

## **CHAPTER 16**

### **STORM WATER MANAGEMENT**

#### **SECTION I. AUTHORITY.**

- (1) This ordinance is adopted by the Common Council under the authority granted by s. 62.234, Wis. Stats. This ordinance supersedes all conflicting and contradicting storm water management regulations previously enacted that relate to storm water management regulations. Except as otherwise specified in ss. 62.234 and 62.23, Wis. Stats., applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the City.
- (3) The Common Council hereby designates the City Zoning Administrator, with assistance from City Engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent storm water management requirements that may be imposed by any of the following:
  - (a) Wisconsin Department of Natural Resources administrative rules, permits or approvals including those authorized under ss. 281.16 and 283.33, Wis. Stats.
  - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under NR 151.004, Wis. Adm. Code.
  - (c) Other City ordinances and zoning regulations.

#### **SECTION II. FINDINGS OF FACT.**

The Common Council finds that uncontrolled, post-construction runoff 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 runoff can:

- (1) Degrade physical stream habitat by increasing stream bank erosion, increasing streambed 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 loading 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 loading.
- (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.

### **SECTION III. PURPOSE AND INTENT.**

- (1) **PURPOSE.** The general purpose of this ordinance is to establish long-term, post-construction runoff management requirements that will diminish the threats to public health, safety, welfare and the aquatic environment. 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; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- (2) **INTENT.** It is the intent of the Common Council that this ordinance regulates post-construction storm water discharges within the City and to waters of the state. This ordinance may be applied on a site-by-site basis. The Common Council recognizes, however, that the preferred method of achieving the storm water performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level storm water management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional storm water devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such

plans are in conformance with the performance standards developed under s. 281.16, Wis. Stats., for regional storm water management measures and have been approved by the Common Council, it is the intent of this ordinance that the approved plan be used to identify post-construction management measures acceptable for the community.

#### **SECTION IV. APPLICABILITY AND JURISDICTION.**

##### **(1) APPLICABILITY.**

- (a) Where not otherwise limited by law, this ordinance applies after final stabilization to a site of land development or land disturbing activity of any size, which changes the pre-development hydrology and/or increases the rate of volume of runoff, or the thermal, chemical, or sediment loading leaving the site beyond the conditions that existed prior to any planned land development or land disturbing activity.
- (b) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.
  - 1. Routine maintenance for project sites under 5 acres of land disturbance if performed to maintain the original line and grade, hydraulic capacity or original purpose of the facility.
  - 2. Underground utility construction such as water, sewer and fiberoptic lines. This exemption does not apply to the construction of any above ground structures associated with utility construction.
- (c) Notwithstanding the applicability requirements in paragraph (a), this ordinance applies to post-construction sites of any size that, in the opinion of the administering authority, 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.
- (d) The City Zoning Administrator, with assistance of City Engineer, may establish on-site storm water management requirements less stringent than those set forth herein, provided that provisions are made to manage storm water by an off-site facility, provided that all of the following conditions for the off-site facility are met:
  - 1. The off-site facility is operational prior to commencing the proposed land development or land disturbing activity.
  - 2. The off-site 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 requirements of this ordinance.

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

(2) **JURISDICTION.**

This ordinance applies to any land development activity or land disturbing activity within the boundaries of the City of Prescott. No land owner or land operator may undertake a land development or land disturbing activity subject to this ordinance without having met the performance standards set forth in this ordinance and without having received a permit from the City Zoning Administrator with assistance from the City Engineer prior to commencing the proposed activity.

(3) **EXCLUSIONS.**

This ordinance is not applicable to:

- (a) Activities conducted by a state agency, as defined under s. 227.01 (1), Wis. Stats., but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under s. 281.33 (2), Wis. Stats.
- (b) Any lot existing as of the effective date of this chapter that is currently platted and zoned single family residential, provided, however, that the use after the land disturbing activity or land development activity shall be that of a single family residence.
- (c) Any lot containing, as of the effective date of this chapter, a single family residence, regardless of zoning classification, provided, however, that the use after the land disturbing activity or land development activity shall continue to be that of a single family residence.

**SECTION V. DEFINITIONS.**

- (1) “Administering Authority” means a governmental employee, empowered under s. 62.234, Wis. Stats., that is designated by the Common Council to administer this ordinance.
- (2) “Agricultural Facility and Agricultural Practice” have the meaning given in s. 281.16 (1), Wis. Stats.
- (3) “Average Annual Rainfall” means a calendar year of precipitation, excluding snow, which is considered typical.
- (4) “Best Management Practices” or “BMPs” means practices, techniques, or measures that are effective in reducing flooding, removing pollutants, providing thermal mitigation,

enhancing infiltration, and/or providing other benefits related to storm water management.

- (5) “Business Day” means a day the offices of City of Prescott are routinely and customarily open for business.
- (6) “Cease and Desist Order” means a court-issued order to halt land disturbing construction activity that is being conducted without the required permit.
- (7) “City” means the City of Prescott and its representatives.
- (8) “City Zoning Administrator” means the governmental employee designated by the Common Council to administer this chapter, and includes assistance from the City Engineer, and any other governmental employees designated by the City Zoning Administrator or the Common Council in the absence of the City Zoning Administrator.
- (9) “Combined Sewer System” means a system for conveying both sanitary sewage and storm water runoff.
- (10) “Connected Imperviousness” means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.
- (11) “Design Storm” means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (12) “Detention” means the temporary detaining or storage of storm water in reservoirs, on rooftops, in streets, parking lots, or other areas under predetermined and controlled conditions, with the rate of discharge therefore regulated by appropriately installed devices.
- (13) “Development” means residential, commercial, industrial or institutional land uses and associated roads.
- (14) “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.
- (15) “Erosion” or “Soil Erosion” means the detachment process and movement of soil and rock fragments by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (16) “Excavation” means any act by which organic matter, earth, sand, gravel, rock, or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and shall include the conditions resulting from the activity.
- (17) “Exceptional Resource Waters” means waters listed in NR 102.11, Wis. Adm. Code.

