentrated production activity or impervious surfaces. Agricultural production areas include buildings, driveways, parking areas, feed storage structures, manure storage structures, and other impervious surfaces. The agricultural production area does not include the agricultural activity area.

(4) **AGRICUTURUAL FACILITIES AND PRACTICES** has the meanings given in s. 281.16(1), Wis. Stats.

(5) **APPLICANT** means any landowner, land user(s), their agent, assignee, or contractor responsible for submitting and carrying out the requirements of this ordinance. Applicant shall also mean any subsequent landowner to whom this ordinance applies.

(6) **AVERAGE ANNUAL RAINFALL** means a typical year of precipitation as determined by the Wisconsin Department of Natural Resources for users of models such as WinSLAMM, P8 or equivalent methodology. The average annual rainfall is chosen from a Department publication for the location closest to the municipality. For purposes of this ordinance, average annual rainfall means measured precipitation in Green Bay, Wisconsin between March 29 and November 25, 1969.

(7) **BEST MANAGEMENT PRACTICE** or “BMP” means structural or non-structural measures, practices, techniques or devices employed to avoid or minimize sediment or pollutants carried in runoff to waters of the state.

(8) **BUSINESS DAY** means a day that offices of the City of Green Bay are routinely and customarily open for business.

(9) **CEASE AND DESIST ORDER** means a court issued order to halt land developing or disturbing activity that is being conducted without the required permit or in violation of a permit issued by the City of Green Bay.

(10) **COMBINED SEWER SYSTEM** means a system for conveying both sanitary sewage and storm water runoff.

(11) **COMMON PLAN OF DEVELOPMENT OR SALE** means all lands included within the boundary of a certified survey or subdivision plat created for the purpose of development or sale of property where multiple separate and distinct land developing activity may take place at different times and on different schedules.

(12) CONNECTED IMPERVIOUSNESS means an impervious surface connected to the waters of the State or U.S. via a separate storm sewer, an impervious flow path, or a minimally pervious flow path.

(13) CONSTRUCTION SITE means an area upon which one or more land disturbing activities occur, including areas that are part of a larger common plan of development or sale.

(14) DEVELOPMENT DISTRICT(S) means one of three districts that make up the City of Green Bay to promote development in a prioritized fashion according to projected population and land use needs as established by General Ordinance 17-90, and found in §14-212.

(15) DESIGN RAINFALL EVENT means a discrete rainstorm characterized by a specific duration, rainfall intensity, and return frequency.

(16) DESIGN STORM means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall. The TR-55, Type II, 24-hour design storms for the City of Green Bay are: 1-year, 2.2-inches; 2-year, 2.5-inches; 5-year, 3.3-inches; 10-year, 3.8-inches; 25-year, 4.4-inches; and 100-year, 5.3-inches.

(17) DIRECT CONDUIT TO GROUNDWATER means wells, sinkholes, swallets, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharge to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

(18) DISCHARGE VOLUME means the quantity of runoff discharged from the land surface as the result of a rainfall event.

(19) DIVISION OF LAND means the creation from one parcel of two or more parcels or building sites of 20 or fewer acres each in areas where such creation occurs at one time or through the successive partition within a 5-year period.

(20) 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.

(21) EROSION means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.

(22) EXISTING LAND-USE CONDITION means the condition of the proposed development site and the adjacent properties that are present at the time of the storm water permit application. This term applies only for the purpose of properly sizing storm water detention facilities per §30.06(3)(a) and properly sizing storm water conveyance systems in accordance to the requirements of this ordinance, §30.06(3)(b).

(23) EXCEPTIONAL RESOURCE WATERS means waters listed in s. NR 102.11, Wis. Amd.Code.

(24) FEE IN LIEU means a payment of money to the City of Green Bay in place of meeting all or part of the storm water performance standards required by this ordinance.

(25) 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.

(26) FINANCIAL GUARANTEE means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Green Bay by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.

(27) FUTURE PROPOSED LAND USE OR POST-DEVELOPMENT CONDITIONS means any proposed land alterations or disturbances, including, but not limited to, removal of vegetative cover, excavating, filling/grading, construction of buildings, roads, parking lots, paved storage areas, and similar facilities.

(28) GOVERNING BODY means the City Council.

(29) GROSS AGGREGATE AREA means the total area, in acres, of all land located within the property boundary containing the land development activity.

(30) GROUNDWATER ENFORCEMENT STANDARD means a numerical value expressing the concentration of a substance in groundwater, which is adopted under §160.07, Wis. Stats., and NR 140.10, Wis. Admin. Code, or §160.09, Wis. Stats., and NR 140.12, Wis. Admin. Code.

(31) GROUNDWATER PREVENTIVE ACTION LIMIT means a numerical value expressing the concentration of a substance in groundwater that is adopted under §160.15, Wis. Stats., and NR 140.12 or 140.20, Wis. Admin. Code.

(32) IMPERVIOUS SURFACE means an area that releases as runoff all or a large portion of the precipitation that falls on it, except for frozen soil. Rooftops, swimming pools, ponds, decks, sidewalks, driveways, gravel and paved parking lots and streets are examples of areas that typically are impervious.

(33) IN-FILL AREA means an undeveloped area of land located within an existing urban sewer service area surrounded by development or development and natural or man-made features where development cannot occur.

(34) INFILTRATION means the process by which rain, precipitation or surface runoff enters or penetrates into or through the underlying soil.

(35) 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.

(36) 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.

(37) 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.

(38) 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.

(39) MAINTENANCE AGREEMENT means a legal document that is filed with the County Register of Deeds as a property deed restriction and which provides for long-term maintenance of storm water management practices.

(40) MAXIMUM EXTENT PRACTICABLE or “MEP” means the highest level of performance that is achievable but is not equivalent to a performance standard identified 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.

(41) 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, mitigation and restored wetlands

(42) 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.

(43) NON-STORM WATER DISCHARGE means a discharge to the storm sewer system created by some process other than the runoff from precipitation.

(44) NON-STRUCTURAL MEASURE means a practice, technique, or measure to reduce the volume, peak flow rate, or pollutants in storm water that does not require the design or installation of fixed storm water management facilities.

(45) OFF-SITE means lands located outside the property boundary described in the permit application for land development activity.

(46) ON-SITE means lands located within the property boundary described in the permit application for land development activity.

(47) ORDINARY HIGH-WATER MARK has the meaning given in s. NR 115.03, Wis. Adm. Code.

(48) OTHER THAN RESIDENTIAL DEVELOPMENT means development of the following land uses: commercial, industrial, government and institutional, recreation, transportation, communication, and utilities.

(49) OUTSTANDING RESOUCSE WATERS means waters listed in s. NR 102.10, Wis. Adm. Code.

