



AGENDA OF THE SUSTAINABILITY COMMISSION

**WEDNESDAY, DECEMBER 12, 2018, 5:00 PM
CITY HALL, ROOM 604 - THE HARRY MAIER ROOM**

A. Roll Call.

1. Chair--Seth Hoffmeister; Vice Chair--Ned Dorff; Ald. Randy Scannell; Essie Fels--Transit; Chase Hyland; Deb Hutchison; Julia Noordyk; Stephanie Ortiz; Mark Walter

B. Approval of the Agenda.

1. Approval of the Agenda for December 12, 2018.

C. Approval of Minutes.

1. Approval of Minutes from the November 1, 2018.

D. Informational.

1. Green Tier Resolution Draft, and approval process.
2. Presentation by Julia Noordyk "Improving water quality and protecting community assets with green infrastructure through code audit" (15 minutes).
3. Presentation by Department of Public Works on City of Green Bay's current storm water management program.

E. Regular Business.

1. Discussion with possible action for the City of Green Bay to explore eligibility to apply for the "Urban Nonpoint Source and Storm Water Management Grant Program" by the deadline (April 2019).
2. Discussion with possible action on assessment of the City of Green Bay's storm water infrastructure, grant request for baseline analysis, green infrastructure pilot projects, and long-term strategy for green infrastructure and storm water management.

F. Adjournment.

- 1) THIS MEETING IS RECORDED: THE VIDEO OF THIS MEETING AND MINUTES ARE AVAILABLE ONLINE AT www.greenbaywi.gov
- 2) ACCESSIBILITY: Any person wishing to attend who requires special accommodation because of a disability, should contact the City Safety Manager at 920-448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3) QUORUM: Please take notice that a majority or quorum of the Common Council will attend this Sustainability Commission meeting and will constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4) REPRESENTATION: The party requesting the communication, or their representative, should be present at this meeting.

RESOLUTION

RESOLUTION APPROVING PARTICIPATION IN THE GREEN TIER LEGACY

COMMUNITY PROGRAM FOR THE CITY OF GREEN BAY

WHEREAS, the Wisconsin Department of Natural Resources in partnership with the League of Wisconsin Municipalities, 1,000 Friends of Wisconsin, Wisconsin Energy Conservation Corp, Center on Wisconsin Strategy, Wisconsin Counties Association and the cities of Appleton, Bayfield, Fitchburg, Middleton, Ashland, Monona, Eau Claire, Bayside, Port Washington, Sheboygan, La Crosse and the Village of Weston have created a Green Tier Charter for Legacy Communities with goals of:

1. To assist the City of Green Bay in achieving superior environmental performance in both of the following two areas: (1) water resource management; (2) sustainability practices; and goals relating to economic development, public health and social equity; and to recognize their efforts and progress;
2. To improve the quality of life and economic vitality of communities;
3. To help the City of Green Bay and the Wisconsin Department of Natural Resources address wastewater, storm water, drinking water, wetlands and other water issues in a holistic, watershed-based manner;
4. To assist the City of Green Bay in preparing, implementing, and improving an overall watershed plan(s) that integrates the municipality's full range of water resources issues;
5. To assist the City of Green Bay in preparing, implementing and improving over time a sustainability plan that reduces the City of Green Bay's impact on the environment;
6. To facilitate access to state and federal funding for projects and activities related to achieving the purposes of this charter, such as energy efficiency, renewable energy, greenhouse gas reductions, comprehensive planning, transportation policies, and integrated planning for wastewater treatment, storm water treatment and management; and drinking water;

7. To realize taxpayer savings through reduced municipal expenditures on motor vehicles fuels and energy resulting from efficient development patterns;
8. To help the City of Green Bay comply with various water regulations in a more efficient, cost effective and flexible manner;
9. To achieve other demonstrable and measurable environmental improvements beyond what is required by local, state, or federal law;
10. To assist the City of Green Bay in approaching zero waste and improving waste management practices; and

WHEREAS, the City of Green Bay was invited to join in this voluntary program and believe participation will further enhance our city's current commitments to sustainability, and

WHEREAS, the City of Green Bay will benefit from such a partnership with the Green Tier Legacy Communities Program by receiving positive recognition, gaining access to a DNR staff liaison and their resource team, receiving prioritization in applying for certain grants and streamlining in certain DNR permitting processes, and

WHEREAS, the services and resources provided by the Green Tier Legacy Community Program will benefit and assist the initiatives and efforts of the Sustainability Commission, and

WHEREAS, by adopting this resolution the City of Green Bay agrees to sign and hold to the Green Tier Charter for Legacy Communities. We will participate in the quarterly meetings, networks and share information with our public and the communities in the program, and provide an annual report noting the progress in our goals, baselines and sustainability plans.

NOW, THEREFORE, BE IT RESOLVED by the City of Green Bay declares itself a signatory to the Green Tier Charter for Legacy Communities and authorizes the Council President, Mayor, and City Clerk to execute the necessary documents on behalf of the Common Council, and

BE IT FURTHER RESOLVED, that City of Green Bay staff and members of the Sustainability Commission are directed to assist with meeting the Charter goals and to submit an annual report to the Organizational Signatories, and

BE IT FURTHER RESOLVED, that upon adoption, the City Clerk is hereby directed to send a copy of this resolution to the Wisconsin DNR and the Legacy Communities Green Tier Steering Committee.