- (18) “Fill” means any act, by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved by man to a new location and shall include the conditions resulting therefrom.
- (19) “Final Stabilization” means that all land disturbing construction activities at the construction site have been completed and that a dense uniform, perennial, vegetative cover has been established, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (20) “Financial Guarantee” means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the City of Prescott by the responsible party to assure that requirements of the ordinance are carried out in compliance with the storm water management plan.
- (21) “Governing Body” means the Common Council of the City of Prescott.
- (22) “Grading” means altering the elevation of the land surface by stripping, excavating, filling, stockpiling of soil materials or any combination thereof and shall include the land from which the material was taken or upon which it was placed.
- (23) “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, sidewalks, driveways, parking lots and streets are examples of areas that typically are impervious.
- (24) “In-Fill Area” means an undeveloped area of land located within existing development.
- (25) “Infiltration” means the process by which rainfall or surface runoff percolates or penetrates into the underlying soil.
- (26) “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.
- (27) “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.
- (28) “Land Development Activity” means any construction of buildings, roads, parking lots, paved and unpaved storage areas and similar facilities, including agricultural facilities.
- (29) “Land Disturbing Activity” means any man-made alteration of the land surface of public or private lands 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 within the City and into waters of the state. Land disturbing activity includes, but is not limited to, clearing and grubbing, tilling, removal of

vegetative cover, stockpiling of soil, demolition, excavating, pit trench dewatering, filling and grading activities, except that the term shall not include such minor land disturbing activities as home gardens and normal repair and maintenance of private roads. This term does not include agricultural practices.

- (30) “Land Occupier” means any person who holds title to land either as sole owner, a tenant in common or a joint tenant or has title as a trustee, assignee, or has a land contract vendor’s or vendee’s interest.
- (31) “Land Cover” means the various cover types found on a specific parcel including impervious surface, green space, wooded area, parking lot, etc.
- (32) “Lot” means a parcel of land having a width and depth sufficient to provide the space necessary for one main building and its accessory buildings, together with the open spaces required under City of Prescott Municipal Code and abutting on a public street or officially approved place.
- (33) “Maintenance and Monitoring 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.
- (34) “Natural Resources Conservation Service” or “NRCS” means the United States Agency responsible for establishing standards for and design of many water quality structures and practices. The NRCS was formerly the Soil Conservation Service or SCS.
- (35) “MEP” or “Maximum Extent Practicable” means a level of implementing best management practices in order to achieve a performance standard specified in this ordinance which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to meet the performance standards and may vary based on the performance standard and site conditions.
- (36) “New Development” means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (37) “Off-Site” means located outside the property boundary described in the permit application for land development activity or land disturbing activity.
- (38) “On-Site” means located within the property boundary described in the permit application for land development activity or land disturbing activity.
- (39) “Ordinary High-Water Mark” has the meaning given in NR 115.03(6), Wis. Adm. Code.
- (40) “Outstanding Resource Waters” means waters listed in NR 102.10, Wis. Adm. Code.

- (41) “P8 - Urban Catchment Model” means a program for predicting polluting particle passage thru pits, puddles, and ponds; prepared for IEP, Inc. & Narragansett Bay Project USEPA/RIDEM by William W. Walker, Jr.
- (42) “Parcel” means all contiguous lands under the ownership or control of a landowner, land occupier, or land user.
- (43) “Peak Runoff Rate” means the maximum rate at which storm water is discharged from a site as expressed in cubic feet per second.
- (44) “Percent Fines” means the percentage of a given sample of soil, which passes through a #200 sieve.
- (45) “Performance Standard” means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (46) “Permit” means a written authorization made by the administering authority to an applicant to conduct land development or land disturbing activities or to discharge post-construction runoff within the City and to waters of the state.
- (47) “Permit Administration Fee” means a sum of money paid to the administering authority by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (48) “Permittee” means any person to whom a permit is issued.
- (49) “Person” means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency within Wisconsin, the Federal government or any combination thereof.
- (50) “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.
- (51) “Plan Commission” means the body established under s. 62.23(1), Wis. Stats.
- (52) “Pollutant” has the meaning given in s. 283.01(13), Wis. Stats.
- (53) “Pollution” has the meaning given in s. 281.01(10), Wis. Stats.
- (54) “Post-Construction Site” means a construction site following the completion of land development or land disturbing activities and final site stabilization.
- (55) “Pre-Development Condition” means the extent and distribution of land cover types present before the initiation of land development activity or land disturbing activity, provided that the current storm water drainage system is sufficient to satisfy the

requirements of this ordinance. If the current storm water drainage system is insufficient to satisfy the requirements of this ordinance with respect to current existing land cover, “pre-development condition” shall mean that extent and distribution of land cover types for which the current storm water drainage system would be sufficient to satisfy the requirements of this ordinance.