(50) PEAK FLOW DISCHARGE RATE means the maximum rate at which a unit volume of storm water is discharged.

(51) PERFORMANCE SECURITY means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Green Bay by the permit holder to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.

(52) PERFORMANCE STANDARD means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.

(53) PERMIT means a written authorization made by the City of Green Bay to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

(54) PERMIT ADMINISTRATION FEE means a sum of money paid to the City of Green Bay by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.

(55) PERVIOUS SURFACE means an area that releases as runoff a small portion of the precipitation that falls on it. Lawns, gardens, parks, forests or other similar vegetated areas are examples of surfaces that typically are pervious.

(56) POLLUTANT has the meaning given in s. 283.01, Wis. Stats.

(57) POLLUTION has the meaning given in s. 281.01, Wis. Stats.

(58) POST-CONSTRUCTION SITE means a construction site following the completion of land disturbing construction activity and final site stabilization.

(59) POST-CONSTRUCTION STORM WATER DISCHARGE means any storm water discharged from a site following the completion of land disturbing construction activity and final site stabilization.

(60) 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).

(61) 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, or Runoff Coefficients 0.10, 0.13, 0.17, 0.21 for Hydrologic Soil Groups A, B, C, and D, respectively, if the Rational Method is being used. This term is used for the

purpose of matching of pre- and post-development storm water peak flows and volumes as required by this ordinance, §30.06(2) (see also existing land-use condition).

(62) PRE-TREATMENT means the treatment of storm water prior to its discharge to wetlands, infiltration practices or the primary storm water treatment practice in order to reduce pollutant loads to a level compatible with the capability of the primary practice.

(63) PREVENTATIVE ACTION LIMIT has the meaning given in s. NR 140.05, Wis. Adm. Code.

(64) 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.

(65) PUBLIC DRAINAGE SYSTEM means all facilities owned and operated by the City of Green Bay, Brown County or the Wisconsin Department of Transportation for the purpose of collecting, conveying, storing, treating and properly disposing of storm water runoff.

(66) REDEVELOPMENT means areas where development is replacing older development.

(67) RESIDENTIAL LAND DEVELOPMENT means that which is created to house people, including the residential dwellings as well as all affected portions of the development, including lawns, driveways, sidewalks, garages, and access streets. This type of development includes single family, multi-family, apartments, and trailer parks.

(68) 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 storm water BMPs.

(69) 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 ½ of the impervious surface's granular base is not disturbed. The disturbance shall be classified as redevelopment if the lower ½ 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.

(70) RUNOFF means storm water or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.

(71) SEPARATE STORM SEWER means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:

(a) Is designed or used for collecting water or conveying runoff.

- (b) Is not part of a combined sewer system.
 - (c) Is not draining to a storm water treatment device or system.
 - (d) Is not part of a publicly owned wastewater treatment works that provides secondary or more stringent treatment.
 - (e) Discharges directly or indirectly to waters of the State or U.S.
- (72) SITE means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (73) SITE RESTRICTION means any physical characteristic that limits the use of a storm water best management practice.
- (74) STOP WORK ORDER means an order issued by the City of Green Bay that requires that all construction activity on the site be stopped.
- (75) STORM WATER CONVEYANCE SYSTEM means any method employed to carry storm water runoff from a development to waters of the state. Examples of methods include swales, channels, and storm sewers.
- (76) STORM WATER MANAGEMENT PLAN means a comprehensive plan that identifies and designs what actions will be taken to reduce storm water quantity and pollutant loadings from the post-development land use condition to levels meeting the requirements of this ordinance.
- (77) STORM WATER 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.
- (78) STORM WATER 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 network.
- (79) STORM WATER MANAGEMENT MEASURE means structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.
- (80) TECHNICAL STANDARD means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (81) 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 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (82) 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.

(83) TRANSPORTATION FACILITY means a highway, a railroad, a public mass transit facility, a public-use airport, a public trail or any other public work for transportation purposes such as harbor improvements under s. 85.095(1)(b), Wis. Stats. “Transportation facility” does not include building sites for the construction of public buildings and buildings that are places of employment that are regulated by the Department pursuant to s. 281.33 Wis. Stats.

(84) 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.

(85) URBAN EXPANSION DISTRICT means those areas of the City which are located on the fringe of the Urban Service District and are already partially served and/or fully served with minimal additional facilities expansion and is delineated on the City Development District map approved by ordinance dated December, 1990.

(86) URBAN RESERVE DISTRICT means those areas of the City in which land divisions are not allowed due to their distance from the urbanized and serviced areas of the City and is delineated on the City Development District map approved by ordinance dated December, 1990.

(87) URBAN SERVICE DISTRICT means those areas of the City in which infilling is encouraged because they are already fully serviced by urban facilities, are within one mile of an existing neighborhood park, and are within the City’s developable areas as designated in the Comprehensive Plan, and is delineated on the City Development District map approved by ordinance dated December, 1990.

(88) WATERS OF THE STATE has the meaning given in s. 281.01(18), Wis. Stats.

(89) WPDES means Wisconsin Pollutant Discharge Elimination System.

(90) WPDES STORM WATER PERMIT means a permit issued by the Wisconsin Department of Natural Resources under §147.021, Wis. Stats., that authorizes the point source discharge of storm water to waters of the state and is regulated by Ch. NR 216 (Storm Water Discharge Permit), Wis. Admin. Code.

30.05 APPLICABILITY AND JURISDICTION.

(1) APPLICABILITY. This ordinance applies to land development, land disturbance or land disturbing construction activities that meet the applicability criteria specified in this section. The ordinance also 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 applicability criteria, even though multiple separate and distinct land development activities may take place at different times on different schedules.

(a) Residential land development with a gross aggregate area of 1 acre or more;

(b) Residential land development with a gross aggregate area less than 1 acre, if there are at least 0.25 acres of impervious surfaces;

(c) Land development, other than a residential land development, with a gross aggregate area of 0.5 acres or more; or

(d) In the opinion of the City of Green Bay is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.

(2) JURISDICTION. This ordinance applies to land development, land disturbance or land disturbing construction activities within the boundaries of the City of Green Bay.

(3) EXCLUSIONS. This ordinance is not applicable to activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats.

(4) WAIVERS. Requests to waive the storm water management plan requirements shall be submitted to the Director of Public Works for approval. Waivers may be granted if it can be demonstrated that the proposed development is not likely to impair attainment of the objectives of this ordinance.

30.06 **STORM WATER MANAGEMENT PERFORMANCE STANDARDS.**

(1) RESPONSIBLE PARTY. The landowner or the post-construction site or other person contracted or obligated by other agreement with the landowner to implement and maintain post-construction storm water BMPs is the responsible party and shall comply with this ordinance.

