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35.01 AUTHORITY.

- (1) This ordinance is adopted by the common council under the authority granted by Section 62.234 of the Wisconsin Statutes. This ordinance supersedes all provisions of an ordinance previously enacted under Section 62.23 of the Wisconsin Statutes, that relate to stormwater management regulations, except as otherwise specified in Sections 62.234 and 62.23 of the Wisconsin Statutes, applies to this ordinance and to any amendments to this ordinance.
- (2) The provisions of this ordinance are deemed not to limit any other lawful regulatory powers of the same governing body.
- (3) The common council hereby designates the city engineer to administer and enforce the provisions of this ordinance.
- (4) The requirements of this ordinance do not pre-empt more stringent stormwater management requirements that may be imposed by any of the following:
 - (a) Wisconsin Department of Natural Resources administrative rules, permits, or approvals, including those authorized under Sections 281.16 and 283.33 of the Wisconsin Statutes.
 - (b) Targeted non-agricultural performance standards promulgated in rules by the Wisconsin Department of Natural Resources under Section NR 151.004, Wisconsin Administrative Code.

35.02 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.

35.03 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 stormwater; prevent and control soil erosion; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; preserve ground cover and scenic beauty; and promote sound economic growth.
 - (c) Control exceedance of the safe capacity of existing drainage facilities and receiving water bodies; prevent undue channel erosion; control increases in the scouring and transportation of particulate matter; and prevent conditions that endanger downstream property.
- (2) Intent. It is the intent of the common council that this ordinance regulates post-construction stormwater discharges 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 stormwater performance standards set forth in this ordinance is through the preparation and implementation of comprehensive, systems-level stormwater management plans that cover hydrologic units, such as watersheds, on a municipal and regional scale. Such plans may prescribe regional stormwater devices, practices or systems, any of which may be designed to treat runoff from more than one site prior to discharge to waters of the state. Where such plans are in conformance with the performance standards developed under Section 281.16 of the Wisconsin Statutes, for regional stormwater 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.

35.04 APPLICABILITY AND JURISDICTION.

- (1) Applicability.
 - (a) Where not otherwise limited by law, this ordinance applies after final stabilization to a site of land disturbing construction activity covering one or more acres of land disturbing construction activity meeting any of the criteria in this paragraph, unless the site is otherwise exempt under paragraph (b).
 - (b) A site that meets any of the criteria in this paragraph is exempt from the requirements of this ordinance.
 - (1) A redevelopment post-construction site with no increase in exposed parking lots or roads.
 - (2) A post-construction site with less than 10% connected imperviousness based on complete development of the post-construction site, provided the cumulative area of all parking lots and rooftops is less than one acre.
 - (3) Nonpoint discharges from agricultural facilities and practices.
 - (4) Nonpoint discharges from silviculture activities.
 - (5) 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.
 - (6) Underground utility construction such as water, sewer and fiber optic 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 city engineer, is likely to result in runoff that exceeds the safe capacity of the existing drainage facilities or receiving body of water, that causes undue channel erosion, that increases water pollution by scouring or the transportation of particulate matter or that endangers property or public safety.
- (2) Jurisdiction. This ordinance applies to post construction sites within the boundaries and jurisdiction of the City of Wisconsin Rapids.
- (3) Exclusions. This ordinance is not applicable to activities conducted by a state agency, as defined under Section 227.01 (1) of the Wisconsin Statutes, but also including the office of district attorney, which is subject to the state plan promulgated or a memorandum of understanding entered into under Section 281.33(2) of the Wisconsin Statutes