- (56) “Preventive Action Limit” has the meaning given in NR 140.05(17), Wis. Adm. Code.
- (57) “Public Lands” means all publicly owned lands which are subject to regulation by the City including, but not limited to:
  - (a) All lands owned by the City.
  - (b) All lands which are owned by another unit of government if that unit of government or the development project is legally subject to erosion and storm water runoff control by the City under this chapter or by reference under other ordinances.
- (58) “Redevelopment “ means areas where development is replacing older development.
- (59) “Regional Pond” means a storm water pond intended to serve multiple parcels and/or developments, thus eliminating the need for individual on-site facilities.
- (60) “Removal” means cutting vegetation to the ground or stumps, complete extraction or killing by spraying.
- (61) “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.
- (62) “Retention” means the permanent storage of storm water without discharge.
- (63) “Runoff” means the same as definition for “Storm Water Runoff”.
- (64) “Safe Capacity” means the rate of flow that can be handled by the receiving waterway without causing flooding or erosion damage.
- (65) “Sediment” means solid material, both mineral and organic, that has been deposited by water, is in suspension in water, is being transported or has been removed from its site of origin by the processes of soil erosion or is discharged into surface waters from other sources.
- (66) “Sedimentation” means settling or deposition of sediment.

- (67) “Sensitive Resources” means natural resources that are sensitive to the impacts of urbanization, specifically including ground water, cold-water springs, wetlands with diverse functions and values and other unique resources.
- (68) “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) Discharges directly or indirectly to waters of the state.
- (69) “Site” means the entire area included in the legal description of the land on which the land development or land disturbing activity occurred.
- (70) “Site Restriction” means any physical characteristic which limits the use of storm water best management practice as prescribed in the Wisconsin Storm Water Manual published by the Wisconsin Department of Natural Resources.
- (71) “Stop Work Order” means a method of giving notice to the permittee that one or more provisions of this chapter have been violated. Notice is given both by posting upon the lands where the disturbing activity occurs one or more copies of a poster stating the violation and by mailing a copy of this poster by certified mail to the permittee at the address shown on the permit.
- (72) “Storm Sewer” means a closed conduit for conducting collected storm water.
- (73) “Storm Water Drainage System” or “Drainage System” means all facilities used for conducting runoff to, through or from a drainage area to the point of final outlet including, but not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, reservoirs, detention basins, storm sewers, streets and pumping stations.
- (74) “Storm Water Management Plan” means a document that identifies what actions will be taken to reduce storm water quantity, volume, pollutant loads, thermal increases to the receiving stream and/or erosion resulting from land development activity to levels meeting the purpose and intent of this ordinance and the City of Prescott Lake St. Croix /Storm Water Management Master Plan.
- (75) “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.

- (76) “Storm Water Runoff” means that portion of the precipitation falling during a rainfall event, or that portion of snowmelt, that runs off the surface of the land and into the natural or artificial conveyance or drainage network.
- (77) “Technical Standard” means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (78) “Top of the Channel” means an edge, or point on the landscape, landward from the ordinary high- water mark of a surface water of the state, where the slope of the land begins to be less than 12% continually for at least 50 feet. If the slope of the land is 12% or less continually for the initial 50 feet, landward from the ordinary high-water mark, the top of the channel is the ordinary high-water mark.
- (79) “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.
- (80) “Type II Distribution” means a rainfall type curve as established in the “United States Department of Agriculture, Soil Conservation Service, Technical Paper 149, published 1973”. The Type II curve is applicable to all of Wisconsin and represents the most intense storm pattern.
- (81) “Waters of the State” has the meaning given in s. 281.01 (18), Wis. Stats.
- (82) “Wetlands” means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and which has soils indicative of wet conditions. These wetlands include natural, mitigation, and restored wetlands.
- (83) “WPDES Storm Water Permit” means a permit issued by the Wisconsin Department of Natural Resources under s. 283.31 Wis. Stats. that authorizes the point source discharge of storm water to waters of the state.

## **SECTION VI. TECHNICAL STANDARDS.**

- (1) **DESIGN CRITERIA, STANDARDS, AND SPECIFICATIONS.** All BMPs required to comply with this ordinance shall meet the design criteria, standards and specifications based on the following. If technical standards contained in the following documents conflict, the governing document shall be determined based on the order presented. Those technical standards with the highest priority shall prevail. In determining priorities, Section VI (1) (a) shall be deemed to have top priority followed by Section VI (1) (b), then Section VI (1) (c), with Section VI (1) (d) having the lowest priority.

- (a) Applicable design criteria, standards and specifications identified in this ordinance.
  - (b) Applicable design criteria, standards and specifications identified in the Wisconsin Construction Site Best Management Practice Handbook, WDNR Pub. WR-222 November 1993 Revision.
  - (c) Applicable design criteria, standards and specifications identified in the Wisconsin Storm Water Manual, WDNR Pub. WR-349-94, 1994, including Technical Design Guidelines for Storm Water Management Practices, UW-Extension Pub. G3691, 2000.
  - (d) Other design guidance and technical standards identified or developed by the Wisconsin Department of Natural Resources under subchapter V or chapter NR 151, Wis. Adm. Code.
- (2) OTHER STANDARDS. Other technical standards not identified or developed in sub. (1), but equivalent thereto, may be used provided that the methods have been approved by the City Zoning Administrator with assistance from the City Engineer.

**SECTION VII. PERFORMANCE STANDARDS.**

- (1) RESPONSIBLE PARTY. The responsible party shall implement a post-construction storm water management plan that incorporates the requirements of this section.
- (2) PLAN. A written storm water management plan in accordance with Section IX shall be developed and implemented for each post-construction site. Unless the City Zoning Administrator, with assistance from the City Engineer, gives prior written authorization, the methods in conformance with the technical standards shall be followed.
- (3) REQUIREMENTS. The plan required under sub. (2) shall include the following:
  - (a) GENERAL REQUIREMENTS FOR STORM WATER MANAGEMENT MEASURES. The following shall be observed in managing storm water runoff:
    - 1. The applicant shall attend a pre-application meeting with the City before any data will be accepted. The purpose of the meeting is to specifically address required approvals and permits, and applicable technical standards.
    - 2. Natural topography and land cover features such as natural swales, natural depressions, native soil infiltrating capacity, and natural ground water recharge areas shall be preserved and used, to the extent possible, to meet the requirements of this ordinance.