(2) STORM WATER MANAGEMENT PLAN. The responsible party shall develop and implement a written post-construction storm water management plan that incorporates the requirements of this section.

(3) DEVELOPMENT DISTRICTS. All land development activities shall conform to storm water management standards established for the Development District within which the development occurs.

(4) MAINTENANCE OF EFFORT. For redevelopment sites where the redevelopment will be replacing older development that was subject to post-construction performance standards of NR 151 in effect on or after October 1, 2004, the responsible party shall meet the total suspended solids reduction, peak flow control, infiltration, and protective areas standards applicable to the older development or meet the redevelopment standards of ss. NR 151.122 to 151.125, or the City of Green Bay storm water standards, whichever is more stringent.

(5) STORM WATER 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 storm water discharged from the 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 storm water runoff shall be in accordance with NR 151 and WDNR Technical Standards.

(a) On-site management practices shall be used to meet the minimum performance standards for each Development District as described in §§30.06(5)(a)1, 30.06(5)(a)2, or 30.06(5)(a)3, whichever one applies.

1. All developments less than 5 acres in size in the Urban Service District shall not increase peak flow rates of storm water runoff from that which would have resulted from the same storm occurring over the site with the land in its existing land use conditions for design rainfall events with recurrence intervals of 2, 10, and 100 years. The Director of Public Works may require more stringent or less stringent criteria if it has been determined that the downstream storm sewers can or cannot handle the runoff from the site.

2. All developments 5 acres or more in the Urban Service District shall be subject to the criteria described in §30.06(5)(a)3. The Director of Public Works may require more stringent or less stringent criteria if it has been determined that the downstream storm sewers can or cannot handle the runoff from the site.

3. All proposed land developments in the Urban Reserve and Urban Expansion Districts shall not increase peak flow rates of storm water runoff from that which would have resulted from the same storm occurring over the site with the land in its pre-development land use conditions for design rainfall events with recurrence intervals of 2, 10, and 100 years. The Director of Public Works may require more stringent or less stringent criteria if it has been determined that the downstream storm sewers can or cannot handle the runoff from the site.

(b) All storm water conveyance systems within the proposed development of all Development Districts and receiving surface runoff from the proposed development shall be designed to completely contain peak storm flows as described in §§30.06(2)(b)1 and 2. 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 (whichever results in the highest peak flows), and the future proposed land use conditions for the on-site areas.

1. For publicly-owned or maintained open channel conveyance systems, the peak flow from the 25-year storm shall be completely contained within the channel bottom and banks.

2. For publicly-owned or maintained storm sewer pipes, the peak flow from the 10-year storm shall be completely contained within the pipes with no surcharging or pressurized flow.

3. Private storm sewer pipes shall be constructed to contain the peak flow from the 5-year storm with no surcharging or pressurized flow.

(c) Determination of peak flow rates and volume of runoff for purposes of meeting the requirements of §§30.06(5)(a) and (b) shall be computed by procedures based on the principals and procedures approved by the Director of Public Works.

(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) All discharges will be restricted to public drainage systems (including storm sewers and ditches) or to waters of the State or U.S. It shall be the responsibility of the applicant to obtain from

adjacent property owners any easements or other necessary property interests concerning flowage of water from the proposed development onto private lands.

(g) Increases or decreases in the hydrology of natural wetlands shall be minimized to the extent practical. Where such changes are proposed, the impact of the proposal on wetland shall be assessed and meet the requirements of NR 103, Wis. Admin. Code.

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

(6) **STORM WATER DISCHARGE QUALITY.** Unless otherwise provided for in this ordinance, all land development activities subject to this ordinance shall establish on-site management practices to control the quality of storm water discharged from the site. The amount of total suspended solids control previously required for the site shall not be reduced as a result of the proposed development or land disturbance. On-site management practices shall be used to meet the following minimum standard established for each Development District:

(a) Storm water management measures in the Urban Expansion and Urban Reserve Districts shall be designed to remove on an average annual basis a minimum of 80% of the total suspended solids load from the proposed on-site development when compared to the proposed on-site development without storm water management measures. The effectiveness of the storm water management measures shall be evaluated using criteria provided by the Director of Public Works.

(b) Storm water management measures in the Urban Service Districts less than 5 acres shall be designed to remove on an average annual basis a minimum total suspended solids load of 40% for redevelopment sites and a minimum of 80% for new development from the proposed on-site development when compared to the proposed on-site development without storm water management measures. The effectiveness of the storm water management measures shall be evaluated using criteria provided by the Director of Public Works.

(c) The Director of Public Works may require storm water management measures in the Urban Service Districts for developments 5 acres or greater to be designed to remove on an average annual basis a minimum of 80% of the total suspended solids load from the proposed on-site development when compared to the proposed on-site development without storm water management measures. The effectiveness of the storm water management measures shall be evaluated using criteria provided by the Director of Public Works.

(d) Discharge of urban storm water pollutants to natural wetlands shall have pre-treatment and vegetative buffers, unless otherwise exempted by the Director of Public Works.

(e) Infiltration of storm water 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 the site, a soils investigation following WDNR Technical Standard 1002 shall be prepared.

(f) Storm water discharges shall have pre-treatment prior to infiltration to prolong maintenance of the infiltration practice and to prevent discharge of storm water pollutants at concentrations that will result in exceedance of groundwater preventive action limits or enforcement

standards established by the Department of Natural Resources in NR 140, Wis. Admin. Code. Storm water infiltration is prohibited under the following circumstances:

1. Storm water generated from highly contaminated source areas at manufacturing industrial sites;
2. Storm water carried in a conveyance system that also carries contaminated, non-storm water discharges; or
3. Storm water generated from active construction sites.

(g) Petroleum products in runoff from gas pump areas 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, U.S., or the City's storm sewer system. A combination of the following BMPs or others may be used, maintained with appropriate documentation: canopies, oil and grease separator, petroleum spill clean-up materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.

(h) Storm water ponds and infiltration devices shall not be located closer to water supply wells than indicated below without first notifying the Director of Public Works.

1. 100 feet from a private or a transient non-public water supply well;
2. 1,200 feet from a municipal water supply well; or
3. The boundary of a recharge area to a well identified in a wellhead area protection plan.

(i) 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.

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

(k) If the design cannot achieve the applicable total suspended solids reduction specified, the storm water 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.

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

(m) Maximum extent practicable applies when a person who is subject to a performance standard of this ordinance demonstrates to the City of Green Bay's satisfaction that a performance standard is not achievable and that a lower level of performance is appropriate. In making this assertion that a performance standard is not achievable and that a level of performance different from the performance standard is the maximum extent practicable, the responsible party shall take into account the best available technology, cost effectiveness, geographic features, and other competing interests such as

protection of public safety and welfare, protection of endangered and threatened resources, and preservation of historic properties.