(Adoption Date)

(SEAL)

(SEAL)

(ATTESTED)

Julia Noordyk

Water Quality Outreach Specialist

Wisconsin Sea Grant

@NoordCoast



**Improving water quality and protecting
community assets with green infrastructure
through code audit**



“County agent in hip boots”



**Sea Grant?
In Wisconsin?**

“Traditional” Gray Stormwater Infrastructure





Underwater video of an urban stormwater outfall



West Seattle diving footage by Laura James (www.tox-ick.org)

The stormwater pollution you see...



Photo by Blake Feist, NOAA Fisheries

... and the pollution you don't see



Photo by Blake Feist, NOAA Fisheries

Green Stormwater Infrastructure



Infiltration Bioswales





Permeable Pavements and Pavers

Rain Gardens and Bioretention



Rainwater Harvesting



Planter Boxes



Deep Rooted Plants



Green Roofs



Stormwater Trees



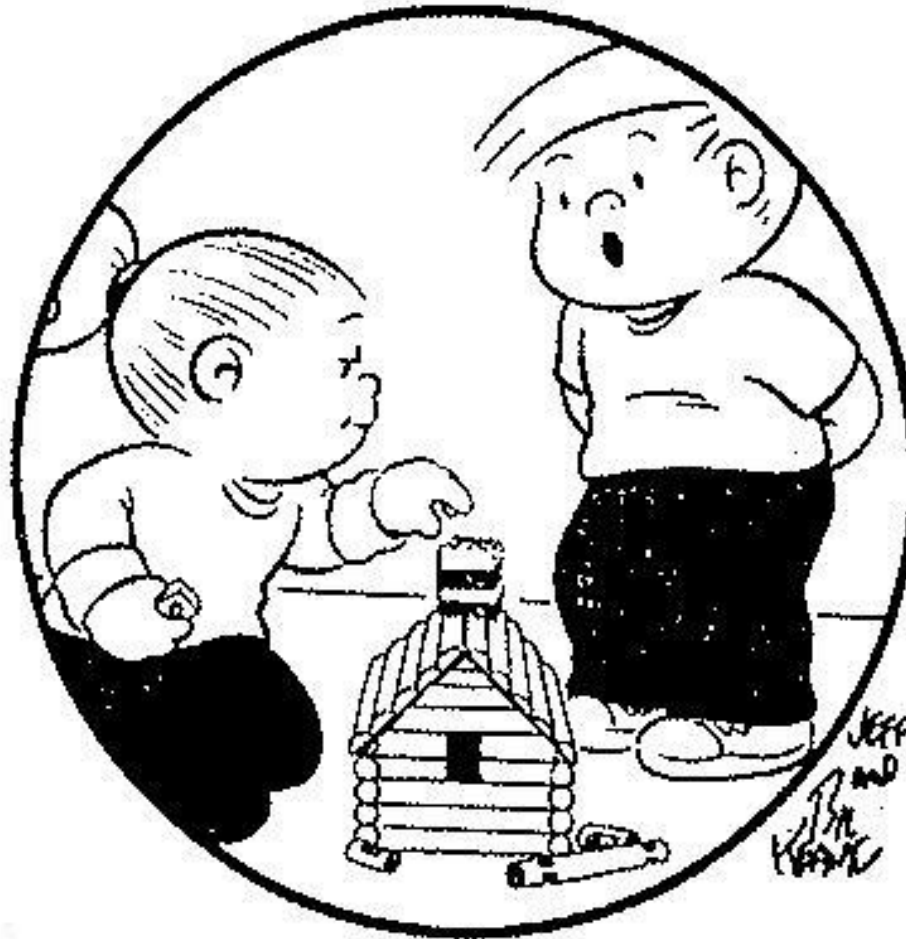
MARY BETH DOYLE
PARK AND WETLAND
PRESERVE



Restored Floodplains and Wetland Basins



Why are Codes & Ordinances Important for Green Infrastructure?



“The building code doesn’t allow a LEGO chimney on a Lincoln Log cabin.”