3. Emergency overland flow for all storm water facilities shall be provided during and after construction to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
4. All storm water rate control facilities shall be located within drainage, utility, and/or flowage easements to provide access and to prevent future alteration or encroachment.
5. Water quality facilities are required for all developments unless a development is part of a City-approved regional facility drainage area.
6. All hydrologic data shall be submitted to the City. Data shall be obtained using NRCS methodology including, but not limited to, HydroCad, Haestad Methods, or TR20/TR55 as defined by the NRCS.
7. Hydrologic analysis shall be based on NRCS methods using a Type II storm distribution, 24-hour duration, and average soil moisture conditions (AMC-2), as defined by NRCS.
8. Hydraulic calculations will be accepted in the Rational Method format or in commonly used software packages such as Eagle Point, HydroCad, Haestad Methods, HEC-RAS, or XP-SWMM.
9. When runoff from an upstream property passes through a downstream property, and it is desirable in the opinion of the City to oversize a pond or conveyance system to serve increased runoff from predicted development of adjacent properties, the cost of oversizing the facility shall be determined by the City, and assessed, in accordance with State Law and the Municipal Code.
10. Where appropriate, the plan shall include sediment controls to do all of the following to the maximum extent practicable:
  - a. Prevent tracking of sediment from the construction site onto roads and other paved surfaces.
  - b. Prevent the discharge of sediment as part of site dewatering.
  - c. Protect the separate storm drain inlet structure from receiving sediment.
11. The use, storage, and disposal of chemicals, cement, and other compounds and materials used on the construction site shall be managed during the construction period, to prevent their entrance into waters of the state. However, projects that require the placement of these materials in waters

of the state, such as constructing bridge footings or BMP installations, are not prohibited by this paragraph.

- (b) **TOTAL SUSPENDED SOLIDS.** BMPs shall be designed, installed and maintained to control total suspended solids carried in runoff from the post-construction site as follows:
1. For new development, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on the average annual rainfall, as compared to no runoff management controls.
  2. For redevelopment, by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on the average annual rainfall, as compared to no runoff management controls. A 40% total suspended solids reduction shall meet the requirements of this ordinance.
  3. All water quality analyses shall be based on the P8 Urban Catchment Model or other comparable model as approved by the City Zoning Administrator with assistance from the City Engineer.
  4. For this ordinance, the following year has been selected as average annual rainfall: Minneapolis, 1959, (Oct. 1, 1958 - Sept. 30, 1959).
  5. Notwithstanding subds. 1. to 4., 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.
- (c) **PEAK DISCHARGE RATE AND VOLUME.** By design, BMPs shall be employed to meet the following performance standards.
1. For a 1.5 inch rainfall event the proposed post-development runoff volume and peak flow rate must not exceed the runoff volume and peak flow rate for pre-development conditions.
  2. For the 2-year, 10-year, and 100-year rainfall event: the post-development peak flow rate shall not exceed the peak flow rate for pre-development land use conditions, or less if downstream system capacity problems exist.
  3. Pre-development conditions shall assume “good hydrologic conditions” for appropriate land covers as identified in TR-55 or an equivalent methodology. The meanings of “hydrologic soil group” and “runoff curve number” are as determined in TR-55. However, when pre-development land cover is cropland, rather than using TR-55 values for cropland, the runoff curve numbers in Table 1 shall be used.

Table 1 - Maximum Pre-Development Runoff Curve Numbers for Cropland Areas				
Hydrologic Soil Group	A	B	C	D
Runoff Curve Number	56	70	79	83

- (a) INFILTRATION PRACTICES. BMPs shall be designed, installed, and maintained to infiltrate runoff to meet the runoff rates and volume where hydrologic Group A or B soils exist to the maximum extent practicable in accordance with the following:
1. Where infiltration practices will be used, the location, surface area, depth, soil types (hydrologic group) and infiltration rate and volume computations shall be submitted to the City Zoning Administrator with assistance from the City Engineer.
  2. Pre-development condition shall be the same as in par. (b).
  3. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging prior to scheduled maintenance and to protect groundwater quality in accordance with subd. 6. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips.
  4. Exclusions. The runoff from the following areas are prohibited from meeting the requirements of this paragraph:
    - a. Areas associated with tier 1 industrial facilities identified in NR 216.21(2)(a), Wis. Adm. Code, including storage, loading, rooftop and parking.
    - b. Storage and loading areas of tier 2 industrial facilities identified in NR 216.21(2)(b), Wis. Adm. Code.
    - c. Fueling and vehicle maintenance areas.
    - d. Areas within 1000 feet upgradient or within 100 feet downgradient of karst features.

- e. Areas with less than 3 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock, except this subd. 4.e. does not prohibit infiltration of roof runoff.
  - f. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than 5 feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
  - g. Areas within 400 feet of a community water system well as specified in NR 811.16(4), Wis. Adm. Code, or within 100 feet of a private well as specified in NR 812.08(4), Wis. Adm. Code, for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
  - h. Areas where contaminants of concern, as defined in NR 720.03(2), Wis. Adm. Code are present in the soil through which infiltration will occur.
  - i. Any area where the soil does not exhibit one of the following soil characteristics between the bottom of the infiltration system and the seasonal high groundwater and top of bedrock: at least a 3-foot soil layer with 20% fines or greater; or at least a 5-foot soil layer with 10 percent fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This subd. 4.i. does not prohibit infiltration of roof runoff.
- 5. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, such alternate use shall be given equal credit toward the infiltration volume required by this paragraph.
  - 6. Infiltration systems designed in accordance with this paragraph shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with NR 140, Wis. Adm. Code. However, if site specific information indicates that compliance with a preventive action limit is not achievable, the infiltration BMP may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
  - 7. Notwithstanding paragraph (d) 6., the discharge from BMPs shall remain below the enforcement standard at the point of standards application.