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

(a) Consistent with the technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wis. Adm. Code, and as modified herein.

1. Interior pond slopes shall be 4:1,
2. Top of berm 10 foot wide unless analysis is shown that a lesser width is acceptable to withstand saturated soil pressure,

(b) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the City of Green Bay.

(8) PROTECTIVE AREAS. Storm water runoff through and around Protective Area shall be in conformance with NR 151.

(a) In this section, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, so that runoff cannot enter the enclosure at this location.

1. For outstanding resource waters and exceptional resource waters, 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, 50 feet.
3. For lakes, 50 feet.
4. For highly susceptible wetlands, 75 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, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass, cultivated hydric soils; and any gravel pits, or dredged materials or fill material disposal sites that take on the attributes of a wetland.
6. For wetlands not subject to par. 4 or 5, 50 feet
7. 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.

8. For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.

(b) Wetland boundary delineation shall be made in accordance with current Wisconsin Department of Natural Resources procedures. This paragraph does not apply to wetlands that have been completely filled in compliance with all applicable State and Federal regulations. The protective area for wetlands that have been partially filled in compliance with all applicable State and Federal regulations shall be measured from the wetland boundary delineation after a fill has been placed. Where there is a legally authorized wetland fill, the protective area standard need not be met in that location.

(c) Section (6) applies to post-construction sites located within a protective area, except those areas exempted pursuant to subd. (f) below.

(d) The following requirements shall be met:

1. Impervious surfaces shall be kept out of the protective area entirely or to the maximum extent practicable. If there is no practical alternative to locating an impervious surface in the protective area, the storm water management plan shall contain a written, site-specific explanation.

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 70% or greater shall be established and maintained where no impervious surface is present. 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.

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.

(e). A protective area established or created after the adoption date [July 19, 2016] of this ordinance shall not be eliminated or reduced, except as allowed in subd. (f) 3, 4, or 5 below.

(f). Exemptions. The following areas are not required to meet the protective area requirements of Section (6):

1. Redevelopment and routine maintenance areas provided the minimum requirements within in subd. (e) above are satisfied.

2. In-fill development areas less than 5 acres.

3. Structures that cross or access surface waters such as boat landings, bridges and culverts.

4. Structures constructed in accordance with s. 59.692(1~~v~~), Wis. Stats.

5. Areas of 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.

(9) GENERAL CONSIDERATIONS FOR STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in on-site and off-site runoff management:

(a) Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural groundwater recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this section.

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

(10) BMP LOCATION.

(a) To comply with the performance standards required under §30.06 ~~S-07~~ of this ordinance, BMPs may be located on-site or off-site as part of a regional storm water device, practice or system, but shall be installed in accordance with s. NR 151.003, Wis. Adm. Code.

Note to Users: This section does not supersede any other applicable federal, state or local regulation such as ch. NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.

(b) The administering authority may approve off-site management measures provided that all of the following conditions are met:

1. The administering authority determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City of Green Bay and that contains management requirements consistent with the purpose and intent of this ordinance.

2. The off-site facility meets all of the following conditions:

a. The facility is in place.

b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.

c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(11) EXCEPTIONS. The Director of Public Works may waive the minimum requirements for on-site storm water management practices established in §30.06(5) and (6) 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 of the following conditions applies:

(a) Alternative minimum requirements for on-site management of storm water discharges have been established in a storm water management plan that has been approved by the Director of Public Works and that is required to be implemented by local ordinance.

(b) Provisions are made to manage storm water by an off-site facility. This requires that the off-site facility is in place, is designed and adequately sized to provide a level of storm water 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 entity responsible for long-term operation and maintenance of the storm water practice.

(c) The Director of Public Works finds that meeting the minimum on-site management requirements is not technically feasible due to site restrictions.

(d) This ordinance does not apply to redevelopment projects that result in no net increase in impervious area and does not have exposed parking lots or roads.

(12) **ADDITIONAL REQUIREMENTS.** The administering authority may establish storm water management requirements more stringent than those set forth in this ordinance if the administering authority determines that the requirements are needed to control storm water quantity or control flooding, due to but not limited to, insufficient downstream system capacity, potential erosion of stream channels, or impacts on flood stages, and to comply with federally approved total maximum daily load requirements, or control pollutants associated with existing development or redevelopment.

(13) **FEE IN LIEU OF ON-SITE STORM WATER MANAGEMENT PRACTICES.** Where the Director of Public Works waives all or part of the minimum on-site storm water management requirements under §30.06(11)(c), or where the waiver is based on the provision of adequate storm water facilities provided by the City of Green Bay downstream of the proposed development, as provided for under §30.06(11)(b), the applicant shall be required to pay a fee in an amount determined in negotiation with the City of Green Bay. In setting the fee for land development projects, the City of Green Bay shall consider an equitable distribution of the cost of land, engineering design, and construction.

30.07 PERMITTING REQUIREMENT AND PROCEDURES AND FEES.

(1) **PERMIT REQUIRED.** No landowner, land operator or responsible party may undertake a land disturbing or land development activity subject to this ordinance without receiving a permit from the Director of Public Works prior to commencing the proposed activity.

(2) **PERMIT APPLICATION AND FEE.** Unless specifically excluded by this ordinance, any landowner operator or responsible party desiring a permit shall submit to the Director of Public Works a permit application made on a form provided by the City of Green Bay for that purpose.

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

1. a storm water management plan;
2. a maintenance plan and a maintenance agreement;
3. any easements which may be required;
4. a copy of plans and specifications for all storm water facilities;

5. certification by a professional engineer;
6. any payment of a “fee-in-lieu”, as provided for under §30.06(13);
7. a non-refundable permit administration fee; and
8. performance securities, if applicable by §30.07(4).

(b) The storm water management plan shall be prepared to meet the requirements of §30.08 of this Chapter and the maintenance agreement shall be prepared to meet the requirements of §30.09 of this Chapter.

(c) Fees shall be those established by the Director of Public Works and billed to the applicant for actual expenses charged by the City or its consultant to review the storm water management plan. Fees may, from time to time, be reviewed and modified by resolution.

(3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The Director of Public Works shall review any permit application that is submitted with a storm water management plan, maintenance agreement, and the required fee. The following approval procedure shall be used:

(a) Within 30 business days of the receipt of a complete permit application, including all documents as required by §30.07(2)(a), the Director of Public Works shall inform the applicant whether the application, storm water management plan, maintenance agreement and easements are approved or disapproved based on the requirements of this ordinance. The Director of Public Works shall base the decision on requirements set forth in §§30.06, 30.08, and 30.09 of this Chapter.

(b) If the storm water permit application, storm water management plan, maintenance agreements and easements are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the Director of Public Works shall issue the permit.