Chicago Lithographing Co 152 & 154 Clark St Chicago

73-69454

1 President
2 Vice
3 Governor
4 Mayor
5 Aldermen
6 Clerks

7 Judges
8 School Directors
9 School Board
10 School Trustees
11 School Officers
12 School Teachers
13 School Children

GREEN BAY AND FORT HOWARD

BROWN CO. WISCONSIN 1867

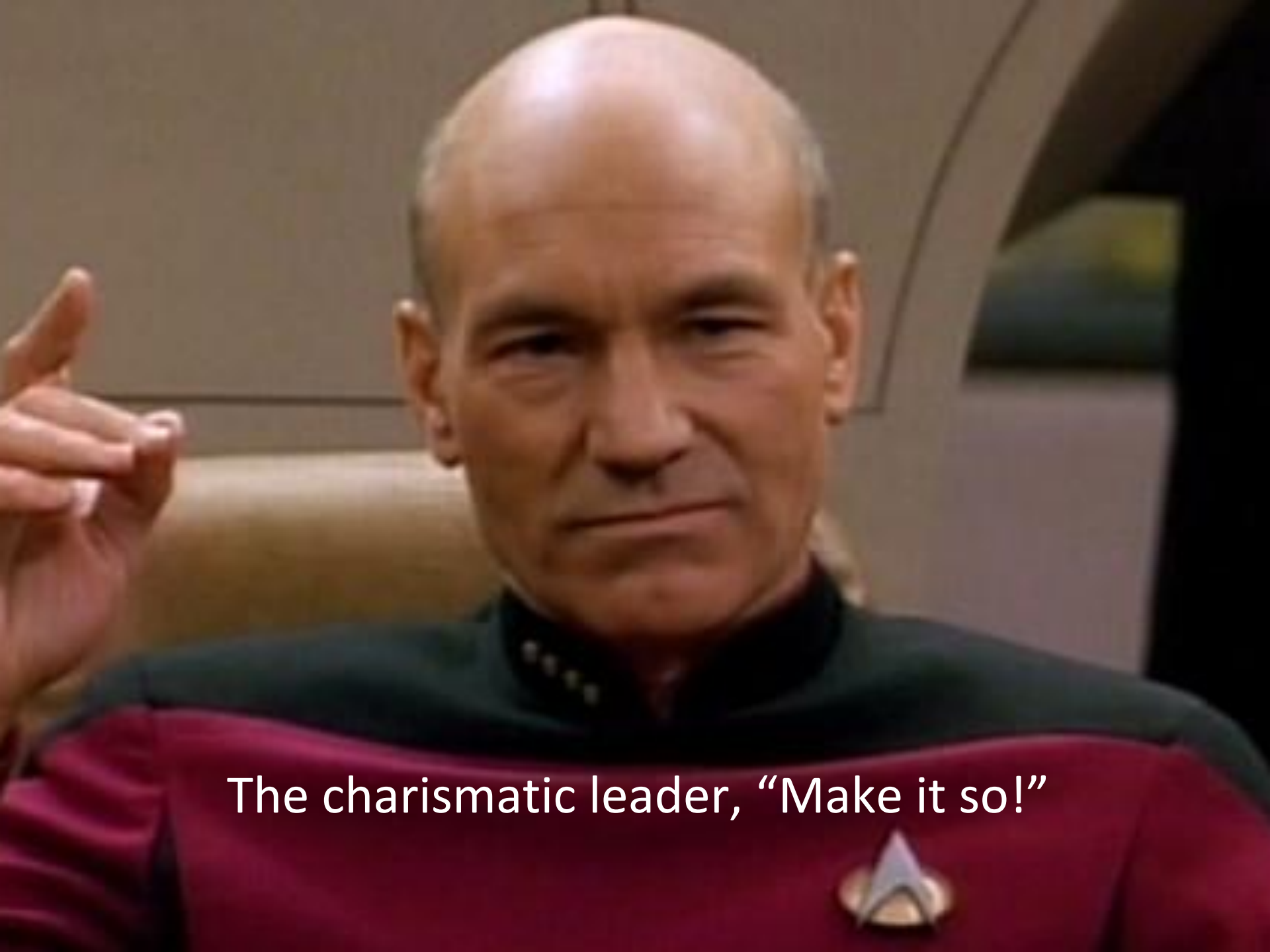
1. Green Bay
2. Fort Howard
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19. Green Bay
20. Fort Howard

Division of Maps
FEB 28 1941
Library of Congress

Green Bay
Fort Howard
Green Bay
Fort Howard

64124
G7A3
1867
.R9
Rug 188

Drawn by A. Puffer



The charismatic leader, “Make it so!”

When no one is deciding



What's missing here?

It's not about more regulation or cost!



So what? We comply with the state stormwater standards and MS4 permit....



Why are Codes and Ordinances Important?

If the code language is not clear that green infrastructure is an acceptable or preferred approach to managing stormwater, green infrastructure will not likely be considered in development proposals, design plans or capital projects.