35.05 DEFINITIONS.

- (1) Administering authority means a governmental employee, or a regional planning commission empowered under Section 62.234 of the Wisconsin Statutes, that is designated by the common council to administer this ordinance.
- (2) Agricultural facilities and practices has the meaning given in Section 281.16 of the Wisconsin Statutes
- (3) Average annual rainfall means a calendar year of precipitation, excluding snow, which is considered typical.
- (4) 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.
- (5) Business day means a day the office of the city engineer is 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) Combined sewer system means a system for conveying both sanitary sewage and stormwater runoff.
- (8) 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.
- (9) Design storm means a hypothetical discrete rainstorm characterized by a specific duration, temporal distribution, rainfall intensity, return frequency, and total depth of rainfall.
- (10) Development means residential, commercial, industrial or institutional land uses and associated roads.
- (11) Division of land means the creation from one parcel of 5 or more parcels or building sites of 1½ or fewer acres each in area where such creation occurs at one time or through the successive partition within a 5 year period.
- (12) 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, beams or pretreatment.
- (13) Erosion means the process by which the land's surface is worn away by the action of wind, water, ice or gravity.
- (14) Exceptional resource waters means waters listed in Section NR 102.11, Wisconsin Administrative Code.
- (15) Extraterritorial means the unincorporated area within 3 miles of the corporate limits of a first, second, or third class city, or within 1.5 miles of a fourth class city or village.
- (16) Final stabilization means that all land disturbing construction activities at the construction site have been completed and that a uniform, perennial, vegetative cover has been established, with a density of at least 70% of the cover, for the unpaved areas and areas not covered by permanent structures, or employment of equivalent permanent stabilization measures.
- (17) Financial guarantee means a performance bond, maintenance bond, surety bond, irrevocable letter of credit, or similar guarantees submitted to the city engineer by the responsible party to assure that requirements of the ordinance are carried out in compliance with the stormwater management plan.
- (18) Governing body means town board of supervisors, county board of supervisors, city council, village board of trustees or village council.
- (19) 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.
- (20) In-fill area means an undeveloped area of land located within existing development.
- (21) Infiltration means the entry of precipitation or runoff into or through the soil.
- (22) 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.
- (23) 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.
- (24) Land disturbing construction activity means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of the state. Land disturbing construction activity includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling and grading activities.
- (25) Maintenance agreement means a legal document that provides for long- term maintenance of stormwater management practices.
- (26) 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.
- (27) New development means development resulting from the conversion of previously undeveloped land or agricultural land uses.
- (28) Off-site means located outside the property boundary described in the permit application.
- (29) On-site means located within the property boundary described in the permit application.
- (30) Ordinary high-water mark has the meaning given in Section NR 115.03(6), Wisconsin Administrative Code.
- (31) Outstanding resource waters means waters listed in Section NR 102.10, Wisconsin Administrative Code.
- (32) Percent Fines means the percentage of a given sample of soil which passes through a #200 sieve.
- (33) Performance standard means a narrative or measurable number specifying the minimum acceptable outcome for a facility or practice.
- (34) Permit means a written authorization made by the city engineer to the applicant to conduct land disturbing construction activity or to discharge post-construction runoff to waters of the state.

- (35) Permit administration fee means a sum of money paid to the city engineer by the permit applicant for the purpose of recouping the expenses incurred by the authority in administering the permit.
- (36) 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.
- (37) Pollutant has the meaning given in Section 283.01(13) of the Wisconsin Statutes
- (38) Pollution has the meaning given in Section 281.01(10) of the Wisconsin Statutes
- (39) Post-construction site means a construction site following the completion of land disturbing construction activity and final site stabilization.
- (40) Pre-development condition means the extent and distribution of land cover types present before the initiation of land disturbing construction activity, assuming that all land uses prior to development activity are managed in an environmentally sound manner.
- (41) Preventive action limit has the meaning given in Section NR 140.05(17), Wisconsin Administrative Code.
- (42) Redevelopment means areas where development is replacing older development.
- (43) Responsible party means any entity holding fee title to the property or other person contracted or obligated by other agreement to implement and maintain post-construction stormwater BMP's.
- (44) Runoff means stormwater or precipitation including rain, snow or ice melt or similar water that moves on the land surface via sheet or channelized flow.
- (45) Separate storm sewer means a conveyance or system of conveyances including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which meets all of the following criteria:
 - (a) Is designed or used for collecting water or conveying runoff.
 - (b) Is not part of a combined sewer system.
 - (c) Is not draining to a stormwater treatment device or system.
 - (d) Discharges directly or indirectly to waters of the state.
- (46) Site means the entire area included in the legal description of the land on which the land disturbing construction activity occurred.
- (47) Stop work order means an order issued by the city engineer which requires that all construction activity on the site be stopped.
- (48) Stormwater management plan means a comprehensive plan designed to reduce the discharge of pollutants from stormwater after the site has undergone final stabilization following completion of the construction activity.
- (49) Stormwater management system plan is a comprehensive plan designed to reduce the discharge of runoff and pollutants from hydrologic units on a regional or municipal scale.
- (50) Technical standard means a document that specifies design, predicted performance and operation and maintenance specifications for a material, device or method.
- (51) 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.
- (52) 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.
- (53) 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.
- (54) Waters of the state has the meaning given in Section 281.01 (18) of the Wisconsin Statutes