(c) If the storm water permit application, storm water management plan, maintenance agreements or easements are disapproved, the City of Green Bay shall detail in writing the reasons for disapproval. The applicant may revise the storm water management plan or agreement, or may appeal the decision to the Improvement and Service Committee as provided for in §30.11 of this Chapter.

(d) If additional information is submitted, the Director of Public Works shall have 30 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 of a decision within 30 business days of a required submittal shall be deemed disapproval of the submittal.

(4) **PRACTICE INSTALLATION AND MAINTENANCE PERFORMANCE SECURITY.** The Director of Public Works may, at his/her discretion, require the submittal of a performance security prior to issuance of the permit in order to ensure that the storm water practices are installed and maintained by the permit holder as required by the storm water management plan. The Director of Public Works shall determine the amount of the performance security.

The performance security shall not exceed the total estimated construction cost of the storm water management practices approved under the permit, plus 15%.

The amount of the maintenance performance security shall be determined by the Director of Public Works not to exceed the maintenance costs estimated in the storm water plan for the period during which the permit holder has maintenance responsibility.

The performance security shall contain forfeiture provisions for failure to complete work specified in the storm water management plan. Conditions for the release of performance security are as follows:

(a) The installation performance security shall be released in full only upon submission of “as-built plans” and written certification by a registered professional engineer in the State of Wisconsin that the storm water 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 performance security based on the completion of various development stages.

(b) The maintenance performance security, minus any costs incurred by the City of Green Bay to conduct required maintenance, shall be released at such time that the responsibility for practice maintenance is passed on to another private entity via an approved maintenance agreement or to the City of Green Bay.

(5) PERMIT CONDITIONS. All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The Director of Public Works may suspend or revoke a permit for violation of a permit condition upon written notification to the permittee, land owner or responsible party. An action by the Director of Public Works to suspend or revoke this permit may be appealed in accordance with §30.11 of this Chapter.

(a) Compliance with this permit does not relieve a permittee of the responsibility to comply with other applicable federal, state, and local laws and regulations.

(b) A permittee, land owner or responsible party shall design, install, inspect and maintain all structural and non-structural storm water management measures in accordance with the approved storm water management plan, maintenance agreement, and this permit.

(c) A permittee, land owner or responsible party shall notify the Director of Public Works at least 2 business days before commencing any work in conjunction with the storm water management plan and within 5 business days upon completion of the storm water management practices. If required as a special condition, the permittee, land owner or responsible party shall make additional notification according to a schedule set forth by the Director of Public Works so that practice installations can be inspected during construction.

(d) Practice installations required as part of this ordinance shall be certified "as built" by a Wisconsin licensed professional engineer.

(e) Completed storm water management practices must pass a final inspection to determine if they are in accordance with the approved storm water management plan and ordinance. The Director of Public Works must make the inspection, or other competent professionals identified by the Director of

Public Works. The Director of Public Works shall notify a permittee, land owner or responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit. A permittee, land owner or responsible party is further required to submit a certificate of completion, stating the completion of the permitted work in accordance with the plans, City of Green Bay, state and federal requirements. The certificate must be signed by the permittee, the contractor and the design engineer.

(f) A permittee, land owner or responsible party shall submit any proposed modifications to an approved storm water management plan in writing to the Director of Public Works at least 30 days prior to execution. The Director of Public Works may require that a proposed modification be submitted as an original permit application for approval prior to incorporation into the storm water management plan and execution.

(g) A permittee, land owner or responsible party shall maintain all storm water management practices specified in the approved storm water management plan until the practices either become the responsibility of the City of Green Bay or are transferred to subsequent private owners as specified in the approved maintenance agreement.

(h) The responsible party authorizes the Director of Public Works to perform any work or operations necessary to bring storm water management measures into conformance with the approved storm water management plan, and consents to a special assessment or charge against the property as authorized under subch. VII of ch. 66, Wis. Stats., or to charging such costs against the financial guarantee posted under §30.07(4).

(i) If so directed by the Director of Public Works, a permittee, land owner or responsible party shall repair, at the permittee's own expense, all damage to adjoining municipal facilities and drainage ways caused by storm water runoff where such damage is caused by activities that are not in compliance with the approved storm water management plan.

(j) A permittee, land owner or responsible party shall permit property access to the Director of Public Works for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.

(k) Where a storm water management plan involves change in direction of some or all runoff off of a site, increases in peak rate and/or total volume of runoff from the site, it shall be the responsibility of the permittee to obtain from adjacent property owners any easements or other necessary property interests concerning the prevention of endangerment to property or public safety and flowage of water per §30.06(5)(f). Issuance of this permit does not create or affect any such rights.

(l) A permittee holder is subject to the enforceable actions detailed in §30.10 of this ordinance if the permittee fails to comply with the terms of a permit.

(m) Additional requirements established

(n) The permit applicant shall post the "Certificate of Permit Coverage" in a conspicuous location at the construction site.

(6) PERMIT DURATION. Permits issued under this section shall be valid from the date of issuance through the date the Director of Public Works notifies the permittee that all storm water

management practices have passed the final inspection or the permit is suspended or revoked pursuant to §30.10(6) of this Chapter.

30.08 **STORM WATER MANAGEMENT PLANS.**

(1) **PLAN REQUIREMENTS.** The storm water management plan required under §30.07 of this ordinance shall contain any such information the Director of Public Works may need to evaluate the environmental characteristics of the area affected by land development activity, the potential impacts of the proposed development upon the quality and quantity of storm water discharges, the potential impacts upon the area's water resources, and drainage utilities, and the effectiveness and acceptability of proposed storm water management measures in meeting the performance standards set forth in this ordinance. Unless specified otherwise by this ordinance, storm water management plans shall contain, at a minimum, the information described below:

(a) Name, address, e-mail address and telephone number for the following or their designees: landowner; developer; project engineer for practice design and certification; person(s) responsible for installation of storm water management practices; and person(s) responsible for maintenance of storm water management practices prior to the transfer, if any, of maintenance responsibility to another party.

(b) A proper legal description of the property proposed to be developed, referenced to the U.S. Public Land Survey system or to block and lot numbers within a recorded land subdivision plat.

(c) A narrative describing the existing site conditions (soils, topography, land use, protective areas, and environmentally sensitive areas).

(d) A narrative describing the proposed development, including what is going to be developed and the phasing (construction schedule) of the development from initial ground breaking to final stabilization.

(e) Explanation of the provisions to preserve and use natural topography and land cover features to minimize changes in peak flow runoff rates and volumes to surface waters and wetlands

(f) Results of investigations of soils and groundwater required for the placement and design of storm water management measures.

(g) A discussion as to the analysis performed to achieve water quantity and quality standards, including a summary of results, the method of conveyance, assumptions made

(h) A discussion as to what short term and long term best management practices will be utilized during the course of construction and post-construction including a complete construction/installation schedule.