**DOES THIS
ACTUALLY
MATTER?**

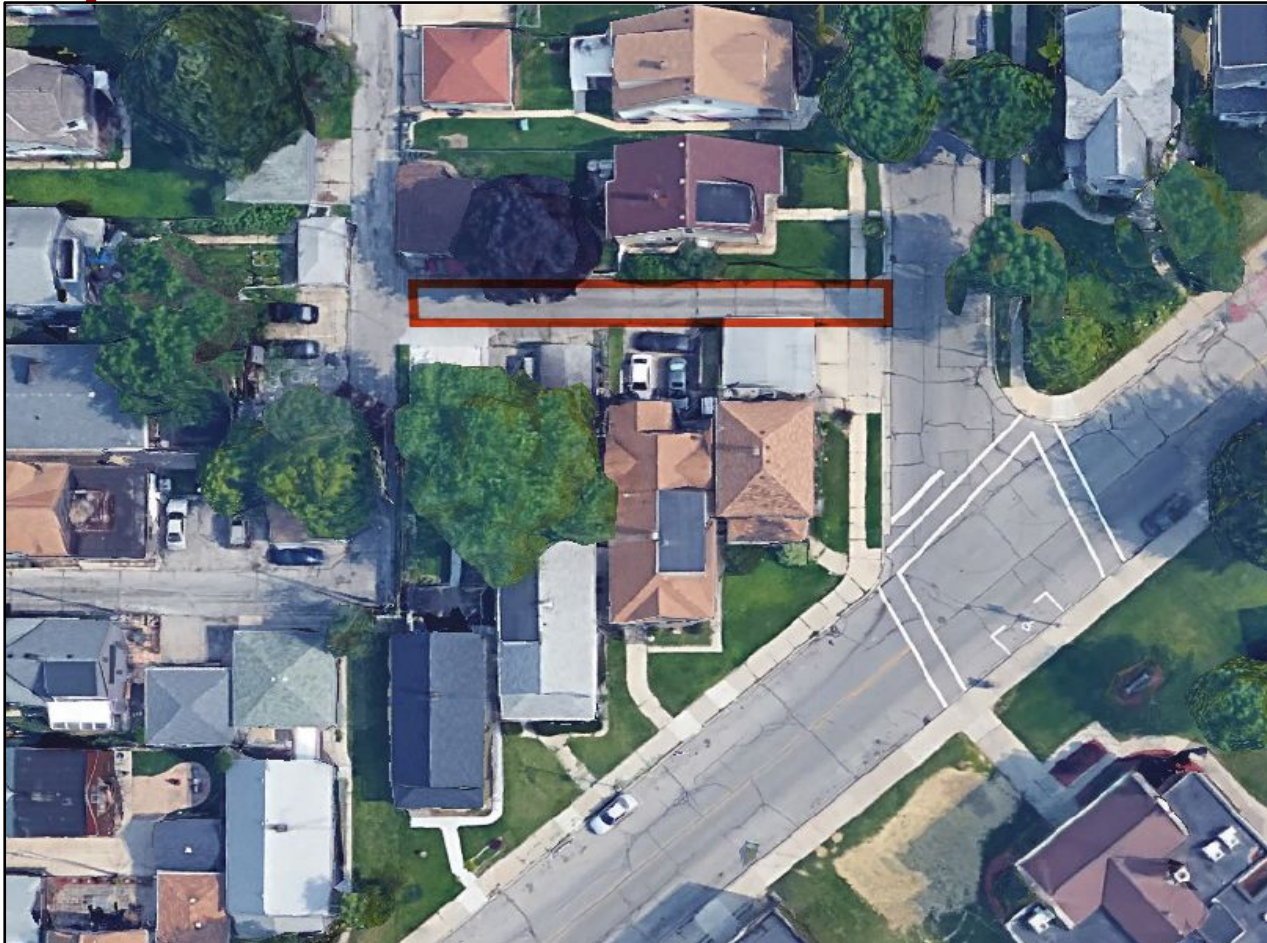


Code Revision: Allow use of permeable surfacing in driveways and alleys

- (3) *Surfacing.* All driveways shall be surfaced ~~with an asphaltic or Portland cement pavement~~ in accordance with village standards and specifications so as to provide a durable and dust-free surface, and shall be so graded and drained as to dispose of all surface water. Permeable surfacing may be used upon review and approval by the village engineer.

What's the Impact:

Permeable Alleyways



63% runoff volume reduction

63% total suspended solids reduction

Code Revision: Encourage use of natives in lawn areas and limit total percent of site in turf grass

CODE OF ORDINANCES
Chapter 122 – ZONING

7. Landscaping. A general description of landscaping standards, screening, and parking lot treatments. Naturalized landscaping, the use of native vegetation, preservation of existing trees and wooded area, and tree planting that will provide additional tree canopy on the site are encouraged. The use of turfgrass should be limited to those areas intended for outdoor recreation or gathering areas.

What's the Impact:

Substituting Deep Rooted Plantings for Conventional Sod

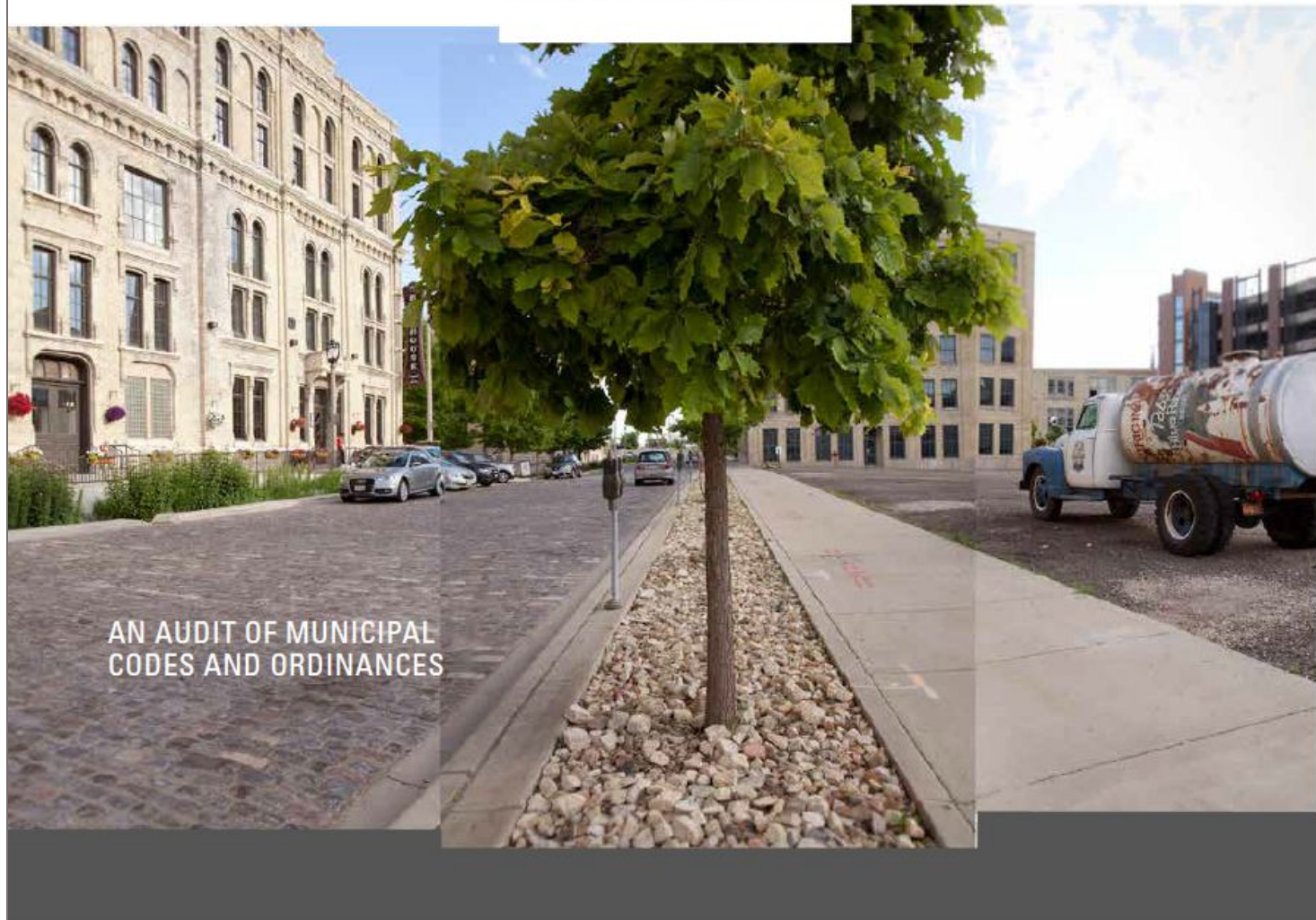


74% runoff volume reduction

64% total suspended solids reduction

...So, yes...Codes matter and we can do better!

TACKLING BARRIERS TO Green Infrastructure



AN AUDIT OF MUNICIPAL
CODES AND ORDINANCES

What makes this audit unique?



One code to rule them all....



Natural Assets?



Photo © WI Department of Tourism

Hazards ?



Community Identity and Character?



Village of Allouez, Brown County, WI



Down in the weeds



Audit Topics

- ✓ ARCHITECTURAL DESIGN STANDARDS
- ✓ COASTAL COMMUNITIES
- ✓ COMMUNITY OUTREACH AND EDUCATION
- ✓ CONSTRUCTION AND POST-CONSTRUCTION MANAGEMENT
- ✓ LANDSCAPING
- ✓ PARKING
- ✓ PERMEABLE MATERIALS
- ✓ POLLUTANT REDUCTION THROUGH SITE PLAN REVIEW
- ✓ POST-CONSTRUCTION STORMWATER STANDARDS AND LONG-TERM MAINTENANCE
- ✓ PUBLIC WORKS STANDARDS
- ✓ PURPOSE STATEMENTS AND COMMUNITY PLANS
- ✓ SANITARY AND STORM SEWER DISCONNECTIONS
- ✓ STORMWATER MANAGEMENT STANDARDS
- ✓ SUBDIVISIONS AND NEW “GREENFIELD” DEVELOPMENT
- ✓ ZONING

Nuanced Code Ranking

A+	Practice is enabled and described specifically; clearly allowed and approved as-of-right
A	Practice is specifically allowable/ as-of-right approval, but some ambiguity or potential conflict
A-	Practice is enabled or encouraged, with discretionary approval
B	Practice is mentioned but without standards or guidance for use
C	No policy or standards adopted, but not disallowed
D	Limitations or prohibitive language in the code, but could potentially be approved
F	Practice prohibited by code language, or an active conflict would prevent approval

Landscapin

Audit Question	Type of Barrier	Tips	Grade
Is the use of deep-rooted or native plants, plants with habitat value, or edibles allowed or encouraged in the landscaping standards?	Landscape standards Design guidelines	Explicitly listing desired types of landscaping in the regulations tells site planners up front that the community encourages these types of plantings.	A