35.06 TECHNICAL STANDARDS

The following methods shall be used in designing the water quality, peak flow shaving and infiltration components of stormwater practices needed to meet the water quality standards of this ordinance:

- (1) Technical standards identified, developed or disseminated by the Wisconsin Department of Natural Resources under subchapter V of chapter NR 151, Wisconsin Administrative Code.
- (2) Where technical standards have not been identified or developed by the Wisconsin Department of Natural Resources, other technical standards may be used provided that the methods have been approved by the city engineer.
- (3) In this ordinance, the following year and location has been selected as average annual rainfall: Madison, 1981 (Mar. 12-Dec. 2)

35.07 PERFORMANCE STANDARDS

- (1) **Responsible Party.** The responsible party shall implement a post- construction stormwater management plan that incorporates the requirements of this section.

- (2) Plan. A written stormwater management plan in accordance with S.09 shall be developed and implemented for each post-construction site.
- (3) Requirements. The plan required under Section 35.07(2) shall include the following:
 - (a) Total Suspended Solids. BMP's 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. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.
 - (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. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.
 - (3) For in-fill development under 5 acres that occurs within 10 years after the effective date of this rule October 30, 2006 by design, reduce to the maximum extent practicable, the total suspended solids load by 40%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed a 40% total suspended solids reduction to meet the requirements of this subdivision.
 - (4) For in-fill development that occurs 10 or more years after the effective date of this rule October 30, 2006, by design, reduce to the maximum extent practicable, the total suspended solids load by 80%, based on an average annual rainfall, as compared to no runoff management controls. No person shall be required to exceed an 80% total suspended solids reduction to meet the requirements of this subdivision.
 - (5) Notwithstanding Section 35.07(3)(a)(1) to 4, if the design cannot achieve the applicable total suspended solids reduction specified, the stormwater management plan shall include a written and site-specific explanation why that level of reduction is not attained and the total suspended solids load shall be reduced to the maximum extent practicable.
 - (b) Peak Discharge.
 - (1) By design, BMP's shall be employed to maintain or reduce the peak runoff discharge rates, to the maximum extent practicable, as compared to pre-development conditions for the two-year, 24-hour design storm applicable to the post- construction site. Pre-development conditions shall assume "good hydrologic conditions" for appropriate land covers as identified in TR-55 or an equivalent methodology. The meaning 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.

| Hydrologic Soil Group | A | B | C | D |
|-----------------------|----|----|----|----|
| Runoff Curve Number | 56 | 70 | 79 | 83 |

- (2) This subsection of the ordinance does not apply to any of the following:
 - (a) A post-construction site where the change in hydrology due to development does not increase the existing surface water elevation at any point within the downstream receiving water by more than 0.01 of a foot for the two-year, 24-hour storm event. Hydraulic models such as HEC-RAS or another methodology may be used to determine the change in surface water elevations.
 - (b) A redevelopment post-construction site.
 - (c) An in-fill development area less than 5 acres.
- (c) Infiltration. BMP's shall be designed, installed, and maintained to infiltrate runoff to the maximum extent practicable in accordance with the following, except as provided in Sections 35.07(3)(c)(5) through (8).
 - (1) For residential developments one of the following shall be met:
 - (a) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 90% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.
 - (b) Infiltrate 25% of the post-development runoff from the 2 year -24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces

shall be used to calculate runoff volumes and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 1% of the project site is required as an effective infiltration area.