(i) A statement that the selected BMP's are designed in accordance with WDNR Technical Standards. If they are not, a discussion as to how the design differs from the Technical Standard and the reason for the variance.

(j) Are there special construction, installation and short-term / long-term maintenance items that need to be considered for the life of each storm water management practice proposed, if so, what are they and at what frequency are these items to be addressed.

(k) Calculations and data to support the final results. Hydrology and pollutant loading computations as needed to show compliance with performance standards. 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).

(l) Pre-development site map with property lines, disturbed limits, and drainage patterns, summary of impervious areas (parking lots, roof, sidewalk, etc) and pervious areas (lawns, ponds, swales, landscaping, etc).

(m) One or more site maps at a scale of not less than 1 inch equals 40 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 storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to s. NR 811, Wis. Adm. Code.

(n) Post-development site map with property lines, disturbed limits, and drainage patterns.

1. Total area of disturbed impervious surfaces within the site.

2. Total area of new impervious surfaces within the site.

3. Performance standards applicable to site.

4. Proposed best management practices.

5. Groundwater, bedrock, and soil limitations.

6. One or more site maps at a scale of not less than 1 inch equals 40 feet showing the following: post-construction pervious areas including vegetative cover type and condition; impervious surfaces including all buildings, structures, and pavement; post-construction topographic contours of the site at a scale not to exceed two (2) feet; post-construction 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 storm water conveyance sections; location and type of all storm water 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 hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.

(o) Separation distances. Storm water management practices shall be adequately separated from wells to prevent contamination of drinking water. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.

(p) Plans, specifications, detailed drawings including, but not limited to, cross-sections and profiles of all permanent storm water conveyance and treatment practices.

(q) Cost estimates for the construction, operation, and maintenance of each storm water management practice.

(2) ALTERNATE REQUIREMENTS. The administering authority may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under §30.06(10) or for applicants seeking a permit for a post-construction site with less than 20,000 square feet of impervious surface disturbance.

(3) All site investigations, plans, designs, computations, and drawings shall be certified by a State of Wisconsin registered professional engineer to be prepared in accordance with accepted engineering practice and in accordance with criteria set forth by the Director of Public Works.

(4) EXCEPTIONS. The Director of Public Works may prescribe alternative submittal requirements for applicants seeking an exemption to on-site storm water management performance standards under §30.06(3) of this Chapter.

30.09 **MAINTENANCE AGREEMENT.**

(1) MAINTENANCE AGREEMENT REQUIRED. The maintenance agreement required for storm water management practices under §30.07(2) of this Chapter shall be an agreement between the City of Green Bay and the permittee, land owner or responsible party. The maintenance agreement shall be recorded as a property deed restriction with the County Register of Deeds so that it is binding upon all subsequent owners of land served by the storm water management practices.

(2) AGREEMENT PROVISIONS. The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by §30.07(2)(a):

(a) Identification of the landowner, responsible party(s), or organization responsible for long term maintenance of the storm water management plan.

(b) Identification of the storm water facilities and designation of the drainage area served by the facilities.

(c) Identification of the landowner, responsible party(s) or organization responsible for long term maintenance of the storm water management practices in accordance with the storm water practice maintenance provisions contained in the approved storm water management plan submitted under §30.07(2) of this Chapter.

(d) A schedule of regular maintenance of each facility or aspect of the storm water management system consistent with the storm water management plan.

(e) The Director of Public Works is authorized to access the property to conduct inspections of storm water practices as necessary to ascertain that the practices are being maintained and operated in accordance with the approved storm water management plan and maintenance agreement.

(f) The Director of Public Works shall maintain public records of the results of the site inspections, shall inform the landowner responsible for maintenance of the inspection results, and shall specifically indicate any corrective actions required to bring the storm water management practice into proper working condition and a reasonable time frame during which the corrective action must be taken.

(g) The Director of Public Works is authorized to perform the corrected actions identified in the inspection report if the landowner does not make the required corrections in the specified time period. The City of Green Bay shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to subch. VII of ch. 66, Wis. Stats.

(3) **TERMINATION OF AGREEMENT.** The maintenance agreement shall be terminated at such time that responsibility for maintenance of the storm water management practice is legally transferred to the City of Green Bay or agency acceptable to the City of Green Bay, through a written, binding agreement. The termination date of the maintenance agreement required under §30.09(1) shall be the date upon which the legal transfer of maintenance responsibility to the City of Green Bay or agency is made effective.

30.10 **ENFORCEMENT AND PENALTIES.**

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

(2) The Director of Public Works may issue a citation or a Notice of Violation of any non-complying land disturbing construction activity or post-construction runoff_in order to correct any violation of this ordinance. A Notice or Violation shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action that may be taken.

(3) Upon receipt of written notification from the Director of Public Works, a permittee, land owner or responsible party shall correct work that does not comply with the storm water management plan or other provisions of the permit within 30 days or a permittee, land owner or responsible party shall

make corrections as necessary to meet the specifications and schedule set forth by the Director of Public Works in the notice.

(4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the City of Green Bay may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the City of Green Bay plus interest and legal costs shall be billed to the responsible party.

(5) The Director of Public Works may issue a stop work order on any land development or land disturbing activity in violation of this ordinance, or to request the City Attorney to obtain a cease and desist order in any court with jurisdiction.

(6) The Director of Public Works may suspend or revoke a permit issued under this ordinance for noncompliance with these ordinance provisions.

(7) 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.

(8) The Director of Public Works is authorized to refer any violation of this ordinance, or a stop work order or cease and desist order issued pursuant to this ordinance, to the City Attorney for the commencement of further legal proceedings in any court with jurisdiction.

(9) Any person, firm, association, or corporation who does not comply with any provision of this ordinance or order issued hereunder shall be subject to a forfeiture of not less than \$50 nor more than \$500 per offense, together with the costs of prosecution. Each day that a violation exists shall constitute a separate offense.

(10) When the Director of Public Works determines that a permittee has failed to follow practices set forth in the storm water management plan submitted and approved pursuant to §30.07 of this ordinance, or has failed to comply with schedules set forth in said storm water management plan, the Director of Public Works or a party designated by the Director of Public Works may enter upon the 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 this work. These costs and expenses shall be deducted from any performance or maintenance bond posted pursuant to Sec. §30.07(4) of this ordinance. Where such a bond has not been established, or where such a bond is insufficient to cover these costs, the 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.

(11) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction pursuant to s. 62.23(8) Wis. Stats. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.

(12) Nothing in this ordinance shall limit or exclude the City from taking any other action under any City municipal code, state statute, or other remedy allowed by law.