Green Infrastructure Audit Tool Report Card

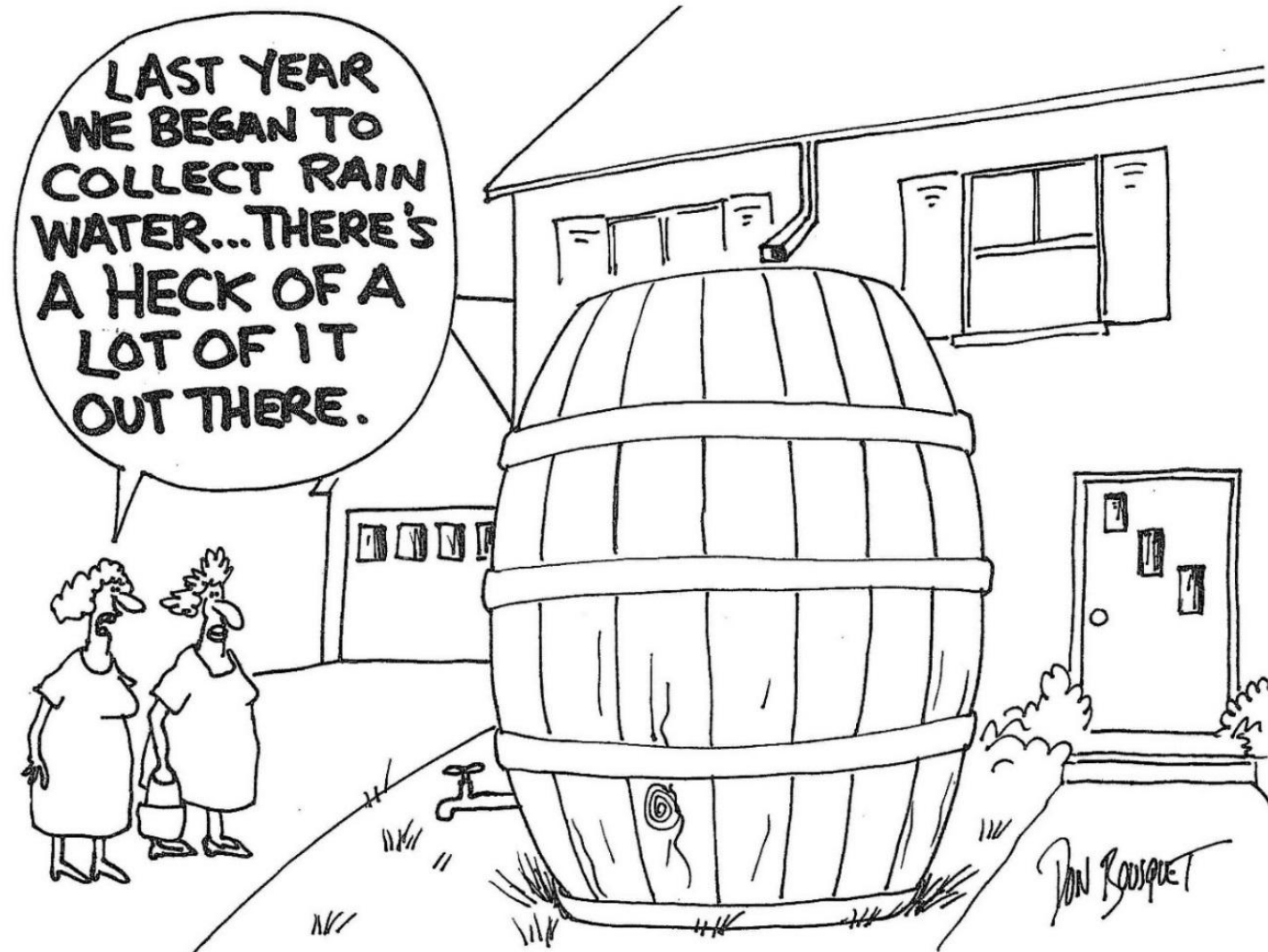
ARCHITECTURAL DESIGN STANDARDS

- A Are rainwater-harvesting and stormwater-control elements acknowledged in design standards?
- B Are green infrastructure practices suitable for high-density areas (e.g., planter boxes, cisterns) allowed to extend into the right-of-way or onto sidewalks?
- C Do design standards allow siting of stormwater-control measures along façade?
- B Do standards allow for the waiver of design or architectural provisions to accommodate stormwater-control measures (planters, cisterns, green roofs, etc.)?
- D Are pitched roofs required? If so, is a waiver or provision for green roofs or rainwater harvesting made?
- C Are green infrastructure practices suitable for high-density areas allowed or encouraged in streetscapes (e.g., tree boxes, sidewalk bioretention areas, curb bump-outs)?

What are your community's goals?



Thank you!



Julia Noordyk
Water Quality and Coastal Communities Specialist
University of Wisconsin Sea Grant Institute



Sec. 30.01. - Authority.

- (1) This chapter is adopted by the city pursuant to its police powers and under the authority granted by § 62.34, Wis. Stats. This chapter 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 chapter and to any amendments to this chapter.
- (2) The provisions of this chapter are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The city hereby designates the director of public works to have the administering authority to administer and enforce the provisions of this chapter.
- (4) The requirements of this chapter do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
 - (a) State department of natural resources administrative rules, permits or approvals, including those authorized under §§ 281.16 and 283.33, Wis. Stats.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the state department of natural resources under § NR 151.004, Wis. Adm. Code.

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 30.02. - Findings of fact.

The city 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.

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 30.03. - Purpose and intent.

- (1) *Purpose.* The purpose of this chapter 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 that this chapter 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 to provide services to maintain and enhance the quality of life within the community. To this end, the city 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 area.
 - (d) This chapter may be applied on a site-by-site basis.
 - (e) The city recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this chapter 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 § 281.16, Wis. Stats., for regional storm water management measures and have been approved by the city council, it is the intent of this chapter that the approved plan be used to identify post-construction management measures acceptable for the community.