(b) PROTECTIVE AREAS.

1. “Protective area” means an area of land that commences at the top of the channel of lakes, streams and rivers, or at the delineated boundary of wetlands, and that is the greatest of the following widths, as measured horizontally from the top of the channel or delineated wetland boundary to the closest impervious surface. However, in this paragraph, “protective area” does not include any area of land adjacent to any stream enclosed within a pipe or culvert, such that runoff cannot enter the enclosure at this location.
  - a. For outstanding resource waters and exceptional resource waters, and for wetlands in areas of special natural resource interest as specified in NR 103.04, 75 feet.
  - b. 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.
  - c. For lakes, 50 feet.
  - d. For highly susceptible wetlands, 50 feet. Highly susceptible wetlands include the following types: fens, sedge meadows, bogs, low prairies, conifer swamps, shrub swamps, other forested wetlands, fresh wet meadows, shallow marshes, deep marshes and seasonally flooded basins. Wetland boundary delineations shall be made in accordance with NR 103.08(1m). This paragraph does not apply to wetlands that have been completely filled in accordance with all applicable state and federal regulations. The protective area for wetlands that have been partially filled in accordance with all applicable state and federal regulations shall be measured from the wetland boundary delineation after fill has been placed.
  - e. For less susceptible wetlands, 10 percent of the average wetland width, but no less than 10 feet nor more than 30 feet. Less susceptible wetlands include degraded wetlands dominated by invasive species such as reed canary grass.
  - f. In subd. 1.a., d. and e., 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.



(2) GENERAL CONSIDERATIONS FOR ON-SITE AND OFF-SITE STORM WATER MANAGEMENT MEASURES. The following considerations shall be observed in managing runoff:

- (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.

(3) LOCATION AND REGIONAL TREATMENT OPTION.

- (a) The BMPs may be located on-site or off-site as part of a regional storm water device, practice or system.
- (b) Post-construction runoff within a non-navigable surface water that flows into a BMP, such as a wet detention pond, is not required to meet the performance standards of this ordinance. Post-construction BMPs may be located in non-navigable surface waters.
- (c) Except as allowed under par. (d), post-construction runoff from new development shall meet the post-construction performance standards prior to entering a navigable surface water.
- (d) Post-construction runoff from any development within a navigable surface water that flows into a BMP is not required to meet the performance standards of this ordinance if:
  - 1. The BMP was constructed prior to the effective date of this ordinance and the BMP either received a permit issued under ch. 30, Stats., or the BMP did not require a ch. 30, Wis. Stats., permit; and
  - 2. The BMP is designed to provide runoff treatment from future upland development.
- (e) Runoff from existing development, redevelopment and in-fill areas shall meet the post-construction performance standards in accordance with this paragraph.
  - 1. To the maximum extent practicable, BMPs shall be located to treat runoff prior to discharge to navigable surface waters.

2. Post-construction BMPs for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as NR 103, Wis. Adm. Code and ch. 30, Wis. Stats.
- (f) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMPs is subject to this chapter.
- (g) The administering authority may approve off-site management measures provided that all of the following conditions are met:
1. The administering authority determines that the post-construction runoff is covered by a storm water management system plan that is approved by the City of Prescott and that contains management requirements consistent with the purpose and intent of this ordinance.
  2. The off-site facility meets all of the following conditions:
    - a. The facility is in place.
    - b. The facility is designed and adequately sized to provide a level of storm water control equal to or greater than that which would be afforded by on-site practices meeting the performance standards of this ordinance.
    - c. The facility has a legally obligated entity responsible for its long-term operation and maintenance.
- (h) Where a regional treatment option exists such that the administering authority exempts the applicant from all or part of the minimum on-site storm water management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the administering authority. In determining the fee for post-construction runoff, the administering authority shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.

## **SECTION VIII. PERMITTING REQUIREMENTS, PROCEDURES AND FEES.**

- (1) **PERMIT REQUIRED.** No responsible party may undertake a land development or land disturbing activity without receiving a post-construction runoff permit from the administering authority prior to commencing the proposed activity.
- (2) **PERMIT APPLICATION AND FEES.** Unless specifically excluded by this ordinance, any responsible party, land owner, or operator required to obtain a permit under this ordinance desiring a permit shall submit to the administering authority a permit application made on a form provided by the administering authority for that purpose.

- (a) Unless otherwise exempted by this ordinance, a permit application must be accompanied by a storm water management plan, a maintenance and monitoring agreement and a non-refundable permit administration fee.
  - (b) The storm water management plan shall be prepared to meet the requirements of Section VII. and IX., the maintenance and monitoring agreement shall be prepared to meet the requirements of Section X., the financial guarantee shall meet the requirements of Section XI., and fees shall be those established by the Common Council as set forth in Section XII.
- (3) **REVIEW AND APPROVAL OF PERMIT APPLICATION.** The administering authority shall review any permit application that is submitted with a storm water management plan, maintenance and monitoring agreement, and the required fee. The following approval procedure shall be used:
- (a) Accept all pre-application requests, and all permit applications that are accompanied by the storm water plan and the required fee.
  - (b) Within 30 business days of the receipt of a complete permit application, including all items as required by sub. (2), the administering authority shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance. The administering authority shall base the decision on requirements set forth in this ordinance, including technical standards set forth herein.
  - (c) If the storm water permit application, plan, and maintenance and monitoring agreement are approved, or if an agreed upon payment of fees in lieu of storm water management practices is made, the administering authority shall issue the permits required in accordance with the procedure as set out in this chapter, but only when sedimentation and runoff will be controlled to meet the performance standards set forth herein.
  - (d) If the storm water permit application, plan or maintenance agreement is disapproved, the administering authority shall detail in writing the reasons for disapproval.
  - (e) The administering authority may request additional information from the applicant by notifying the permit applicant in writing if additional information is required for review of the storm water plan. If additional information is submitted, the administering authority shall have 15 business days from the date the additional information is received to inform the applicant that the plan and maintenance and monitoring agreement are either approved or disapproved.
  - (f) Failure by the administering authority to inform the permit applicant of a decision within 30 business days of a required submittal shall be deemed to mean approval