30.11 **APPEALS.**

(1) **IMPROVEMENT AND SERVICE COMMITTEE.** The Improvement and Service Committee shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the Director of Public Works in administering this ordinance. The Improvement and Service Committee shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the ~~board~~ Improvement and Service Committee may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.

(2) **WHO MAY APPEAL.** Any officer, department, board or bureau of the City of Green Bay, or any aggrieved person affected by any decision of the Director of Public Works may appeal to the Improvement and Service Committee.

(3) **TIME FOR APPEAL.** An appeal to the Improvement and Service Committee pursuant to §30.11(1) must be commenced by filing a written Notice of Appeal within 30 days of the order, decision or determination made by the Director of Public Works and to be reviewed.

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

30.20 **STORM WATER UTILITY.** (Cr. GO 6-04)

(1) **FINDINGS.**

(a) The City of Green Bay finds that the management of storm water and other surface water discharges within and beyond its borders is a matter that affects the public health, safety and welfare of the City, its citizens and businesses and others in the surrounding area. The development of land increases impervious surfaces and results in increased storm water runoff. Failure to effectively manage this increased storm water runoff affects the sanitary sewer utility operations of the Green Bay Sanitary District by, among other things, increasing the likelihood of infiltration and inflow in the sanitary sewer. In addition, surface water runoff may create erosion of lands, threaten businesses and residences with water damage and create sedimentation and other environmental damage in the City.

(b) The cost of operating and maintaining the City storm water system, ensuring regulatory compliance and financing necessary plans, studies, repairs, replacements, improvements and extension thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom.

(2) **ESTABLISHMENT OF STORM WATER UTILITY.**

(a) In order to protect the health, safety and welfare of the public, the Common Council is exercising its authority to establish the City of Green Bay Storm water Utility and set the rates for storm water services.

(b) The operation of the Storm water Utility shall be under the supervision of the City of Green Bay Improvement and Services Committee, with final authority by the Green Bay Common Council. The Administrator will be in charge of the Storm water Utility.

(c) The City is acting under the authority of Chapters 62 and 66 of the Wisconsin Statutes, and particularly, without limitation, the following sections: §§ 62.04, 62.11, 62.16(2), 62.18, 66.0621, 60.0627, 66.0701, 66.0703, 66.0809, 66.0811, 66.0813 and 66.0821, Wisconsin Statutes.

(3) POWERS AND DUTIES OF UTILITY.

(a) Facilities. The City, acting through the Storm water Utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, conduct, manage and finance such facilities as are deemed by the City to be proper and reasonably necessary for a system of storm and surface water management. These facilities may include, without limitation by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls and ponds and such other facilities as will support a storm water system.

(b) Rates and Charges. The City, acting through the Storm water Utility, may establish such rates and charges as are necessary to finance planning, design construction, maintenance and operation of the facilities in accordance with the procedures set forth in this ordinance.

(c) Budgeting Process. The City, through the Storm water Utility, shall prepare an annual budget, which is to include all operation and maintenance costs, debt service and other costs related to the operation of the Storm water Utility. The costs shall be spread over the rate classifications as determined by the Board.

(d) Excess Revenues. The City will retain any excess of revenues over expenditures in a year in a segregated Storm water Enterprise Fund, which shall be used exclusively for purposes consistent with this ordinance.

(4) DEFINITIONS.

(a) Administrator. The Director of Public Works or his designee.

(b) Board. The City of Green Bay Improvement and Services Committee.

(c) Equivalent Runoff Unit or ERU. The unit by which a storm sewer charge is calculated in this ordinance and is based on an average horizontal impervious area of a fully developed single family parcel within the City. An ERU is established as 3,000 square feet.

(d) Impervious Area or Impervious Surface. A horizontal surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by rainwater. It includes, but is not limited to, semi-impervious surfaces such as compacted clay and/or gravel, as well as streets, roofs, sidewalks, parking lots, driveways and other similar surfaces.

(e) Duplex Unit. A residential space containing two dwelling units.

(f) Dwelling Unit. A structure, or that part of a structure, which is used or intended to be used as a home, residence or sleeping place by one person or by two or more persons maintaining a common household, to the exclusion of all others.

(g) GBMC. Green Bay Municipal Code.

(h) Lot. A parcel of land having a width and depth sufficient for one principal building and its accessory building together with open spaces required by the City of Green Bay zoning ordinance and abutting a public street or access easement.

(i) Multifamily Unit. A residential space consisting of three or more dwelling units.

(j) Non-residential Property. Any developed lot or parcel other than residential property as defined herein, including, but not limited to, transient rentals (such as hotels and motels), mobile home parks, commercial, industrial, institutional, governmental property and parking lots.

(k) Residential Property. Any lot or parcel developed exclusively for residential purposes, including single family homes, duplex units and multifamily units, but not including transient rentals (such as hotels and motels) and mobile home parks.

(l) Single Family Home. Any residential property consisting of a single dwelling unit.

(m) Storm water System. Any natural or manmade storm water conveyance facility operated or maintained by the City, including, but not limited to, retention/detention ponds, ditches, storm sewer, roads and navigable and non-navigable waterways.

(n) Undeveloped Property. Property that has not been altered by the addition of any improvements, such as a building, structure, change of grade or substantial landscaping. Undeveloped property includes agricultural property. A property shall be considered developed pursuant to this ordinance, upon issuance of a certificate of occupancy or upon substantial completion of construction or final inspection if no such certificate is issued or where construction is at least 50% complete and construction is halted for a period of three months.

(o) Utility. The Storm water Utility of the City of Green Bay.

(5) RATES AND CHARGES.

(a) By this ordinance, the Board is establishing the basis for the rates that will be used to calculate and impose a charge upon each developed lot and parcel within the City for services and facilities provided by the Storm water Utility consistent with this ordinance.

(b) The amount of the charge to be imposed for each customer classification shall be made by resolution. All rates established pursuant to this chapter will be fair and reasonable. The current rates will be on file with the City Clerk.

(c) An ERU charge shall be imposed to recover all or a portion of the costs of the Storm water Utility.

(6) CREDITS. (Amd. GO 57-04)

(a) The Utility may provide credits against the ERU determination for non-residential property in the following cases:

1. Discharging storm water runoff directly to the waters of Green Bay, Fox River or East River, the ERU credit shall be two-thirds of all ERUs located on the portion of property discharging directly to the above-named waters.

2. A 10% credit in the number of ERUs will be provided to those properties within the non-residential customer classification that provide privately constructed and maintained detention or retention facilities that restrict surface water discharge to the rate and volume as established in the City storm drainage standards for public and private development. This credit does not apply to those ERUs receiving credit in subsection 1. above.

(b) A 10% credit in the number of ERUs will be provided to those properties within the residential – multifamily, including condominiums, customer classification that provide privately constructed and maintained detention or retention facilities that restrict surface water discharge to the rate and volume as established in the City storm drainage standards for public and private development.