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 30.04. - Definitions.

- (1) *Administering authority* means the governmental employee designated by the city to administer this chapter. The director of public works has been designated to have the authority to administer this chapter, subsection 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) *Agricultural 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) *Agricultural facilities and practices* has the meanings given in § 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 chapter. Applicant shall also mean any subsequent landowner to whom this chapter applies.
- (6) *Average annual rainfall* means a typical year of precipitation as determined by the state 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 chapter, 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 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.
- (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 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 section 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 are: one-year, 2.2 inches; two-year, 2.5 inches; five-year, 3.3 inches; ten-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 five-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 subsection 30.06(3)(a) and properly sizing storm water conveyance systems in accordance to the requirements of this chapter, subsection 30.06(3)(b).
- (23) *Exceptional resource waters* means waters listed in § NR 102.11, Wis. Amd.Code.
- (24) *Fee in lieu* means a payment of money to the city in place of meeting all or part of the storm water performance standards required by this chapter.
- (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 percent 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 by the responsible party to assure that requirements of this chapter 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 chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
- (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 chapter, 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 § 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 resource waters* means waters listed in § 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 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 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 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 § 283.01, Wis. Stats.
- (57) *Pollution* has the meaning given in § 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 chapter, subsection 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) *Preventive action limit* has the meaning given in § 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, the county or the state 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 chapter, 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 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 chapter.
- (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 percent continually for at least 50 feet. If the slope of the land is 12 percent 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 § 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 the state 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 § 281.01(18), Wis. Stats.
- (89) *WPDES* means Wisconsin Pollutant Discharge Elimination System.
- (90) *WPDES storm water permit* means a permit issued by the state 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.

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 30.05. - Applicability and jurisdiction.

- (1) *Applicability.* This chapter applies to land development, land disturbance or land disturbing construction activities that meet the applicability criteria specified in this section. This chapter 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 one acre or more;
 - (b) Residential land development with a gross aggregate area less than one 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 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 chapter applies to land development, land disturbance or land disturbing construction activities within the boundaries of the city.
- (3) *Exclusions.* This chapter is not applicable to activities conducted by a state agency, as defined under § 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 like attainment of the objectives of this chapter.

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 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 chapter.
- (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 §§ NR 151.122 to 151.125, or the city storm water standards, whichever is more stringent.
- (5) *Storm water discharge quantity.* Unless otherwise provided for in this chapter, all land development activities subject to this chapter shall establish on-site management practices to control the peak flow rates of storm water discharged from the site as described in this chapter. 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 subsections 30.06(5)(a)1, 30.06(5)(a)2, or 30.06(5)(a)3, whichever one applies.
 1. All developments less than five 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 two, ten, 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 five 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 two, ten, 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 subsections 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 ten-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 five-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 subsections 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 chapter, all land development activities subject to this chapter 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 percent 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 five acres shall be designed to remove on an average annual basis a minimum total suspended solids load of 40 percent for redevelopment sites and a minimum of 80 percent 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 five acres or greater to be designed to remove on an average annual basis a minimum of 80 percent 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 chapter to the city's satisfaction that a performance standard is not achievable and that a lower level of performance. 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 technology, cost effectiveness, geographic features, and other competing interests such as protection of public 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 chapter:
 - (a) Consistent with the technical standards identified, developed or disseminated by the state 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 ten feet 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 state department of natural resources, other technical standards may be used provided that the methods have been approved by the city.
- (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, ten 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 paragraph 4 or 5, 50 feet
 - 7. In subsection (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, ten feet.
 - (b) Wetland boundary delineation shall be made in accordance with current state 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 subdivision (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 percent 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 chapter shall not be eliminated or reduced, except as allowed in subsection (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 subsection (e) above are satisfied.
 - 2. In-fill development areas less than five acres.
 - 3. Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - 4. Structures constructed in accordance with § 59.692, 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 section 30.06 of this chapter, 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 § 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 plan that is approved by the city and that contains management requirements consistent with the pur chapter.
 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 chapter.
 - 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 subsections 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 chapter, 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 chapter 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 chapter 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 subsection 30.06(11)(c), or where the waiver is based on the provision of adequate storm water facilities provided by the city downstream of the proposed development, as provided for under subsection 30.06(11)(b), the applicant shall be required to pay a fee in an amount determined in negotiation with the city. In setting the fee for land development projects, the city shall consider an equitable distribution of the cost of land, engineering design, and construction.

(Ord. No. 32-08; Ord. No. 12-16)

- (1) *Permit required.* No landowner, land operator or responsible party may undertake a land disturbing or land development activity subject to this chapter 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 chapter, 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 for that purpose.
 - (a) Unless otherwise exempted or excluded by this chapter, 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 subsection 30.06(13);
 7. A non-refundable permit administration fee; and
 8. Performance securities, if applicable by subsection 30.07(4).
 - (b) The storm water management plan shall be prepared to meet the requirements of section 30.08 of this chapter and the maintenance agreement shall be prepared to meet the requirements of section 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 subsection 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 chapter. The director of public works shall base the decision on requirements set forth in sections 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 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 section 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 practice is 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 percent.