of the submittal and the applicant may proceed as if a permit had been issued. If the applicant proceeds under this approval process, the applicant shall comply with the permit requirements in Section VIII (4), (5), and (6).

- (g) The administering authority shall keep an accurate record of all plan data accepted, plans approved, permits issued, inspections made, and other official records.
- (4) **PERMIT REQUIREMENTS.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance, and permit applicants proceeding as if a permit had been issued under the approval process provided in this ordinance, shall be deemed to have accepted these conditions. The administering authority may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the administering authority to suspend or revoke this permit may be appealed in accordance with Section XIV.
- (a) Compliance with this permit does not relieve the responsible party of the responsibility to comply with other applicable federal, state, and local laws and regulations.
  - (b) The responsible party shall design and install all structural and non-structural storm water management measures in accordance with the approved storm water management plan, the technical standards set forth in Section VI, and the performance standards set forth in Section VII, and this permit, prior to commencing any land development or land disturbing activity.
  - (c) The responsible party shall notify the administering authority at least 5 business days before commencing any work in conjunction with the storm water management plan, and within 5 business days upon completion of the storm water management practices. If required as a special condition under sub. (5), the responsible party shall make additional notification according to a schedule set forth by the administering authority so that practice installations can be inspected during construction.
  - (d) Practice and infrastructure installations required as part of this ordinance shall be certified “as built” by a licensed professional engineer other than the City Engineer and City Zoning Administrator. Completed storm water management practices must pass a final inspection by the administering authority or its designee to determine if they are in accordance with the approved storm water management plan and ordinance. The administering authority or its designee shall notify the responsible party in writing of any changes required in such practices to bring them into compliance with the conditions of this permit. The administering authority shall notify the permit holder when storm water management practices have passed final inspection.

- (e) The responsible party shall notify the administering authority of any significant modifications it intends to make to an approved storm water management plan. The administering authority may require that the proposed modifications be submitted to it for approval prior to incorporation into the storm water management plan and execution by the responsible party.
- (f) The responsible party shall maintain all storm water management practices in accordance with the storm water management plan until the practices either become the responsibility of the Common Council, or are transferred to subsequent private owners as specified in the approved maintenance agreement.
- (g) The responsible party authorizes the administering authority 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 ss. 66.0627 or 66.0703, Wis. Stats., or to charging such costs against the financial guarantee posted under Section XI in accordance with this ordinance to cover the costs of such work or operations. The responsible party shall waive notice and hearing as provided by s. 66.0703(7), Wis. Stats.
- (h) If so directed by the administering authority, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities, including but not limited to, roads, road right-of-ways, streets, runoff, and drainage facilities, and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved storm water management plan until they are accepted and become the responsibility of the governmental entity.
- (i) The responsible party shall permit property access to the administering authority or its designee for the purpose of inspecting the property for compliance with the approved storm water management plan and this permit.
- (j) If an approved storm water plan involves changes in direction, changes in post-development hydrology, increases in peak rate and/or total volume of runoff, the sediment loading and/or thermal pollution from a site, the administering authority may require the responsible party to make appropriate legal arrangements with affected property owners concerning the prevention of endangerment to property or public safety.
- (k) The permittee shall provide and install at its expense all drainage, runoff control, and erosion control improvements as required by this chapter and the approved storm water plan, and also shall bear its proportionate share of the total cost of off site improvements to drainage systems based upon the existing developed drainage area or planned development of the drainage area, as determined by the administering authority.

- (l) A copy of the storm water plan shall be available at the job site when land development or land disturbing activities are in progress.
  - (m) The permittee shall inspect, or cause to be inspected, the BMPs within 24 hours after each rain of 0.5 inches or more which results in runoff during active construction periods, and at least once each week, make needed repairs and document the findings of the inspections in a site erosion control log with the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
  - (n) That permittee shall comply with the floodplain zoning standards in the City Code if the land development or land disturbing activity is in an identified flood hazard area on the Official Map.
  - (o) If so directed by the administering authority, the permit holder shall repair, at the permit holder's own expense, all damage to adjoining properties, municipal facilities, and storm water drainage systems caused by storm water runoff, where such damage is caused by activities not in compliance with the approved storm water plan.
  - (p) The responsible party is subject to the enforcement actions and penalties detailed in Section XIII, if the responsible party fails to comply with the terms of this permit.
- (5) **PERMIT CONDITIONS.** Permits issued under this subsection may include conditions established by administering authority in addition to the requirements needed to meet the performance standards in Section VII or a financial guarantee as provided for in Section XI.
- (6) **PERMIT DURATION.** Permits issued under this section shall be valid for 180 days from the date of issuance, except as provided as follows:
- (a) If the administering authority has notified the permit holder that all storm water practices have passed the final inspection as required under this ordinance, then the permit expires upon notification by the City Zoning Administrator or City Engineer.
  - (b) The administering authority may extend an existing permit if continuous progress is being made by the applicant towards completion of storm water practices.