- (2) For non-residential development, including commercial, industrial and institutional development, one of the following shall be met:
 - (a) Infiltrate sufficient runoff volume so that the post-development infiltration volume shall be at least 60% of the pre-development infiltration volume, based on an average annual rainfall. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
 - (b) Infiltrate 10% of the runoff from the 2 year - 24 hour design storm with a type II distribution. Separate curve numbers for pervious and impervious surfaces shall be used to calculate runoff volumes, and not composite curve numbers as defined in TR-55. However, when designing appropriate infiltration systems to meet this requirement, no more than 2% of the project site is required as an effective infiltration area.
- (3) Pre-development condition shall be the same as in 35.07(3)(c)(2)(b).
- (4) 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 35.07(3)(c)(8). Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, bio-filtration, filtration, swales or filter strips.
- (5) Exclusions. The runoff from the following areas is prohibited from meeting the requirements of this paragraph due to the potential for groundwater contamination:
 - (a) Areas associated with tier 1 industrial facilities identified in Section NR 216.21(2)(a), Wisconsin Administrative Code, including storage, loading, rooftop and parking.
 - (b) Storage and loading areas of tier 2 industrial facilities identified in Section NR 216.21(2)(b), Wisconsin Administrative Code. (Runoff from tier 2 parking and rooftop areas may be infiltrated but may require pretreatment.)
 - (c) Fueling and vehicle maintenance areas.
 - (d) Areas within 1000 feet up gradient or within 100 feet down gradient 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 Paragraph (5)(e) does not prohibit infiltration of roof runoff.
 - (f) Areas with run off 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 Section NR 811.16(4), Wisconsin Administrative Code, or within 100 feet of a private well as specified in Section NR 812.08(4), Wisconsin Administrative 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 Section NR 720.03(2), Wisconsin Administrative 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% fines or greater. This does not apply where the soil medium within the infiltration system provides an equivalent level of protection. This Paragraph (5)(i) does not prohibit infiltration of roof runoff.
- (6) Exemptions. The following are not required to meet the requirements of this paragraph:
 - (a) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the site.
 - (b) Parking areas and access roads less than 5,000 square feet for commercial and industrial development.
 - (c) Redevelopment post-construction sites.
 - (d) In-fill development areas less than 5 acres.
 - (e) Infiltration areas during periods when the soil on the site is frozen.

- (f) Roads in commercial, industrial and institutional land uses, and arterial residential roads.
 - (7) 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.
 - (8) (a) 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 Chapter NR 140, Wisconsin Administrative 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.
 - (b) Notwithstanding Paragraph (a), the discharge from BMP's shall remain below the enforcement standard at the point of standards application.
- (d) **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 Section 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 Section 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 Paragraph (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 Section NR 103.03.
 - (g) For concentrated flow channels with drainage areas greater than 130 acres, 10 feet.
 - (2) This paragraph applies to post-construction sites located within a protective area, except those areas exempted pursuant to Section 35.07(3)(d)(4).
 - (3) The following requirements shall be met:
 - (a) Impervious surfaces shall be kept out of the protective area to the maximum extent practicable. The stormwater management plan shall contain a written site-specific explanation for any parts of the protective area that are disturbed during construction.
 - (b) Where land disturbing construction activity occurs within a protective area, and where no impervious surface is present, adequate sod or self-sustaining vegetative cover of 70% or greater shall be established and maintained. 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.
 - (c) Seeding of non-aggressive vegetative cover shall be used in the protective areas whenever possible.