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 that the storm water practice has been installed in accordance with the approved plan and other applicable provisions of this chapter. 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 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.
- (5) *Permit conditions.* All permits issued under this chapter shall be subject to the following conditions, and holders of permits issued under this chapter 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 section 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 two business days before commencing any work in conjunction with the storm water management plan and within five 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 chapter 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, 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 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 subsection 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 subsection 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 chapter 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 subsection 30.10(6) of this chapter.

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 30.08. - Storm water management plans.

- (1) *Plan requirements.* The storm water management plan required under § 30.07 of this chapter 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 chapter. Unless specified otherwise by this chapter, 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 BMPs 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 one 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 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 5 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 one 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 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 subsection 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) *Certification.* 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 section 30.06 of this chapter.

Sec. 30.09. - Maintenance agreement.

- (1) *Maintenance agreement required.* The maintenance agreement required for storm water management practices under subsection 30.07(2) of this chapter shall be an agreement between the city 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 subsection 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 subsection 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 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 or agency acceptable to the city, through a written, binding agreement. The termination date of the maintenance agreement required under subsection 30.09(1) shall be the date upon which the legal transfer of maintenance responsibility to the city or agency is made effective.

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 30.10. - Enforcement and penalties.

- (1) Any land development activity initiated after the effective date of this chapter 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 chapter. A notice of 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 chapter are likely to result in damage to properties, public facilities, or waters of the state, the city may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the city 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 chapter, 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 chapter 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 chapter, or a stop work order or cease and desist order issued pursuant to this chapter, 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 chapter or order issued hereunder shall be subject to a forfeiture of not less than \$50.00 nor more than \$500.00 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 section 30.07 of this chapter, 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 subsection 30.07(4) of this chapter. 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 chapter may also be enforced by injunction in any court with jurisdiction pursuant to subsection 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 chapter shall limit or exclude the city from taking any other action under any city municipal code, state statute, or other remedy allowed by law.

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 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 chapter. 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 improvement and service committee may authorize variances from the provisions of this chapter that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the chapter will result in unnecessary hardship.

- (2) *Who may appeal.* Any officer, department, board or bureau of the city, 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 subsection 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.

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 30.12. - Severability.

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

(Ord. No. 32-08; Ord. No. 12-16)

Sec. 30.13—30.19. - Reserved.

Sec. 30.20. - Storm water utility.

- (1) *Findings.*
 - (a) The city 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 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 improvement and services committee, with final authority by the 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, 66.0627, 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 chapter.
- (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 chapter.

(4) *Definitions.*

- (a) *Administrator.* The director of public works or his designee.
- (b) *Board.* The city improvement and services committee.
- (c) *Equivalent runoff unit or ERU.* The unit by which a storm sewer charge is calculated in this chapter 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 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 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 chapter, 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 percent complete and construction is halted for a period of three months.
 - (o) *Utility.* The storm water utility of the city.
- (5) *Rates and charges.*
- (a) By this chapter, 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 chapter.
 - (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.*
- (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 ten percent 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 ten percent 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 subsection 30.20(9).
- (7) *Customer classifications.*

- (a) For purposes of imposing the ERU charge, all lots and parcels within the city shall be classified into the following 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. *Non-residential:* 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 subsection 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 chapter. 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 one percent 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) 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 improvement and services committee. In considering an appeal, the city 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 chapter for storm water utility costs, the city finds that these charges may be levied on property as a special charge pursuant to § 66.0627, Wis. Stats. 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 § 66.0627(4), Wis. Stats., 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 § 66.0703, Wis. Stats. The failure to pay such special assessments may result in a lien on the property enforced pursuant to § 66.0703(13), Wis. Stats.

- (11) *Severability.* If any provision of this chapter is found to be illegal, the remaining provisions shall remain in effect.

(Ord. No. 6-04; Ord. No. 57-04; Ord. No. 32-08; Ord. No. 12-16)



Report to the
Sustainability Commission
of the City of Green Bay

MEETING DATE

December 12, 2018

PREPARED BY

Celestine Jeffreys, Chief of Staff

AGENDA ITEM # E.I.

Discussion with possible action for the City of Green Bay to explore eligibility to apply for the "Urban Nonpoint Source and Storm Water Management Grant Program" by the deadline (April 2019).

BACKGROUND

The Urban Nonpoint Source & Storm Water (UNPS&SW) Management Grant Program offers competitive grants to local governments for the control of pollution from diffuse urban sources that is carried by storm water runoff. Grants from the UNPS&SW Program reimburse costs of planning or construction projects controlling urban nonpoint source and storm water runoff pollution.

Eligible applicants

Cities, villages, towns, counties, regional planning commissions, tribal governments and special purpose lake, sewage, or sanitary districts may apply. The local government must have either jurisdiction over the project area or be required to control storm water discharge with an inter-governmental agreement between the municipality and the Department of Natural Resources.

Application materials for **UNPS Construction** projects beginning in **2019** are due **April 16, 2018**.

UNPS Planning grant applications will not be solicited in 2018. They will be solicited again in 2019.

Department of Natural Resources staff score and rank the applications, and available funds are allocated to the top scoring applications. Grant award announcements are made in the fall.

<https://dnr.wi.gov/aid/urbannonpoint.html>

RECOMMENDATION

To work with Department of Public Works to determine eligibility and next steps.

FISCAL IMPACT

ATTACHMENTS

None