**SECTION IX. STORM WATER MANAGEMENT PLAN.**

- (1) **PLAN REQUIREMENTS.** The storm water management plan shall contain any information the City Zoning Administrator with assistance from City Engineer may need

to evaluate the environmental characteristics of the area affected by land development or land disturbing activity, the pre- and post-development hydrology, the potential impacts of the proposed activity upon the quality (including thermal) and quantity of storm water discharges, the potential impacts upon water resources and drainage utilities, and the effectiveness and acceptability of proposed storm water management measures in meeting the technical and performance standards and other requirements of this ordinance. All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance. The storm water management plan required under Section VIII (2) shall contain at a minimum the following information:

- (a) Name, 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) Pre-development site conditions, including:
  1. One or more site maps at a scale of not less than 1 inch equals 100 feet. The site maps shall show the following: site location and legal property description; predominant soil types and hydrologic soil groups; existing cover type and condition; topographic contours of the site at a scale not to exceed 2 feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all storm water conveyance sections; watershed boundaries used in hydrology determinations to show compliance with performance standards; lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site; limits of the 100 year floodplain; location of wells and wellhead protection areas covering the project area and delineated pursuant to NR 811.16, Wis. Adm. Code.
  2. Hydrology, hydraulic, and pollutant loading computer model computations as needed to show compliance with performance standards. All major assumptions used in developing input parameters shall be clearly stated. The geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
- (d) Post-development site conditions, including:

1. 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.
  2. Explanation of any restrictions on storm water management measures in the development area imposed by wellhead protection plans and ordinances.
  3. One or more site maps at a scale of not less than 1 inch equals 100 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 2 feet; post-construction drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; locations and dimensions of drainage easements; locations of maintenance easements specified in the maintenance agreement; flow path and direction for all storm water conveyance sections; location and type of all storm water management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology, hydraulic, and pollutant loading computer modeling calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
  4. Hydrology, hydraulic, and pollutant loading computer model computations as needed to show compliance with performance standards. The computations shall be made for each discharge point in the development, and the geographic areas used in making the calculations shall be clearly cross-referenced to the required map(s).
  5. Results of investigations of soils and groundwater required for the placement and design of storm water management measures. Detailed drawings including cross-sections and profiles of all permanent storm water conveyance and treatment practices.
- (e) A description and installation schedule for the storm water management practices needed to meet the performance standards in Section VII.
- (f) A maintenance plan developed for the life of each storm water management practice including the required maintenance activities and maintenance activity schedule.

- (g) Cost estimates for the construction, operation, and maintenance of each storm water management practice.
  - (h) Other information requested in writing by the administering authority to determine compliance of the proposed storm water management measures with the provisions of this ordinance.
  - (i) All site investigations, plans, designs, computations, and drawings shall be certified by a licensed professional engineer to be prepared in accordance with accepted engineering practice and requirements of this ordinance.
- (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 Section VII (5).

## **SECTION X. MAINTENANCE AND MONITORING AGREEMENT.**

- (1) **MAINTENANCE AND MONITORING AGREEMENT REQUIRED.** The maintenance and monitoring agreement required under Section IX (2) for storm water management practices shall be an agreement between the administering authority and the responsible party to provide for maintenance and monitoring for both short term and long term of storm water management practices beyond the duration period of this permit. The maintenance and monitoring agreement shall be filed with the Pierce County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the storm water management practices.
- (a) The maintenance and monitoring agreement shall provide for short-term maintenance and monitoring of storm water management practices necessary to maintain temporary drainage and erosion control measures and to establish permanent drainage and erosion control measures. Short-term maintenance provisions are generally those that do not continue in perpetuity.
  - (b) The maintenance and monitoring agreement may provide for long-term maintenance and monitoring of storm water practices that continue in perpetuity. Such long-term maintenance will be required where the storm water practice serves an individual landowner or organized group of landowners.
- (2) **MONITORING REQUIREMENTS.** Storm water facilities shall be monitored in accordance with the storm water plan, the conditions of the permit and the maintenance and monitoring agreement. Monitoring shall verify whether or not the practice is functioning as designed. Monitoring may include, but may not be limited to, quality, temperature, and quantity of runoff.

- (3) **AGREEMENT PROVISIONS.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by Section IX (1)(f):
- (a) Identification of the storm water facilities and designation of the drainage area served by the facilities.
  - (b) A schedule for regular maintenance of each aspect of the storm water management system consistent with the storm water management plan required under Section VIII (2).
  - (c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the storm water management practices identified in the storm water management plan required under Section VIII (2).
  - (d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain storm water management practices in accordance with the schedule included in par. (b).
  - (e) Authorization for the administering authority to access the property to conduct inspections and monitor the storm water management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
  - (f) A requirement on the administering authority to maintain public records of the results of the site inspections, shall inform the responsible party 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.
  - (g) Agreement that the party designated under sub. (c), as responsible for long term maintenance of the storm water management practices, shall be notified by the administering authority of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the administering authority.
  - (h) Authorization of the administering authority to perform the corrected actions identified in the inspection report if the responsible party designated under sub. (c) does not make the required corrections in the specified time period. The administering authority shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to ss. 66.0627 or 66.0703, Wis. Stats. or it may charge the cost against the financial guarantee posed under this ordinance.