- (d) 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.
- (4) This paragraph does not apply to:
 - (a) Redevelopment post-construction sites.
 - (b) In-fill development areas less than 5 acres.
 - (c) Structures that cross or access surface waters such as boat landings, bridges and culverts.
 - (d) Structures constructed in accordance with Section 59.692(1v) of the Wisconsin Statutes
 - (e) 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.
- (e) **Fueling and Vehicle Maintenance Areas.** Fueling and vehicle maintenance areas shall, to the maximum extent practicable, have BMP's designed, installed and maintained to reduce petroleum within runoff, such that the runoff that enters waters of the state contains no visible petroleum sheen. A combination of the following BMP's may be used to meet this standard: oil and grease separators, canopies, petroleum spill cleanup materials, or any other structural or non-structural method of preventing or treating petroleum in runoff.
- (f) **Swale Treatment for Transportation Facilities.**
 - (1) **Applicability.** Except as provided in Section 350.07(3)(f)(2), transportation facilities that use swales for runoff conveyance and pollutant removal meet all of the requirements of this section, if the swales are designed to the maximum extent practicable to do all of the following:
 - (a) Be vegetated. However, where appropriate, non-vegetative measures may be employed to prevent erosion or provide for runoff treatment, such as rock riprap stabilization or check dams. Tall and dense vegetation is preferred within the swale due to its greater effectiveness at enhancing runoff pollutant removal.
 - (b) Carry runoff through a swale for 200 feet or more in length that is designed with a flow velocity no greater than 1.5 feet per second for the peak flow generated using either a 2-year, 24-hour design storm or a 2 year storm with a duration equal to the time of concentration as appropriate. If a swale of 200 feet in length cannot be designed with a flow velocity of 1.5 feet per second or less, then the flow velocity shall be reduced to the maximum extent practicable. Check dams may be included in the swale design to slow runoff flows and improve pollutant removal.
 - (2) **Exemptions.** The city engineer may, consistent with water quality standards, require other provisions of this section be met on a transportation facility with an average daily travel of vehicles greater than 2500 and where the initial surface water of the state that the runoff directly enters is any of the following:
 - (a) An outstanding resource water.
 - (b) An exceptional resource water.
 - (c) Waters listed in Section 303(d) of the federal clean water act that are identified as impaired in whole or in part, due to nonpoint source impacts.
 - (d) Waters where targeted performance standards are developed under Section NR 151.004, Wisconsin Administrative Code, to meet water quality standards.
- (4) **General Considerations for On-site and Off-site Stormwater 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 stormwater facilities shall be provided to prevent exceeding the safe capacity of downstream drainage facilities and prevent endangerment of downstream property or public safety.
- (5) **Location and Regional Treatment Option.**
 - (a) The BMP's may be located on-site or off-site as part of a regional stormwater 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 BMP's may be located in non-navigable surface waters.
 - (c) Except as allowed under Paragraph (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 Chapter 30 of the Wisconsin Statutes, or the BMP did not require a Chapter 30 of the Wisconsin Statutes, 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, BMP's shall be located to treat runoff prior to discharge to navigable surface waters.
 - (2) Post-construction BMP's for such runoff may be located in a navigable surface water if allowable under all other applicable federal, state and local regulations such as Chapter NR 103, Wisconsin Administrative Code, and Chapter 30 of the Wisconsin Statutes
- (f) The discharge of runoff from a BMP, such as a wet detention pond, or after a series of such BMP's is subject to this chapter.
- (g) The city engineer may approve off-site management measures provided that all of the following conditions are met:
 - (1) The city engineer determines that the post-construction runoff is covered by a stormwater management system plan that is approved by the City of Wisconsin Rapids 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 stormwater 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 city engineer exempts the applicant from all or part of the minimum on-site stormwater management requirements, the applicant shall be required to pay a fee in an amount determined in negotiation with the city engineer. In determining the fee for post-construction runoff, the city engineer shall consider an equitable distribution of the cost for land, engineering design, construction, and maintenance of the regional treatment option.
- (6) Alternate Requirements. The city engineer may establish stormwater management requirements more stringent than those set forth in this section if the city engineer determines that an added level of protection is needed to protect sensitive resources.