(c) To be entitled to consideration for an ERU credit, the property owner shall file an application together with a review fee with the Administrator that is supported by documentation from a professional engineer and demonstrates the conditions of this section have been met. The application is subject to review and approval of the Administrator. If the Administrator needs additional engineering expertise to complete his review, the Administrator can deny the application unless the property owner agrees to pay for the necessary engineering services.

(d) The Administrator may revoke the credit if the basis for the credit has materially changed. The Administrator shall provide a 30 days advance written notice of any proposed revocation.

(e) A denial or revocation of any credit may be appealed under GBMC § 30.20(9).

(7) CUSTOMER CLASSIFICATIONS. (Amd. GO 57-04)

(a) For purposes of imposing the ERU charge, all lots and parcels within the City shall be classified into the following five customer classes:

1. Residential – Single Family;
2. Residential – Duplex;
3. Residential – Multifamily, including Condominiums;
4. Non-residential; and
5. Undeveloped.

(b) The Administrator shall prepare a list of lots within the City and assign a customer classification to each lot or parcel.

(c) ERUs shall be calculated per classification as follows:

1. Residential – Single Family: The impervious area for each single family parcel unit shall be determined by the Administrator based on the best available information, including, but not limited to,

data supplied by the City Assessor divided by 0.75, aerial photograph, the property owner, tenant or developer or actual on-site measurement. The ERU for each single-family parcel shall be equal to the calculated impervious area divided by 3,000 square feet (rounded to the next higher 0.01). The ERU determination shall be updated by the Administrator based on any additions to the impervious area as approved through the building permit process.

2. Residential – Duplex: The impervious area for each duplex parcel unit shall be determined by the Administrator based on the best available information, including, but not limited to, data supplied by the City Assessor divided by 0.75, aerial photograph, the property owner, tenant or developer or actual on-site measurement. The ERU for each duplex unit shall be equal to one-half of the calculated impervious area divided by 3,000 square feet (rounded to the next higher 0.01). The ERU determination shall be updated by the Administrator based on any additions to the impervious area as approved through the building permit process.

3. Residential – Multifamily: The ERU for each multifamily unit shall be determined by the Administrator based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photograph, the property owner, tenant or developer or actual on-site measurement. The Administrator may require additional information as necessary to make the determination. The ERU value for residential multifamily property shall consist of its determined impervious area divided by 3,000 square feet and the number of units on the property (rounded to the next higher 0.01 ERU) to determine the per unit ERU value. The ERU determination shall be updated by the Administrator based on any additions to the impervious area as approved through the building permit process.

4. For non-residential properties, the Administrator shall be responsible for determining the impervious area based on the best available information, including, but not limited to, data supplied by the City Assessor, aerial photograph, the property owner, tenant or developer or actual on-site measurement. The Administrator may require additional information as necessary to make the determination. The ERU value for a non-residential property shall consist of its determined impervious area divided by the residential ERU value of 3,000 square feet (rounded to the next higher 0.01 ERU). The billing amount shall be updated by the Administrator based on any additions to the impervious area as approved through the building permit process.

5. Undeveloped Properties: No ERU.

(d) The City may make such other classifications in accordance with §30.20(7) as will be likely to provide reasonable and fair distribution of the costs of the Storm water Utility.

(8) BILLING AND PENALTIES.

(a) Storm water Utility charges will be billed periodically with said charges to appear on the bill issued for municipal water and sanitary sewer service.

(b) The bills for Storm water Utility charges shall be mailed to the designated utility bill recipient, but this mailing shall not relieve the owner of the property from liability for rental property in the event payment is not made as required in this ordinance. The owner of any property served which is occupied by tenants shall have the right to examine collection records of the City for the purpose of determining whether such charges have been paid for such tenants, provided that such examination shall be made at the office at which the records are kept and during the hours that such office is open for business.

(c) If Storm water Utility charges remain unpaid after a period of 30 days from the date the utility bill was mailed, such bill shall be determined delinquent. The City may collect delinquent charges under Wis. Stats. §§ 66.0821(4) and 66.0809(3).

(d) All delinquent charges shall be subject to a 1% penalty per month in addition to all other charges, including prior penalties or interest that exist when the delinquent charge is extended upon the tax roll.

(9) METHOD OF APPEAL.

(a) (Amd. GO 57-04) The Storm water Utility charge, a determination of ERUs or ERU credits may be appealed by filing a written appeal with the City Clerk prior to the utility charge due date if not paid or within 30 days of payment. The appeal shall specify all bases for the challenge and the amount of the storm water charge the customer asserts is appropriate. Failure to file a timely challenge and specify all bases for the challenge waives all right to later challenge that charge. An appeal of the determination of an ERU shall be supported by documentation from a professional engineer/registered land surveyor.

(b) The Administrator will determine whether the storm water charge is fair and reasonable or whether a refund is due the customer. The Administrator may act with or without a hearing and will inform the customer in writing of his or her decision.

(c) The customer has 30 days from the decision of the Administrator to file a written appeal to the City of Green Bay Improvement and Services Committee. In considering an appeal, the City of Green Bay Improvement and Services Committee shall determine whether the storm water utility charge is fair and reasonable and, in the event the appeal is granted, whether or not a refund is due the appellant and the amount of the refund. The committee shall conduct a formal or informal hearing and obtain sufficient facts upon which to make a determination. The committee's decision shall be based upon the evidence presented to it. After making such determination, the Improvement and Services Committee shall forward its recommendation to the Common Council for final approval.

(d) If it is determined that a refund is due the customer, the refund will be applied as a credit on the customer's next storm water billing if the refund will not exceed the customer's next storm water billing or will be refunded at the discretion of the Administrator.

(10) SPECIAL ASSESSMENT AND CHARGES.

(a) In addition to any other method for collection of the charges established pursuant to this ordinance for Storm water Utility costs, the City finds that these charges may be levied on property as a special charge pursuant to Wis. Stats. § 66.0627. The charges established hereunder reasonably reflect the benefits conferred on property and may be assessed as special charges. The mailing of the bill for such charges to the owner will serve as notice to the owner that failure to pay the charges when due may result in them being charged pursuant to the authority of Wis. Stats. § 66.0627(4) and placed upon the tax roll.

(b) In addition to any other method of charging for Storm water Utility costs, the City may, by resolution, collect special assessments on property in a limited and determinable area for special

benefits conferred upon property pursuant to Wis. Stats. § 66.0703. The failure to pay such special assessments may result in a lien on the property enforced pursuant to Wis. Stats. § 66.0703(13).

(11) SEVERABILITY. If any provision of this ordinance is found to be illegal, the remaining provisions shall remain in effect.