## **SECTION XI. FINANCIAL GUARANTEE.**

- (1) **ESTABLISHMENT OF THE GUARANTEE.** The administering authority may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the administering authority. The financial guarantee shall be in an amount determined by the administering authority equal to the estimated cost of construction and the estimated cost of maintenance of the storm water management practices during the period which the designated party in the maintenance and monitoring agreement has maintenance and monitoring responsibility. The financial guarantee shall give the administering authority the authorization to use the funds to complete the project storm water management practices and fulfill maintenance and monitoring requirements if the responsible party defaults or does not properly implement the approved project storm water management plan, or fails to perform required maintenance and/or monitoring responsibilities, upon written notice to the responsible party by the administering authority that the requirements of this ordinance have not been met.
- (2) **CONDITIONS FOR RELEASE.** Conditions for the release of the financial guarantee are as follows:
  - (a) The administering authority may release the portion of the financial guarantee established to assure installation of storm water management practices under this section, minus any costs incurred by the administering authority to complete the project installation of practices, upon submission of “as built plans” by a licensed professional engineer. The administering authority may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
  - (b) The administering authority may release the portion of the financial guarantee established under this section to assure maintenance of storm water practices, minus any costs incurred by the administering authority, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance and monitoring agreement.

## **SECTION XII. FEE SCHEDULE.**

An application for a storm water management permit under this chapter shall be accompanied by a permit administration fee in the amount of \$50.00 per acre but not less than a minimum fee of \$200.00.

## **SECTION XIII. COMPLIANCE ENFORCEMENT.**

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

- (2) The administering authority shall investigate and take action on all complaints made in regard to the application of this chapter. The administering authority is authorized to enter any public or private lands affected by this chapter to inspect the land prior to permit issuance for the purpose of determining whether to approve the plan and after permit issuance to determine compliance with this chapter. If permission to enter is denied prior to permit issuance the land development or land disturbing activity that is the subject of the permit shall not occur. Following permit issuance, if permission cannot be received from the land occupier or land user, entry by the administering authority shall be according to s. 66.0119, Wis. Stats.
- (3) The administering authority shall notify the responsible party by personal service or certified mail of any non-complying development or land disturbing activity or post-construction runoff. The notice shall describe the nature of the violation, remedial actions needed, a schedule for remedial action, and additional enforcement action which may be taken.
- (4) Upon receipt of written notification from the administering authority under sub. (3), the responsible party shall correct work that does not comply with the storm water management plan or other provisions of this permit. The responsible party shall make corrections as necessary to meet the specifications and schedule set forth by the administering authority in the notice. This provision also applies to land development or land disturbing activities that commenced under the approval process provided herein without obtaining a permit.
- (5) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the administering authority may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the administering authority plus interest and legal costs shall be billed to the responsible party.
- (6) The administering authority is authorized to post a stop-work order upon any land development or land disturbing activity in violation of this ordinance. The administering authority shall supply a copy of each stop-work order to the City Attorney. In lieu of the stop-work order, the administering authority may issue a written cease and desist order to any land occupier or land user whose activity is in violation of this ordinance. These orders shall specify that the activity must be ceased or brought into compliance with the ordinance within 10 calendar days. Any such stop-work order or cease and desist order shall be subject to Ch. 68, Wis. Stats.
- (7) The administering authority may revoke a permit issued under this ordinance for non-compliance with ordinance provisions. Any such revocation shall be subject to the provisions of Ch. 68, Wis. Stats. Any permit granted under this chapter may be revoked if the holder of the permit has misrepresented any material fact in the permit application or plan; or has failed to comply with the plan as originally approved or as modified in writing subsequently by the administering authority; has violated any provision of this

chapter; or has violated any of the other conditions of the permit as issued to the applicant.

- (8) Any permit revocation, stop work-order, or cease and desist order shall remain in effect unless retracted by the Plan Commission, administering authority, or by a court of competent jurisdiction.
- (9) The administering authority is authorized to refer any violation of this ordinance, or of a stop-work order or cease and desist order issued pursuant to this ordinance, to the City Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (10) Any person, firm, association, or corporation who does not comply with the provisions of this ordinance shall be subject to a forfeiture of not less than \$10 or more than \$200 per offense, based on the severity of the violation and/or the potential impact to the City and receiving water, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (11) Every violation of this ordinance is a public nuisance. To the extent permitted by law, compliance with this ordinance may be enforced by injunction pursuant to s. 62.23(8), Wis. Stats. in so far as the same are applicable.
- (12) When the administering authority determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the technical and performance standards and storm water management plan, or has failed to comply with schedules set forth in said storm water management plan, the administering authority or a party designated by the administering authority 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 administering authority shall keep a detailed accounting of the costs and expenses of performing this work. These costs and expenses shall be deducted from any financial security posted pursuant to this ordinance. Where such a guarantee has not been established, or where such a guarantee is insufficient to cover these costs, the costs and expenses shall be imposed as a special assessment or charge pursuant to ss. 66.0627 or 66.0703, Wis. Stats. as set forth in this ordinance.

#### **SECTION XIV. APPEALS.**

- I. CITY COUNCIL. Appeals shall be made in the form of a written document to the City Council. Upon receipt of the appeal, the City Council shall:
  - A. Hear and decide appeals where it is alleged that there is error in any order, requirements, decision or determination made by the administering authority in administering this chapter.

- B. Authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in practical difficulty or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety, and welfare secured and substantial justice done.
- C. The rules, procedures, duties, and powers of the City Council shall apply to this chapter.

**SECTION XV. SEVERABILITY.**

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

**SECTION XVI. EFFECTIVE DATE.**

This ordinance shall be in force and effect from and after its adoption and publication. The above and foregoing ordinance was duly adopted by the City Council of City of Prescott on the 14th day of June, 2004.

Approved: \_\_\_\_\_

Attested: \_\_\_\_\_

Published: June 17, 2004