35.08 PERMITTING REQUIREMENTS, PROCEDURES, AND FEES.

- (1) Permit Required. No responsible party may undertake a land disturbing construction activity without receiving a post-construction runoff permit from the city engineer prior to commencing the proposed activity.
- (2) Permit Application and Fees. Unless specifically excluded by this ordinance, any responsible party desiring a permit shall submit to the City Engineer a permit application made on a form provided by the city engineer for that purpose.
 - (a) Unless otherwise excepted by this ordinance, a permit application must be accompanied by a stormwater management plan, a maintenance agreement and a nonrefundable permit administration fee.
 - (b) The stormwater management plan shall be prepared to meet the requirements of 35.07 and 09, the maintenance agreement shall be prepared to meet the requirements of 35.10, the financial guarantee shall meet the requirements of 35.11, and fees shall be those established by the common council as set forth in 35.12.
- (3) Review and Approval of Permit Application. The city engineer shall review any permit application that is submitted with a stormwater management plan, maintenance agreement, and the required The following approval procedure shall be used:
 - (a) Within 30 business days of the receipt of a complete permit application, including all items as required by sub. (2), the city engineer shall inform the applicant whether the application, plan and maintenance agreement are approved or disapproved based on the requirements of this ordinance.
 - (b) If the stormwater permit application, plan and maintenance agreement are approved, or if an agreed upon payment of fees in lieu of stormwater management practices is made, the city engineer shall issue the permit.
 - (c) If the stormwater permit application, plan or maintenance agreement is disapproved, the city engineer shall detail in writing the reasons for disapproval.
 - (d) The city engineer may request additional information from the applicant. If additional information is submitted, the city engineer shall have 30 business days from the date the additional information is

received to inform the applicant that the plan and maintenance agreement are either approved or disapproved.

- (e) Failure by the city engineer 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.
- (4) **Permit Requirements.** All permits issued under this ordinance shall be subject to the following conditions, and holders of permits issued under this ordinance shall be deemed to have accepted these conditions. The city engineer may suspend or revoke a permit for violation of a permit condition, following written notification of the responsible party. An action by the city engineer to suspend or revoke this permit may be appealed in accordance with 35.14.
- (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 stormwater management measures in accordance with the approved stormwater management plan and this permit.
 - (c) The responsible party shall notify the city engineer at least 5 business days before commencing any work in conjunction with the stormwater management plan, and within 5 business days upon completion of the stormwater 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 city engineer so that practice installations can be inspected during construction.
 - (d) Practice installations required as part of this ordinance shall be certified "as built" by a licensed professional engineer. Completed stormwater management practices must pass a final inspection by the city engineer or its designee to determine if they are in accordance with the approved stormwater management plan and ordinance. The city engineer 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.
 - (e) The responsible party shall notify the city engineer of any significant modifications it intends to make to an approved stormwater management plan. The city engineer may require that the proposed modifications be submitted to it for approval prior to incorporation into the stormwater management plan and execution by the responsible party.
 - (f) The responsible party shall maintain all stormwater management practices in accordance with the stormwater 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 city engineer to perform any work or operations necessary to bring stormwater management measures into conformance with the approved stormwater management plan, and consents to a special assessment or charge against the property as authorized under Subchapter VII of Chapter 66 of the Wisconsin Statutes, or to charging such costs against the financial guarantee posted under 35.11.
 - (h) If so directed by the city engineer, the responsible party shall repair at the responsible party's own expense all damage to adjoining municipal facilities and drainage ways caused by runoff, where such damage is caused by activities that are not in compliance with the approved stormwater management plan.
 - (i) The responsible party shall permit property access to the city engineer or its designee for the purpose of inspecting the property for compliance with the approved stormwater management plan and this permit.
 - (j) Where site development or redevelopment involves changes in direction, increases in peak rate and/or total volume of runoff from a site, the city engineer 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 responsible party is subject to the enforcement actions and penalties detailed in 35.13, 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 the city engineer in addition to the requirements needed to meet the performance standards in 35.07 or a financial guarantee as provided for in 35.11.
- (6) **Permit Duration.** Permits issued under this section shall be valid from the date of issuance through the date the city engineer notifies the responsible party that all stormwater management practices have passed the final inspection required under sub. (4)(d).

35.09 STORMWATER MANAGEMENT PLAN.

- (1) **Plan Requirements.** The stormwater management plan required under 35.08 (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 stormwater management practices; and person(s) responsible for maintenance of stormwater 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 5 feet; topography and drainage network including enough of the contiguous properties to show runoff patterns onto, through, and from the site; watercourses that may affect or be affected by runoff from the site; flow path and direction for all stormwater conveyance sections; 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 Section NR 811.16, Wisconsin Administrative Code.
 - (2) 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 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 stormwater 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 5 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 stormwater conveyance sections; location and type of all stormwater management conveyance and treatment practices, including the on-site and off-site tributary drainage area; location and type of conveyance system that will carry runoff from the drainage and treatment practices to the nearest adequate outlet such as a curbed street, storm drain, or natural drainage way; watershed boundaries used in hydrology and pollutant loading calculations and any changes to lakes, streams, wetlands, channels, ditches, and other watercourses on and immediately adjacent to the site.
 - (4) Hydrology and pollutant loading 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 stormwater management measures. Detailed drawings including cross-sections and profiles of all permanent stormwater conveyance and treatment practices.
 - (e) A description and installation schedule for the stormwater management practices needed to meet the performance standards in 35.07.
 - (f) A maintenance plan developed for the life of each stormwater management practice including the required maintenance activities and maintenance activity schedule.
 - (g) Cost estimates for the construction, operation, and maintenance of each stormwater management practice.
 - (h) Other information requested in writing by the city engineer to determine compliance of the proposed stormwater 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 city engineer may prescribe alternative submittal requirements for applicants seeking an exemption to on-site stormwater management performance standards under 35.07 (5).

35.10 MAINTENANCE AGREEMENT.

- (1) **Maintenance Agreement Required.** The maintenance agreement required under 35.08(2) for stormwater management practices shall be an agreement between the city engineer and the responsible party to provide for maintenance of stormwater practices beyond the duration period of this permit. The maintenance agreement shall be filed with the County Register of Deeds as a property deed restriction so that it is binding upon all subsequent owners of the land served by the stormwater management practices.
- (2) **Agreement Provisions.** The maintenance agreement shall contain the following information and provisions and be consistent with the maintenance plan required by 35.09(1)(f):
 - (a) Identification of the stormwater facilities and designation of the drainage area served by the facilities.
 - (b) A schedule for regular maintenance of each aspect of the stormwater management system consistent with the stormwater management plan required under 35.08(2).
 - (c) Identification of the responsible party(s), organization or city, county, town or village responsible for long term maintenance of the stormwater management practices identified in the stormwater management plan required under 35.08 (2).
 - (d) Requirement that the responsible party(s), organization, or city, county, town or village shall maintain stormwater management practices in accordance with the schedule included in Paragraph (b).
 - (e) Authorization for the city engineer to access the property to conduct inspections of stormwater management practices as necessary to ascertain that the practices are being maintained and operated in accordance with the agreement.
 - (f) A requirement on the city engineer to maintain public records of the results of the site inspections, to inform the responsible party responsible for maintenance of the inspection results, and to specifically indicate any corrective actions required to bring the stormwater management practice into proper working condition.
 - (g) Agreement that the party designated under Paragraph (c), as responsible for long term maintenance of the stormwater management practices, shall be notified by the city engineer of maintenance problems which require correction. The specified corrective actions shall be undertaken within a reasonable time frame as set by the city engineer.
 - (h) Authorization of the city engineer to perform the corrected actions identified in the inspection report if the responsible party designated under Paragraph (c) does not make the required corrections in the specified time period. The city engineer shall enter the amount due on the tax rolls and collect the money as a special charge against the property pursuant to Subchapter VII of Chapter 66 of the Wisconsin Statutes.

35.11 FINANCIAL GUARANTEE

- (1) **Establishment of the Guarantee.** The city engineer may require the submittal of a financial guarantee, the form and type of which shall be acceptable to the city engineer. The financial guarantee shall be in an amount determined by the city engineer to be the estimated cost of construction and the estimated cost of maintenance of the stormwater management practices during the period which the designated party in the maintenance agreement has maintenance responsibility. The financial guarantee shall give the city engineer the authorization to use the funds to complete the stormwater management practices if the responsible party defaults or does not properly implement the approved stormwater management plan, upon written notice to the responsible party by the city engineer 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 city engineer shall release the portion of the financial guarantee established under this section, less any costs incurred by the city engineer to complete installation of practices, upon submission of "as built plans" by a licensed professional engineer. The city engineer may make provisions for a partial pro-rata release of the financial guarantee based on the completion of various development stages.
 - (b) The city engineer shall release the portion of the financial guarantee established under this section to assure maintenance of stormwater practices, less any costs incurred by the city engineer, at such time that the responsibility for practice maintenance is passed on to another entity via an approved maintenance agreement.

35.12 FEE SCHEDULE

The fees referred to in other sections of this ordinance shall be established by the city engineer and may from time to time be modified by resolution. A schedule of the fees established by the city engineer shall be available for review in the city engineer's office.

35.13 ENFORCEMENT.

- (1) Any land disturbing construction 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 the requirements of this ordinance.
- (2) The city engineer shall notify the responsible party by certified mail of any non-complying land disturbing construction 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.
- (3) Upon receipt of written notification from the city engineer under sub. (2), the responsible party shall correct work that does not comply with the stormwater 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 city engineer in the notice.
- (4) If the violations to a permit issued pursuant to this ordinance are likely to result in damage to properties, public facilities, or waters of the state, the city engineer may enter the land and take emergency actions necessary to prevent such damage. The costs incurred by the city engineer plus interest and legal costs shall be billed to the responsible party.
- (5) The city engineer is authorized to post a stop work order on all land disturbing construction activity that is in violation of this ordinance, or to request the City Attorney to obtain a cease and desist order in any court with jurisdiction.
- (6) The city engineer may revoke a permit issued under this ordinance for non-compliance with ordinance provisions.
- (7) Any permit revocation, stop work order, or cease and desist order shall remain in effect unless retracted by the city engineer or by a court with jurisdiction.
- (8) The city engineer is authorized to refer any violation of this ordinance, or of a stop work order or cease and desist order issued pursuant to this ordinance, to the City Attorney for the commencement of further legal proceedings in any court with jurisdiction.
- (9) 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 \$50 dollars or more than \$500 dollars per offense, together with the costs of prosecution. Each day that the violation exists shall constitute a separate offense.
- (10) Compliance with the provisions of this ordinance may also be enforced by injunction in any court with jurisdiction. It shall not be necessary to prosecute for forfeiture or a cease and desist order before resorting to injunctive proceedings.
- (11) When the city engineer determines that the holder of a permit issued pursuant to this ordinance has failed to follow practices set forth in the stormwater management plan, or has failed to comply with schedules set forth in said stormwater management plan, the city engineer or a party designated by the city engineer 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 city engineer 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 35.11 of this ordinance. Where such a security has not been established, or where such a security 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.

35.14 APPEALS.

- (1) **Zoning Board of Appeals.** The Zoning Board of Appeals created pursuant to section 11.11 of the City of Wisconsin Rapids ordinances pursuant to Section 62.23(7)(e) of the Wisconsin Statutes, shall hear and decide appeals where it is alleged that there is error in any order, decision or determination made by the city engineer in administering this ordinance. The board shall also use the rules, procedures, duties, and powers authorized by statute in hearing and deciding appeals. Upon appeal, the board may authorize variances from the provisions of this ordinance that are not contrary to the public interest, and where owing to special conditions a literal enforcement of the ordinance will result in unnecessary hardship.
- (2) **Who May Appeal.** Appeals to the Zoning Board of Appeals may be taken by any aggrieved person or by an officer, department, board, or bureau of the City of Wisconsin Rapids affected by any decision of the city engineer.

35.15 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.

35.16 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 Wisconsin Rapids Common Council of the City of Wisconsin Rapids on the 15th day of January, 2008.